12-1

June 8, 2012

[redacted]

Re: Eligible Securities Order Request

Dear Mr. [redacted]:

[redacted]

The term "FC" as used herein means "Financial Code Section."

[redacted] has requested that the Commissioner of Financial Institutions (Commissioner) issue an order under FC 2082(b)(11) and FC 2086 declaring accounts at selected FDIC-insured banks held by [redacted] as an agent for the benefit of its customers (FBO Accounts) to be United States currency eligible securities. According to [redacted], the funds in the FBO Accounts belong to [redacted] customers, not to [redacted]. Thus, at least for this reason, the FBO Accounts are not eligible securities of [redacted] because [redacted] does not own the funds in the FBO Accounts "solely and exclusively" as required by FC 2081 and FC 2084.

DFI is unable to grant the order that [redacted] has requested because neither FC 2082(b)(11) nor FC 2086 contain authority for DFI to waive the ownership requirements of FC 2081 and FC 2084. FC 2082(b)(11) allows the Commissioner to add securities to the list of eligible securities in FC 2082(b). [FC 2086] sets forth a sufficient liquidity and quality standard pursuant to which the Commissioner may act under FC 2082(b)(11). Neither section refers to FC 2081 or 2084. Moreover, since liquidity and quality do not offset a lack of sole and exclusive ownership of the securities that are proposed for designation as eligible securities, it is apparent that an order under FC 2082(b)(11) is not intended as a means to waive the sole and exclusive ownership requirements of FC 2081 and FC 2084.

Please contact the undersigned at 213.897.2172 if you have any questions.

Sincerely,

WALLACE M. WONG
Senior Counsel

WMW:lca
cc: