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No. 2112

S.P. 905

In Senate, January 3, 2024

An Act to Replace the Money Transmitters Act

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 203.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §879, sub-§3, ¶F**, as enacted by PL 2017, c. 416, §4, is amended
3 to read:

4 F. A money transmitter licensed under Title 32, chapter 80, ~~subchapter 1~~ 79-A; and

5 **Sec. 2. 32 MRSA c. 79-A** is enacted to read:

6 **CHAPTER 79-A**

7 **MONEY TRANSMITTERS**

8 **SUBCHAPTER 1**

9 **SHORT TITLE AND PURPOSE**

10 **§6067. Short title**

11 This chapter may be known and cited as "the Maine Money Transmission
12 Modernization Act."

13 **§6068. Purpose**

14 It is the intent of the Legislature that the provisions of this Act accomplish the
15 following:

16 **1. Coordination.** Ensure states can coordinate in all areas of regulation, licensing and
17 supervision to eliminate unnecessary regulatory burden and more effectively use regulator
18 resources;

19 **2. Protection of public.** Protect the public from financial crime;

20 **3. Standardization.** Standardize the types of activities that are subject to licensing or
21 otherwise exempt from licensing; and

22 **4. Modernization.** Modernize safety and soundness requirements to ensure customer
23 funds are protected in an environment that supports innovative and competitive business
24 practices.

25 **SUBCHAPTER 2**

26 **DEFINITIONS**

27 **§6071. Definitions**

28 As used in this chapter, unless the context otherwise indicates, the following terms
29 have the following meanings.

30 **1. Acting in concert.** "Acting in concert" means knowingly acting together with a
31 common goal of jointly acquiring control of a licensee whether or not pursuant to an
32 express agreement.

1 **2. Administrator.** "Administrator" means the Superintendent of Consumer Credit
2 Protection within the Department of Professional and Financial Regulation.

3 **3. Authorized delegate.** "Authorized delegate" means a person a licensee designates
4 to engage in money transmission on behalf of the licensee.

5 **4. Bank Secrecy Act.** "Bank Secrecy Act" means the federal Bank Secrecy Act, 31
6 United States Code, Section 5311 et seq. and its implementing regulations.

7 **5. Bureau.** "Bureau" means the Department of Professional and Financial Regulation,
8 Bureau of Consumer Credit Protection.

9 **6. Closed loop stored value.** "Closed loop stored value" means stored value that is
10 redeemable by the issuer only for goods or services provided by the issuer or its affiliate or
11 franchisees of the issuer or its affiliate, except to the extent required by applicable law to
12 be redeemable in cash for its cash value.

13 **7. Control.** "Control" means:

14 A. The power to vote, directly or indirectly, at least 25% of the outstanding voting
15 shares or voting interests of a licensee or person in control of a licensee;

16 B. The power to elect or appoint a majority of key individuals or executive officers,
17 managers, directors, trustees or other persons exercising managerial authority of a
18 person in control of a licensee; or

19 C. The power to exercise, directly or indirectly, a controlling influence over the
20 management or policies of a licensee or person in control of a licensee.

21 A person is presumed to exercise a controlling influence when the person holds the power
22 to vote, directly or indirectly, at least 10% of the outstanding voting shares or voting
23 interests of a licensee or person in control of a licensee.

24 A person presumed to exercise a controlling influence pursuant to this subsection may rebut
25 the presumption of control if the person is a passive investor.

26 For purposes of determining the percentage of a person controlled by any other person, the
27 person's interest must be aggregated with the interest of any other immediate family
28 member, including the person's spouse, parents, children, siblings, parents-in-law,
29 children-in-law and siblings-in-law, and any other person who shares that person's home.

30 **8. Eligible rating.** "Eligible rating" means a credit rating of any of the 3 highest rating
31 categories provided by an eligible rating service, whereby each category may include rating
32 category modifiers such as "plus" or "minus" for S&P Global Ratings or successor
33 organization, or the equivalent from any other eligible rating service. Long-term credit
34 ratings are considered eligible ratings if the rating is equal to or higher than "A-" by S&P
35 Global Ratings or successor organization, or the equivalent from any other eligible rating
36 service. Short-term credit ratings are considered eligible ratings if the rating is equal to or
37 higher than "A-2" or "SP-2" by S&P Global Ratings or successor organization, or the
38 equivalent from any other eligible rating service. If ratings differ among eligible rating
39 services, the highest rating applies when determining whether a security bears an eligible
40 rating.

1 **9. Eligible rating service.** "Eligible rating service" means a nationally recognized
2 statistical rating organization recognized by the United States Securities and Exchange
3 Commission and any other organization designated by the administrator by rule or order.

4 **10. Federally insured depository financial institution.** "Federally insured
5 depository financial institution" means a bank, credit union, savings and loan association,
6 trust company, savings association, savings bank, industrial bank or industrial loan
7 company organized under the laws of the United States or any state of the United States,
8 when that bank, credit union, savings and loan association, trust company, savings
9 association, savings bank, industrial bank or industrial loan company has federally insured
10 deposits.

11 **11. In this State.** "In this State," for a transaction requested in person, means at a
12 physical location within this State. For a transaction requested electronically or by
13 telephone, "in this State" means that the person requesting the transaction is at a physical
14 location within this State. For a transaction requested electronically or by telephone, the
15 provider of money transmission may determine if the person requesting the transaction is
16 in this State by relying on other information provided by the person regarding the location
17 of the residential address, if an individual, or principal place of business, if a business
18 entity, or other physical address location and any records associated with the person that
19 the provider of money transmission may have that indicate the location, including but not
20 limited to an address associated with an account.

21 **12. Individual.** "Individual" means a natural person.

22 **13. Key individual.** "Key individual" means an individual ultimately responsible for
23 establishing or directing policies and procedures of a licensee, such as an executive officer,
24 manager, director or trustee.

25 **14. Licensee.** "Licensee" means a person licensed under this Act.

26 **15. Material litigation.** "Material litigation" means litigation that, according to
27 generally accepted accounting principles in the United States, is significant to a person's
28 financial health and would be required to be disclosed in the person's annual audited
29 financial statements, reports to shareholders or similar records.

30 **16. Monetary value.** "Monetary value" means a medium of exchange, whether or not
31 redeemable in money.

32 **17. Money.** "Money" means a medium of exchange that is authorized or adopted by
33 the United States or a foreign government. "Money" includes a monetary unit of account
34 established by an intergovernmental organization or by agreement between 2 or more
35 governments.

36 **18. Money transmission.** "Money transmission" means:

37 A. Selling or issuing payment instruments to a person located in this State;

38 B. Selling or issuing stored value to a person located in this State; or

39 C. Receiving money for transmission from a person located in this State.

40 "Money transmission" does not include the provision solely of online or
41 telecommunications services or network access.

1 **19. MSB.** "MSB" means a money services business as defined in 31 Code of Federal
2 Regulations, Section 1010.100.

3 **20. MSB accredited state.** "MSB accredited state" means a state agency that is
4 accredited by the Conference of State Bank Supervisors or successor organization and the
5 Money Transmitter Regulators Association or successor organization for money
6 transmission licensing and supervision.

7 **21. Multistate licensing process.** "Multistate licensing process" means an agreement
8 entered into by and among state regulators relating to coordinated processing of
9 applications for money transmission licenses, applications for the acquisition of control of
10 a licensee, control determinations or notice and information requirements for a change of
11 key individuals.

12 **22. NMLS.** "NMLS" means the nationwide multistate licensing system and registry
13 developed by the Conference of State Bank Supervisors or successor organization and the
14 American Association of Residential Mortgage Regulators or successor organization and
15 owned and operated by the State Regulatory Registry LLC or successor organization, or
16 any successor or affiliated entity, for the licensing and registration of persons in financial
17 services industries.

18 **23. Outstanding money transmission obligation.** "Outstanding money transmission
19 obligation" means:

20 A. A payment instrument or stored value issued or sold by a licensee to a person
21 located in the United States or reported as sold by an authorized delegate of the licensee
22 to a person that is located in the United States that has not yet been paid or refunded
23 by or for the licensee, or escheated in accordance with applicable abandoned property
24 laws; or

25 B. Money received for transmission by the licensee or an authorized delegate in the
26 United States from a person located in the United States that has not been received by
27 the payee or refunded to the sender or escheated in accordance with applicable
28 abandoned property laws.

29 For purposes of this subsection, "in the United States" includes, to the extent applicable, a
30 state, territory or possession of the United States; the District of Columbia; the
31 Commonwealth of Puerto Rico; or a United States military installation that is located in a
32 foreign country.

33 **24. Passive investor.** "Passive investor" means a person that:

34 A. Does not have the power to elect or appoint a majority of key individuals or
35 executive officers, managers, directors, trustees or other persons exercising managerial
36 authority of a person in control of a licensee;

37 B. Is not employed by and does not have any managerial duties of the licensee or
38 person in control of a licensee;

39 C. Does not have the power to exercise, directly or indirectly, a controlling influence
40 over the management or policies of a licensee or a person in control of a licensee; and

41 D. Either:

1 **2. Agent.** A person appointed as an agent of a payee to collect and process a payment
2 from a payer to the payee for goods or services, other than money transmission itself,
3 provided to the payer by the payee, as long as:

4 A. There exists a written agreement between the payee and the agent directing the
5 agent to collect and process payments from payers on the payee's behalf;

6 B. The payee holds the agent out to the public as accepting payments for goods or
7 services on the payee's behalf; and

8 C. Payment for the goods and services is treated as received by the payee upon receipt
9 by the agent so that the payer's obligation is extinguished and there is no risk of loss to
10 the payer if the agent fails to remit the funds to the payee;

11 **3. Intermediary.** A person that acts as an intermediary by processing payments
12 between an entity that has directly incurred an outstanding money transmission obligation
13 to a sender and the sender's designated recipient, as long as the entity:

14 A. Is properly licensed or exempt from licensing requirements under this Act;

15 B. Provides a receipt, electronic record or other written confirmation to the sender
16 identifying the entity as the provider of money transmission in the transaction; and

17 C. Bears sole responsibility to satisfy the outstanding money transmission obligation
18 to the sender, including the obligation to make the sender whole in connection with any
19 failure to transmit the funds to the sender's designated recipient;

20 **4. United States.** The United States or a department, agency or instrumentality of the
21 United States or its agent;

22 **5. United States Postal Service.** Money transmission by the United States Postal
23 Service or by an agent of the United States Postal Service;

24 **6. Agency.** A state, county, municipal or other governmental agency or governmental
25 subdivision or instrumentality of a state or its agent;

26 **7. Financial institution.** A federally insured depository financial institution, bank
27 holding company, office of an international banking corporation, foreign bank that
28 establishes a federal branch pursuant to the federal International Banking Act of 1978, 12
29 United States Code, Section 3102, corporation organized pursuant to the federal Bank
30 Service Company Act, 12 United States Code, Sections 1861 to 1867 or corporation
31 organized under the federal Edge Act, 12 United States Code, Sections 611 to 633;

32 **8. Financial organization.** A supervised financial organization as defined in Title
33 9-A, section 1-301, subsection 38-A, as long as the supervised financial organization does
34 not engage in the business of issuing or selling payment instruments through an authorized
35 delegate that is not a supervised financial organization;

36 **9. Electronic funds transfer.** Electronic funds transfer of governmental benefits for
37 a federal, state, county or governmental agency by a contractor on behalf of the United
38 States or a department, agency or instrumentality of the United States or on behalf of a state
39 or governmental subdivision, agency or instrumentality of the United States;

40 **10. Board of trade.** A board of trade designated as a contract market under the federal
41 Commodity Exchange Act, 7 United States Code, Sections 1 to 25 or a person that, in the

1 ordinary course of business, provides clearance and settlement services for a board of trade
2 to the extent of its operation as or for such a board;

3 **11. Futures commission merchant.** A registered futures commission merchant under
4 the federal commodities laws to the extent of its operation as such a merchant;

5 **12. Securities broker-dealer.** A person registered as a securities broker-dealer under
6 federal or state securities laws to the extent of its operation as such a broker-dealer;

7 **13. Employee.** An individual employed by a licensee, authorized delegate or person
8 exempted from the licensing requirements of this Act when acting within the scope of
9 employment and under the supervision of the licensee, authorized delegate or exempted
10 person as an employee and not as an independent contractor;

11 **14. Service provider.** A person expressly appointed as a 3rd-party service provider
12 to or agent of an entity exempt under subsection 7, solely to the extent that:

13 A. The service provider or agent is engaging in money transmission on behalf of and
14 pursuant to a written agreement with the exempt entity that sets forth the specific
15 functions that the service provider or agent is to perform; and

16 B. The exempt entity assumes all risk of loss and all legal responsibility for satisfying
17 the outstanding money transmission obligations owed to purchasers and holders of the
18 outstanding money transmission obligations upon receipt of the purchaser's or holder's
19 money or monetary value by the service provider or agent;

20 **15. Payroll processor.** A payroll processor licensed under Title 10, chapter 222; or

21 **16. Regulation, rule or order.** A person exempt by regulation, rule or order if the
22 administrator finds the exemption to be in the public interest and that the regulation of the
23 person is not necessary for the purposes of this Act.

24 **§6075. Authority to require demonstration of exemption**

25 The administrator may require that a person claiming to be exempt from licensing
26 pursuant to section 6074 provide information and documentation to the administrator
27 demonstrating that the person qualifies for a claimed exemption.

28 **SUBCHAPTER 4**

29 **IMPLEMENTATION; CONFIDENTIALITY; INVESTIGATIONS;**
30 **RELATIONSHIP TO FEDERAL LAW**

31 **§6078. Implementation**

32 In order to carry out the purposes of this Act, the administrator may, subject to the
33 provisions of section 6080, subsections 1 and 2:

34 **1. Licensing.** Require licensing under this Act through NMLS. The administrator is
35 authorized to participate in the nationwide mortgage licensing system and registry;

36 **2. Agreements.** Enter into agreements or relationships with other government
37 officials or federal and state regulatory agencies and regulatory associations in order to
38 improve efficiencies and reduce regulatory burden by standardizing methods or procedures
39 and sharing resources, records or related information obtained under this Act;

1 **3. Examination and investigation.** Use, hire, contract or employ analytical systems,
2 methods or software to examine or investigate any person subject to this Act;

3 **4. Reports.** Accept from state or federal government agencies or officials licensing,
4 examination or investigation reports made by those state or federal government agencies
5 or officials; and

6 **5. Audit reports.** Accept audit reports made by an independent certified public
7 accountant or other qualified 3rd-party auditor for an applicant or licensee and incorporate
8 the audit report in a report of examination or investigation.

9 **§6079. Administrative authority**

10 The administrator has the authority to administer, interpret and enforce this Act, to
11 adopt rules implementing this Act and to recover the cost of administering and enforcing
12 this Act by imposing and collecting proportionate and equitable fees associated with
13 applications, examinations, investigations and other actions required to achieve the
14 purposes of this Act.

15 **§6080. Confidentiality**

16 Information confidentiality and disclosure is governed by this section.

17 **1. Confidentiality and prohibited disclosure.** Except as otherwise provided in
18 subsection 2, all information or reports obtained by the administrator from an applicant for
19 a license, licensee or authorized delegate and all information contained in or related to an
20 examination, investigation, operating report or condition report prepared by, on behalf of
21 or for the use of the administrator, or financial statements, balance sheets or authorized
22 delegate information, are confidential and are not subject to disclosure under Title 1,
23 chapter 13.

24 **2. Authorized disclosure.** The administrator may disclose information not otherwise
25 subject to disclosure under subsection 1 to representatives of state or federal agencies who
26 certify in a record that they will maintain the confidentiality of the information or if the
27 administrator finds that the release is reasonably necessary for the protection and interest
28 of the public.

29 **3. Licensees.** This section does not prohibit the administrator from disclosing to the
30 public a list of all licensees or the aggregated financial or transactional data concerning
31 those licensees.

32 **4. Public information.** Information contained in the records of the bureau that is not
33 confidential and may be made available to the public either on the bureau's publicly
34 accessible website, upon receipt by the bureau of a written request, or in NMLS includes:

35 A. The name, business address, telephone number and unique identifier of a licensee;

36 B. The business address of a licensee's registered agent for service;

37 C. The name, business address and telephone number of each authorized delegate;

38 D. The terms of or a copy of a bond filed by a licensee, as long as confidential
39 information, including but not limited to prices and fees for that bond, is redacted;

40 E. Copies of nonconfidential final orders of the bureau relating to a violation of this
41 Act or rules implementing this Act; and

1 F. Imposition of an administrative fine or penalty under this Act.

2 **§6081. Investigations**

3 Investigations by the administrator are governed by this section.

4 **1. Examination.** The administrator may conduct an examination or investigation of
5 a licensee or authorized delegate or otherwise take independent action authorized by this
6 Act or by a rule adopted or order issued under this Act as reasonably necessary or
7 appropriate to administer and enforce this Act, rules implementing this Act and other
8 applicable law, including the Bank Secrecy Act and the federal Uniting and Strengthening
9 America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism
10 (USA PATRIOT Act) Act of 2001, Public Law 107-56, 115 Stat. 272. The administrator
11 may:

12 A. Conduct an examination of a licensee's business either on-site or off-site as the
13 administrator may reasonably require;

14 B. Conduct an examination in conjunction with an examination conducted by
15 representatives of agencies of the State or agencies of another state or of the Federal
16 Government;

17 C. Accept the examination report of an agency of the State or an agency of another
18 state or of the Federal Government or a report prepared by an independent accounting
19 firm, which on being accepted is considered for all purposes as an official report of the
20 administrator; and

21 D. Summon and examine under oath a key individual or employee of a licensee or
22 authorized delegate and require a key individual or employee to produce records
23 regarding any matter related to the condition and business of the licensee or authorized
24 delegate.

25 **2. Records.** A licensee or authorized delegate shall provide, and the administrator
26 may have full and complete access to, all records the administrator may reasonably require
27 to conduct a complete examination. The records must be provided at the location and in
28 the format specified by the administrator, and the administrator may use multistate record
29 production standards and examination procedures when such standards and procedures will
30 reasonably achieve the requirements of this subsection.

31 **3. Costs.** Unless otherwise directed by the administrator, a licensee shall pay all costs
32 reasonably incurred in connection with an examination of the licensee or the licensee's
33 authorized delegates.

34 **§6082. Networked supervision**

35 Networked supervision by the administrator is governed by this section.

36 **1. Multistate supervision.** To efficiently and effectively administer and enforce this
37 Act and to minimize regulatory burden, the administrator is authorized to participate in
38 multistate supervisory processes established between states and coordinated through the
39 Conference of State Bank Supervisors, the Money Transmitter Regulators Association and
40 affiliates or successors of the conference and association for all licensees that hold licenses
41 in this State and other states. As a participant in multistate supervision, the administrator
42 shall:

1 A. Cooperate, coordinate and share information with other state and federal regulators
2 in accordance with section 6080;

3 B. Enter into written cooperation, coordination or information-sharing contracts or
4 agreements with organizations whose memberships are made up of state or federal
5 government agencies; and

6 C. Cooperate, coordinate and share information with organizations whose
7 memberships are made up of state or federal government agencies, as long as the
8 organizations agree in writing to maintain the confidentiality and security of the shared
9 information in accordance with section 6080.

10 **2. Enforcement authority.** The administrator may not waive, and nothing in this
11 section constitutes a waiver of, the administrator's authority to conduct an examination or
12 investigation or otherwise take independent action authorized by this Act or by a rule
13 adopted or order issued under this Act to enforce compliance with applicable state or
14 federal law.

15 **3. Joint examination.** A joint examination or investigation or acceptance of an
16 examination or investigation report does not waive an examination assessment provided
17 for in this Act.

18 **§6083. Relationship to federal law**

19 State money transmission jurisdiction is governed by this section.

20 **1. Governance.** If state money transmission jurisdiction is conditioned on a federal
21 law, any inconsistency between a provision of this Act and the federal law governing
22 money transmission is governed by the applicable federal law to the extent of the
23 inconsistency.

24 **2. Guidance.** If there is an inconsistency between this Act and a federal law that
25 governs pursuant to subsection 1, the administrator may provide interpretive guidance that
26 identifies the inconsistency and identifies the appropriate means of compliance with federal
27 law.

28 **§6084. Prohibited practices**

29 It is a violation of this Act for a licensee, executive officer, responsible individual or
30 other person subject to this Act in connection with money transmission to:

31 **1. Defraud or mislead.** Directly or indirectly employ any scheme, device or artifice
32 to defraud or mislead any person, including but not limited to engaging in bait and switch
33 advertising or sales practices;

34 **2. Unfair acts.** Directly or indirectly engage in any unfair, deceptive or abusive act
35 or practice toward any person, including but not limited to any false or deceptive statement
36 about fees or other terms of money transmission or currency exchange;

37 **3. Fraud or misrepresentation.** Directly or indirectly obtain property by fraud or
38 misrepresentation;

39 **4. False information.** Make, publish or disseminate any false, deceptive or misleading
40 information;

41 **5. Property for personal use.** Receive or take possession for personal use of property
42 of a money transmission business, other than in payment for services rendered, and with

1 intent to defraud or to omit to make or cause or direct to omit to make a full and true entry
2 in the books and accounts of the money transmission business;

3 **6. False entries.** Make or concur in making any false entry or omit or concur in
4 omitting any material entry in the books or accounts of a money transmission business;

5 **7. False reports.** Knowingly make or publish to the administrator or concur in making
6 or publishing to the administrator any written report, exhibit or statement of a money
7 transmission business's affairs or pecuniary condition containing any material statement
8 that is false or omit or concur in omitting any statement required by law to be contained in
9 such a written report, exhibit or statement; or

10 **8. Failure to report.** Fail to make any report or statement lawfully required by the
11 administrator or other public official.

12 **SUBCHAPTER 5**

13 **MONEY TRANSMISSION LICENSES**

14 **§6087. License required**

15 A person may not engage in the business of money transmission or advertise, solicit or
16 hold itself out as providing money transmission unless the person is licensed under this
17 Act.

18 **1. Exemption.** This section does not apply to:

19 A. A person that is an authorized delegate of a person licensed under this Act acting
20 within the scope of authority conferred by a written contract with the licensee; or

21 B. A person that is exempt pursuant to section 6074 and does not engage in money
22 transmission outside the scope of such exemption.

23 **2. Transfer or assignment.** A license issued under section 6091 is not transferable
24 or assignable.

25 **§6088. Consistent state licensing**

26 Consistent licensing between the State and other states is governed by this section.

27 **1. Authorization.** To establish consistent licensing between the State and other states,
28 the administrator may:

29 A. Implement all licensing provisions of this Act in a manner that is consistent with
30 other states that have adopted this Act; and

31 B. Participate in nationwide protocols for licensing cooperation and coordination
32 among state regulators as long as such protocols are consistent with this Act.

33 **2. Relationships and contracts.** In order to fulfill the purposes of this Act, the
34 administrator may establish relationships or contracts with NMLS or other entities
35 designated by NMLS to enable the administrator to:

36 A. Collect and maintain records;

37 B. Coordinate multistate licensing processes and supervision processes;

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C. Process fees; and

D. Facilitate communication between this State and licensees or other persons subject to this Act.

3. NMLS licensing. The administrator may use NMLS for all aspects of licensing in accordance with this Act, including but not limited to license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing and examinations.

4. NMLS forms, processes and functionalities. The administrator may use NMLS forms, processes and functionalities in accordance with this Act. If NMLS does not provide forms, processes or functionality for a provision of this Act, the administrator may strive to implement the requirements in a manner that facilitates uniformity with respect to licensing, supervision, reporting and regulation of licensees that are licensed in multiple jurisdictions.

5. Waive or modify requirements. The administrator may waive or modify by rule any or all of the requirements, in whole or in part, and establish new requirements as reasonably necessary to participate in NMLS.

§6089. Application for license

License applications are governed by this section.

1. Forms. An applicant for a license shall apply in a form and in a medium as prescribed by the administrator. Each form must contain content as set forth by law or rule and additional content determined by the administrator to be necessary to properly evaluate an application. The administrator may change or update forms and media in accordance with applicable law to carry out the purposes of this Act and maintain consistency with NMLS licensing standards and practices. The application must state or contain, as applicable:

A. The legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business;

B. A list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the 10-year period preceding the submission of the application;

C. A description of any money transmission previously provided by the applicant and the money transmission that the applicant seeks to provide in the State;

D. A list of the applicant's proposed authorized delegates and the locations in this State where the applicant and its authorized delegates propose to engage in money transmission;

E. A list of other states in which the applicant is licensed to engage in money transmission and any license revocations or suspensions or other disciplinary action taken against the applicant in another state;

F. Information concerning any bankruptcy or receivership proceedings affecting the applicant or a person in control of an applicant;

G. A sample form of contract for authorized delegates, if applicable;

H. A sample form of payment instrument or stored value, if applicable;

1 I. The name and address of any federally insured depository financial institution
2 through which the applicant plans to conduct money transmission; and

3 J. Any other information the administrator or NMLS reasonably requires with respect
4 to the applicant.

5 **2. Corporation, limited liability company, partnership or other legal entity.** If an
6 applicant is a corporation, limited liability company, partnership or other legal entity, the
7 applicant, in addition to the application information under subsection 1, shall provide:

8 A. The date of the applicant's incorporation or formation and state or country of
9 incorporation or formation;

10 B. If applicable, a certificate of good standing from the state or country in which the
11 applicant is incorporated or formed;

12 C. A brief description of the structure or organization of the applicant, including any
13 parents or subsidiaries of the applicant, and whether any parents or subsidiaries are
14 publicly traded;

15 D. The legal name, any fictitious or trade name, all business and residential addresses
16 and the employment of each key individual and person in control of the applicant, as
17 applicable, in the 10-year period preceding the submission of the application;

18 E. A list of any criminal convictions and material litigation in which a person in control
19 of the applicant that is not an individual has been involved in the 10-year period
20 preceding the submission of the application;

21 F. A copy of audited financial statements of the applicant for the most recent fiscal
22 year and for the 2-year period preceding the submission of the application or, if
23 determined to be acceptable to the administrator, certified unaudited financial
24 statements for the most recent fiscal year or other period acceptable to the
25 administrator;

26 G. A certified copy of unaudited financial statements of the applicant for the most
27 recent fiscal quarter;

28 H. If the applicant is a publicly traded corporation, a copy of the most recent report
29 filed with the United States Securities and Exchange Commission under Section 13 of
30 the federal Securities Exchange Act of 1934, 15 United States Code, Section 78m;

31 I. If the applicant is a wholly owned subsidiary of:

32 (1) A corporation publicly traded in the United States, a copy of audited financial
33 statements for the parent corporation for the most recent fiscal year or a copy of
34 the parent corporation's most recent report filed under the federal Securities
35 Exchange Act of 1934, 15 United States Code, Section 78m; or

36 (2) A corporation publicly traded outside the United States, a copy of similar
37 documentation filed with the regulator of the parent corporation's domicile outside
38 the United States;

39 J. The name and address of the applicant's registered agent in this State; and

40 K. Any other information the administrator reasonably requires with respect to the
41 applicant.

1 **3. Waiver.** The administrator may waive one or more requirements of subsections 1
2 and 2 or permit an applicant to submit other information in lieu of the required information.
3 A waiver under this subsection is limited to one licensing period.

4 **§6090. Information requirements for certain individuals**

5 Information requirements for certain individuals are governed by this section.

6 **1. Required information.** An individual in control of a licensee or applicant, an
7 individual that seeks to acquire control of a licensee and a key individual shall furnish to
8 the administrator through NMLS the following items:

9 A. The individual's fingerprints for submission to the Federal Bureau of Investigation
10 and the administrator for purposes of a national criminal history record check unless
11 the individual resides outside of the United States and has resided outside of the United
12 States for the last 10 years; and

13 B. Personal history and experience in a form and in a medium prescribed by the
14 administrator, to obtain the following:

15 (1) An independent credit report from a consumer reporting agency unless the
16 individual does not have a social security number, in which case this requirement
17 is waived;

18 (2) Information related to any criminal convictions or pending charges; and

19 (3) Information related to any regulatory or administrative action and any civil
20 litigation involving claims of fraud, misrepresentation, conversion,
21 mismanagement of funds, breach of fiduciary duty or breach of contract.

22 **2. Foreign residence.** If the individual under subsection 1 has resided outside of the
23 United States at any time in the last 10 years, the individual shall also provide an
24 investigative background report prepared by an independent search firm that meets the
25 following requirements:

26 A. At a minimum, the independent search firm:

27 (1) Must demonstrate that it has sufficient knowledge and resources and employs
28 accepted and reasonable methodologies to conduct the research of the investigative
29 background report; and

30 (2) May not be affiliated with or have an interest with the individual it is
31 researching; and

32 B. At a minimum, the investigative background report must be written in the English
33 language and contain the following:

34 (1) If available in the individual's jurisdiction of residency, a comprehensive credit
35 report, or any equivalent information obtained or generated by the independent
36 search firm to develop the report, including a search of the court data in the
37 countries, provinces, states, cities, towns and contiguous areas where the individual
38 resided and worked;

39 (2) Criminal records information for the past 10 years, including but not limited to
40 felonies, misdemeanors or similar convictions for violations of law in the countries,
41 provinces, states, cities, towns and contiguous areas where the individual resided
42 and worked;

1 (3) Employment history;

2 (4) Media history, including an electronic search of national and local publications,
3 wire services and business applications; and

4 (5) Financial services-related regulatory history, including but not limited to
5 money transmission, securities, banking, insurance and mortgage-related
6 industries.

7 **§6091. Issuance of license**

8 License issuance is governed by this section.

9 **1. Complete application.** When an application for an original license appears to
10 include all the items and address all of the matters that are required under this subchapter,
11 the application is complete and the administrator shall promptly notify the applicant of the
12 date on which the application was determined to be complete and:

13 A. The administrator shall approve or deny the application within 120 days after the
14 completion date; or

15 B. If the application is not approved or denied within 120 days after the completion
16 date:

17 (1) The application is approved; and

18 (2) The license takes effect as of the first business day after expiration of the 120-
19 day period.

20 The administrator for good cause may extend the application period.

21 **2. Completion determination.** A determination by the administrator that an
22 application is complete and is accepted for processing means only that the application, on
23 its face, appears to include all of the items, including the criminal history record check
24 response from the Federal Bureau of Investigation, and address all of the matters that are
25 required. The determination is not an assessment of the substance of the application or of
26 the sufficiency of the information provided.

27 **3. Investigation.** When an application is filed and considered complete under this
28 section, the administrator shall investigate the applicant's financial condition and
29 responsibility, financial and business experience, competence, character and general
30 fitness. The administrator may conduct an on-site investigation of the applicant, the
31 reasonable cost of which the applicant must pay. The administrator shall issue a license to
32 an applicant under this subsection if the administrator finds that the following conditions
33 have been fulfilled:

34 A. The applicant has complied with sections 6089 and 6090; and

35 B. The financial condition and responsibility, financial and business experience,
36 competence, character and general fitness of the applicant and the competence,
37 experience, character and general fitness of the key individuals and persons in control
38 of the applicant indicate that it is in the interest of the public to permit the applicant to
39 engage in money transmission.

40 **4. Multistate licensing process.** If an applicant avails itself of or is otherwise subject
41 to a multistate licensing process:

1 A. The administrator may accept the investigation results of a lead investigative state
2 for the purposes of subsection 3 if the lead investigative state has sufficient staffing,
3 expertise and minimum standards; or

4 B. If the State is a lead investigative state, the administrator may investigate the
5 applicant pursuant to subsection 3 and the time frames established by agreement
6 through the multistate licensing process, as long as the time frames are compliant with
7 the application period in subsection 1, paragraph A.

8 **5. Notice of denial.** The administrator shall issue a formal written notice of the denial
9 of a license application within 30 days of the decision to deny the application. The
10 administrator shall set forth in the notice of denial the specific reasons for the denial of the
11 application. An applicant whose application is denied by the administrator under this
12 subsection may request a hearing on the issue in accordance with Title 5, chapter 375,
13 subchapter 4.

14 **6. License term.** Except as provided in subsection 1, paragraph B, the initial license
15 term begins on the day the application is approved. A license expires on December 31st of
16 the year in which the license term began, unless the initial license date is between
17 November 1st and December 31st, in which case the initial license term runs through
18 December 31st of the following year.

19 **7. Requirements.** An applicant for a money transmission license must demonstrate
20 that it meets or will meet the requirements in sections 6100-R, 6100-S and 6100-T.

21 **§6092. Renewal of license**

22 License renewal is governed by this section.

23 **1. Annual renewal.** A license under this Act may be renewed annually. The renewal
24 term is for a period of one year and begins on January 1st of each year after the initial
25 license term and expires on December 31st of the year the renewal term begins.

26 **2. Renewal report.** A licensee must submit a renewal report with the renewal fee, in
27 a form and in a medium prescribed by the administrator. The renewal report must state or
28 contain a description of each material change in information submitted by the licensee in
29 its original license application that has not been reported to the administrator.

30 **3. Renewal extension.** The administrator for good cause may grant an extension of
31 the renewal date.

32 **4. Processing license renewals.** The administrator may use NMLS to process license
33 renewals as long as the license renewals are consistent with the requirements of this section.

34 **§6093. Maintenance of license**

35 License maintenance is governed by this section.

36 **1. Suspension and revocation.** If a licensee does not continue to meet the
37 qualifications or satisfy the requirements that apply to an applicant for a new money
38 transmission license, the administrator may suspend or revoke the licensee's license in
39 accordance with the procedures established by this Act or other applicable state law.

40 **2. Requirements.** A money transmission licensee must at all times meet the
41 requirements in sections 6100-R, 6100-S and 6100-T.

1 SUBCHAPTER 6

2 ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

3 §6096. Acquisition of control of a licensee

4 Acquisition of control of a licensee is governed by this section.

5 1. Approval. A person or group of persons acting in concert seeking to acquire control
6 of a licensee shall obtain the written approval of the administrator prior to acquiring control.
7 An individual does not acquire control of a licensee and is not subject to this section when
8 that individual becomes a key individual in the ordinary course of business.

9 2. Application. A person or group of persons acting in concert seeking to acquire
10 control of a licensee shall, in cooperation with the licensee, submit an application in a form
11 and in a medium prescribed by the administrator.

12 3. NMLS use. Upon request, the administrator may permit a licensee or the person or
13 group of persons acting in concert seeking to acquire control of a licensee to submit some
14 or all information required by the administrator pursuant to subsection 2 without using
15 NMLS.

16 4. Required information. The application required by subsection 2 must include
17 information required by section 6090 for any new key individuals that have not previously
18 completed the requirements of section 6090 for a licensee.

19 5. Completion. When an application for acquisition of control of a licensee appears
20 to include all the items and address all of the matters that are required, the application is
21 complete and the administrator shall promptly notify the applicant of the date on which the
22 application was determined to be complete and:

23 A. The administrator shall approve or deny the application within 60 days after the
24 completion date; or

25 B. If the application is not approved or denied within 60 days after the completion
26 date:

27 (1) The application is approved; and

28 (2) The person or group of persons acting in concert is not prohibited from
29 acquiring control of a licensee.

30 The administrator for good cause may extend the application period.

31 6. Completion determination. A determination by the administrator that an
32 application is complete and is accepted for processing means only that the application, on
33 its face, appears to include all of the items and address all of the matters that are required.
34 The determination is not an assessment of the substance of the application or of the
35 sufficiency of the information provided.

36 7. Investigation. When an application is filed and considered complete under
37 subsection 6, the administrator shall investigate the financial condition and responsibility,
38 financial and business experience, competence, character and general fitness of the person
39 or group of persons acting in concert seeking to acquire control of a licensee. The

1 administrator shall approve an acquisition of control if the administrator finds that the
2 following conditions have been fulfilled:

3 A. The requirements of subsections 2 and 4 have been met, as applicable; and

4 B. The financial condition and responsibility, financial and business experience,
5 competence, character and general fitness of the person or group of persons acting in
6 concert seeking to acquire control of a licensee and the competence, experience,
7 character and general fitness of the key individuals and persons that would be in control
8 of the licensee after the acquisition of control indicate that it is in the interest of the
9 public to permit the person or group of persons acting in concert to control the licensee.

10 **8. Multistate licensing process.** If an applicant avails itself or is otherwise subject to
11 a multistate licensing process:

12 A. The administrator may accept the investigation results of a lead investigative state
13 for the purposes of subsection 7 if the lead investigative state has sufficient staffing,
14 expertise and minimum standards; or

15 B. If the State is a lead investigative state, the administrator may investigate the
16 applicant pursuant to subsection 7 and the time frames established by agreement
17 through the multistate licensing process.

18 **9. Notice of denial.** The administrator shall issue a formal written notice of the denial
19 of an application to acquire control of a licensee within 30 days of the decision to deny the
20 application. The administrator shall set forth in the notice of denial the specific reasons for
21 the denial of the application. An applicant whose application is denied by the administrator
22 under this subsection may request a hearing on the issue in accordance with Title 5, chapter
23 375, subchapter 4.

24 **10. Exemptions.** The requirements of subsections 1 and 2 do not apply to the
25 following:

26 A. A person that acts as a proxy for the sole purpose of voting at a designated meeting
27 of the shareholders or holders of voting shares or voting interests of a licensee or person
28 in control of a licensee;

29 B. A person that acquires control of a licensee by devise or descent;

30 C. A person that acquires control of a licensee as a personal representative, custodian,
31 guardian, conservator or trustee or as an officer appointed by a court of competent
32 jurisdiction or by operation of law;

33 D. A person that is exempt under section 6074, subsection 7;

34 E. A person that the administrator determines is not subject to subsection 1 based on
35 the public interest;

36 F. A public offering of securities of a licensee or a person in control of a licensee; or

37 G. An internal reorganization of a person in control of the licensee for which the
38 ultimate person in control of the licensee remains the same.

39 **11. Acquisition notification.** Persons in subsection 10, paragraphs B, C, D, F and G
40 in cooperation with the licensee shall notify the administrator within 15 days after the
41 acquisition of control.

1 **12. Streamlined acquisition of control.** Acquisition of control of a licensee may be
2 streamlined in accordance with this subsection.

3 A. The requirements of subsections 1 and 2 do not apply to a person that has complied
4 with and received approval to engage in money transmission under this Act or was
5 identified as a person in control of a licensee in a prior application filed with and
6 approved by the administrator or by an MSB accredited state pursuant to a multistate
7 licensing process, as long as:

8 (1) The person has not had a license revoked or suspended or controlled a licensee
9 that has had a license revoked or suspended while the person was in control of the
10 licensee in the previous 5 years;

11 (2) If the person is a licensee, the person is well-managed and has received at least
12 a satisfactory rating for compliance at its most recent examination by an MSB
13 accredited state if such rating was given;

14 (3) The licensee to be acquired is projected to meet the requirements of sections
15 6100-R, 6100-S and 6100-T after the acquisition of control is completed and, if the
16 person acquiring control is a licensee, that licensee is also projected to meet the
17 requirements of sections 6100-R, 6100-S and 6100-T after the acquisition of
18 control is completed;

19 (4) The licensee to be acquired will not implement any material changes to its
20 business plan as a result of the acquisition of control and, if the person acquiring
21 control is a licensee, that licensee also will not implement any material changes to
22 its business plan as a result of the acquisition of control; and

23 (5) The person provides notice of the acquisition in cooperation with the licensee
24 and attests to subparagraphs (1) to (4) in a form and in a medium prescribed by the
25 administrator.

26 B. If the notice under paragraph A, subparagraph (5) is not denied within 30 days of
27 the date on which the notice is determined to be complete, the notice is deemed
28 approved.

29 **13. Determination.** Before filing an application for approval to acquire control of a
30 licensee, a person may request in writing a determination from the administrator as to
31 whether the person would be considered a person in control of a licensee upon
32 consummation of a proposed transaction. If the administrator determines that the person
33 would not be a person in control of a licensee, the person and transaction are not subject to
34 the requirements of subsections 1 and 2.

35 **14. Multistate licensing process.** If a multistate licensing process includes a
36 determination pursuant to subsection 13 and an applicant avails itself or is otherwise subject
37 to the multistate licensing process:

38 A. The administrator may accept the control determination of a lead investigative state
39 with sufficient staffing, expertise and minimum standards for the purposes of
40 subsection 13; or

41 B. If the State is a lead investigative state, the administrator may investigate the
42 applicant pursuant to subsection 13 and the time frames established by agreement
43 through the multistate licensing process.

1 **§6097. Notice and information requirements for change of key individuals**

2 Notice and information requirements for a change of key individuals is governed by
3 this section.

4 **1. Licensee adding or replacing key individual.** A licensee adding or replacing a
5 key individual shall:

6 A. Provide notice in a manner prescribed by the administrator within 15 days of the
7 effective date of the key individual's appointment; and

8 B. Provide information as required by section 6090 within 45 days of the effective
9 date of the key individual's appointment.

10 **2. Notice of disapproval.** Within 90 days of the date on which the notice provided
11 pursuant to subsection 1 is determined to be complete, the administrator may issue a notice
12 of disapproval of a key individual if the competence, experience, character or integrity of
13 the individual indicates that it would not be in the best interests of the public or the
14 customers of the licensee to permit the individual to be a key individual of the licensee.

15 **3. Basis of disapproval.** A notice of disapproval must contain a statement of the basis
16 for disapproval and be sent to the licensee and the disapproved individual. An applicant
17 whose application is denied by the administrator under this section may request a hearing
18 on the issue in accordance with Title 5, chapter 375, subchapter 4.

19 **4. Approval.** If the notice provided pursuant to subsection 1 is not disapproved within
20 90 days of the date on which the notice is determined to be complete, the key individual is
21 deemed approved.

22 **5. Multistate licensing process.** If a multistate licensing process includes a key
23 individual notice review and disapproval process pursuant to this section and the licensee
24 avails itself or is otherwise subject to the multistate licensing process:

25 A. The administrator may accept the determination of another state if the investigating
26 state has sufficient staffing, expertise and minimum standards for the purposes of this
27 section; or

28 B. If the State is a lead investigative state, the administrator may investigate the
29 applicant pursuant to subsection 2 and the time frames established by agreement
30 through the multistate licensing process.

31 **SUBCHAPTER 7**

32 **REPORTING AND RECORDS**

33 **§6100. Report of condition**

34 Condition reporting is governed by this section.

35 **1. Report.** A licensee shall submit a report of condition within 45 days of the end of
36 each calendar quarter or within any extended time as the administrator may prescribe.

37 **2. Required information.** The report of condition must include:

38 A. Financial information at the licensee level;

1 B. Nationwide and state-specific money transmission transaction information in every
2 jurisdiction in the United States where the licensee is licensed to engage in money
3 transmission;

4 C. Permissible investments maintenance reporting pursuant to section 6100-U;

5 D. Transaction destination country reporting for money received for transmission, if
6 applicable. The information required by this paragraph is required to be included only
7 in a report of condition submitted within 45 days of the end of the 4th calendar quarter;
8 and

9 E. Any other information the administrator reasonably requires with respect to the
10 licensee. The administrator may use NMLS for the submission of the report required
11 by this section and may change or update as necessary the requirements of this section
12 to carry out the purposes of this Act and maintain consistency with NMLS reporting.

13 **§6100-A. Audited financials**

14 Audited financial filing is governed by this section.

15 **1. Required filing.** A licensee shall, within 90 days of the end of each fiscal year or
16 within any extended time as the administrator may prescribe, file with the administrator:

17 A. An audited financial statement of the licensee for the fiscal year prepared in
18 accordance with generally accepted accounting principles in the United States; and

19 B. Any other information as the administrator may reasonably require.

20 **2. Filing preparation.** The audited financial statements required by this section must
21 be prepared by an independent certified public accountant or independent public accountant
22 who is satisfactory to the administrator.

23 **3. Certificate of opinion.** The audited financial statements required by this section
24 must include or be accompanied by a certificate of opinion of the independent certified
25 public accountant or independent public accountant who prepared the statements that is
26 satisfactory in form and content to the administrator. If the certificate of opinion is
27 qualified, the administrator may order the licensee to take any action the administrator may
28 find necessary to enable the independent certified public accountant or independent public
29 accountant to remove the qualification.

30 **§6100-B. Authorized delegate reporting**

31 Authorized delegate reporting is governed by this section.

32 **1. Authorized delegate reports.** A licensee shall submit a report regarding its
33 authorized delegates within 45 days of the end of each calendar quarter. The administrator
34 may use NMLS for the submission of the report required by this section as long as the
35 report submission is consistent with the requirements of this section.

36 **2. Required information.** The authorized delegate report must include, at a
37 minimum, each authorized delegate's:

38 A. Company's legal name;

39 B. Taxpayer employer identification number;

40 C. Principal provider of money transmission;

- 1 D. Physical address;
- 2 E. Mailing address;
- 3 F. Business conducted in other states, if any;
- 4 G. Fictitious or trade name, if any;
- 5 H. Contact person's name, telephone number and e-mail address;
- 6 I. Start date acting as licensee's authorized delegate; and
- 7 J. End date acting as licensee's authorized delegate, if applicable.

8 The administrator may request any other information the administrator reasonably requires
9 with respect to the authorized delegate.

10 **§6100-C. Reports of certain events**

11 Event reporting is governed by this section.

12 **1. Events requiring report within one day.** A licensee shall file a report with the
13 administrator within one business day after the licensee has reason to know of the
14 occurrence of any of the following events:

15 A. The filing of a petition by or against the licensee under the United States Bankruptcy
16 Code, 11 United States Code, Sections 101 to 110 for bankruptcy or reorganization;

17 B. The filing of a petition by or against the licensee for receivership, the
18 commencement of any other judicial or administrative proceeding for the licensee's
19 dissolution or reorganization or the making of a general assignment for the benefit of
20 the licensee's creditors; or

21 C. The commencement of a proceeding to revoke or suspend the licensee's license in
22 a state or country in which the licensee engages in business or is licensed.

23 **2. Events requiring report within 3 days.** A licensee shall file a report with the
24 administrator within 3 business days after the licensee has reason to know of the occurrence
25 of any of the following events:

26 A. The filing of a civil or criminal action against the licensee or a key individual or
27 person in control of the licensee by a state or federal agency; or

28 B. The filing of a civil or criminal action against an authorized delegate by a state or
29 federal agency.

30 **§6100-D. Bank Secrecy Act reports**

31 A licensee and an authorized delegate shall file all reports required by federal currency
32 reporting, record-keeping and suspicious activity reporting requirements as set forth in the
33 Bank Secrecy Act and other federal and state laws pertaining to money laundering. The
34 timely filing of a complete and accurate report required under this section with the
35 appropriate federal agency is deemed compliant with the requirements of this section.

36 **§6100-E. Records**

37 Records maintenance is governed by this section.

38 **1. Required records.** A licensee shall maintain for at least 3 years the following
39 records for determining its compliance with this Act:

- 1 A. A record of each outstanding money transmission obligation sold;
 - 2 B. A general ledger posted at least monthly containing all asset, liability, capital,
 - 3 income and expense accounts;
 - 4 C. Bank statements and bank reconciliation records;
 - 5 D. Records of outstanding money transmission obligations;
 - 6 E. Records of each outstanding money transmission obligation paid within the 3-year
 - 7 period;
 - 8 F. A list of the last known names and addresses of all of the licensee's authorized
 - 9 delegates; and
 - 10 G. Any other records the administrator may reasonably require by rule.
- 11 **2. Form of records.** The items specified in subsection 1 may be maintained in any
12 form of record as long as the records can be viewed without special equipment and can be
13 copied using methods commonly used in business.
- 14 **3. Records outside this State.** Records specified in subsection 1 may be maintained
15 outside this State if they are made accessible to the administrator on 7 business days' notice.
- 16 **4. Inspection.** All records maintained by the licensee as required in subsections 1 to
17 3 are open to inspection by the administrator pursuant to section 6081, subsection 1.

18 SUBCHAPTER 8

19 AUTHORIZED DELEGATES

20 **§6100-H. Relationship between licensee and authorized delegate**

21 The relationship between licensees and authorized delegates is governed by this
22 section.

23 **1. Definition.** For the purposes of this section, "remit" means to make direct payments
24 of money to a licensee or its representative authorized to receive money or to deposit money
25 in a bank in an account specified by the licensee.

26 **2. Authorized delegate.** Before a licensee may conduct business through an
27 authorized delegate or allows a person to act as the licensee's authorized delegate, the
28 licensee shall:

29 A. Adopt, and update as necessary, written policies and procedures reasonably
30 designed to ensure that the licensee's authorized delegates comply with applicable state
31 and federal law;

32 B. Enter into a written contract that complies with subsection 4; and

33 C. Conduct a reasonable risk-based background investigation sufficient for the
34 licensee to determine whether the authorized delegate has complied and will likely
35 comply with applicable state and federal law.

36 **3. Compliance.** An authorized delegate shall operate in full compliance with this Act.

1 **4. Contract.** The written contract required by subsection 2, paragraph B must be
2 signed by the licensee and the authorized delegate and, at a minimum, must:

3 A. Appoint the person signing the contract as the licensee's authorized delegate with
4 the authority to conduct money transmission on behalf of the licensee;

5 B. Set forth the nature and scope of the relationship between the licensee and the
6 authorized delegate and the respective rights and responsibilities of the parties;

7 C. Require the authorized delegate to agree to fully comply with all applicable state
8 and federal laws, rules and regulations pertaining to money transmission, including this
9 Act and laws and rules implementing this Act and relevant provisions of the Bank
10 Secrecy Act and the federal Uniting and Strengthening America by Providing
11 Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act)
12 Act of 2001, Public Law 107-56, 115 Stat. 272;

13 D. Require the authorized delegate to remit and handle money and monetary value in
14 accordance with the terms of the contract between the licensee and the authorized
15 delegate;

16 E. Impose a trust on money and monetary value net of fees received for money
17 transmission for the benefit of the licensee;

18 F. Require the authorized delegate to prepare and maintain records as required by this
19 Act or rules implementing this Act, or as reasonably requested by the administrator;

20 G. Acknowledge that the authorized delegate consents to examination or investigation
21 by the administrator;

22 H. State that the licensee is subject to regulation by the administrator and that, as part
23 of that regulation, the administrator may suspend or revoke an authorized delegate
24 designation or require the licensee to terminate an authorized delegate designation;

25 I. Acknowledge receipt of the written policies and procedures required under
26 subsection 2, paragraph A; and

27 J. Acknowledge that neither the licensee nor the authorized delegate may authorize
28 subdelegates without the written consent of the administrator.

29 **5. Suspended, revoked, surrendered or expired license.** If a licensee's license is
30 suspended, revoked, surrendered or expired, the licensee, within 5 business days, shall
31 provide documentation to the administrator that the licensee has notified all applicable
32 authorized delegates of the licensee whose names are filed with the administrator of the
33 suspension, revocation, surrender or expiration of a license. Upon suspension, revocation,
34 surrender or expiration of a license, applicable authorized delegates shall immediately
35 cease to provide money transmission as an authorized delegate of the licensee.

36 **6. Fees.** An authorized delegate of a licensee holds in trust for the benefit of the
37 licensee all money net of fees received from money transmission. If an authorized delegate
38 commingles any funds received from money transmission with any other funds or property
39 owned or controlled by the authorized delegate, all commingled funds and other property
40 are considered held in trust in favor of the licensee in an amount equal to the amount of
41 money net of fees received from money transmission.

1 for transmission. If funds have not yet been forwarded in accordance with the terms of
2 the agreement between the licensee and the sender, the licensee shall issue a refund in
3 accordance with the other provisions of this section;

4 D. The refund is requested for a transaction that the licensee has not completed based
5 on a reasonable belief or a reasonable basis to believe that a crime or violation of law,
6 rule or regulation has occurred, is occurring or may occur; or

7 E. The refund request does not enable the licensee to identify the sender's name and
8 address or telephone number or identify the particular transaction to be refunded if the
9 sender has multiple transactions outstanding.

10 **§6100-N. Receipts**

11 Receipts are governed by this section.

12 **1. Application.** This section does not apply to:

13 A. Money received for transmission subject to 12 Code of Federal Regulations, Part
14 1005, Subpart B; or

15 B. Money received for transmission pursuant to a written agreement between the
16 licensee and payee to process payments for goods or services provided by the payee.

17 **2. Electronic receipts.** For a transaction conducted in person, the receipt may be
18 provided electronically if the sender requests or agrees to receive an electronic receipt. For
19 a transaction conducted electronically or by phone, a receipt may be provided
20 electronically. All electronic receipts must be provided in a retainable form.

21 **3. Money transmission receipts.** A licensee or its authorized delegate shall provide
22 the sender a receipt for money received for transmission.

23 A. The receipt required by this section must contain the following information, as
24 applicable:

25 (1) The name of the sender;

26 (2) The name of the designated recipient;

27 (3) The date of the transaction;

28 (4) The unique transaction or identification number;

29 (5) The name of the licensee, the licensee's NMLS unique identifier, the licensee's
30 business address and the licensee's customer service telephone number;

31 (6) The amount of the transaction in United States dollars;

32 (7) Any fees charged by the licensee to the sender for the transaction; and

33 (8) Any taxes collected by the licensee from the sender for the transaction.

34 B. The receipt required by this section must be in English and in the language
35 principally used by the licensee or authorized delegate to advertise, solicit or negotiate,
36 either orally or in writing, for a transaction conducted in person, electronically or by
37 phone, if other than English.

38 For purposes of this section, "receipt" means a paper receipt, electronic record or other
39 written confirmation.

1 **§6100-O. Notice of contact information**

2 A licensee or authorized delegate shall include on a receipt or disclose on the licensee's
3 publicly accessible website or mobile application the name and telephone number of the
4 bureau and a statement that the licensee's customers may contact the bureau with questions
5 or complaints about the licensee's money transmission services.

6 **SUBCHAPTER 10**

7 **PRUDENTIAL STANDARDS**

8 **§6100-R. Net worth**

9 Net worth requirements are governed by this section.

10 **1. Tangible net worth.** A licensee under this Act shall maintain at all times a tangible
11 net worth of the greater of \$100,000 and 3% of total assets for the first \$100,000,000, 2%
12 of additional assets for \$100,000,000 to \$1,000,000,000 and 0.5% of additional assets for
13 over \$1,000,000,000.

14 **2. Financial statements.** Tangible net worth must be demonstrated at initial
15 application by the applicant's most recent audited or unaudited financial statements
16 pursuant to section 6089, subsection 2, paragraph F.

17 **3. Exemption.** Notwithstanding the provisions of this section, the administrator may,
18 for good cause shown, exempt, in whole or in part, from the requirements of this section
19 any applicant or licensee.

20 **§6100-S. Surety bond**

21 Surety bond requirements are governed by this section.

22 **1. Security.** An applicant for a money transmission license shall provide, and a
23 licensee at all times shall maintain, security consisting of a surety bond in a form
24 satisfactory to the administrator or, with the administrator's approval, a deposit instead of
25 a bond in accordance with this section.

26 **2. Amount.** The amount of the required security is \$100,000.

27 **3. Exceeding maximum required bond amount.** A licensee may exceed the
28 maximum required bond amount pursuant to section 6100-T, subsection 1.

29 **§6100-T. Maintenance of permissible investments**

30 Permissible investment maintenance is governed by this section.

31 **1. Investment requirements.** A licensee shall maintain at all times permissible
32 investments that have a market value computed in accordance with generally accepted
33 accounting principles in the United States of not less than the aggregate amount of all of
34 its outstanding money transmission obligations.

35 **2. Investment limits.** Except for permissible investments enumerated in section
36 6100-U, subsection 1, the administrator, with respect to any licensee, may by rule or order
37 limit the extent to which a specific investment maintained by a licensee within a class of
38 permissible investments may be considered a permissible investment, if the specific

1 investment represents undue risk to customers, not reflected in the market value of
2 investments.

3 **3. Trusts.** Permissible investments, even if commingled with other assets of the
4 licensee, are held in trust for the benefit of the purchasers and holders of the licensee's
5 outstanding money transmission obligations in the event of insolvency, the filing of a
6 petition by or against the licensee under the United States Bankruptcy Code, 11 United
7 States Code, Sections 101 to 110 for bankruptcy or reorganization, the filing of a petition
8 by or against the licensee for receivership or the commencement of any other judicial or
9 administrative proceeding for its dissolution or reorganization or in the event of an action
10 by a creditor against the licensee who is not a beneficiary of this statutory trust. A
11 permissible investment impressed with a trust pursuant to this section may not be subject
12 to attachment, levy of execution or sequestration by order of any court, except for a
13 beneficiary of this statutory trust.

14 **4. Notice.** Upon the establishment of a statutory trust in accordance with subsection
15 3 or when any funds are drawn on a letter of credit pursuant to section 6100-U, subsection
16 1, paragraph D, the administrator shall notify the applicable regulator of each state in which
17 the licensee is licensed to engage in money transmission, if any, of the establishment of the
18 trust or the funds drawn on the letter of credit, as applicable. Notice is deemed satisfied if
19 performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter
20 of credit, and any other permissible investments held in trust for the benefit of the
21 purchasers and holders of the licensee's outstanding money transmission obligations, are
22 deemed held in trust for the benefit of such purchasers and holders on a pro rata and
23 equitable basis in accordance with statutes pursuant to which permissible investments are
24 required to be held in this State, and other states, as applicable. A statutory trust established
25 pursuant to this subsection is terminated upon extinguishment of all of the licensee's
26 outstanding money transmission obligations.

27 **5. Other investments.** The administrator by rule or order may allow other types of
28 investments that the administrator determines are of sufficient liquidity and quality to be a
29 permissible investment. The administrator may participate in efforts with other state
30 regulators to determine that other types of investments are of sufficient liquidity and quality
31 to be a permissible investment.

32 **§6100-U. Permissible investments**

33 Permissible investments are governed by this section.

34 **1. Types of permissible investments.** The following investments are permissible
35 under section 6100-T:

36 A. Cash, including demand deposits, savings deposits and funds in such accounts held
37 for the benefit of the licensee's customers in a federally insured depository financial
38 institution, and cash equivalents, including automated clearinghouse items in transit to
39 the licensee and automated clearinghouse items or international wires in transit to a
40 payee, cash in transit via armored car, cash in so-called smart safes, cash in licensee-
41 owned locations, debit card or credit card-funded transmission receivables owed by
42 any bank or money market mutual funds rated "AAA" by S&P Global Ratings or
43 successor organization, or the equivalent from any other eligible rating service;

1 B. Certificates of deposit or senior debt obligations of an insured depository institution,
2 as defined in the Federal Deposit Insurance Act, 12 United States Code, Section
3 1813(c)(2) or as described under the Federal Credit Union Act, 12 United States Code,
4 Section 1751 et seq.;

5 C. An obligation of the United States or a commission, agency or instrumentality of
6 the United States; an obligation that is guaranteed fully as to principal and interest by
7 the United States; or an obligation of a state or a governmental subdivision, agency or
8 instrumentality of the United States; and

9 D. The full drawable amount of an irrevocable standby letter of credit, for which the
10 stated beneficiary is the administrator, that stipulates that the beneficiary need only
11 draw a sight draft under the letter of credit and present it to obtain funds up to the letter
12 of credit amount within 7 days of presentation of the items required by subparagraph
13 (3).

14 (1) The letter of credit:

15 (a) Must be issued by a federally insured depository financial institution, a
16 foreign bank that is authorized under federal law to maintain a federal agency
17 or federal branch office in a state or states or a foreign bank that is authorized
18 under state law to maintain a branch in a state that bears an eligible rating or
19 whose parent company bears an eligible rating and is regulated, supervised and
20 examined by federal or state authorities in the United States having regulatory
21 authority over banks, credit unions and trust companies;

22 (b) Must be irrevocable and unconditional and indicate that it is not subject to
23 any condition or qualifications outside of the letter of credit;

24 (c) May not contain reference to any other agreements, documents or entities
25 or otherwise provide for any security interest in the licensee; and

26 (d) Must contain an issue date and expiration date and expressly provide for
27 automatic extension, without a written amendment, for an additional period of
28 one year from any current or future expiration date, unless the issuer of the
29 letter of credit notifies the administrator in writing by certified or registered
30 mail or courier mail or other receipted means, at least 60 days prior to the
31 expiration date, that the irrevocable letter of credit will not be extended.

32 (2) If a notice of expiration or nonextension of a letter of credit is issued under
33 subparagraph (1), division (d), the licensee shall demonstrate to the satisfaction of
34 the administrator, 15 days prior to expiration, that the licensee maintains and will
35 maintain permissible investments in accordance with section 6100-T, subsection 1
36 upon the expiration of the letter of credit. If the licensee is not able to do so, the
37 administrator may draw on the letter of credit in an amount up to the amount
38 necessary to meet the licensee's requirements to maintain permissible investments
39 in accordance with section 6100-T, subsection 1. Such a draw must be offset
40 against the licensee's outstanding money transmission obligations. The drawn
41 funds must be held in trust by the administrator or the administrator's designated
42 agent, to the extent authorized by law, as agent for the benefit of the purchasers
43 and holders of the licensee's outstanding money transmission obligations.

1 (3) The letter of credit must state that the issuer of the letter of credit will honor,
2 at sight, a presentation made by the beneficiary to the issuer of the following
3 documents on or prior to the expiration date of the letter of credit:

4 (a) The original letter of credit, including any amendments; and

5 (b) A written statement from the beneficiary stating that any of the following
6 events have occurred:

7 (i) The filing of a petition by or against the licensee under the United
8 States Bankruptcy Code, 11 United States Code, Sections 101 to 110 for
9 bankruptcy or reorganization;

10 (ii) The filing of a petition by or against the licensee for receivership or
11 the commencement of any other judicial or administrative proceeding for
12 the dissolution or reorganization of the licensee;

13 (iii) The seizure of assets of a licensee by an administrator pursuant to an
14 emergency order issued in accordance with applicable law, on the basis of
15 an action, violation or condition that has caused or is likely to cause the
16 insolvency of the licensee; or

17 (iv) The beneficiary has received notice of expiration or nonextension of
18 a letter of credit and the licensee failed to demonstrate to the satisfaction
19 of the beneficiary that the licensee will maintain permissible investments
20 in accordance with section 6100-T, subsection 1 upon the expiration or
21 nonextension of the letter of credit.

22 (4) The administrator may designate an agent to serve on the administrator's behalf
23 as beneficiary to a letter of credit as long as the agent and letter of credit meet
24 requirements established by the administrator. The administrator's agent may
25 serve as agent for multiple licensing authorities for a single irrevocable letter of
26 credit if the proceeds of the drawable amount for the purposes of this paragraph
27 are assigned to the administrator.

28 (5) The administrator may participate in multistate processes designed to facilitate
29 the issuance and administration of letters of credit, including but not limited to
30 services provided by NMLS and the State Regulatory Registry LLC or successor
31 organization.

32 **2. Investment limits.** Unless permitted by the administrator by rule or order to exceed
33 the limit as set forth in this subsection, the following investments are permissible under
34 section 6100-T to the extent specified.

35 A. Receivables that are payable to a licensee from its authorized delegates in the
36 ordinary course of business that are less than 7 days old are permissible up to 50% of
37 the aggregate value of the licensee's total permissible investments.

38 B. Of the receivables permissible under paragraph A, receivables that are payable to a
39 licensee from a single authorized delegate in the ordinary course of business may not
40 exceed 10% of the aggregate value of the licensee's total permissible investments.

41 C. The following investments are permissible up to 20% per category and combined
42 up to 50% of the aggregate value of the licensee's total permissible investments:

1 E. The competence, experience, character or general fitness of the licensee, authorized
2 delegate, person in control of a licensee, key individual or responsible person of the
3 authorized delegate indicates that it is not in the public interest to permit the person to
4 provide money transmission;

5 F. The licensee engages in an unsafe or unsound practice;

6 G. The licensee is insolvent, suspends payment of its obligations or makes a general
7 assignment for the benefit of its creditors; or

8 H. The licensee does not remove an authorized delegate after the administrator issues
9 and serves upon the licensee a final order including a finding that the authorized
10 delegate has violated this Act.

11 **2. Determination.** In determining whether a licensee is engaging in an unsafe or
12 unsound practice under subsection 1, paragraph F, the administrator may consider the size
13 and condition of the licensee's money transmission, the magnitude of the loss, the gravity
14 of the violation of this Act and the previous conduct of the person involved.

15 **§6100-Y. Suspension and revocation of authorized delegates**

16 Authorized delegate suspension and revocation are governed by this section.

17 **1. Designation suspension and revocation.** The administrator may issue an order
18 suspending or revoking the designation of an authorized delegate if the administrator finds
19 that:

20 A. The authorized delegate violates this Act or a rule adopted or an order issued under
21 this Act;

22 B. The authorized delegate does not cooperate with an examination or investigation
23 by the administrator;

24 C. The authorized delegate engages in fraud, intentional misrepresentation or gross
25 negligence;

26 D. The authorized delegate is convicted of a violation of a state or federal anti-money
27 laundering statute;

28 E. The competence, experience, character or general fitness of the authorized delegate
29 or a person in control of the authorized delegate indicates that it is not in the public
30 interest to permit the authorized delegate to provide money transmission; or

31 F. The authorized delegate engages in an unsafe or unsound practice.

32 **2. Determination.** In determining whether an authorized delegate is engaging in an
33 unsafe or unsound practice, the administrator may consider the size and condition of the
34 authorized delegate's provision of money transmission, the magnitude of the loss, the
35 gravity of the violation of this Act or a rule adopted or order issued under this Act and the
36 previous conduct of the authorized delegate.

37 **3. Relief.** An authorized delegate may apply for relief from a suspension or revocation
38 of designation as an authorized delegate according to procedures prescribed by the
39 administrator.

40 **§6100-Z. Orders to cease and desist**

41 Orders to cease and desist are governed by this section.

1 **1. Order issuance.** If the administrator determines that a violation of this Act or a
2 rule adopted or an order issued under this Act by a licensee or authorized delegate is likely
3 to cause immediate and irreparable harm to the licensee, its customers or the public as a
4 result of the violation, or cause insolvency or significant dissipation of assets of the
5 licensee, the administrator may issue an order requiring the licensee or authorized delegate
6 to cease and desist from the violation. The order becomes effective upon its service upon
7 the licensee or authorized delegate.

8 **2. Authorized delegate.** The administrator may issue an order against a licensee to
9 cease and desist from providing money transmission through an authorized delegate that is
10 the subject of a separate order by the administrator.

11 **3. Administrative proceeding.** An order to cease and desist remains effective and
12 enforceable pending the completion of an administrative proceeding pursuant to Title 5,
13 chapter 375.

14 **4. Petition.** A licensee or an authorized delegate that is served with an order to cease
15 and desist may petition the Superior Court for a judicial order setting aside, limiting or
16 suspending the enforcement, operation or effectiveness of the order pending the completion
17 of an administrative proceeding pursuant to Title 5, chapter 375.

18 **5. Expiration.** An order to cease and desist expires unless the administrator
19 commences an administrative proceeding within 10 days after the order is issued.

20 **§6100-AA. Consent agreements**

21 The administrator may enter into a consent agreement at any time with a person to
22 resolve a matter arising under this Act or a rule adopted or order issued under this Act. A
23 consent agreement must be signed by the person to whom it is issued or by the person's
24 authorized representative and must indicate agreement with the terms contained in the
25 agreement. A consent agreement may contain a provision that it does not constitute an
26 admission by a person that this Act or a rule adopted or order issued under this Act has
27 been violated. A consent agreement may be entered into only with the consent of the
28 applicant, licensee or registrant; the administrator; and the Attorney General. A remedy,
29 penalty or fine that is otherwise available by law, even if only in the jurisdiction of the
30 Superior Court, may be achieved by consent agreement, including long-term suspension
31 and permanent revocation of a license and revocation of a designation of an authorized
32 delegate. A consent agreement is not subject to review or appeal and may be modified only
33 by a writing executed by all parties to the original consent agreement. A consent agreement
34 is enforceable by an action in Superior Court.

35 **§6100-BB. Criminal penalties**

36 Criminal penalties for violations of this Act are governed by this section.

37 **1. False records.** A person that intentionally makes a false statement,
38 misrepresentation or false certification in a record filed or required to be maintained under
39 this Act or that intentionally makes a false entry or omits a material entry in such a record
40 is guilty of a Class D crime.

41 **2. Unlicensed activity; no more than \$1,000 in compensation.** A person that
42 knowingly engages in an activity for which a license is required under this Act without
43 being licensed under this Act and who receives no more than \$1,000 in compensation
44 within a 30-day period from this activity is guilty of a Class D crime.

1 **3. Unlicensed activity; more than \$1,000 but no more than \$10,000 in**
2 **compensation.** A person that knowingly engages in an activity for which a license is
3 required under this Act without being licensed under this Act and that receives more than
4 \$1,000 but no more than \$10,000 in compensation within a 30-day period from this activity
5 is guilty of a Class C crime.

6 **4. Unlicensed activity; more than \$10,000 in compensation.** A person that
7 knowingly engages in an activity for which a license is required under this Act without
8 being licensed under this Act and that receives more than \$10,000 in compensation within
9 a 30-day period from this activity is guilty of a Class B crime.

10 **§6100-CC. Civil penalties**

11 The administrator may assess a civil penalty against a person that violates this Act or
12 a rule adopted or an order issued under this Act in an amount not to exceed \$1,000 per day
13 for each day the violation is outstanding, plus this State's costs and expenses for the
14 investigation and prosecution of the matter, including reasonable attorney's fees.

15 **§6100-DD. Unlicensed persons**

16 Orders to cease and desist for unlicensed persons are governed by this section.

17 **1. Order.** If the administrator has reason to believe that a person has violated or is
18 violating section 6087, the administrator may issue an order to show cause why an order to
19 cease and desist should not be issued requiring that the person cease and desist from the
20 violation.

21 **2. Temporary restraining order.** In an emergency, the administrator may petition
22 the Superior Court for the issuance of a temporary restraining order ex parte pursuant to
23 the Maine Rules of Civil Procedure.

24 **3. Effective date.** An order to cease and desist becomes effective upon its service
25 upon the person.

26 **4. Administrative proceeding.** An order to cease and desist remains effective and
27 enforceable pending the completion of an administrative proceeding pursuant to Title 5,
28 chapter 375.

29 **5. Petition.** A person that is served with an order to cease and desist for violating
30 section 6087 may petition the Superior Court for a judicial order setting aside, limiting or
31 suspending the enforcement, operation or effectiveness of the order pending the completion
32 of an administrative proceeding pursuant to Title 5, chapter 375.

33 **6. Expiration.** An order to cease and desist expires unless the administrator
34 commences an administrative proceeding within 10 days after the order is issued.

35 **§6100-EE. Expenses of investigations and administrative hearings**

36 A licensee shall reimburse the administrator for costs involved in investigating
37 suspected violations of this Act and in bringing administrative proceedings or actions in
38 court to enforce the terms of this Act.

39 **SUBCHAPTER 12**

40 **MISCELLANEOUS PROVISIONS**

- 1 B. Money or bank credit for one or more forms of virtual currency.
- 2 5. Private key. "Private key" means the key of a key pair used to verify a digital
3 signature.
- 4 6. Public key. "Public key" means the key of a key pair used to create a digital
5 signature.
- 6 7. Transfer. "Transfer" means to assume control of virtual currency from or on behalf
7 of a person and to:
- 8 A. Credit the virtual currency to the account of another person;
- 9 B. Move the virtual currency from one account of a person to another account of the
10 same person; or
- 11 C. Relinquish control of virtual currency to another person.
- 12 8. Unhosted wallet. "Unhosted wallet" means a wallet that is owned, held or
13 controlled by an individual owner other than a 3rd party or a custodian. "Unhosted wallet"
14 also means a wallet that is not owned, held or controlled by a licensee or a supervised
15 financial organization as defined in Title 9-A, section 1-301, subsection 38-A.
- 16 9. United States dollar equivalent of virtual currency. "United States dollar
17 equivalent of virtual currency" means the equivalent value of a particular virtual currency
18 in United States dollars shown on a virtual currency exchange based in the United States
19 for a particular date or period specified in this Act.
- 20 10. Virtual currency. "Virtual currency" means a digital representation of value that:
- 21 A. Is used as a medium of exchange, unit of account or store of value; and
- 22 B. Is not money, whether or not denominated in money.
- 23 "Virtual currency" does not include a transaction in which a merchant grants, as part of an
24 affinity or rewards program, value that cannot be taken from or exchanged with the
25 merchant for money, bank credit or virtual currency or a digital representation of value
26 issued by or on behalf of a game publisher and used solely within an online game, game
27 platform or family of games sold by the same publisher or offered on the same game
28 platform.
- 29 11. Virtual currency administration. "Virtual currency administration" means
30 issuing virtual currency with the authority to redeem the currency for money, bank credit
31 or other virtual currency.
- 32 12. Virtual currency business activity. "Virtual currency business activity" means:
- 33 A. Exchanging, transferring or storing virtual currency or engaging in virtual currency
34 administration, whether directly or through an agreement with a virtual currency
35 control-services vendor;
- 36 B. Holding electronic precious metals or electronic certificates representing interests
37 in precious metals on behalf of another person or issuing shares or electronic
38 certificates representing interests in precious metals; or
- 39 C. Exchanging one or more digital representations of value used within one or more
40 online games, game platforms or family of games for:

1 (1) Virtual currency offered by or on behalf of the same game publisher from
2 which the original digital representation of value was received; or

3 (2) Money or bank credit outside the online game, game platform or family of
4 games offered by or on behalf of the same game publisher from which the original
5 digital representation of value was received.

6 **13. Virtual currency control-services vendor.** "Virtual currency control-services
7 vendor" means a person that has control of virtual currency solely under an agreement with
8 a person that, on behalf of another person, assumes control of virtual currency.

9 **14. Wallet.** "Wallet" means a physical device, a writing, a receipt or any digital or
10 electronic technology that allows an individual owner or a custodian the ability to directly
11 or indirectly control a private key for a digital signature for the purpose of money
12 transmission.

13 **§6100-PP. Scope**

14 The application of this subchapter is governed by this section.

15 **1. Application.** This subchapter does not apply to the exchange, transfer or storage
16 of virtual currency or to virtual currency administration to the extent the federal Electronic
17 Fund Transfer Act, 15 United States Code, Sections 1693 to 1693r, the federal Securities
18 Exchange Act of 1934, 15 United States Code, Sections 78a to 7800 or the federal
19 Commodity Exchange Act, 7 United States Code, Sections 1 to 27f govern the activity.

20 **2. Exempt activity.** This subchapter does not apply to activity by:

21 A. A person that:

22 (1) Contributes only connectivity software or computing power to a decentralized
23 virtual currency or to a protocol governing transfer of the digital representation of
24 value;

25 (2) Provides only data storage or security services for a business engaged in virtual
26 currency business activity and does not otherwise engage in virtual currency
27 business activity on behalf of another person; or

28 (3) Provides only to a person otherwise exempt from this Act virtual currency as
29 one or more enterprise solutions used solely between each other and has no
30 agreement or relationship with a person that is an end user of virtual currency;

31 B. A person using virtual currency, including creating, investing, buying or selling or
32 obtaining virtual currency as payment for the purchase or sale of goods or services,
33 solely:

34 (1) On the person's own behalf;

35 (2) For personal, family or household purposes; or

36 (3) For academic purposes;

37 C. A person whose virtual currency business activity with or on behalf of persons is
38 reasonably expected to be valued, in the aggregate, on an annual basis at \$5,000 or less,
39 measured by the United States dollar equivalent of virtual currency;

40 D. An attorney to the extent the attorney is providing escrow account services to a
41 person;

1 E. A title insurance company to the extent the company is providing escrow account
2 services to a person;

3 F. A securities intermediary, as defined in Title 11, section 8-1102, subsection (1),
4 paragraph (n), or a commodity intermediary, as defined in Title 11, section 9-1102,
5 subsection (17), that:

6 (1) Does not engage in the ordinary course of business in virtual currency business
7 activity with or on behalf of a person in addition to maintaining securities accounts
8 or commodities accounts and is regulated as a securities intermediary or
9 commodity intermediary under federal law, law of this State other than this Act or
10 the law of another state; and

11 (2) Affords a person protections comparable to those set forth in section 6100-SS;

12 G. A secured creditor under Title 11, article 9-A or creditor with a judicial lien or lien
13 arising by operation of law on collateral that is virtual currency, if the virtual currency
14 business activity of the creditor is limited to enforcement of the security interest or lien
15 in compliance with the applicable law;

16 H. A virtual currency control-services vendor; or

17 I. A person that:

18 (1) Does not receive compensation from a person for providing virtual currency
19 products or services or conducting virtual currency business activity; or

20 (2) Is engaged in testing products or services with the person's own funds.

21 **3. Exemption determination.** The administrator may determine that a person or class
22 of persons, given facts particular to the person or class, is exempt from this Act, regardless
23 of whether the person or class is covered by requirements imposed under federal law on an
24 MSB.

25 **§6100-QQ. License required for engaging in virtual currency business activity**

26 Licensing for virtual currency business activity is governed by this section.

27 **1. Licensing.** A person may not engage in virtual currency business activity, or hold
28 itself out as being able to engage in virtual currency business activity, with or on behalf of
29 another person unless the person is:

30 A. Licensed in this State by the administrator pursuant to section 6091; or

31 B. Exempt from licensing under section 6074.

32 **2. Requirements.** A person that is licensed to engage in virtual currency business
33 activity is engaged in the business of money transmission and is subject to the requirements
34 of this Act.

35 **§6100-RR. Required disclosures**

36 Licensee disclosures are governed by this section.

37 **1. Licensee disclosures.** A licensee that engages in virtual currency business activity
38 shall provide to a person that uses the licensee's products or services the disclosures
39 required by subsection 2 and any additional disclosure the administrator by rule determines
40 reasonably necessary for the protection of persons. The administrator shall determine by

1 rule the time and form required for disclosure. A disclosure required by this section must
2 be made separately from any other information provided by the licensee and in a clear and
3 conspicuous manner in a format the person may keep. A licensee may propose for the
4 administrator's approval alternate disclosures as more appropriate for its virtual currency
5 business activity with or on behalf of persons.

6 **2. Relationship disclosures.** Before establishing a virtual currency business activity
7 relationship with a person, a licensee shall disclose, to the extent applicable to the virtual
8 currency business activity the licensee will undertake with the person:

9 A. A schedule of fees and charges the licensee may assess, the manner by which fees
10 and charges will be calculated if they are not set in advance and disclosed and the
11 timing of the fees and charges;

12 B. Whether the product or service provided by the licensee is covered by:

13 (1) A form of insurance or is otherwise guaranteed against loss by an agency of
14 the United States up to the full United States dollar equivalent of virtual currency
15 purchased from the licensee or for control of virtual currency by the licensee as of
16 the date of the placement or purchase, including the maximum amount provided
17 by insurance under the Federal Deposit Insurance Corporation or otherwise
18 available from the Securities Investor Protection Corporation or successor
19 organization or, if not provided at the full United States dollar equivalent of virtual
20 currency purchased from the licensee or for control of virtual currency by the
21 licensee, the maximum amount of coverage for each person expressed in the United
22 States dollar equivalent of the virtual currency; or

23 (2) Private insurance against theft or loss, including theft involving a computer or
24 networked device or theft by other means;

25 C. The irrevocability of a transfer or exchange and any exception to irrevocability;

26 D. A description of:

27 (1) Liability for an unauthorized, mistaken or accidental transfer or exchange;

28 (2) The person's responsibility to provide notice to the licensee of the transfer or
29 exchange;

30 (3) The basis for any recovery by the person from the licensee;

31 (4) General error-resolution rights applicable to the transfer or exchange; and

32 (5) The method for the person to update the person's contact information with the
33 licensee;

34 E. That the date or time when a transfer or exchange is made and the person's account
35 is debited may differ from the date or time when the person initiates the instruction to
36 make the transfer or exchange;

37 F. Whether the person has a right to stop a preauthorized payment or revoke
38 authorization for a transfer and the procedure to initiate a stop-payment order or revoke
39 authorization for a subsequent transfer;

40 G. The person's right to receive a receipt, trade ticket or other evidence of a transfer or
41 exchange;

1 H. The person's right to at least 30 days' prior notice of a change in the licensee's fee
2 schedule, other terms and conditions of operating its virtual currency business activity
3 with the person and the policies applicable to the person's account; and

4 I. That virtual currency is not money.

5 **3. Transaction confirmation.** Except as otherwise provided in subsection 4, at the
6 conclusion of a virtual currency transaction with or on behalf of a person, a licensee shall
7 provide the person a confirmation in a record that contains:

8 A. The name and contact information of the licensee, including information the person
9 may need to ask a question or file a complaint;

10 B. The type, value, date, precise time and amount of the transaction; and

11 C. The fee charged for the transaction, including any charge for conversion of virtual
12 currency to money, bank credit or other virtual currency.

13 **4. Daily confirmation.** If a licensee discloses that it will provide a daily confirmation
14 in the initial disclosure under subsection 3, the licensee may elect to provide a single, daily
15 confirmation for all transactions with or on behalf of a person on that day instead of a per
16 transaction confirmation.

17 **§6100-SS. Property interests and entitlements to virtual currency**

18 Property interests and entitlements to virtual currency are governed by this section.

19 **1. Control.** A licensee that has control of virtual currency for one or more persons
20 shall maintain control of virtual currency in each type of virtual currency sufficient to
21 satisfy the aggregate entitlements of the persons to the type of virtual currency.

22 **2. Violation.** If a licensee violates subsection 1, the property interests of the persons
23 in the virtual currency are pro rata property interests in the type of virtual currency to which
24 the persons are entitled, without regard to the time the persons became entitled to the virtual
25 currency or the licensee obtained control of the virtual currency.

26 **3. Virtual currency.** The virtual currency referred to in this section is:

27 A. Held for the persons entitled to the virtual currency;

28 B. Not property of the licensee;

29 C. Not subject to the claims of creditors of the licensee; and

30 D. A permissible investment under this Act.

31 **§6100-TT. Additional requirements for virtual currency business activities**

32 Additional requirements for virtual currency business activities are governed by this
33 section.

34 **1. Compliance.** A licensee engaged in virtual currency business activities shall
35 comply with all provisions of this Act to the extent applicable to the licensee's activities.

36 **2. Tangible net worth calculation.** A licensee engaged in virtual currency business
37 activities may include in its calculation of tangible net worth virtual currency, measured by
38 the average value of the virtual currency in United States dollar equivalent of virtual
39 currency over the prior 6 months, excluding control of virtual currency for a person entitled
40 to the protections pursuant to section 6100-SS.

