

**HOUSE BILL NO. 408**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/4/22

Referred: Labor and Commerce, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the business of money transmission; relating to money transmission  
2 licenses, licensure requirements, and registration through the Nationwide Multistate  
3 Licensing System; relating to the use of virtual currency for money transmission;  
4 relating to authorized delegates of a licensee; relating to acquisition of control of a  
5 license; relating to record retention and reporting requirements; authorizing the  
6 Department of Commerce, Community, and Economic Development to cooperate with  
7 other states in the regulation of money transmission; relating to permissible  
8 investments; relating to violations and enforcement of money transmission laws; relating  
9 to money transmission license exemptions; relating to payroll processing services;  
10 repealing currency exchange licenses; and providing for an effective date."

11 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

12 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 PURPOSE. The purpose of this Act is to replace existing state money transmission  
3 laws to modernize licensure requirements, to add model language for the burgeoning virtual-  
4 currency industry, to allow the Department of Commerce, Community, and Economic  
5 Development to coordinate with other states in all areas of regulation, licensing, and  
6 supervision, to standardize the types of activities that are subject to licensing, and to  
7 modernize safety and soundness requirements.

8 \* **Sec. 2.** AS 06.55.101(a) is amended to read:

9 (a) A person may not engage in the business of money transmission or  
10 advertise, solicit, or hold **itself** [THE PERSON] out as providing money transmission  
11 unless the person

12 (1) holds a [MONEY TRANSMISSION] license; [OR]

13 (2) is an authorized delegate of a person who holds a [MONEY  
14 TRANSMISSION] license **and is acting within the scope of that authority under a  
15 written contract with the licensee; or**

16 **(3) is exempt under AS 06.55.802 and does not engage in money  
17 transmission outside the scope of that exemption.**

18 \* **Sec. 3.** AS 06.55.102 is repealed and reenacted to read:

19 **Sec. 06.55.102. Application for license.** (a) An applicant for a license shall  
20 submit

21 (1) an application in a form and in a medium prescribed by the  
22 department;

23 (2) the application content required by the department, including  
24 information concerning the applicant's organization and operations, financial  
25 responsibility, background, experience, competence, and activities;

26 (3) any other information reasonably required by the department or  
27 registry with respect to the applicant;

28 (4) an application fee;

29 (5) a license fee; and

30 (6) a surety bond or other security as required by AS 06.55.505.

31 (b) The department may waive a requirement of (a) of this section or permit an

1 applicant to submit other information in lieu of the required information.

2 (c) The department may change or update the application form and content in  
3 accordance with applicable law to carry out the purposes of this chapter and maintain  
4 consistency with registry licensing standards and practices.

5 \* **Sec. 4.** AS 05.55.105 is repealed and reenacted to read:

6 **Sec. 06.55.105. Issuance of license.** (a) When an application for an initial  
7 license under this chapter appears to include all required content and address all  
8 matters required by the department, the application is considered complete, and the  
9 department shall notify the applicant in a record of the date on which the application  
10 was determined to be complete. The department shall approve or deny the application  
11 within 120 days after the date the application was determined to be complete. If the  
12 application is not approved or denied within 120 days after the completion date,

13 (1) the application is approved; and

14 (2) the license takes effect as of the first business day after expiration  
15 of the 120-day period.

16 (b) The department may for good cause extend the application period.

17 (c) A determination by the department that an application is complete and is  
18 accepted for processing means only that the application, on its face, appears to include  
19 all required items, including a criminal background check, and address all required  
20 matters. The department's determination is not an assessment of the substance of the  
21 application or of the sufficiency of the information provided.

22 (d) When an application is filed and considered to be complete under (b) of  
23 this section, the department shall investigate the applicant's financial condition and  
24 responsibility, financial and business experience, competence, character, and general  
25 fitness. The department may conduct an on-site investigation of the applicant, the  
26 reasonable cost of which the applicant shall pay. The department shall issue a license  
27 to an applicant if the department finds that

28 (1) the applicant has complied with AS 06.55.102, 06.55.109, and  
29 applicable regulations; and

30 (2) the financial condition and responsibility, financial and business  
31 experience, competence, character, and general fitness of the applicant, and the

1 competence, experience, character, and general fitness of the key individuals and  
 2 persons in control of the applicant indicate that it is in the interest of the public to  
 3 allow the applicant to engage in money transmission.

4 (e) If an applicant is subject to a multistate licensing process, the department  
 5 may

6 (1) accept the investigation results of a lead investigative state for the  
 7 purposes of (d) of this section; or

8 (2) investigate the applicant in accordance with (d) of this section and  
 9 the timeframes established by agreement through the multistate licensing process,  
 10 provided those timeframes comply with the application period set out in (a) of this  
 11 section.

12 (f) The department shall issue a formal written notice of a denial of a license  
 13 application within 30 days of the decision to deny the application. The department  
 14 shall set out in the notice of denial the specific reasons for the denial. An applicant  
 15 may appeal a denial within 30 days of receipt of the written notice of the denial and  
 16 may request a hearing.

17 (g) The initial license term begins on the day the application is approved. The  
 18 license expires on December 31 of the year in which the license is issued, unless

19 (1) the initial license date is between November 1 and December 31, in  
 20 which instance the initial license term runs through December 31 of the following  
 21 year; or

22 (2) the license is revoked, suspended, surrendered, or its term  
 23 otherwise adjusted in accordance with regulations adopted by the department.

24 \* **Sec. 5.** AS 06.55.106 is repealed and reenacted to read:

25 **Sec. 06.55.106. Renewal of license.** (a) A license under this chapter must be  
 26 renewed annually. A licensee shall pay an annual renewal fee by the renewal filing  
 27 deadline established by the department. The renewal term is for a period of one year  
 28 and begins on January 1 of each year after the initial license term and expires on  
 29 December 31 of the year the renewal term begins.

30 (b) A licensee shall submit a renewal report with the renewal fee in a form and  
 31 in a medium prescribed by the department. The renewal report must describe each

1 material change in information submitted by the licensee in its initial license  
2 application that has not been reported to the department.

3 (c) The department may for good cause grant an extension of the renewal  
4 filing deadline.

5 (d) The department may utilize the registry to process license renewals  
6 provided that use is consistent with this section.

7 \* **Sec. 6.** AS 06.55 is amended by adding new sections to article 1 to read:

8 **Sec. 06.55.108. Maintenance of license.** (a) If a licensee does not continue to  
9 meet the qualifications or satisfy the requirements that apply to an applicant for a new  
10 money transmission license, the department may suspend or revoke the licensee's  
11 license in accordance with this chapter or other applicable law.

12 (b) An applicant for a money transmission license must demonstrate that it  
13 meets or will meet, and a money transmission licensee shall at all times meet, the  
14 requirements of this chapter.

15 **Sec. 06.55.109. Information requirements for certain individuals.** (a) Any  
16 individual in control of a licensee or applicant, any individual who seeks to acquire  
17 control of a licensee, and each key individual shall furnish to the department through  
18 the registry the following items:

19 (1) the individual's fingerprints for submission to the Federal Bureau  
20 of Investigation and the department for purposes of a national criminal history record  
21 check, unless the person currently resides outside the United States and has resided  
22 outside the United States for the last 10 years; and

23 (2) personal history and experience in a form and in a medium  
24 prescribed by the department to obtain the following:

25 (A) an independent credit report from a consumer reporting  
26 agency, unless the individual does not have a social security number, in which  
27 case, this requirement shall be waived;

28 (B) information related to any criminal convictions or pending  
29 charges; and

30 (C) information related to any regulatory or administrative  
31 action and any civil litigation involving claims of fraud, misrepresentation,

1 conversion, mismanagement of funds, breach of fiduciary duty, or breach of  
2 contract.

3 (b) If the individual has resided outside the United States at any time in the  
4 last 10 years, the individual shall also provide an investigative background report  
5 prepared by an independent search firm that meets the following requirements:

6 (1) at a minimum, the search firm

7 (A) shall demonstrate that it has sufficient knowledge,  
8 resources, and employs accepted and reasonable methodologies to conduct the  
9 research of the background report; and

10 (B) may not be affiliated with or have an interest with the  
11 individual it is researching;

12 (2) at a minimum, the investigative background report must be written  
13 in English and contain the following:

14 (A) if available in the individual's current jurisdiction of  
15 residency, a comprehensive credit report, or any equivalent information  
16 obtained or generated by the independent search firm to accomplish such  
17 report, including a search of the court data in the countries, provinces, states,  
18 cities, towns, and contiguous areas where the individual resided and worked;

19 (B) criminal records information for the previous 10 years,  
20 including felonies, misdemeanors, or similar convictions for violations of law  
21 in the countries, provinces, states, cities, towns, and contiguous areas where  
22 the individual resided and worked;

23 (C) employment history;

24 (D) media history, including an electronic search of national  
25 and local publications, wire services, and business applications; and

26 (E) regulatory history related to financial services, including  
27 money transmission, securities, banking, insurance, and mortgage-related  
28 industries.

29 **Sec. 06.55.110. Consistent state licensing.** (a) To establish consistent  
30 licensing between this state and other states, the department may

31 (1) implement all licensing provisions of this chapter in a manner that

1 is consistent with other states that have adopted multistate licensing processes; and

2 (2) participate in nationwide protocols for licensing cooperation and  
3 coordination among state regulators provided that such protocols are consistent with  
4 this chapter.

5 (b) In order to fulfill the purposes of this chapter, the department may  
6 establish relationships or contracts with the registry or other entities designated by the  
7 registry to enable the department to

8 (1) collect and maintain records;

9 (2) coordinate multistate licensing processes and supervision  
10 processes;

11 (3) process fees; and

12 (4) facilitate communication between the department and money  
13 transmission licensees or other persons subject to this chapter.

14 (c) The department may utilize the registry for all aspects of licensing in  
15 accordance with this chapter, including for license applications, applications for  
16 acquisitions of control, surety bonds, reporting, criminal background checks, credit  
17 checks, fee processing, and examinations.

18 \* **Sec. 7.** AS 06.55 is amended by adding new sections to article 2 to read:

19 **Sec. 06.55.205. Scope.** (a) The provisions of AS 06.55.205 - 06.55.290 do not  
20 apply to the exchange, transfer, or storage of virtual currency or to virtual currency-  
21 administration to the extent that activity is governed by 15 U.S.C. 1693 - 1693r  
22 (Electronic Fund Transfer Act of 1978), 15 U.S.C. 78a - 78oo (Securities Exchange  
23 Act of 1934), 7 U.S.C. 1 - 27f (Commodities Exchange Act of 1936), or AS 45.56.100  
24 - 45.56.995 (Alaska Securities Act).

25 (b) The provisions of AS 06.55.205 - 06.55.290 do not apply to activity by

26 (1) a person who contributes only connectivity software or computing  
27 power to a decentralized virtual currency or to a protocol governing transfer of the  
28 digital representation of value;

29 (2) a person who provides only data storage or security services for a  
30 business engaged in virtual-currency business activity and does not otherwise engage  
31 in virtual-currency business activity on behalf of another person;

1 (3) a person who provides only to another person otherwise exempt  
2 from this chapter virtual currency as one or more enterprise solutions used solely  
3 among each other and has no agreement or relationship with a person that is an end-  
4 user of virtual currency;

5 (4) a person using virtual currency, including creating, investing,  
6 buying or selling, or obtaining virtual currency as payment for the purchase or sale of  
7 goods or services, solely

8 (A) on the person's own behalf;

9 (B) for personal, family, or household purposes; or

10 (C) for academic purposes;

11 (5) a person whose virtual-currency business activity with or on behalf  
12 of persons is reasonably expected to be valued, in the aggregate, on an annual basis at  
13 \$5,000 or less, measured by the dollar equivalent of virtual currency;

14 (6) an attorney providing escrow services to a person;

15 (7) a title insurance company providing escrow services to a person;

16 (8) a securities intermediary, as defined in AS 45.08.102, or a  
17 commodity intermediary, as defined in 45.29.102, that

18 (A) does not engage in the ordinary course of business in  
19 virtual-currency business activity with or on behalf of a person in addition to  
20 maintaining securities accounts or commodities accounts and is regulated as a  
21 securities intermediary or commodity intermediary under federal law, law of  
22 this state other than this chapter, or law of another state; and

23 (B) affords a person protections comparable to those set out in  
24 AS 06.55.110;

25 (9) a secured creditor under AS 45.29 or creditor with a judicial lien or  
26 lien arising by operation of law on collateral that is virtual currency, if the virtual-  
27 currency business activity of the creditor is limited to enforcement of the security  
28 interest in compliance with AS 45.29 or lien in compliance with the law applicable to  
29 the lien;

30 (10) virtual-currency control services vendor; or

31 (11) a person who does not receive compensation from a person for



- 1 (A) providing virtual-currency products or services;  
 2 (B) conducting virtual-currency business activity; or  
 3 (C) engaging in testing products or services with the person's  
 4 own funds.

5 (c) The department may determine that a person or class of persons, given  
 6 facts particular to the person or class, should be exempt from this chapter.

7 **Sec. 06.55.206. Conditions precedent to engaging in virtual-currency**  
 8 **business activity.** (a) A person may not engage in virtual-currency business activity or  
 9 hold itself out as being able to engage in virtual-currency business activity unless the  
 10 person is

- 11 (1) licensed in this state under AS 06.55.105; or  
 12 (2) exempt from licensing under AS 06.55.802.

13 (b) A person who is licensed to engage in virtual-currency business activity is  
 14 engaged in the business of money transmission and is subject to the requirements of  
 15 this chapter.

16 **Sec. 06.55.207. Required disclosures.** (a) A licensee that engages in virtual-  
 17 currency business activity shall provide to a person who uses the licensee's products or  
 18 service the disclosures required by (b) of this section and any additional disclosures  
 19 the department determines to be reasonably necessary for the protection of persons.  
 20 The department shall determine by regulation or order the time and form required for  
 21 disclosure. A disclosure required by this section must be made separately from any  
 22 other information provided by the licensee and in a clear and conspicuous manner in a  
 23 record the person may keep. A licensee may propose for the department's approval  
 24 alternate disclosures as more appropriate for its virtual-currency business activity with  
 25 or on behalf of persons.

26 (b) Before establishing a relationship with a person, a licensee shall disclose,  
 27 to the extent applicable to the virtual-currency business activity the licensee will  
 28 undertake with the person,

- 29 (1) a schedule of fees and charges the licensee may assess, the manner  
 30 by which fees and charges will be calculated if not set in advance and disclosed, and  
 31 the timing of the fees and charges;

1 (2) whether the product or service provided by the licensee is covered  
2 by

3 (A) a form of insurance or is otherwise guaranteed against loss  
4 by an agency of the United States

5 (i) up to the dollar equivalent of virtual currency  
6 purchased from the licensee or for control of virtual currency by the  
7 licensee as of the date of the placement or purchase, including the  
8 maximum amount provided by insurance under the Federal Deposit  
9 Insurance Corporation or otherwise available from the Securities  
10 Investor Protection Corporation; or

11 (ii) if not provided at the dollar equivalent of virtual  
12 currency purchased from the licensee or for control of virtual currency  
13 by the licensee, the maximum amount of coverage for each person  
14 expressed in the dollar equivalent of the virtual currency; or

15 (B) private insurance against theft or loss, including cyber  
16 theft;

17 (3) the irrevocability of a transfer or exchange and any exception to  
18 irrevocability;

19 (4) a description of

20 (A) liability for an unauthorized, mistaken, or accidental  
21 transfer or exchange;

22 (B) the person's responsibility to provide notice to the licensee  
23 of a transfer or exchange;

24 (C) the basis for any recovery by the person from the licensee  
25 or registrant;

26 (D) general error resolution rights applicable to a transfer or  
27 exchange; and

28 (E) the method for the person to update the person's contact  
29 information with the licensee;

30 (5) that the date or time when a transfer or exchange is made and the  
31 person's account is debited may differ from the date or time when the person initiates

1 an instruction to make the transfer or exchange;

2 (6) whether the person has a right to stop a pre-authorized payment or  
3 revoke authorization for a transfer and the procedure to initiate a stop-payment order  
4 or revoke authorization for a subsequent transfer;

5 (7) the person's right to receive a receipt, trade ticket, or other evidence  
6 of a transfer or exchange;

7 (8) the person's right to at least 30 days' prior notice of a change in the  
8 licensee's fee schedule, other terms and conditions of operating its virtual-currency  
9 business activity with the person, and the policies applicable to the person's account;  
10 and

11 (9) that virtual currency is not money.

12 (c) Except as provided in (d) of this section, at the conclusion of a virtual-  
13 currency transaction with or on behalf of a person, a licensee shall provide the person  
14 a confirmation in a record that contains

15 (1) the name and contact information of the licensee, including  
16 information the person may need to ask a question or file a complaint;

17 (2) the type, value, date, precise time, and amount of the transaction;  
18 and

19 (3) the fee charged for the transaction, including any charge for  
20 conversion of virtual currency to money, bank credit, or other virtual currency.

21 (d) If a licensee discloses that it will provide a daily confirmation in the initial  
22 disclosure under (c) of this section, the licensee may elect to provide a single, daily  
23 confirmation for all transactions with or on behalf of a person on that day instead of a  
24 confirmation for each transaction.

25 **Sec. 06.55.208. Property interests and entitlements to virtual currency.** (a)

26 A licensee that has control of virtual currency for one or more persons shall maintain  
27 in its control an amount of each type of virtual currency sufficient to satisfy the  
28 aggregate entitlements of the persons to the type of virtual currency.

29 (b) If a licensee violates (a) of this section, the property interests of the  
30 persons in the virtual currency are pro rata property interests in the type of virtual  
31 currency to which the persons are entitled, without regard to the time the persons

1 became entitled to the virtual currency or the licensee obtained control of the virtual  
2 currency.

3 (c) The virtual currency referred to in this section is

4 (1) held for the persons entitled to the virtual currency;

5 (2) not property of the licensee;

6 (3) not subject to the claims of creditors of the licensee; and

7 (4) deemed a permissible investment under this chapter.

8 **Sec. 06.55.209. Additional requirements and clarifications for virtual-**  
9 **currency business activities.** (a) A licensee engaged in a virtual-currency business  
10 activity shall comply with all provisions of this chapter to the extent applicable to the  
11 licensee's activities.

12 (b) A licensee engaged in a virtual-currency business activity may include in  
13 its calculation of tangible net worth virtual currency, measured by the average value of  
14 the virtual currency in the dollar equivalent over the previous six calendar months,  
15 excluding control of virtual currency for a person entitled to the protections of  
16 AS 06.55.208.

17 (c) A licensee shall maintain, for all virtual-currency business activity with or  
18 on behalf of a person five years after the date of the activity, a record of

19 (1) each transaction of the licensee with or on behalf of the person or  
20 for the licensee's account in this state, including

21 (A) the identity of the person;

22 (B) the form of the transaction;

23 (C) the amount, date, and payment instructions given by the  
24 person; and

25 (D) the account number, name, and mailing address of the  
26 resident, and, to the extent feasible, other parties to the transaction;

27 (2) the aggregate number of transactions and aggregate value of  
28 transactions by the licensee with or on behalf of the person and for the licensee's  
29 account in this state, expressed in the dollar equivalent of virtual currency for the  
30 previous 12 calendar months;

31 (3) each transaction in which the licensee exchanges one form of

1 virtual currency for money or another form of virtual currency with or on behalf of the  
2 person;

3 (4) a general ledger posted at least monthly that lists all assets,  
4 liabilities, capital, income, and expenses of the licensee;

5 (5) each call report the licensee is required to create or provide to the  
6 department or registry;

7 (6) bank statements and bank reconciliation records for the licensee  
8 and the name, account number, and mailing address of each bank the licensee uses in  
9 the conduct of its virtual-currency business activity with or on behalf of the person;

10 (7) a report of any dispute with the person; and

11 (8) a report of any virtual-currency business activity transaction with  
12 or on behalf of the person that the licensee was unable to complete.

13 (d) A licensee shall maintain the records required by (c) of this section in a  
14 form that enables the department to determine whether the licensee is in compliance a  
15 court order, this chapter, or other law of this state.

16 **Sec. 06.55.290. Definitions.** In AS 06.55.205 - AS 06.55.290,

17 (1) "control of virtual currency," when used in reference to a  
18 transaction or relationship involving virtual currency, means the power to execute  
19 unilaterally or prevent indefinitely a virtual-currency transaction;

20 (2) "dollar equivalent" means the equivalent value of a particular  
21 virtual currency in United States dollars shown on a virtual-currency exchange based  
22 in the United States for a particular date or period specified in this chapter;

23 (3) "exchange" means to assume control of virtual currency from or on  
24 behalf of a person, at least momentarily, to sell, trade, or convert

25 (A) virtual currency for money, bank credit, or one or more  
26 forms of virtual currency or money; or

27 (B) bank credit for one or more forms of virtual currency;

28 (4) "transfer" means to assume control of virtual currency from or on  
29 behalf of a person and to

30 (A) credit the virtual currency to the account of another person;

31 (B) move the virtual currency from one account of a person to

1 another account of the same person; or

2 (C) relinquish control of virtual currency to another person;

3 (5) "virtual currency"

4 (A) means a digital representation of value that

5 (i) is used as a medium of exchange, unit of account, or  
6 store of value; and

7 (ii) is not money, whether or not denominated in  
8 money;

9 (B) does not include

10 (i) a transaction in which a merchant grants, as part of  
11 an affinity or rewards program, value that cannot be taken from or  
12 exchanged with the merchant for money, bank credit, or virtual  
13 currency; or

14 (ii) a digital representation of value issued by or on  
15 behalf of a publisher and used solely within an online game, game  
16 platform, or family of games sold by the same publisher or offered on  
17 the same game platform;

18 (6) "virtual-currency administration" means issuing virtual currency  
19 with the authority to redeem the currency for money, bank credit, or other virtual  
20 currency;

21 (7) "virtual-currency business activity" means

22 (A) exchanging, transferring, or storing virtual currency or  
23 engaging in virtual-currency administration, whether directly or through an  
24 agreement with a vendor of virtual-currency control services;

25 (B) holding electronic precious metals or electronic certificates  
26 representing interests in precious metals on behalf of another person or issuing  
27 shares or electronic certificates representing interests in precious metals; or

28 (C) exchanging one or more digital representations of value  
29 used within one or more online games, game platforms, or family of games for

30 (i) virtual currency offered by or on behalf of the same  
31 publisher from which the original digital representation of value was

1 received; or

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

6 (8) " virtual-currency control services vendor" means a person who has  
7 control of virtual currency solely under an agreement with a person who, on behalf of  
8 another person, assumes control of virtual currency.

9 \* **Sec. 8.** AS 06.55.301 is repealed and reenacted to read:

10 **Sec. 06.55.301. Relationship between licensee and authorized delegate.** (a)

11 Before a licensee is authorized to conduct business through an authorized delegate or  
12 allow a person to act as the licensee's authorized delegate, the licensee shall

13 (1) adopt, and update as necessary, written policies and procedures  
14 reasonably designed to ensure that the licensee's authorized delegates comply with  
15 applicable state and federal law;

16 (2) enter into a written contract that complies with (c) of this section;  
17 and

18 (3) conduct a reasonable, risk-based background investigation  
19 sufficient for the licensee to determine whether the authorized delegate has complied  
20 and will likely comply with applicable state and federal law.

21 (b) An authorized delegate shall operate in compliance with this chapter.

22 (c) The written contract required by (a)(2) of this section must be signed by  
23 the licensee and the authorized delegate and, at a minimum, must

24 (1) appoint the person signing the contract as the licensee's authorized  
25 delegate with the authority to conduct money transmission on behalf of the licensee;

26 (2) set out the nature and scope of the relationship between the licensee  
27 and the authorized delegate and the respective rights and responsibilities of the parties;

28 (3) require the authorized delegate to agree to comply with all  
29 applicable state and federal laws, rules, and regulations pertaining to money  
30 transmission, including this chapter and regulations implementing this chapter,  
31 relevant provisions of the Bank Secrecy Act, and P.L. 107-56 (USA PATRIOT ACT);

1 (4) require the authorized delegate to remit and handle money and  
2 monetary value in accordance with the terms of the contract;

3 (5) impose a trust on money and monetary value net of fees received  
4 for money transmission for the benefit of the licensee;

5 (6) require the authorized delegate to prepare and maintain records as  
6 required by this chapter or regulations implementing this chapter, or as reasonably  
7 requested by the department;

8 (7) acknowledge that the authorized delegate consents to examination  
9 or investigation by the department;

10 (8) state that the licensee is subject to regulation by the department and  
11 that, as part of that regulation, the department may suspend or revoke an authorized  
12 delegate designation or require the licensee to terminate an authorized delegate  
13 designation; and

14 (9) acknowledge receipt of the written policies and procedures  
15 required under (a)(1) of this section.

16 (d) If the licensee's license is suspended, revoked, surrendered, or expired, the  
17 licensee shall, within five business days, provide documentation to the department that  
18 the licensee has notified all applicable authorized delegates of the licensee whose  
19 names are in a record filed with the department of the suspension, revocation,  
20 surrender, or expiration of the license. Upon suspension, revocation, surrender, or  
21 expiration of a license, applicable authorized delegates shall immediately cease to  
22 provide money transmission as an authorized delegate of the licensee.

23 (e) An authorized delegate of a licensee holds in trust for the benefit of the  
24 licensee all money net of fees received from money transmission. If an authorized  
25 delegate commingles any funds received from money transmission with any other  
26 funds or property owned or controlled by the authorized delegate, all commingled  
27 funds and other property shall be considered held in trust in favor of the licensee in an  
28 amount equal to the amount of money net of fees received from money transmission.

29 (f) In this section, "remit" means to make direct payments of money to a  
30 licensee or its representative authorized to receive money or to deposit money in a  
31 bank account specified by the licensee.



1 \* **Sec. 9.** AS 06.55.302 is amended to read:

2           **Sec. 06.55.302. Unauthorized activities.** A person may not engage in the  
 3 business of money transmission on behalf of a person not licensed or exempt  
 4 [ACT AS AN AUTHORIZED DELEGATE FOR, OR OTHERWISE PROVIDE  
 5 MONEY SERVICES ON BEHALF OF, A PERSON WHO DOES NOT HOLD A  
 6 MONEY SERVICES LICENSE] under this chapter. A person who engages in the  
 7 business of money transmission on behalf of a person not licensed or exempt  
 8 under this chapter provides money transmission to the same extent as if the  
 9 person were a licensee and is jointly and severally liable with the unlicensed or  
 10 nonexempt person.

11 \* **Sec. 10.** AS 06.55.401 is repealed and reenacted to read:

12           **Sec. 06.55.401. Supervision.** (a) The department may conduct an examination  
 13 or investigation of a licensee or authorized delegate or otherwise take independent  
 14 action authorized by this chapter, regulations implementing this chapter, and other  
 15 applicable law, including the Bank Secrecy Act, 15 U.S.C. 1693 - 1693r (Electronic  
 16 Fund Transfer Act of 1978), P.L. 106-102 (Gramm-Leach-Bliley Act), and P.L. 107-  
 17 56 (USA PATRIOT ACT). The department may

18                   (1) conduct an on-site or off-site examination as the department  
 19 reasonably requires;

20                   (2) conduct an examination in conjunction with an examination  
 21 conducted by representatives of other agencies of this state, another state, or the  
 22 federal government;

23                   (3) accept the examination report of another agency of this state,  
 24 another state, or the federal government, or a report prepared by an independent  
 25 accounting firm; a report accepted under this paragraph will be considered for all  
 26 purposes to be an official report of the department; and

27                   (4) summon and examine under oath a key individual or employee of a  
 28 licensee or authorized delegate and require that key individual or employee to produce  
 29 records regarding any matter related to the condition and business of the licensee or  
 30 authorized delegate.

31                   (b) A licensee or authorized delegate shall provide, and the department shall

1 have complete access to, all records the department reasonably requires to conduct a  
 2 complete examination. The licensee or authorized delegate shall provide the records at  
 3 the location and in the format specified by the department. The department may utilize  
 4 multistate record production standards and examination procedures when such  
 5 standards will reasonably achieve the requirements of this section.

6 (c) Unless otherwise directed by the department, a licensee shall pay all costs  
 7 reasonably incurred in connection with an examination of the licensee or the licensee's  
 8 authorized delegates.

9 (d) Information obtained during an examination under this chapter may be  
 10 disclosed only as provided in AS 06.55.407.

11 \* **Sec. 11.** AS 06.55.403(a) is repealed and reenacted to read:

12 (a) A licensee shall submit a report of condition within 45 days after the end  
 13 of the fiscal quarter or within an extended period of time that the department  
 14 prescribes. The report of condition must include

15 (1) financial information at the licensee level;

16 (2) nationwide and state-specific money transmission transaction  
 17 information in every jurisdiction in the United States where the licensee is licensed to  
 18 engage in money transmission;

19 (3) a permissible investments report;

20 (4) transaction destination country reporting for money received for  
 21 transmission, if applicable; and

22 (5) any other information the department reasonably requires with  
 23 respect to the licensee.

24 \* **Sec. 12.** AS 06.55.403(b) is repealed and reenacted to read:

25 (b) A licensee shall submit a report of authorized delegates within 45 days  
 26 after the end of each fiscal quarter. The report of authorized delegates must include  
 27 each authorized delegate's

28 (1) company legal name;

29 (2) taxpayer employer identification number;

30 (3) principal provider identifier;

31 (4) physical address;

- 1 (5) mailing address;
- 2 (6) business conducted in other states, if any;
- 3 (7) fictitious or trade name, if any;
- 4 (8) contact person name, phone number, and electronic mail address;
- 5 (9) start date acting as licensee's authorized delegate;
- 6 (10) end date acting as licensee's authorized delegate, if applicable;
- 7 and
- 8 (11) any other information the department reasonably requires with
- 9 respect to the authorized delegate.

10 \* **Sec. 13.** AS 06.55.403(c) is amended to read:

11 (c) A [MONEY SERVICES] licensee shall file a report with the department

12 within one business day after the [MONEY SERVICES] licensee has reason to know

13 of the occurrence of any of the following events:

14 (1) the filing of a petition by or against the [MONEY SERVICES]

15 licensee under 11 U.S.C. 101 - 110 (Bankruptcy Code) for bankruptcy or

16 reorganization;

17 (2) the filing of a petition by or against the [MONEY SERVICES]

18 licensee for receivership, the commencement of any other judicial or administrative

19 proceeding for its dissolution or reorganization, or the making of a general assignment

20 for the benefit of its creditors;

21 (3) the commencement of a proceeding to revoke or suspend its

22 [MONEY SERVICES] license in a state or country in which the [MONEY

23 SERVICES] licensee engages in business or is licensed;

24 (4) the cancellation or other impairment of the [MONEY SERVICES]

25 licensee's bond or other security;

26 (5) a charge against or conviction of the [MONEY SERVICES]

27 licensee or of **a key individual** [AN EXECUTIVE OFFICER, MANAGER,

28 DIRECTOR,] or person in control of the [MONEY SERVICES] licensee for a felony;

29 or

30 (6) a charge against or conviction of an authorized delegate for a

31 felony.

1 \* **Sec. 14.** AS 06.55.403 is amended by adding a new subsection to read:

2 (d) The department may utilize the registry for the submission of reports  
3 required by this section.

4 \* **Sec. 15.** AS 06.55.404 is repealed and reenacted to read:

5 **Sec. 06.55.404. Acquisition of control.** (a) A person or group of persons  
6 acting in concert seeking to acquire control of a licensee shall obtain the written  
7 approval of the department before acquiring control. An individual is not deemed to  
8 acquire control of a licensee when that individual becomes a key individual in the  
9 ordinary course of business.

10 (b) A person or group of persons acting in concert seeking to acquire control  
11 of a licensee shall, in cooperation with the licensee,

12 (1) submit an application in a form and in a medium prescribed by the  
13 department that includes the information required by AS 06.55.412, as applicable; and

14 (2) submit a nonrefundable fee with the request for approval.

15 (c) The department may permit a licensee or the person, or group of persons  
16 acting in concert, to submit some or all information required by the department under  
17 (b)(1) of this section without using the registry.

18 (d) When an application for acquisition of control appears to include all  
19 required content and address all matters required by the department, the application is  
20 considered complete, and the department shall notify the applicant in a record of the  
21 date on which the application was determined to be complete. The department shall  
22 approve or deny the application within 120 days after the date the application was  
23 determined to be complete. If the application is not approved or denied within 120  
24 days after the completion date,

25 (1) the application is approved; and

26 (2) the person or group of persons acting in concert is not prohibited  
27 from acquiring control.

28 (e) The department may for good cause extend the application period.

29 (f) A determination by the department that an application is complete and is  
30 accepted for processing means only that the application, on its face, appears to include  
31 all required items, including a criminal background check, and address all required

1 matters. The department's determination is not an assessment of the substance of the  
2 application or of the sufficiency of the information provided.

3 (g) When an application is filed and considered to be complete under (d) of  
4 this section, the department shall investigate the financial condition and responsibility,  
5 financial and business experience, competence, character, and general fitness of the  
6 person or group of persons acting in concert seeking to acquire control. The  
7 department shall approve a request for acquisition of control if the department finds  
8 that

9 (1) the requirements of (b) of this section have been met, as applicable;

10 and

11 (2) the financial condition and responsibility, financial and business  
12 experience, competence, character, and general fitness of the person, or group of  
13 persons acting in concert, seeking to acquire control, and the competence, experience,  
14 character, and general fitness of the key individuals and persons that would be in  
15 control of the licensee after the acquisition of control indicate that it is in the public  
16 interest to permit the person, or group of persons acting in concert, to control the  
17 licensee.

18 (h) If an applicant for approval to acquire control is subject to a multistate  
19 licensing process, the department may

20 (1) accept the investigation results of a lead investigative state for the  
21 purposes of (g) of this section; or

22 (2) investigate the applicant in accordance with (g) of this section and  
23 the timeframes established by agreement through the multistate licensing process.

24 (i) The department shall issue a formal written notice of a denial of an  
25 application for approval to acquire control within 30 days after the decision to deny  
26 the application. The department shall set out in the notice of denial the specific reasons  
27 for the denial. An applicant may appeal a denial within 30 days after receipt of the  
28 written notice of the denial.

29 (j) The provisions of (a) and (b) of this section do not apply to

30 (1) a person who acts as a proxy for the sole purpose of voting at a  
31 designated meeting of the shareholders or holders of voting shares or voting interests

1 of a licensee or a person in control of a licensee;

2 (2) a person who acquires control of a licensee by devise or descent;

3 (3) a person who acquires control of a licensee as a personal  
4 representative, custodian, guardian, conservator, or trustee, or as an officer appointed  
5 by a court of competent jurisdiction or by operation of law;

6 (4) a person who is exempt under AS 06.55.802(4);

7 (5) a person who the department, by regulation or order, determines to  
8 be exempt from the requirements of (a) and (b) of this section because that exemption  
9 is in the public interest;

10 (6) a public offering of securities of a licensee or a person in control of  
11 a licensee; or

12 (7) an internal reorganization of a person in control of a licensee where  
13 the ultimate person in control of the licensee remains the same.

14 (k) A person exempt from the requirements of (a) and (b) of this section, in  
15 cooperation with the licensee, shall notify the department within 15 days after the  
16 acquisition of control.

17 (l) Before filing an application for approval to acquire control of a licensee, a  
18 person may request in writing a determination from the department as to whether the  
19 person would be considered a person in control of a licensee upon consummation of a  
20 proposed transaction. If the department determines that the person would not be a  
21 person in control of a licensee, the proposed person and transaction are not subject to  
22 the requirements of (a) and (b) of this section.

23 (m) If a multistate licensing process includes a determination made under (l)  
24 of this section and an applicant is subject to the multistate licensing process, the  
25 department may

26 (1) accept the control determination of a lead investigative state; or

27 (2) investigate the applicant in accordance with this section and the  
28 timeframes established by agreement through the multistate licensing process.

29 (n) The requirements of (a) and (b) of this section do not apply to a person who  
30 has complied with and received approval to engage in money transmission under this  
31 chapter or was identified as a person in control in a prior application filed with and

1 approved by the department or by an accredited state in accordance with a multistate  
2 licensing process, provided that

3 (1) the person has not had a license revoked or suspended or controlled  
4 a licensee that has had a license revoked or suspended while the person was in control  
5 of the licensee in the past five years;

6 (2) if the person is a licensee, the person is well managed and has  
7 received at least a satisfactory rating for compliance at its most recent examination by  
8 an accredited state if such rating was given;

9 (3) the licensee to be acquired is projected to meet the requirements of  
10 this chapter, including AS 06.55.501, 06.55.505, and 06.55.506 after the acquisition of  
11 control is completed, and if the person acquiring control is a licensee, that licensee is  
12 also projected to meet the requirements of this chapter, including AS 06.55.501,  
13 06.55.505, and 06.55.506, after the acquisition of control is completed;

14 (4) the licensee to be acquired will not implement any material  
15 changes to its business plan as a result of the acquisition of control, and if the person  
16 acquiring control is a licensee, that licensee also will not implement any material  
17 changes to its business plan as a result of the acquisition of control; and

18 (5) the person provides notice of the acquisition in cooperation with  
19 the licensee and attests to (1) - (4) of this subsection in a form and in a medium  
20 prescribed by the department.

21 (o) If the notice required under (n)(5) of this section is not disapproved within  
22 30 days after the date on which the notice was determined to be complete, the notice is  
23 deemed approved.

24 (p) For purposes of determining the percentage of a person controlled by any  
25 other person, the person's interest shall be aggregated with the interest of any other  
26 immediate family member, including the person's spouse, parents, children, siblings,  
27 relative by marriage, and any other person who shares such person's home.

28 \* **Sec. 16.** AS 06.55.405(a) is amended to read:

29 (a) A [MONEY SERVICES] licensee shall maintain the following records for  
30 determining its compliance with this chapter for at least **five** [THREE] years:

31 (1) a record of each **outstanding money transmission** [PAYMENT

1 INSTRUMENT OR STORED-VALUE] obligation sold;

2 (2) a general ledger posted at least monthly containing all asset,  
3 liability, capital, income, and expense accounts;

4 (3) bank statements and bank reconciliation records;

5 (4) records of outstanding money transmission [PAYMENT  
6 INSTRUMENTS AND STORED-VALUE] obligations;

7 (5) records of each outstanding money transmission [PAYMENT  
8 INSTRUMENT AND STORED-VALUE] obligation paid within the five-year  
9 [THREE-YEAR] period;

10 (6) a list of the last known names and addresses of all of the [MONEY  
11 SERVICES] licensee's authorized delegates; and

12 (7) any other records the department reasonably requires by regulation.

13 \* **Sec. 17.** AS 06.55.405(d) is amended to read:

14 (d) All records maintained by the [MONEY SERVICES] licensee as required  
15 in (a) - (c) of this section are open to inspection by the department under  
16 AS 06.55.401.

17 \* **Sec. 18.** AS 06.55.406(a) is amended to read:

18 (a) A [MONEY SERVICES] licensee and an authorized delegate shall file  
19 [WITH THE ATTORNEY GENERAL] all reports required by federal currency  
20 reporting, record keeping, and suspicious transaction reporting requirements as set out  
21 in Bank Secrecy Act [31 U.S.C. 5311] and other federal and state laws pertaining to  
22 money laundering. The timely filing of a complete and accurate report required  
23 under this section with the appropriate federal agency is deemed compliant with  
24 the requirements of this section.

25 \* **Sec. 19.** AS 06.55.407(a) is amended to read:

26 (a) Except as [OTHERWISE] provided in (b) of this section, all information  
27 or reports obtained by the department from an applicant, [A] licensee, or [AN]  
28 authorized delegate, and all information contained in or related to an examination,  
29 investigation, operating report, or condition report prepared by, on behalf of, or  
30 for the use of the department, or financial statements, balance sheets, or  
31 authorized delegate information, are confidential and not subject to disclosure under



1 AS 40.25.100 - 40.25.295 [, INCLUDING

2 (1) ALL INFORMATION CONTAINED IN OR RELATED TO  
3 EXAMINATION, INVESTIGATION, OPERATING, OR CONDITION REPORTS  
4 PREPARED BY, ON BEHALF OF, OR FOR THE USE OF THE DEPARTMENT;  
5 AND

6 (2) FINANCIAL STATEMENTS, BALANCE SHEETS, AND  
7 AUTHORIZED DELEGATE INFORMATION].

8 \* **Sec. 20.** AS 06.55.407(b) is amended to read:

9 (b) The department may disclose information that is not otherwise subject to  
10 disclosure under (a) of this section to representatives of state or federal agencies who  
11 promise in a record that they will maintain the confidentiality of the information or if  
12 the department finds that the release is reasonably necessary for the protection of the  
13 public and in the interests of justice [, AND THE MONEY SERVICES LICENSEE  
14 HAS BEEN GIVEN PREVIOUS NOTICE BY THE DEPARTMENT OF ITS  
15 INTENT TO RELEASE THE INFORMATION].

16 \* **Sec. 21.** AS 06.55.407(c) is amended to read:

17 (c) This section does not prohibit the department from disclosing to the public  
18 a list of [MONEY SERVICES] licensees or the aggregated financial **or transactional**  
19 data concerning those [MONEY SERVICES] licensees.

20 \* **Sec. 22.** AS 06.55.407(d) is amended to read:

21 (d) A [MONEY SERVICES] licensee or an authorized delegate may not  
22 disclose to another person financial information provided to the [MONEY  
23 SERVICES] licensee or the authorized delegate by a customer except when, and only  
24 to the extent that, the disclosure is

25 (1) authorized in writing by the customer;

26 (2) required by federal, state, or local law;

27 (3) required by an order issued by a court or an administrative agency;

28 or

29 (4) part of the money **transmission** [SERVICES] transaction ordered  
30 by the customer.

31 \* **Sec. 23.** AS 06.55.407 is amended by adding a new subsection to read:

1 (f) Information contained in the records of the department that is not  
 2 confidential and may, upon request, be made available to the public on the  
 3 department's Internet website includes

4 (1) the name, business address, telephone number, and registry unique  
 5 identifier of a licensee;

6 (2) the business address of a licensee's registered agent for service;

7 (3) the name, business address, and telephone number of all authorized  
 8 delegates;

9 (4) the terms of or a copy of any bond filed by a licensee, provided that  
 10 confidential information, including the prices and fees for such bond, is redacted;

11 (5) copies of any nonconfidential final orders of the department  
 12 relating to any violation of this chapter or regulations implementing this chapter; and

13 (6) imposition of an administrative fine or penalty under this chapter.

14 \* **Sec. 24.** AS 06.55 is amended by adding new sections to article 4 to read:

15 **Sec. 06.55.408. Audited financials.** (a) A licensee shall, within 90 days after  
 16 the end of each fiscal year or within any extended period of time that the department  
 17 prescribes, file with the department

18 (1) an audited financial statement of the licensee for the fiscal year  
 19 prepared in accordance with generally accepted accounting principles; and

20 (2) any other information the department reasonably requires.

21 (b) The audited financial statements must be prepared by an independent  
 22 certified public accountant or independent public accountant who is satisfactory to the  
 23 department.

24 (c) The audited financial statements must include a certificate of opinion of  
 25 the independent certified public accountant or independent public accountant that is  
 26 satisfactory in form and content to the department. If the certificate or opinion is  
 27 qualified, the department may order the licensee to take any action that the department  
 28 finds necessary to enable the independent certified public accountant or independent  
 29 public accountant to remove the qualification.

30 **Sec. 06.55.409. Implementation.** (a) To carry out the purposes of this chapter,  
 31 subject to AS 06.55.407, the department may

1           (1) enter into agreements or relationships with other government  
2 officials or federal and state regulatory agencies and regulatory associations to  
3 improve efficiencies and reduce regulatory burden by standardizing methods or  
4 procedures, and sharing resources, records, or related information obtained under this  
5 chapter;

6           (2) use, hire, contract, or employ analytical systems, methods, or  
7 software to examine or investigate any person subject to this chapter;

8           (3) accept from other state or federal government agencies or officials  
9 licensing, examination, or investigation reports made by those agencies or officials;  
10 and

11           (4) accept audit reports made by an independent certified public  
12 accountant or other qualified third-party auditor for an applicant or licensee and  
13 incorporate the audit reports into any report of examination or investigation.

14           (b) The department has broad administrative authority to administer, interpret  
15 and enforce this chapter, to adopt rules or regulations implementing this chapter, and  
16 to recover the cost of administering and enforcing this chapter by imposing and  
17 collecting proportionate and equitable fees and costs associated with applications,  
18 examinations, investigations, and other actions required to achieve the purpose of this  
19 chapter.

20           **Sec. 06.55.410. Networked supervision.** (a) The department may participate  
21 in multistate supervisory processes established between states and coordinated through  
22 the Conference of State Bank Supervisors and Money Transmitter Regulators  
23 Association, as well as affiliates and successors thereof, for all licensees that hold  
24 licenses in this state and other states. As a participant in multistate supervision, subject  
25 to AS 06.55.407, the department may

26           (1) cooperate, coordinate, and share information with other state and  
27 federal regulators; and

28           (2) enter into written contracts or agreements with other state and  
29 federal regulators for the purposes of cooperating, coordinating, and sharing  
30 information with those state and federal regulators.

31           (b) Nothing in this section constitutes a waiver of the department's authority to

1 conduct an examination or investigation or otherwise take independent action to  
2 enforce compliance with applicable state or federal law.

3 (c) A joint examination or investigation, or acceptance of an examination or  
4 investigation report, does not waive an examination assessment provided for in this  
5 chapter.

6 **Sec. 06.55.411. Relationship to federal law.** (a) In the event that state money  
7 transmission jurisdiction is conditioned on a federal law, any inconsistency between a  
8 provision of this chapter and the federal law governing money transmission is  
9 governed by the applicable federal law to the extent of the inconsistency.

10 (b) In the event of an inconsistency between this chapter and a federal law that  
11 governs in accordance with (a) of this section, the department may provide interpretive  
12 guidance that

13 (1) identifies the inconsistency; and

14 (2) identifies the appropriate means of compliance with federal law.

15 **Sec. 06.55.412. Notice and information requirements for a change of key**  
16 **individual.** (a) A licensee adding or replacing a key individual shall

17 (1) provide notice in a manner prescribed by the department within 15  
18 days after the effective date of the key individual's appointment; and

19 (2) provide the information required under AS 06.55.109 within 45  
20 days after the effective date of the key individual's appointment.

21 (b) The department may issue a notice of disapproval of a key individual if the  
22 department finds that the experience, competence, character, or integrity of the  
23 individual would not be in the best interest of the public or the customers of the  
24 licensee to permit the individual to be a key individual. The department shall issue a  
25 notice of disapproval within 90 days after the department determines the notice  
26 provided under (a) of this section to be complete.

27 (c) A notice of disapproval shall contain a statement of the basis for the  
28 disapproval and be sent to the licensee and the disapproved individual. A licensee may  
29 appeal a notice of disapproval within 30 days after receipt of the notice.

30 (d) If the notice provided under (a) of this section is not disapproved within 90  
31 days after the date the notice was determined to be complete, the key individual is

1 deemed approved.

2 (e) If a multistate licensing process includes a key individual notice review  
3 and disapproval process, and the licensee is subject to the multistate licensing process,  
4 the department may

5 (1) accept the key individual notice review determination of another  
6 state; or

7 (2) investigate the applicant in accordance with (b) of this section and  
8 the timeframes established by agreement through the multistate licensing process.

9 \* **Sec. 25.** AS 06.55.501 is amended to read:

10 **Sec. 06.55.501. Maintenance of permissible investments.** (a) A [MONEY  
11 SERVICES] licensee shall maintain at all times permissible investments that have a  
12 market value computed under generally accepted accounting principles of not less than  
13 the aggregate amount of all of its outstanding money transmission [PAYMENT  
14 INSTRUMENTS AND STORED VALUE] obligations [ISSUED OR SOLD IN ALL  
15 STATES AND MONEY TRANSMITTED FROM ALL STATES BY THE MONEY  
16 SERVICES LICENSEE].

17 (b) Except for permissible investments listed in AS 06.55.502, the [THE]  
18 department, with respect to any licensee [MONEY SERVICES LICENSEES], may by  
19 rule or order limit the extent to which a specific [TYPE OF] investment maintained  
20 by a licensee within a class of permissible investments may be considered a  
21 permissible investment if the specific investment represents undue risk to the  
22 customers that is not reflected in the market value of investments [, EXCEPT  
23 FOR MONEY AND CERTIFICATES OF DEPOSIT ISSUED BY A BANK. THE  
24 DEPARTMENT BY REGULATION MAY PRESCRIBE OR BY ORDER ALLOW  
25 OTHER TYPES OF INVESTMENTS THAT THE DEPARTMENT DETERMINES  
26 TO HAVE A SAFETY SUBSTANTIALLY EQUIVALENT TO OTHER  
27 PERMISSIBLE INVESTMENTS].

28 (c) Permissible investments, even if commingled with other assets of the  
29 [MONEY SERVICES] licensee, are held in trust for the benefit of the purchasers and  
30 holders of the [MONEY SERVICES] licensee's outstanding money transmission  
31 [PAYMENT INSTRUMENTS AND STORED VALUE] obligations in the event of

1 the licensee's insolvency, bankruptcy, [OR] receivership, commencement of other  
 2 judicial or administrative proceedings for its dissolution or reorganization, or in  
 3 the event of an action by a creditor against the licensee who is not a beneficiary of  
 4 the statutory trust. No permissible investment impressed with a trust in  
 5 accordance with this subsection shall be subject to attachment, levy of execution,  
 6 or sequestration by order of any court, except for a beneficiary of the statutory  
 7 trust [OF THE MONEY SERVICES LICENSEE].

8 \* **Sec. 26.** AS 06.55.501 is amended by adding new subsections to read:

9 (d) Upon the establishment of a statutory trust under (c) of this section, or  
 10 when any funds are drawn on a letter of credit under AS 06.55.502(a)(4) and (d), the  
 11 department shall notify the applicable regulator of each state in which the licensee is  
 12 licensed to engage in money transmission, if any, of the establishment of the trust or  
 13 the funds drawn on the letter of credit, as applicable. Notice may be provided in  
 14 accordance with a multistate agreement or through the registry. Funds drawn on a  
 15 letter of credit and any other permissible investments held in trust for the benefit of the  
 16 purchasers and holders of the licensee's outstanding money transmission obligations  
 17 are deemed held in trust for the benefit of such purchasers and holders on a pro rata  
 18 and equitable basis in accordance with state law and the law of other states, as  
 19 applicable. Any statutory trust established under this section shall be terminated upon  
 20 extinguishment of all of the licensee's outstanding money transmission obligations.

21 (e) The department may by regulation, rule, or order allow other types of  
 22 investments that the department determines are of sufficient liquidity and quality to be  
 23 a permissible investment. The department may participate in efforts with other state  
 24 regulators to identify permissible investments.

25 \* **Sec. 27.** AS 06.55.502(a) is amended to read:

26 (a) Except to the extent otherwise limited by the department under  
 27 AS 06.55.501, or as modified by rule or regulation of the department, the  
 28 following investments are permissible under AS 06.55.501:

29 (1) cash, demand deposits, savings deposits, funds in accounts held  
 30 for the benefit of a licensee's customers in a federally insured depository financial  
 31 institution, money market mutual funds, certificates [A CERTIFICATE] of

1 deposit, [OR A] senior debt **obligations** [OBLIGATION] of **a federally** [AN] insured  
 2 depository **financial** institution, **and cash equivalents including Automated**  
 3 **Clearing House items in transit to the licensee and Automated Clearing House**  
 4 **items or international wires in transit to a payee, cash in transit via armored car,**  
 5 **cash in smart safes, cash in licensee-owned locations, and debit card or credit**  
 6 **card-funded transmission receivables owed by any bank** [; IN THIS  
 7 PARAGRAPH, "INSURED DEPOSITORY INSTITUTION" HAS THE MEANING  
 8 GIVEN IN 12 U.S.C. 1813 (FEDERAL DEPOSIT INSURANCE ACT)];

9 (2) [BANKER'S ACCEPTANCE OR BILL OF EXCHANGE THAT  
 10 IS ELIGIBLE FOR PURCHASE ON ENDORSEMENT BY A MEMBER BANK OF  
 11 THE FEDERAL RESERVE SYSTEM AND IS ELIGIBLE FOR PURCHASE BY A  
 12 FEDERAL RESERVE BANK;

13 (3)] an investment bearing a rating of one of the three highest grades as  
 14 defined by a nationally recognized organization that rates securities;

15 **(3)** [(4) AN INVESTMENT SECURITY THAT IS] an obligation of  
 16 the United States or a **commission** [DEPARTMENT], agency, or instrumentality of  
 17 the United States, [AN INVESTMENT IN] an obligation that is guaranteed fully as to  
 18 principal and interest by the United States, or [AN INVESTMENT IN] an obligation  
 19 of a state or a governmental subdivision, agency, or instrumentality of a state;

20 **(4) the full drawable amount of an irrevocable standby letter of**  
 21 **credit that complies with (d) of this section;**

22 **(5) 100 percent of the surety bond provided for under**  
 23 **AS 06.55.505 that exceeds the average daily money transmission liability in this**  
 24 **state**

25 [(5) RECEIVABLES THAT ARE PAYABLE TO A MONEY  
 26 SERVICES LICENSEE FROM ITS AUTHORIZED DELEGATES, IN THE  
 27 ORDINARY COURSE OF BUSINESS, UNDER CONTRACTS THAT ARE NOT  
 28 PAST DUE OR DOUBTFUL OF COLLECTION IF THE AGGREGATE AMOUNT  
 29 OF RECEIVABLES UNDER THIS PARAGRAPH DOES NOT EXCEED 20  
 30 PERCENT OF THE TOTAL PERMISSIBLE INVESTMENTS OF A MONEY  
 31 SERVICES LICENSEE AND THE MONEY SERVICES LICENSEE DOES NOT

1 HOLD AT ONE TIME RECEIVABLES UNDER THIS PARAGRAPH IN ANY  
 2 ONE PERSON AGGREGATING MORE THAN 10 PERCENT OF THE MONEY  
 3 SERVICES LICENSEE'S TOTAL PERMISSIBLE INVESTMENTS; AND

4 (6) A SHARE OR A CERTIFICATE ISSUED BY AN OPEN-END  
 5 MANAGEMENT INVESTMENT COMPANY THAT IS REGISTERED WITH THE  
 6 UNITED STATES SECURITIES AND EXCHANGE COMMISSION UNDER 15  
 7 U.S.C. 80A-1 - 80A-64 (INVESTMENT COMPANY ACT OF 1940), AND WHOSE  
 8 PORTFOLIO IS RESTRICTED BY THE MANAGEMENT COMPANY'S  
 9 INVESTMENT POLICY TO INVESTMENTS SPECIFIED IN (1) - (4) OF THIS  
 10 SUBSECTION].

11 \* **Sec. 28.** AS 06.55.502(b) is repealed and reenacted to read:

12 (b) The following investments are permissible under AS 06.55.501 to the  
 13 extent specified:

14 (1) receivables that are payable to a licensee from its authorized  
 15 delegates in the ordinary course of business that are less than seven days old and do  
 16 not exceed 50 percent of the aggregate value of the licensee's total permissible  
 17 investments; receivables under this paragraph that are payable to a licensee from a  
 18 single authorized delegate in the ordinary course of business may not exceed 10  
 19 percent of the aggregate value of the licensee's total permissible investments;

20 (2) the following investments, not to exceed 20 percent per category  
 21 and a combined total of 50 percent of the aggregate value of the licensee's total  
 22 permissible investments:

23 (A) a short-term investment of no more than six months'  
 24 duration bearing an eligible rating;

25 (B) commercial paper bearing an eligible rating;

26 (C) a bill, note, bond, or debenture bearing an eligible rating;

27 (D) United States tri-party repurchase agreements collateralized  
 28 at 100 percent or more with federal government or agency securities,  
 29 municipal bonds, or other securities bearing an eligible rating;

30 (E) money market mutual funds rated less than "AAA" and  
 31 equal to or higher than "A-" by Standard & Poor's, or the equivalent from any



1 other eligible rating service; and

2 (F) a mutual fund or other investment fund composed solely  
3 and exclusively of one or more permissible investments listed in  
4 AS 06.55.502(a)(1) - (3); and

5 (3) cash held in accounts for the benefit of the licensee's customers at  
6 foreign depository financial institutions, not to exceed 10 percent of the aggregate  
7 value of the licensee's total permissible investments, if the licensee has received a  
8 satisfactory rating in its most recent examination and the foreign depository financial  
9 institution

10 (A) has an eligible rating;

11 (B) is registered under 26 U.S.C. 1471-1474 (Foreign Account  
12 Tax Compliance Act);

13 (C) is not located in any country subject to sanctions from the  
14 Office of Foreign Asset Control; and

15 (D) is not located in a high-risk or non-cooperative jurisdiction  
16 as designated by the Financial Action Task Force.

17 \* **Sec. 29.** AS 06.55.502 is amended by adding a new subsection to read:

18 (d) The letter of credit permitted under (a)(4) of this section

19 (1) must list the department as the beneficiary;

20 (2) must stipulate that the beneficiary need only draw a sight draft  
21 under the letter of credit and present it to obtain funds up to the letter of credit amount  
22 within 7 days of presentation of the items required by (7) of this subsection;

23 (3) must be issued by a federally insured depository financial  
24 institution or a foreign bank that bears an eligible rating and is regulated, supervised,  
25 and examined by federal or state regulatory authorities having regulatory authority  
26 over banks, credit unions, and trust companies;

27 (4) must be irrevocable, unconditional, and indicate that it is not  
28 subject to any condition or qualifications outside of the letter of credit;

29 (5) may not contain reference to any other agreements, documents or  
30 entities, or otherwise provide for any security interest in the licensee;

31 (6) must contain an issue date and expiration date, and expressly

1 provide for automatic extension, without a written amendment, for an additional  
2 period of one year from the present or each future expiration date, unless

3 (A) the issuer of the letter of credit notifies the department in  
4 writing by certified or registered mail, courier mail, or other receipted means,  
5 at least 60 days prior to any expiration date, that the irrevocable letter of credit  
6 will not be extended; and

7 (B) the licensee demonstrates to the satisfaction of the  
8 department that the licensee maintains and will maintain permissible  
9 investments in accordance with this section upon the expiration of the letter of  
10 credit;

11 (7) must provide that the issuer of the letter of credit will honor, at  
12 sight, a presentation made by the beneficiary to the issuer of the following documents  
13 on or prior to the expiration date of the letter of credit:

14 (A) the original letter of credit, including any amendments; and

15 (B) a written statement from the beneficiary stating whether  
16 any of the following events have occurred:

17 (i) the filing of a petition by or against the licensee  
18 under 11 U.S.C. Section 101 - 110 (Bankruptcy Code), for bankruptcy  
19 or reorganization;

20 (ii) the filing of a petition by or against the licensee for  
21 receivership, or the commencement of any other judicial or  
22 administrative proceeding for its dissolution or reorganization;

23 (iii) the seizure of assets of a licensee by the department  
24 pursuant to an emergency order issued in accordance with applicable  
25 law, on the basis of an action, violation, or condition that has caused or  
26 is likely to cause the insolvency of the licensee; or

27 (iv) the beneficiary has received notice of expiration or  
28 non-extension of a letter of credit and the licensee failed to demonstrate  
29 to the satisfaction of the beneficiary that the licensee will maintain  
30 permissible investments in accordance with AS 06.55.501 upon the  
31 expiration or non-extension of the letter of credit; and

1 (8) must comply with any other requirement or provision adopted by  
2 rule or regulation of the department.

3 \* **Sec. 30.** AS 06.55 is amended by adding new sections to article 5 to read:

4 **Sec. 06.55.505. Security.** (a) An applicant for a license shall provide, and a  
5 licensee at all times shall maintain, security consisting of a surety bond in a form  
6 satisfactory to the department or, with the department's approval, a deposit in  
7 accordance with this section.

8 (b) The amount of the required security shall be an amount equal to 100  
9 percent of the licensee's average daily money transmission liability in this state,  
10 calculated for the most recent fiscal quarter, and shall be a minimum of \$25,000 and  
11 maximum of \$1,000,000.

12 (c) A licensee that maintains a bond in the maximum amount provided for  
13 under (b) of this section is not required to calculate its average daily money  
14 transmission liability in this state for purposes of this section.

15 (d) A licensee may exceed the maximum required bond amount.

16 (e) The aggregate liability on a surety bond may not exceed the principal sum  
17 of the bond. A claimant against a licensee may maintain an action on the bond, or the  
18 department may maintain an action on behalf of the claimant.

19 (f) A surety bond must cover claims for as long as the department specifies,  
20 but for at least five years after the date the licensee ceases to provide money  
21 transmission in this state. The department may permit the amount of security to be  
22 reduced or eliminated before the expiration of that time to the extent the amount of the  
23 licensee's money transmission obligations outstanding in this state is reduced. The  
24 department may permit a licensee to substitute another form of security acceptable to  
25 the department for the security effective at the time the licensee ceases to provide  
26 money transmission in this state.

27 (g) A surety bond must be obtained from a surety company authorized to do  
28 business in this state.

29 **Sec. AS 06.55.506. Net worth.** (a) A licensee shall maintain at all times a  
30 tangible net worth of

31 (1) the greater of \$100,000 or three percent of total assets for the first

1 \$100,000,000;

2 (2) two percent of additional assets for \$100,000,001 to  
3 \$1,000,000,000; and

4 (3) 0.5 percent of additional assets for over \$1,000,000,001.

5 (b) Tangible net worth must be demonstrated at initial application by the  
6 applicant's most recent audited or unaudited financial statements.

7 (c) The department may exempt any applicant or licensee, in part or in whole,  
8 from the requirements of this section.

9 \* **Sec. 31.** AS 06.55.601 is amended to read:

10 **Sec. 06.55.601. Suspension and revocation; receivership.** (a) The  
11 department may suspend or revoke a [MONEY SERVICES] license, place a  
12 [MONEY SERVICES] licensee in receivership, or order a [MONEY SERVICES]  
13 licensee to revoke the designation of an authorized delegate if

14 (1) the [MONEY SERVICES] licensee violates this chapter or a  
15 regulation adopted or an order issued under this chapter;

16 (2) the [MONEY SERVICES] licensee does not cooperate with an  
17 examination or investigation by the department;

18 (3) the [MONEY SERVICES] licensee engages in fraud, intentional  
19 misrepresentation, or gross negligence;

20 (4) an authorized delegate is convicted of a violation of a state or  
21 federal anti-money laundering statute, or violates a regulation adopted or an order  
22 issued under this chapter, as a result of the [MONEY SERVICES] licensee's wilful  
23 misconduct or wilful blindness;

24 (5) the competence, experience, character, or general fitness of the  
25 [MONEY SERVICES] licensee, authorized delegate, person in control of a [MONEY  
26 SERVICES] licensee, **key individual**, or responsible person of the [MONEY  
27 SERVICES] licensee or authorized delegate indicates that it is not in the public  
28 interest to permit the person to provide money **transmission** [SERVICES];

29 (6) the [MONEY SERVICES] licensee engages in an unsafe or  
30 unsound practice;

31 (7) the [MONEY SERVICES] licensee is insolvent, suspends payment

1 of its obligations, or makes a general assignment for the benefit of its creditors; or

2 (8) the [MONEY SERVICES] licensee does not remove an authorized  
3 delegate after the department issues and serves upon the [MONEY SERVICES]  
4 licensee a final order including a finding that the authorized delegate has violated this  
5 chapter.

6 (b) In determining whether a [MONEY SERVICES] licensee is engaging in  
7 an unsafe or unsound practice, the department may consider the size and condition of  
8 the [MONEY SERVICES] licensee's money transmission, the magnitude of the loss,  
9 the gravity of the violation of this chapter, and the previous conduct of the person  
10 involved.

11 \* **Sec. 32.** AS 06.55.601 is amended by adding a new subsection to read:

12 (c) A licensee may apply for relief from a suspension or revocation of its  
13 license according to procedures prescribed by the department.

14 \* **Sec. 33.** AS 06.55.602 is amended to read:

15 **Sec. 06.55.602. Suspension and revocation of authorized delegates.** (a) The  
16 department may issue an order suspending or revoking the designation of an  
17 authorized delegate if the department finds that

18 (1) the authorized delegate violated this chapter or a regulation adopted  
19 or an order issued under this chapter;

20 (2) the authorized delegate did not cooperate with an examination or  
21 investigation by the department;

22 (3) the authorized delegate engaged in fraud, intentional  
23 misrepresentation, or gross negligence;

24 (4) the authorized delegate is convicted of a violation of a state or  
25 federal anti-money laundering statute;

26 (5) the competence, experience, character, or general fitness of the  
27 authorized delegate or a person in control of the authorized delegate indicates that it is  
28 not in the public interest to permit the authorized delegate to provide money  
29 transmission [SERVICES]; or

30 (6) the authorized delegate is engaging in an unsafe or unsound  
31 practice.

1 (b) In determining whether an authorized delegate is engaging in an unsafe or  
2 unsound practice, the department may consider the size and condition of the  
3 authorized delegate's provision of money transmission [SERVICES], the magnitude  
4 of the loss, the gravity of the violation of this chapter or a regulation adopted or order  
5 issued under this chapter, and the previous conduct of the authorized delegate.

6 \* **Sec. 34.** AS 06.55.602 is amended by adding a new subsection to read:

7 (c) An authorized delegate may apply for relief from a suspension or  
8 revocation of designation as an authorized delegate according to procedures prescribed  
9 by the department.

10 \* **Sec. 35.** AS 06.55.603(a) is amended to read:

11 (a) If the department determines that a violation of this chapter or of a  
12 regulation adopted or an order issued under this chapter by a [MONEY SERVICES]  
13 licensee or authorized delegate is likely to cause immediate and irreparable harm to  
14 the [MONEY SERVICES] licensee, its customers, or the public as a result of the  
15 violation, or cause insolvency or significant dissipation of assets of the [MONEY  
16 SERVICES] licensee, the department may issue an order requiring the [MONEY  
17 SERVICES] licensee or authorized delegate to cease and desist from the violation.  
18 The order becomes effective on service of it on the [MONEY SERVICES] licensee or  
19 authorized delegate.

20 \* **Sec. 36.** AS 06.55.603(b) is amended to read:

21 (b) The department may issue an order against a [MONEY SERVICES]  
22 licensee to cease and desist from providing money transmission [SERVICES]  
23 through an authorized delegate who is the subject of a separate order by the  
24 department.

25 \* **Sec. 37.** AS 06.55.603(d) is amended to read:

26 (d) A [MONEY SERVICES] licensee or an authorized delegate who is served  
27 with an order to cease and desist may petition the superior court for a judicial order  
28 setting aside, limiting, or suspending the enforcement, operation, or effectiveness of  
29 the order pending the completion of an administrative proceeding under AS 06.55.601  
30 or 06.55.602.

31 \* **Sec. 38.** AS 06.55.605 is amended to read:

1           **Sec. 06.55.605. Civil penalties.** The department may assess a civil penalty  
2 against a person who violates this chapter or a regulation adopted or an order issued  
3 under this chapter in an amount not to exceed \$1,000 per [EACH] day for each day  
4 the violation is outstanding, plus the department's costs and expenses for the  
5 investigation and prosecution of the matter, including reasonable attorney's fees.

6 \* **Sec. 39.** AS 06.55.606 is amended to read:

7           **Sec. 06.55.606. Criminal penalties.** (a) A person who intentionally makes a  
8 false statement, misrepresentation, or false certification in a record filed or required to  
9 be maintained under this chapter or who intentionally makes a false entry or omits a  
10 material entry in such a record [FILED OR REQUIRED TO BE MAINTAINED  
11 UNDER THIS CHAPTER] is guilty of a class C felony.

12           (b) A person who knowingly engages in an activity for which a [MONEY  
13 SERVICES] license is required under this chapter without being licensed [AS A  
14 MONEY SERVICES LICENSEE] and who receives more than \$500 in compensation  
15 within a 30-day period from this activity is guilty of a class C felony.

16           (c) A person who knowingly engages in an activity for which a [MONEY  
17 SERVICES] license is required under this chapter without being licensed [AS A  
18 MONEY SERVICES LICENSEE] and who receives no more than \$500 in  
19 compensation within a 30-day period from this activity is guilty of a class A  
20 misdemeanor.

21 \* **Sec. 40.** AS 06.55.607(a) is amended to read:

22           (a) If the department has reason to believe that a person has violated or is  
23 violating AS 06.55.101 [OR 06.55.201], the department may issue an order to show  
24 cause why an order to cease and desist should not issue requiring that the person cease  
25 and desist from the violation of AS 06.55.101 [OR 06.55.201].

26 \* **Sec. 41.** AS 06.55.607(e) is amended to read:

27           (e) A person who is served with an order to cease and desist for violating  
28 AS 06.55.101 [OR 06.55.201] may petition the superior court for a judicial order  
29 setting aside, limiting, or suspending the enforcement, operation, or effectiveness of  
30 the order pending the completion of an administrative proceeding under AS 06.55.701  
31 and 06.55.702.

1 \* **Sec. 42.** AS 06.55.702(a) is amended to read:

2 (a) Except as otherwise provided in AS 06.55.603 and 06.55.607 [AND IN (b)  
3 OF THIS SECTION], the department may not suspend or revoke a [MONEY  
4 SERVICES] license, place a [MONEY SERVICES] licensee in receivership, issue an  
5 order to cease and desist, suspend or revoke the designation of an authorized delegate,  
6 or assess a civil penalty without notice and an opportunity to be heard. The department  
7 shall also hold a hearing when requested to hold a hearing by an applicant whose  
8 application for a [MONEY SERVICES] license is denied.

9 \* **Sec. 43.** AS 06.55.802 is amended to read:

10 **Sec. 06.55.802. Exemptions [EXCLUSIONS].** This chapter does not apply to

11 (1) the United States or a department, [AN] agency, [OR AN]  
12 instrumentality, **or agent** of the United States;

13 (2) money transmission by the United States Postal Service or by **an**  
14 **agent** [A CONTRACTOR ON BEHALF] of the United States Postal Service;

15 (3) a state, a municipality, a county, or another governmental agency  
16 or governmental subdivision of a state, or **its agent**;

17 (4) a **federally insured depository financial institution**, bank, a bank  
18 holding company, an office of an international banking corporation, a branch of a  
19 foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service  
20 Company Act), or a corporation organized under 12 U.S.C. 611 - 633 (Edge Act)  
21 under the laws of a state or the United States, if it does not issue, sell, or provide  
22 payment instruments or stored value through an authorized delegate who is not a bank,  
23 a bank holding company, an office of an international banking corporation, a branch of  
24 a foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service  
25 Company Act), or a corporation organized under 12 U.S.C. 611 - 633 (Edge Act)  
26 under the laws of a state or the United States;

27 (5) electronic funds transfer of governmental benefits for a federal,  
28 state, or municipal agency or a state political subdivision by a contractor on behalf of

29 (A) the United States or a department, an agency, or an  
30 instrumentality of the United States; or

31 (B) a state, or a department, an agency, or an instrumentality of



1 a state;

2 (6) a board of trade or a person who, in the ordinary course of  
3 business, provides clearance and settlement services for a board of trade, to the extent  
4 of the operation of the person for a board of trade; in this paragraph, "board of trade"  
5 means a board of trade designated as a contract market under 7 U.S.C. 1 - 27f  
6 (Commodity Exchange Act);

7 (7) a registered futures commission merchant under the federal  
8 commodities laws, to the extent of **its operation as such a merchant** [THE  
9 MERCHANT'S OPERATION AS A REGISTERED FUTURES COMMISSION  
10 MERCHANT UNDER THE FEDERAL COMMODITIES LAWS];

11 (8) a person who provides clearance or settlement services under a  
12 registration as a clearing agency or an exemption from the registration granted under  
13 the federal securities laws, to the extent of the person's operation as a provider of  
14 clearance or settlement services under a registration as a clearing agency or an  
15 exemption from the registration granted under the federal securities laws;

16 (9) an operator of a payment system to the extent that the operator  
17 provides processing, clearing, or settlement services, between or among persons  
18 **exempted** [EXCLUDED] by this section, in connection with wire transfers, credit  
19 card transactions, debit card transactions, stored-value transactions, automated  
20 clearinghouse transfers, or similar funds transfers; [OR]

21 (10) a person registered as a securities broker-dealer under federal or  
22 state securities laws, to the extent of the person's operation as a securities broker-  
23 dealer;

24 **(11) an individual employed by a licensee, authorized delegate, or**  
25 **any person exempted from the licensing requirements of this chapter when acting**  
26 **within the scope of employment and under the supervision of the licensee,**  
27 **authorized delegate, or exempted person as an employee and not as an**  
28 **independent contractor;**

29 **(12) a person expressly appointed as a third-party service provider**  
30 **to or agent of an entity exempt under (4) of this section, solely to the extent that**

31 **(A) such service provider or agent is engaging in money**

1 transmission on behalf of and in accordance with a written agreement  
2 with the exempt entity that sets forth the specific functions that the service  
3 provider or agent is to perform; and

4 (B) the exempt entity assumes all risk of loss and all legal  
5 responsibility for satisfying the outstanding money transmission  
6 obligations owed to purchasers and holders of the outstanding money  
7 transmission obligations upon receipt of the purchaser's or holder's  
8 money or monetary value by the service provider or agent;

9 (13) a person appointed as an agent of a payee to collect and  
10 process a payment from a pavor to the payee for goods or services, other than  
11 money transmission itself, provided to the pavor by the payee, provided that

12 (A) there exists a written agreement between the payee and  
13 the agent directing the agent to collect and process payments from payors  
14 on the payee's behalf;

15 (B) the payee holds the agent out to the public as accepting  
16 payments for goods or services on the payee's behalf; and

17 (C) payment for the goods and services is treated as  
18 received by the payee upon receipt by the agent so that the pavor's  
19 obligation is extinguished and there is no risk of loss to the pavor if the  
20 agent fails to remit the funds to the payee;

21 (14) a person who acts as an intermediary by processing payments  
22 between an entity that has directly incurred an outstanding money transmission  
23 obligation to a sender and the sender's designated recipient, provided that the  
24 entity

25 (A) is properly licensed or exempt from licensing  
26 requirements under this chapter;

27 (B) provides a receipt, electronic record, or other written  
28 confirmation to the sender identifying the entity as the provider of money  
29 transmission in the transaction; and

30 (C) bears sole responsibility to satisfy the outstanding  
31 money transmission obligation to the sender, including the obligation to

1           make the sender whole in connection with any failure to transmit the  
 2           funds to the sender's designated recipient;

3           (15) an insurance company, title insurance company, or escrow  
 4           agent, to the extent that the entity is lawfully authorized to conduct business in  
 5           this state as an insurance company, title insurance company, or escrow agent and  
 6           to the extent that the entity engages in money transmission as an ancillary service  
 7           when conducting insurance, title insurance, or escrow activity;

8           (16) an attorney, to the extent that the attorney is lawfully  
 9           authorized to practice law in this state and engages in money transmission as an  
 10           ancillary service to the practice of law; or

11           (17) a person exempt by regulation or order if the department  
 12           finds that the exemption is in the public interest and that the regulation of the  
 13           person is not necessary for the purposes of this chapter [UNDER FEDERAL OR  
 14           STATE SECURITIES LAWS].

15 \* **Sec. 44.** AS 06.55 is amended by adding a new section to read:

16           **Sec. 06.55.803. Authority to require demonstration of exemption.** The  
 17           department may require a person who claims to be exempt from licensing under  
 18           AS 06.55.802 provide information and documentation to the department  
 19           demonstrating the claimed exemption.

20 \* **Sec. 45.** AS 06.55.810 is amended to read:

21           **Sec. 06.55.810. Notices required.** (a) A [MONEY SERVICES] licensee shall  
 22           provide customers with notice of how to file a complaint. A licensee shall provide  
 23           notice [DISPLAY A SIGN] at each location where the [MONEY SERVICES]  
 24           licensee

25                           (1) provides money **transmission** services under this chapter; and

26                           (2) has not designated an authorized delegate to provide money  
 27           **transmission** services on behalf of the [MONEY SERVICES] licensee at the location.

28           (b) An authorized delegate shall provide customers with notice of how to  
 29           file a complaint. An authorized delegate shall provide notice [DISPLAY A SIGN]  
 30           at each location where the authorized delegate provides money **transmission** services  
 31           under this chapter.

1 (c) The **notice** [SIGN] required by (a) or (b) of this section **must be in a**  
 2 **format and contain information required by the department** [SHALL BE  
 3 DISPLAYED AT ALL TIMES IN FULL VIEW OF PERSONS VISITING THE  
 4 LOCATION AND SHALL GIVE THE DEPARTMENT'S ADDRESS AND THE  
 5 DEPARTMENT'S TELEPHONE NUMBER FOR RECEIVING CALLS  
 6 REGARDING COMPLAINTS AND OTHER CONCERNS ABOUT MONEY  
 7 SERVICES LICENSEES, AUTHORIZED DELEGATES, AND THE MONEY  
 8 SERVICES PROVIDED BY MONEY SERVICES LICENSEES AND  
 9 AUTHORIZED DELEGATES].

10 \* **Sec. 46.** AS 06.55.810 is amended by adding a new subsection to read:

11 (d) A licensee or authorized delegate shall include on a receipt or disclose on  
 12 the licensee's Internet website or mobile application the name and phone number of  
 13 the department and a statement that the licensee's customers can contact the  
 14 department with questions or complaints about the licensee's money transmission  
 15 services.

16 \* **Sec. 47.** AS 06.55.830 is repealed and reenacted to read:

17 **Sec. 06.55.830. Receipt.** (a) Except as provided in (d) of this section, a  
 18 licensee or licensee's authorized delegate shall provide the sender a receipt for money  
 19 received for transmission. The receipt must be in English and in any other language  
 20 principally used by the licensee or authorized delegate to advertise, solicit, or  
 21 negotiate, either orally or in writing, for a transaction conducted. The receipt must  
 22 contain the following information, as applicable:

23 (1) the name of the sender;

24 (2) the name of the designated recipient;

25 (3) the date of the transaction;

26 (4) the unique transaction or identification number;

27 (5) the name of the licensee, registry unique identifier, the licensee's  
 28 business address, and the licensee's customer service telephone number;

29 (6) the dollar amount of the transaction;

30 (7) any fee charged by the licensee to the sender for the transaction;

31 and

1 (8) any taxes collected by the licensee from the sender for the  
2 transaction.

3 (b) For a transaction conducted in person, the receipt may be provided  
4 electronically if the sender requests or agrees to receive an electronic receipt. For a  
5 transaction conducted electronically or by phone, a receipt may be provided  
6 electronically. All electronic receipts must be provided in a retainable form.

7 (c) For purposes of this section, "receipt" means a paper receipt, electronic  
8 record, or other written confirmation.

9 (d) This section does not apply to

10 (1) money received for transmission subject to 12 C.F.R. Part 1005,  
11 Subpart B;

12 (2) money received for transmission that is not primarily for personal,  
13 family, or household purposes;

14 (3) money received for transmission in accordance with a written  
15 agreement between the licensee and payee to process payments for goods or services  
16 provided by the payee; or

17 (4) payroll processing services.

18 \* **Sec. 48.** AS 06.55 is amended by adding a new section to read:

19 **Sec. 06.55.835. Timely transmission.** (a) A licensee shall forward all money  
20 received for transmission in accordance with the terms of the agreement between the  
21 licensee and the sender unless the licensee has a reasonable basis to believe that the  
22 sender may be a victim of fraud or that a crime or violation of law, rule, or regulation  
23 has occurred, is occurring, or may occur.

24 (b) If a licensee fails to forward money received for transmission in  
25 accordance with this section, the licensee must respond to inquiries by the sender with  
26 the reason for the failure unless providing a response would violate a state or federal  
27 law, rule, or regulation.

28 \* **Sec. 49.** AS 06.55.840 is repealed and reenacted to read:

29 **Sec. 06.55.840. Refunds.** (a) Except as provided in (b) of this section, a  
30 licensee shall refund to the sender, within 10 days after receipt of the sender's written  
31 request for a refund, all money received for transmission unless any of the following

1 occurs:

2 (1) the money has been forwarded within 10 days after the date on  
3 which the money was received for transmission;

4 (2) instructions have been given committing an equivalent amount of  
5 money to the person designated by the sender within 10 days after the date on which  
6 the money was received for transmission;

7 (3) the agreement between the licensee and the sender instructs the  
8 licensee to forward the money at a time that is beyond 10 days after the date on which  
9 the money was received for transmission; if funds have not yet been forwarded in  
10 accordance with the terms of the agreement between the licensee and the sender, the  
11 licensee shall issue a refund in accordance with the other provisions of this section;

12 (4) the refund is requested for a transaction that the licensee has not  
13 completed based on a reasonable belief that a crime or violation of law, rule, or  
14 regulation has occurred, is occurring, or may occur; or

15 (5) the refund request does not

16 (A) identify the sender's name and

17 (i) address; or

18 (ii) telephone number; or

19 (B) identify the particular transaction to be refunded in the  
20 event the sender has multiple transactions outstanding.

21 (b) This section does not apply to:

22 (1) money received for transmission subject to 12 C.F.R. Part 1005,  
23 Subpart B; or

24 (2) money received for transmission in accordance with a written  
25 agreement between the licensee and payee to process payments for goods or services  
26 provided by the payee.

27 \* **Sec. 50.** AS 06.55 is amended by adding a new section to read:

28 **Sec. 06.55.845. Disclosures for payroll processing services.** (a) A licensee  
29 that provides payroll processing services shall

30 (1) issue reports to clients detailing client payroll obligations in  
31 advance of the payroll funds being deducted from an account; and

1 (2) make available worker paystubs or an equivalent statement to  
2 workers.

3 (b) This section does not apply to a licensee providing payroll processing  
4 services where the licensee's client designates the intended recipients to the licensee  
5 and is responsible for providing the disclosures required by this section.

6 \* **Sec. 51.** AS 06.55.850(b) is amended to read:

7 (b) The department shall establish fee levels under (a) of this section so that  
8 the total amount of fees collected for [BOTH] money transmission licenses [AND  
9 CURRENCY EXCHANGE LICENSES] under this chapter approximately equals the  
10 department's actual total regulatory costs for [BOTH] money transmission licenses  
11 [AND CURRENCY EXCHANGE LICENSES. THE DEPARTMENT SHALL SET  
12 THE FEE LEVELS SO THAT THE FEE LEVELS FOR [BOTH] MONEY  
13 TRANSMISSION LICENSES AND CURRENCY EXCHANGE LICENSES ARE  
14 THE SAME].

15 \* **Sec. 52.** AS 06.55.990(1) is amended to read:

16 (1) "authorized delegate" means a person whom a [MONEY  
17 SERVICES] licensee designates to **engage in** [PROVIDE] money **transmission**  
18 [SERVICES] on behalf of the [MONEY SERVICES] licensee;

19 \* **Sec. 53.** AS 06.55.990(3) is amended to read:

20 (3) "control" means

21 (A) the ownership of, or the power to vote, directly or  
22 indirectly, at least **10** [25] percent of the [A CLASS OF] voting securities or  
23 voting interests of a [MONEY SERVICES] licensee or person in control of a  
24 [MONEY SERVICES] licensee, **unless the owner is a passive investor**;

25 (B) the power to elect **or appoint** a majority of executive  
26 officers, managers, directors, trustees, or other persons exercising managerial  
27 authority of a [MONEY SERVICES] licensee or person in control of a  
28 [MONEY SERVICES] licensee; or

29 (C) the power to exercise directly or indirectly, a controlling  
30 influence over the management or policies of a [MONEY SERVICES]  
31 licensee or person in control of a [MONEY SERVICES] licensee;

1 \* **Sec. 54.** AS 06.55.990(15) is amended to read:

2 (15) "money transmission" means selling or issuing payment  
3 instruments or stored value **to a person located in this state**, [OR] receiving money  
4 or monetary value for transmission **from a person located in this state, currency**  
5 **exchange, or payroll processing services**, but does not include the provision solely  
6 of [DELIVERY,] online services, telecommunications services, or network access;

7 \* **Sec. 55.** AS 06.55.990(16) is amended to read:

8 (16) "money transmission license" means a license under  
9 **AS 06.55.101 - 06.55.110** [AS 06.55.101 - 06.55.107 OR AN APPROVAL UNDER  
10 AS 06.55.103];

11 \* **Sec. 56.** AS 06.55.990(19) is amended to read:

12 (19) "payment instrument" means a **written or electronic** check, [A]  
13 draft, [A] money order, [A] traveler's check, or **other written or electronic**  
14 [ANOTHER] instrument for the transmission or payment of money or monetary value,  
15 whether or not negotiable, but does not include **stored value**, a credit card voucher, a  
16 letter of credit, [OR] an instrument that is redeemable by the issuer in goods or  
17 services, **or other instrument not sold to the public but issued and distributed as**  
18 **part of a loyalty, rewards, or promotional program**;

19 \* **Sec. 57.** AS 06.55.990(20) is amended to read:

20 (20) "person" means an individual, **general partnership, limited**  
21 **partnership**, [A] corporation, [A BUSINESS] trust, [AN ESTATE, A TRUST, A  
22 PARTNERSHIP, A] limited liability company, [AN] association, [A] joint **stock**  
23 **corporation** [VENTURE, A GOVERNMENT, A GOVERNMENTAL  
24 SUBDIVISION, AN AGENCY, OR AN INSTRUMENTALITY, A PUBLIC  
25 CORPORATION], or any other legal or **corporate** [COMMERCIAL] entity  
26 **identified by the department**;

27 \* **Sec. 58.** AS 06.55.990(22) is amended to read:

28 (22) "state" means a state of the United States, the District of  
29 Columbia, Puerto Rico, the United States Virgin Islands, **a United States military**  
30 **installation that is located in a foreign country**, or a territory or insular possession  
31 subject to the jurisdiction of the United States;



1 \* **Sec. 59.** AS 06.55.990(23) is amended to read:

2 (23) "stored value" means monetary value representing a claim  
 3 against the issuer that is evidenced by an electronic or digital record and that is  
 4 intended and accepted as a means of redemption for money or monetary value,  
 5 or payment for goods or services; "stored value" includes "prepaid access" as  
 6 defined in 31 C.F.R. 1010.100, but does not include a payment instrument or  
 7 closed loop stored value, or stored value not sold to the public but issued and  
 8 distributed as part of a loyalty, rewards, or promotional program;

9 \* **Sec. 60.** AS 06.55.990(24) is amended to read:

10 (24) "unsafe or unsound practice" means a practice or conduct by a  
 11 [MONEY TRANSMISSION] licensee or an authorized delegate that [OF THE  
 12 MONEY TRANSMISSION LICENSEE IF THE PRACTICE] creates the likelihood  
 13 of material loss, insolvency, or dissipation of the [MONEY TRANSMISSION]  
 14 licensee's assets, or otherwise materially prejudices the interests of the [MONEY  
 15 TRANSMISSION] licensee's customers.

16 \* **Sec. 61.** AS 06.55.990 is amended by adding new paragraphs to read:

17 (25) "acting in concert" means persons knowingly acting together with  
 18 a common goal of jointly acquiring control of a licensee whether or not under an  
 19 express agreement;

20 (26) "average daily money transmission liability" means the amount of  
 21 the licensee's outstanding money transmission obligations in this state at the end of  
 22 each day in a given period of time, added together and divided by the total number of  
 23 days in the given period of time; for purposes of calculating average daily money  
 24 transmission liability under this chapter, the given period of time will be the fiscal  
 25 quarters ending March 31, June 30, September 30, and December 31;

26 (27) "Bank Secrecy Act" means 31 U.S.C. 5311 and its implementing  
 27 regulations;

28 (28) "closed loop stored value" means stored value that is redeemable  
 29 by the issuer only for goods or services provided by the issuer or its affiliate, or  
 30 franchisees of the issuer or its affiliate, except to the extent required by applicable law  
 31 to be redeemable in cash for its cash value;

1 (29) "eligible rating" means a credit rating of any of the three highest  
2 rating categories provided by an eligible rating service, whereby each category may  
3 include rating category modifiers such as "plus" or "minus" for Standard & Poor's, or  
4 the equivalent for any other eligible rating service; eligible ratings may include long-  
5 term credit ratings if the rating is equal to A- or higher by Standard & Poor's, or the  
6 equivalent from any other eligible rating service; eligible ratings may include short-  
7 term credit ratings if the rating is equal to or higher than A-2 or SP-2 by Standard &  
8 Poor's, or the equivalent from any other eligible rating service; if ratings differ among  
9 eligible rating services, the highest rating will apply when determining whether a  
10 security bears an eligible rating;

11 (30) "eligible rating service" means any Nationally Recognized  
12 Statistical Rating Organization, as defined by the United States Securities and  
13 Exchange Commission, and any other organization designated by the department by  
14 rule or order;

15 (31) "federally insured depository financial institution" means a bank,  
16 credit union, savings and loan association, trust company, savings association, savings  
17 bank, industrial bank, or industrial loan company organized under the laws of the  
18 United States or any state of the United States that has federally insured deposits;

19 (32) "in this state" means at a physical location within this state for a  
20 transaction requested in person; for a transaction requested electronically or by phone,  
21 the provider of money transmission may determine if the person requesting the  
22 transaction is in this state by relying on other information provided by the person  
23 regarding the location of the individual's residential address or a business entity's  
24 principal place of business or other physical address, and any records associated with  
25 the person that the provider of money transmission may have that indicate such  
26 location, including an address associated with an account;

27 (33) "individual" means a natural person;

28 (34) "key individual" means any individual ultimately responsible for  
29 establishing or directing policies and procedures of the licensee, including an  
30 executive officer, manager, director, or trustee;

31 (35) "licensee" means a person licensed under this chapter;

1 (36) "accredited state" means a state agency that is accredited by the  
2 Conference of State Bank Supervisors and Money Transmitter Regulators Association  
3 for money transmission licensing and supervision;

4 (37) "multistate licensing process" means any agreement entered into  
5 by and among state regulators relating to coordinated processing of applications for  
6 money transmission licenses, applications for the acquisition of control of a licensee,  
7 control determinations, or notice and information requirements for a change of key  
8 individuals;

9 (38) "outstanding money transmission obligations" means

10 (A) a payment instrument or stored value issued or sold by the  
11 licensee to a person located in the United States, or reported as sold by an  
12 authorized delegate of the licensee to a person that is located in the United  
13 States, that has not yet been paid or refunded by or for the licensee, or  
14 escheated in accordance with applicable abandoned property laws; or

15 (B) money received for transmission by the licensee or an  
16 authorized delegate in the United States from a person located in the United  
17 States that has not been received by the payee or refunded to the sender, or  
18 escheated in accordance with applicable abandoned property laws; for the  
19 purposes of this paragraph, "in the United States" includes, to the extent  
20 applicable, a person in any state, territory, or possession of the United States,  
21 the District of Columbia, the Commonwealth of Puerto Rico, or a United  
22 States military installation that is located in a foreign country;

23 (39) "passive investor" means a person who

24 (A) does not have the power to elect a majority of key  
25 individuals or executive officers, managers, directors, trustees, or other persons  
26 exercising managerial authority of a person in control of a licensee;

27 (B) is not employed by and does not have any managerial  
28 duties of the licensee or person in control of a licensee;

29 (C) does not have the power to exercise, directly or indirectly, a  
30 controlling influence over the management or policies of a licensee or person  
31 in control of a licensee; and

1 (i) attests to (A) - (C) of this paragraph in a form and in  
2 a medium prescribed by the department; or

3 (ii) commits to the passivity characteristics of (A) - (C)  
4 of this paragraph in a written document;

5 (40) "payroll processing services" means receiving money for  
6 transmission under a contract with a person to deliver wages or salaries, make  
7 payment of payroll taxes to state and federal agencies, make payments relating to  
8 employee benefit plans, or make distributions of other authorized deductions from  
9 wages or salaries; "payroll processing services" does not include an employer  
10 performing payroll processing services on its own behalf or on behalf of its affiliate, or  
11 a professional employment organization subject to regulation under other applicable  
12 state law;

13 (41) "receiving money for transmission" or "money received for  
14 transmission" means receiving money or monetary value in the United States for  
15 transmission within or outside the United States by electronic or other means;

16 (42) "registry" means the Nationwide Multistate Licensing System and  
17 Registry, a licensing system owned and operated by the State Regulatory Registry,  
18 LLC, or any successor or affiliated entity, for the licensing and registration of persons  
19 in the mortgage and other financial services industries;

20 (43) "tangible net worth" means the aggregate assets of a licensee  
21 excluding all intangible assets, less liabilities, as determined in accordance with  
22 generally accepted accounting principles.

23 \* **Sec. 62.** AS 06.55.995 is amended to read:

24 **Sec. 06.55.995. Short title.** This chapter may be cited as the Alaska Uniform  
25 Money **Transmission Modernization** [SERVICES] Act.

26 \* **Sec. 63.** AS 06.55.103, 06.55.104, 06.55.107, 06.55.201, 06.55.202, 06.55.203, 06.55.204,  
27 06.55.402, 06.55.502(c), 06.55.702(b), 06.55.820, 06.55.850(e), 06.55.890, 06.55.990(5),  
28 06.55.990(6), 06.55.990(8), 06.55.990(9), 06.55.990(12), 06.55.990(13), 06.55.990(14), and  
29 06.55.990(18) are repealed.

30 \* **Sec. 64.** The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

1           TRANSITION. Contracts, rights, liabilities, and obligations created by or under a law  
2 repealed or amended by this Act, and in effect on the day before the effective date of the  
3 repeal or amendment, remain in effect notwithstanding this Act's taking effect.

4       \* **Sec. 65.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6           TRANSITION: CURRENT MONEY SERVICES LICENSES. A money services  
7 licensee operating under a valid license or approval under a statute repealed or amended by  
8 this Act may continue to operate under that license or approval until such time as the licensee  
9 renews its current license or for 18 months after the effective date of this Act, whichever is  
10 later.

11       \* **Sec. 66.** The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13           TRANSITION: PAYROLL PROCESSORS. A person providing payroll processing  
14 services in this state without a license will not be considered in violation of AS 06.55.101 if  
15 the person applies for a license within six months of the effective date of this Act. The  
16 Department of Commerce, Community, and Economic Development may for good cause  
17 extend the transition period in conjunction with the extension of an application period.

18       \* **Sec. 67.** The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20           TRANSITION: REGULATIONS. The Department of Commerce, Community, and  
21 Economic Development may adopt regulations to implement this Act. The regulations take  
22 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the  
23 law implemented by the regulations.

24       \* **Sec. 68.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26           REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to change the  
27 heading of

28                   (1) AS 06.55 from "Alaska Uniform Money Services Act" to "Alaska Uniform  
29 Money Transmission Modernization Act";

30                   (2) article 2 of AS 06.55 from "Currency Exchange Licenses" to "Virtual  
31 Currency";

1                   (3) article 5 of AS 06.55 from "Permissible Investments" to "Prudential  
2 Standards"; and

3                   (4) AS 06.55.406 from "Money laundering reports" to "Bank Secrecy Act  
4 reports."

5       \* **Sec. 69.** Section 67 of this Act takes effect immediately under AS 01.10.070(c).

6       \* **Sec. 70.** Except as provided in sec. 69 of this Act, this Act takes effect January 1, 2023.