

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SL&C 12616

25th
ALASKA STATE LEGISLATURE

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde



State Capitol, Room 9
465-3704

Senate Labor & Commerce Committee

MEMORANDUM

Date: April 5, 2007

To: Senator Bert Stedman
Co-Chair, Senate Finance Committee

Cc: Senate Labor & Commerce Committee members
Senator Kim Elton

From: Senator Johnny Ellis *Johnny Ellis*
Chair, Senate Labor & Commerce Committee

Re: Legal memo regarding CSSB 116 (L&C)

On Tuesday, April 3, the Senate Labor & Commerce Committee acted on SB 116 Uniform Money Services Act, voting out of committee our substitute, CSSB 116 (L&C). With the final version of the bill, Legal Services appended a memo (attached) indicating that the bill raises an issue of preemption. Specifically, federal law may preempt regulation by the state of "credit card banks," which the bill does not specifically exclude.

Raised as it was after our committee had acted, the issue was not considered in either of our hearings on the measure. Rather than ask for the bill to be returned to Labor & Commerce, I felt it would expedite matters for this question to be taken up by the Finance Committee, which now has possession.

Please advise if this proposal meets with your approval.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 3, 2007

SUBJECT: CSSB 116(L&C) relating to the Uniform Money Services Act
(Work Order No. 25-LS0508V)

TO: Senator Johnny Ellis
Chair of the Senate Labor and Commerce Committee
Attn: Dana Owen

FROM: *TB*
Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above.

Preemption issue. The bill raises a preemption issue. It does not exclude "credit card banks," and federal law may preempt their regulation by the state. If you need further information, please contact me.

If I may be of further assistance, please advise.

TLB:ljw
07-193.ljw

Enclosure

25-LS0508K
Bannister
4/3/07

CS FOR SENATE BILL NO. 116()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): SENATOR ELTON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Uniform Money Services Act, to money transmission services,**
2 **and to currency exchange services; and providing for an effective date."**

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

4 *** Section 1. AS 06 is amended by adding a new chapter to read:**

5 **Chapter 55. Alaska Uniform Money Services Act.**

6 **Article 1. Money Transmission Licenses.**

7 **Sec. 06.55.101. License required. (a) A person may not engage in the**
8 **business of money transmission or advertise, solicit, or hold the person out as**
9 **providing money transmission unless the person**

10 **(1) holds a money transmission license; or**

11 **(2) is an authorized delegate of a person who holds a money**
12 **transmission licensee.**

13 **(b) A money transmission license is not transferable or assignable.**

14 **Sec. 06.55.102. Application for license. (a) A person applying for a money**

1 transmission license shall apply in a form and in a medium prescribed by the
2 department. The application must state or contain ⁴

3 (1) the legal name and residential and business addresses of the
4 applicant and any fictitious or trade name used by the applicant in conducting the
5 applicant's business;

6 (2) a list of any criminal convictions of the applicant and any material
7 litigation in which the applicant has been involved in the 10-year period next
8 preceding the submission of the application;

9 (3) a description of any money services previously provided by the
10 applicant and the money services that the applicant seeks to provide in this state;

11 (4) a list of the applicant's proposed authorized delegates and the
12 locations in this state where the applicant and its authorized delegates propose to
13 engage in money transmission or provide other money services;

14 (5) a list of other states in which the applicant is licensed to engage in
15 money transmission or provide other money services and any license revocations,
16 suspensions, or other disciplinary action taken against the applicant in another state;

17 (6) information concerning any bankruptcy or receivership
18 proceedings affecting the applicant;

19 (7) a sample form of contract for authorized delegates, if applicable,
20 and a sample form of payment instrument or instrument on which stored value is
21 recorded, if applicable;

22 (8) the name and address of any bank through which the applicant's
23 payment instruments and stored value will be paid;

24 (9) a description of the source of money and credit to be used by the
25 applicant to provide money services; and

26 (10) any other information the department reasonably requires with
27 respect to the applicant.

28 (b) If an applicant is a corporation, a limited liability company, a partnership,
29 or another entity, the applicant shall also provide

30 (1) the date of the applicant's incorporation or formation and state or
31 country of incorporation or formation;

- 1 (2) if applicable, a certificate of good standing from the state or
2 country in which the applicant is incorporated or formed;
- 3 (3) a brief description of the structure or organization of the applicant,
4 including any parent or subsidiary of the applicant, and whether any parent or
5 subsidiary is publicly traded;
- 6 (4) the legal name, any fictitious or trade name, all business and
7 residential addresses, and the employment, in the 10-year period next preceding the
8 submission of the application of each executive officer, manager, director, or person
9 who has control of the applicant;
- 10 (5) a list of any criminal convictions and material litigation in which
11 any executive officer, manager, director, or person in control of the applicant has been
12 involved in the 10-year period next preceding the submission of the application;
- 13 (6) a copy of the applicant's audited financial statements for the most
14 recent fiscal year and, if available, for the two-year period next preceding the
15 submission of the application;
- 16 (7) a copy of the applicant's unconsolidated financial statements for the
17 current fiscal year, whether audited or not, and, if available, for the two-year period
18 next preceding the submission of the application;
- 19 (8) if the applicant is publicly traded, a copy of the most recent report
20 filed with the United States Securities and Exchange Commission under 15 U.S.C.
21 78m (Securities Exchange Act of 1934);
- 22 (9) if the applicant is a wholly owned subsidiary of
- 23 (A) a corporation publicly traded in the United States, a copy of
24 audited financial statements for the parent corporation for the most recent
25 fiscal year or a copy of the parent corporation's most recent report filed under
26 15 U.S.C. 78m (Securities Exchange Act of 1934); or
- 27 (B) a corporation publicly traded outside the United States, a
28 copy of documentation that is similar to the documentation required by (A) of
29 this paragraph and that is filed with the regulator of the parent corporation's
30 domicile outside the United States;
- 31 (10) if the applicant has a registered agent in this state, the name and

1 address of the applicant's registered agent in this state; and

2 (11) any other information the department reasonably requires with
3 respect to the applicant.

4 (c) A nonrefundable application fee and a license fee must accompany an
5 application for a money transmission license. The license fee shall be refunded if the
6 application is denied.

7 (d) The department may waive a requirement of (a) and (b) of this section or
8 permit an applicant to submit other information instead of the required information.

9 (e) In this section,

10 (1) "material litigation" means litigation that, according to generally
11 accepted accounting principles, is significant to an applicant's or a money transmission
12 licensee's financial health and would be required to be disclosed in the applicant's or
13 money transmission licensee's annual audited financial statements, report to
14 shareholders, or similar records;

15 (2) "money transmission licensee" does not include an approval under
16 AS 06.55.103.

17 **Sec. 06.55.103. Approval to engage in money transmission when licensed**
18 **in another state.** (a) A person who is licensed to engage in money transmission in at
19 least one other state, with the approval of the department and under this section, may
20 engage in money transmission, currency exchange, or both money transmission and
21 currency exchange in this state without being licensed under AS 06.55.102 if

22 (1) the state in which the person is licensed has enacted the Uniform
23 Money Services Act or the department determines that the money transmission laws of
24 the state in which the person is licensed are substantially similar to those imposed by
25 this chapter;

26 (2) the person submits to, and in the form required by, the department

27 (A) in a record, an application for approval to engage in money
28 transmission, currency exchange, or both money transmission and currency
29 exchange in this state without being licensed under AS 06.55.102;

30 (B) a nonrefundable application fee;

31 (C) a fee for the first year of operating with the approval given

1 under this section; this fee shall be refunded if the application is denied; and
2 (D) a certification of license history in the other state.

3 (b) Before granting a person approval under this section to engage in money
4 transmission, currency exchange, or both money transmission and currency exchange
5 in this state, the department shall make findings and conclusions as required by
6 regulation.

7 (c) When an application for approval under this section is complete, the
8 department shall promptly notify the applicant, in a record, of the date on which the
9 request was determined to be complete, and

10 (1) the department shall approve or deny the request within 120 days
11 after that date; or

12 (2) if the request is not approved or denied within 120 days after that
13 date,

14 (A) the request is approved; and

15 (B) the approval takes effect as of the first business day after
16 expiration of the 120-day period.

17 **Sec. 06.55.104. Security.** (a) Except as otherwise provided in (b) of this
18 section, a surety bond, a letter of credit, or another similar security acceptable to the
19 department in the amount of \$25,000 plus \$5,000 for each location, not exceeding a
20 total addition of \$125,000, must accompany an application for a money transmission
21 license.

22 (b) Security must be in a form satisfactory to the department and payable to
23 the state for the benefit of a claimant against the money transmission licensee to
24 secure the faithful performance of the obligations of the money transmission licensee
25 with respect to money transmission.

26 (c) The aggregate liability on a surety bond may not exceed the principal sum
27 of the bond. A claimant against a money transmission licensee may maintain an action
28 on the bond, or the department may maintain an action on behalf of the claimant.

29 (d) A surety bond must cover claims for as long as the department specifies,
30 but for at least five years after the money transmission licensee ceases to provide
31 money services in this state. However, the department may permit the amount of

1 security to be reduced or eliminated before the expiration of that time to the extent of the
2 amount of the money transmission licensee's payment instruments or stored-value
3 obligations outstanding in this state is reduced. The department may permit a money
4 transmission licensee to substitute another form of security acceptable to the
5 department for the security effective at the time the money transmission licensee
6 ceases to provide money services in this state.

7 (e) Instead of the security prescribed in this section, an applicant for a money
8 transmission license or a money transmission licensee may provide security in a form
9 prescribed by the department.

10 (f) The department may increase the amount of security required to a
11 maximum of \$500,000 if the financial condition of a money transmission licensee
12 requires the increase, as evidenced by reduction of net worth, financial losses, or other
13 relevant criteria.

14 **Sec. 06.55.105. Issuance of license.** (a) When an application is filed under
15 AS 06.55.102, the department shall investigate the applicant's financial condition and
16 responsibility, financial and business experience, character, and general fitness. The
17 department may conduct an on-site investigation of the applicant, the reasonable cost
18 of which the applicant shall pay. The department shall issue a license to an applicant
19 under AS 06.55.102 if the department finds that all of the following conditions have
20 been fulfilled:

21 (1) the applicant has complied with AS 06.55.102, 06.55.104, and
22 06.55.107; and

23 (2) the financial condition and responsibility, financial and business
24 experience, character, and general fitness of the applicant, and the competence,
25 experience, character, and general fitness of the executive officers, managers,
26 directors, and persons in control of the applicant indicate that it is in the interest of the
27 public to permit the applicant to engage in money transmission;

28 (b) When an application for an original money transmission license under
29 AS 06.55.102 is complete, the department shall promptly notify the applicant in a
30 record of the date on which the application was determined to be complete, and

31 (1) the department shall approve or deny the application within 120

1 days after that date; or

2 (2) if the application is not approved or denied within 120 days after
3 that date,

4 (A) the application is approved; and

5 (B) the money transmission license takes effect as of the first
6 business day after expiration of the 120-day period.

7 (c) The department may for good cause extend the application period.

8 (d) An applicant whose application under AS 06.55.102 is denied by the
9 department under AS 06.55.101 - 06.55.107 may appeal, within 30 days after receipt
10 of the notice of the denial, and request a hearing.

11 (e) In this section, "money transmission license" does not include an approval
12 under AS 06.55.103.

13 **Sec. 06.55.106. Renewal of license.** (a) A money transmission licensee shall
14 pay an annual renewal fee not later than 30 days before the anniversary of the issuance
15 of the money transmission license or, if the last day is not a business day, on the next
16 business day.

17 (b) A money transmission licensee shall submit a renewal report with the
18 renewal fee, in a form and in a medium prescribed by the department. The renewal
19 report must state or contain

20 (1) a copy of the money transmission licensee's most recent audited
21 annual financial statement or, if the money transmission licensee is a wholly owned
22 subsidiary of another corporation, the most recent audited consolidated annual
23 financial statement of the parent corporation or the money transmission licensee's
24 most recent audited consolidated annual financial statement;

25 (2) the number and monetary amount of payment instruments and
26 stored value sold by the money transmission licensee in this state that have not been
27 included in a renewal report, and the monetary amount of payment instruments and
28 stored value currently outstanding;

29 (3) a description of each material change in information submitted by
30 the money transmission licensee in its original license application that has not been
31 reported to the department on any required report;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(4) a list of the money transmission licensee's permissible investments and a certification that the money transmission licensee continues to maintain permissible investments according to the requirements set out in AS 06.55.501 and 06.55.502;

(5) proof that the money transmission licensee continues to maintain adequate security as required by AS 06.55.104; and

(6) a list of the locations in this state where the money transmission licensee or an authorized delegate of the money transmission licensee engages in money transmission or provides other money services.

(c) If a money transmission licensee does not file a renewal report or pay its renewal fee by the renewal date or any extension of time granted by the department, the department shall send the money transmission licensee a notice of suspension. Unless the money transmission licensee files the report and pays the renewal fee before expiration of 10 days after the notice is sent, the money transmission licensee's license is suspended 10 days after the department sends the notice of suspension. The suspension shall be lifted if, within 20 days after its money transmission license is suspended, the money transmission licensee

(1) files the report and pays the renewal fee; and

(2) pays a late fee for each day after suspension that the department did not receive the renewal report and the renewal fee.

(d) The department for good cause may grant an extension of the renewal date.

Sec. 06.55.107. Net worth. A money transmission licensee, except a person holding an approval under AS 06.55.103, shall maintain a net worth of at least \$25,000 determined under generally accepted accounting principles.

Article 2. Currency Exchange Licenses.

Sec. 06.55.201. License required. (a) A person may not engage in currency exchange or advertise, solicit, or hold the person out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person

(1) holds a currency exchange license;

(2) holds a money transmission license; or

1 (3) is an authorized delegate of a person who holds a money
2 transmission license.

3 (b) A currency exchange license is not transferable or assignable.

4 **Sec. 06.55.202. Application for license.** (a) A person applying for a currency
5 exchange license under AS 06.55.201 - 06.55.204 shall apply in a form and in a
6 medium prescribed by the department. The application must state or contain

7 (1) the legal name and residential and business addresses of the
8 applicant if the applicant is an individual or, if the applicant is not an individual, the
9 name of each partner, executive officer, manager, and director;

10 (2) the location of the principal office of the applicant;

11 (3) the complete addresses of other locations in this state where the
12 applicant proposes to engage in currency exchange, including all mobile locations;

13 (4) a description of the source of money and credit to be used by the
14 applicant to engage in currency exchange; and

15 (5) other information the department reasonably requires with respect
16 to the applicant, but not more than the department may require under AS 06.55.101 -
17 06.55.107.

18 (b) A nonrefundable application fee and a currency exchange license fee must
19 accompany an application for a currency exchange license. The currency exchange
20 license fee shall be refunded if the application is denied.

21 **Sec. 06.55.203. Issuance of license.** (a) When an application for a currency
22 exchange license is filed under AS 06.55.201 - 06.55.204, the department shall
23 investigate the applicant's financial condition and responsibility, financial and business
24 experience, character, and general fitness. The department may conduct an on-site
25 investigation of the applicant, the reasonable cost of which the applicant shall pay. The
26 department shall issue a currency exchange license to an applicant under AS 06.55.201
27 - 06.55.204 if the department finds that all of the following conditions have been
28 fulfilled:

29 (1) the applicant has complied with AS 06.55.202; and

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.

(b) When an application for an original currency exchange license under AS 06.55.201 - 06.55.204 is complete, the department shall promptly notify the applicant in a record of the date on which the application was determined to be complete, and

(1) the department shall approve or deny the application within 120 days after that date; or

(2) if the application is not approved or denied within 120 days after that date,

(A) the application is approved; and

(B) the department shall issue the currency exchange license under AS 06.55.201 - 06.55.204 to take effect as of the first business day after expiration of the period.

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

(d) An applicant whose application is denied by the department under AS 06.55.201 - 06.55.204 may appeal, within 30 days after receipt of the notice of the denial, from the denial and request a hearing.

Sec. 06.55.204. Renewal of license. (a) A currency exchange licensee shall pay a biennial renewal fee not later than 30 days before each biennial anniversary of the issuance of the currency exchange license or, if the last day is not a business day, on the next business day.

(b) A currency exchange licensee under AS 06.55.201 - 06.55.204 shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the department. The renewal report must state or contain

(1) a description of each material change in information submitted by the currency exchange licensee in its original currency exchange license application that has not been reported to the department on any required report; and

(2) a list of the locations in this state where the currency exchange licensee or an authorized delegate of the currency exchange licensee engages in

1 currency exchange, including mobile locations.

2 (c) If a currency exchange licensee does not file a renewal report and pay its
3 renewal fee by the renewal date or any extension of time granted by the department,
4 the department shall send the currency exchange licensee a notice of suspension.
5 Unless the currency exchange licensee files the report and pays the renewal fee before
6 expiration of 10 days after the notice is sent, the currency exchange license is
7 suspended 10 days after the department sends the notice of suspension.

8 (d) The department for good cause may grant an extension of the renewal date.

9 **Article 3. Authorized Delegates.**

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

11 A contract between a money services licensee and an authorized delegate must require
12 the authorized delegate to operate in full compliance with this chapter. The money
13 services licensee shall furnish in a record to each authorized delegate policies and
14 procedures sufficient for compliance with this chapter.

15 (b) An authorized delegate shall remit all money owing to the money services
16 licensee under the terms of the contract between the money services licensee and the
17 authorized delegate. In this subsection, "remit" means to make direct payments of
18 money to a money services licensee or its representative authorized to receive money
19 or to deposit money in a bank in an account specified by the money services licensee.

20 (c) If a money services license is suspended or revoked or a money services
21 licensee does not renew its money services license, the department shall notify all
22 authorized delegates of the money services licensee whose names are in a record filed
23 with the department of the suspension, revocation, or nonrenewal. After notice is sent
24 or publication is made, an authorized delegate shall immediately cease to provide
25 money services as an authorized delegate of the money services licensee.

26 (d) An authorized delegate may not provide money services outside the scope
27 of activity permissible under the contract between the authorized delegate and the
28 money services licensee, except activity in which the authorized delegate is authorized
29 to engage under AS 06.55.101 - 06.55.204. An authorized delegate of a money
30 services licensee holds in trust for the benefit of the money services licensee all money
31 net of fees received from money transmission.

1 (e) An authorized delegate may not use a subdelegate to conduct money
2 services on behalf of a money services licensee.

3 **Sec. 06.55.302. Unauthorized activities.** A person may not act as an
4 authorized delegate for, or otherwise provide money services on behalf of, a person
5 who does not hold a money services license under this chapter.

6 **Article 4. Examinations, Reports, Records.**

7 **Sec. 06.55.401. Authority to conduct examinations.** (a) The department may
8 conduct an annual examination of a money services licensee or of any of its authorized
9 delegates upon 45 days' notice in a record to the money services licensee.

10 (b) The department may examine a money services licensee or its authorized
11 delegate, at any time, without notice, if the department has reason to believe that the
12 money services licensee or authorized delegate is engaging in an unsafe or unsound
13 practice or has violated or is violating this chapter or a regulation adopted or an order
14 issued under this chapter.

15 (c) If the department concludes that an on-site examination is necessary under
16 (a) of this section, the money services licensee shall pay the reasonable cost of the
17 examination.

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

20 **Sec. 06.55.402. Cooperation.** The department may consult and cooperate with
21 other state money services regulators in enforcing and administering this chapter. The
22 department and other state money service regulators may jointly pursue examinations
23 and take other official action that they are otherwise empowered to take.

24 **Sec. 06.55.403. Reports.** (a) A money services licensee shall file with the
25 department within 15 business days any material changes in information provided in a
26 money services licensee's application as prescribed by the department.

27 (b) A money services licensee shall file with the department within 45 days
28 after the end of each fiscal quarter a current list of all authorized delegates and
29 locations in this state where the money services licensee or an authorized delegate of
30 the money services licensee provides money services, including mobile locations. The
31 money services licensee shall state the name and street address of each location and

1 authorized delegate.

2 (c) A money services licensee shall file a report with the department within
3 one business day after the money services licensee has reason to know of the
4 occurrence of any of the following events:

5 (1) the filing of a petition by or against the money services licensee
6 under 11 U.S.C. 101 - 110 (Bankruptcy Code) for bankruptcy or reorganization;

7 (2) the filing of a petition by or against the money services licensee for
8 receivership, the commencement of any other judicial or administrative proceeding for
9 its dissolution or reorganization, or the making of a general assignment for the benefit
10 of its creditors;

11 (3) the commencement of a proceeding to revoke or suspend its money
12 services license in a state or country in which the money services licensee engages in
13 business or is licensed;

14 (4) the cancellation or other impairment of the money services
15 licensee's bond or other security;

16 (5) a charge against or conviction of the money services licensee or of
17 an executive officer, manager, director, or person in control of the money services
18 licensee for a felony; or

19 (6) a charge against or conviction of an authorized delegate for a
20 felony.

21 **Sec. 06.55.404. Change of control.** (a) A money services licensee shall

22 (1) give the department notice in a record of a proposed change of
23 control within 15 days after learning of the proposed change of control;

24 (2) request approval of the acquisition; and

25 (3) submit a nonrefundable fee with the notice.

26 (b) After review of a request for approval under (a) of this section, the
27 department may require the money services licensee to provide additional information
28 concerning the proposed persons in control of the money services licensee. The
29 additional information must be limited to the same types required of the money
30 services licensee or persons in control of the money services licensee as part of its
31 original money services license or renewal application.

1 (c) The department shall approve a request for change of control under (a) of
2 this section if, after investigation, the department determines that the person or group
3 of persons requesting approval has the competence, experience, character, and general
4 fitness to operate the money services licensee or person in control of the money
5 services licensee in a lawful and proper manner and that the public interest will not be
6 jeopardized by the change of control.

7 (d) When an application for a change of control under AS 06.55.401 -
8 06.55.407 is complete, the department shall notify the money services licensee in a
9 record of the date on which the request was determined to be complete, and

10 (1) the department shall approve or deny the request within 120 days
11 after that date; or

12 (2) if the request is not approved or denied within 120 days after that
13 date,

14 (A) the request is approved; and

15 (B) the department shall permit the change of control under this
16 section, to take effect as of the first business day after expiration of the period.

17 (e) The department, by regulation or order, may exempt a person from any of
18 the requirements of (a)(2) and (3) of this section if it is in the public interest to exempt
19 the person.

20 (f) The provisions of (a) of this section do not apply to a public offering of
21 securities.

22 (g) Before filing a request for approval to acquire control of a money services
23 licensee or person in control of a money services licensee, a person may request in a
24 record a determination from the department as to whether the person would be
25 considered a person in control of a money services licensee upon consummation of a
26 proposed transaction. If the department determines that the person would not be a
27 person in control of a money services licensee, the department shall enter an order to
28 that effect, and the proposed person and transaction are not subject to the requirements
29 of (a) - (c) of this section.

30 **Sec. 06.55.405. Records.** (a) A money services licensee shall maintain the
31 following records for determining its compliance with this chapter for at least three

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

years:

- (1) a record of each payment instrument or stored-value obligation sold;
- (2) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
- (3) bank statements and bank reconciliation records;
- (4) records of outstanding payment instruments and stored-value obligations;
- (5) records of each payment instrument and stored-value obligation paid within the three-year period;
- (6) a list of the last known names and addresses of all of the money services licensee's authorized delegates; and
- (7) any other records the department reasonably requires by regulation.

(b) The items specified in (a) of this section may be maintained in any form of record.

(c) Records may be maintained outside this state if they are made accessible to the department on seven business days' notice that is sent in a record.

(d) All records maintained by the money services licensee as required in (a) - (c) of this section are open to inspection by the department under AS 06.55.401.

Sec. 06.55.406. Money laundering reports. (a) A money services licensee and an authorized delegate shall file with the attorney general all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set out in 31 U.S.C. 5311, 31 C.F.R. 103, and other federal and state laws pertaining to money laundering.

(b) The timely filing of a complete and accurate report required under (a) of this section with the appropriate federal agency is compliance with the requirements of (a) of this section, unless the department notifies the money services licensee that the attorney general has notified the department that reports of this type are not being regularly and comprehensively transmitted by the federal agency to the attorney general.

Sec. 06.55.407. Confidentiality. (a) Except as otherwise provided in (b) of this

1 section, all information or reports obtained by the department from an applicant, a
 2 licensee, or an authorized delegate are confidential and not subject to disclosure under
 3 AS 40.25.100 - 40.25.220, including

4 (1) all information contained in or related to examination,
 5 investigation, operating, or condition reports prepared by, on behalf of, or for the use
 6 of the department; and

7 (2) financial statements, balance sheets, and authorized delegate
 8 information.

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 has been given
 14 previous notice by the department of its intent to release the information.

15 (c) This section does not prohibit the department from disclosing to the public
 16 a list of money services licensees or the aggregated financial data concerning those
 17 money services licensees.

18 **Article 5. Permissible Investments.**

19 **Sec. 06.55.501. Maintenance of permissible investments.** (a) A money
 20 services licensee shall maintain at all times permissible investments that have a market
 21 value computed under generally accepted accounting principles of not less than the
 22 aggregate amount of all of its outstanding payment instruments and stored value
 23 obligations issued or sold in all states and money transmitted from all states by the
 24 money services licensee.

25 (b) The department, with respect to any money services licensees, may limit
 26 the extent to which a type of investment within a class of permissible investments may
 27 be considered a permissible investment, except for money and certificates of deposit
 28 issued by a bank. The department by regulation may prescribe or by order allow other
 29 types of investments that the department determines to have a safety substantially
 30 equivalent to other permissible investments.

31 (c) Permissible investments, even if commingled with other assets of the

1 money services licensee, are held in trust for the benefit of the purchasers and holders
2 of the money services licensee's outstanding payment instruments and stored value
3 obligations in the event of bankruptcy or receivership of the money services licensee.

4 **Sec. 06.55.502. Types of permissible investments.** (a) Except to the extent
5 otherwise limited by the department under AS 06.55.501, the following investments
6 are permissible under AS 06.55.501:

7 (1) cash, a certificate of deposit, or a senior debt obligation of an
8 insured depository institution; in this paragraph, "insured depository institution" has
9 the meaning given in 12 U.S.C. 1813 (Federal Deposit Insurance Act);

10 (2) banker's acceptance or bill of exchange that is eligible for purchase
11 on endorsement by a member bank of the Federal Reserve System and is eligible for
12 purchase by a 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 (4) an investment security that is an obligation of the United States or a
16 department, agency, or instrumentality of the United States, an investment in an
17 obligation that is guaranteed fully as to principal and interest by the United States, or
18 an investment in an obligation of a state or a governmental subdivision, agency, or
19 instrumentality of a state;

20 (5) receivables that are payable to a money services licensee from its
21 authorized delegates, in the ordinary course of business, under contracts that are not
22 past due or doubtful of collection if the aggregate amount of receivables under this
23 paragraph does not exceed 20 percent of the total permissible investments of a money
24 services licensee and the money services licensee does not hold at one time
25 receivables under this paragraph in any one person aggregating more than 10 percent
26 of the money services licensee's total permissible investments; and

27 (6) a share or a certificate issued by an open-end management
28 investment company that is registered with the United States Securities and Exchange
29 Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), and
30 whose portfolio is restricted by the management company's investment policy to
31 investments specified in (1) - (4) of this subsection.

1 (b) The following investments are permissible under AS 06.55.501, but only
2 to the extent specified:

3 (1) an interest-bearing bill, note, bond, or debenture of a person whose
4 equity shares are traded on a national securities exchange or on a national over-the-
5 counter market, if the aggregate of investments under this paragraph does not exceed
6 20 percent of the total permissible investments of a money services licensee and the
7 money services licensee does not at one time hold investments under this paragraph in
8 any one person aggregating more than 10 percent of the money services licensee's
9 total permissible investments;

10 (2) a share of a person traded on a national securities exchange or a
11 national over-the-counter market or a share or a certificate issued by an open-end
12 management investment company that is registered with the United States Securities
13 and Exchange Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act
14 of 1940), and whose portfolio is restricted by the management company's investment
15 policy to shares of a person traded on a national securities exchange or a national over-
16 the-counter market, if the aggregate of investments under this paragraph does not
17 exceed 20 percent of the total permissible investments of a money services licensee
18 and the money services licensee does not at one time hold investments in any one
19 person aggregating more than 10 percent of the money services licensee's total
20 permissible investments;

21 (3) a demand-borrowing agreement made to a corporation or a
22 subsidiary of a corporation whose securities are traded on a national securities
23 exchange, if the aggregate of the amount of principal and interest outstanding under
24 demand-borrowing agreements under this paragraph does not exceed 20 percent of the
25 total permissible investments of a money services licensee and the money services
26 licensee does not at one time hold principal and interest outstanding under demand-
27 borrowing agreements under this paragraph with any one person aggregating more
28 than 10 percent of the money services licensee's total permissible investments; and

29 (4) any other investment the department designates, to the extent
30 specified by the department.

31 (c) The aggregate of investments under (b) of this section may not exceed 50

1 percent of the total permissible investments of a money services licensee calculated
2 under AS 06.55.501.

3 **Article 6. Enforcement.**

4 **Sec. 06.55.601. Suspension and revocation; receivership.** (a) The
5 department may suspend or revoke a money services license, place a money services
6 licensee in receivership, or order a money services licensee to revoke the designation
7 of an authorized delegate if

8 (1) the money services licensee violates this chapter or a regulation
9 adopted or an order issued under this chapter;

10 (2) the money services licensee does not cooperate with an
11 examination or investigation by the department;

12 (3) the money services licensee engages in fraud, intentional
13 misrepresentation, or gross negligence;

14 (4) an authorized delegate is convicted of a violation of a state or
15 federal anti-money laundering statute, or violates a regulation adopted or an order
16 issued under this chapter, as a result of the money services licensee's wilful
17 misconduct or wilful blindness;

18 (5) the competence, experience, character, or general fitness of the
19 money services licensee, authorized delegate, person in control of a money services
20 licensee, or responsible person of the money services licensee or authorized delegate
21 indicates that it is not in the public interest to permit the person to provide money
22 services;

23 (6) the money services licensee engages in an unsafe or unsound
24 practice;

25 (7) the money services licensee is insolvent, suspends payment of its
26 obligations, or makes a general assignment for the benefit of its creditors; or

27 (8) the money services licensee does not remove an authorized
28 delegate after the department issues and serves upon the money services licensee a
29 final order including a finding that the authorized delegate has violated this chapter.

30 (b) In determining whether a money services licensee is engaging in an unsafe
31 or unsound practice, the department may consider the size and condition of the money

1 services licensee's money transmission, the magnitude of the loss, the gravity of the
2 violation of this chapter, and the previous conduct of the person involved.

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

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

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

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

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

14 (5) the competence, experience, character, or general fitness of the
15 authorized delegate or a person in control of the authorized delegate indicates that it is
16 not in the public interest to permit the authorized delegate to provide money services;
17 or

18 (6) the authorized delegate is engaging in an unsafe or unsound
19 practice.

20 (b) In determining whether an authorized delegate is engaging in an unsafe or
21 unsound practice, the department may consider the size and condition of the
22 authorized delegate's provision of money services, the magnitude of the loss, the
23 gravity of the violation of this chapter or a regulation adopted or order issued under
24 this chapter, and the previous conduct of the authorized delegate.

25 **Sec. 06.55.603. Orders to cease and desist.** (a) If the department determines
26 that a violation of this chapter or of a regulation adopted or an order issued under this
27 chapter by a money services licensee or authorized delegate is likely to cause
28 immediate and irreparable harm to the money services licensee, its customers, or the
29 public as a result of the violation, or cause insolvency or significant dissipation of
30 assets of the money services licensee, the department may issue an order requiring the
31 money services licensee or authorized delegate to cease and desist from the violation.

1 The order becomes effective on service of it on the money services licensee or
2 authorized delegate.

3 (b) The department may issue an order against a money services licensee to
4 cease and desist from providing money services through an authorized delegate who is
5 the subject of a separate order by the department.

6 (c) An order to cease and desist remains effective and enforceable pending the
7 completion of an administrative proceeding under AS 06.55.601 or 06.55.602.

8 (d) A money services licensee or an authorized delegate who is served with an
9 order to cease and desist may petition the superior court for a judicial order setting
10 aside, limiting, or suspending the enforcement, operation, or effectiveness of the order
11 pending the completion of an administrative proceeding under AS 06.55.601 or
12 06.55.602.

13 (e) An order to cease and desist expires unless the department commences an
14 administrative proceeding under AS 06.55.601 or 06.55.602 within 10 days after it is
15 issued.

16 **Sec. 06.55.604. Consent orders.** The department may enter into a consent
17 order at any time with a person to resolve a matter arising under this chapter or a
18 regulation adopted or order issued under this chapter. A consent order shall be signed
19 by the person to whom it is issued or by the person's authorized representative and
20 must indicate agreement with the terms contained in the order. A consent order may
21 provide that it does not constitute an admission by a person that this chapter or a
22 regulation adopted or an order issued under this chapter has been violated.

23 **Sec. 06.55.605. Civil penalties.** The department may assess a civil penalty
24 against a person who violates this chapter or a regulation adopted or an order issued
25 under this chapter in an amount not to exceed \$1,000 each day for each day the
26 violation is outstanding.

27 **Sec. 06.55.606. Criminal penalties.** (a) A person who intentionally makes a
28 false statement, misrepresentation, or false certification in a record filed or required to
29 be maintained under this chapter or who intentionally makes a false entry or omits a
30 material entry in a record filed or required to be maintained under this chapter is guilty
31 of a class C felony.

1 (b) A person who knowingly engages in an activity for which a money
2 services license is required under this chapter without being licensed as a money
3 services licensee and who receives more than \$500 in compensation within a 30-day
4 period from this activity is guilty of a class C felony.

5 (c) A person who knowingly engages in an activity for which a money
6 services license is required under this chapter without being licensed as a money
7 services licensee and who receives no more than \$500 in compensation within a 30-
8 day period from this activity is guilty of a class A misdemeanor.

9 **Sec. 06.55.697. Unlicensed persons.** (a) If the department has reason to
10 believe that a person has violated or is violating AS 06.55.101 or 06.55.201, the
11 department may issue an order to show cause why an order to cease and desist should
12 not issue requiring that the person cease and desist from the violation of AS 06.55.101
13 or 06.55.201.

14 (b) In an emergency, the department may petition the superior court for the
15 issuance of a temporary restraining order.

16 (c) An order to cease and desist becomes effective upon service of it upon the
17 person.

18 (d) An order to cease and desist remains effective and enforceable pending the
19 completion of an administrative proceeding under AS 06.55.701 and 06.55.702.

20 (e) A person who is served with an order to cease and desist for violating
21 AS 06.55.101 or 06.55.201 may petition the superior court for a judicial order setting
22 aside, limiting, or suspending the enforcement, operation, or effectiveness of the order
23 pending the completion of an administrative proceeding under AS 06.55.701 and
24 06.55.702.

25 (f) An order to cease and desist expires unless the department commences an
26 administrative proceeding within 10 days after it is issued.

27 **Article 7. Administrative Procedures.**

28 **Sec. 06.55.701. Administrative proceedings.** All administrative proceedings
29 under this chapter shall be conducted under AS 44.62 (Administrative Procedure Act),
30 except that hearings shall be conducted by the office of administrative hearings
31 (AS 44.64.010).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Sec. 06.55.702. Hearings. (a) Except as otherwise provided in AS 06.55.603 and 06.55.607 and in (b) of this section, the department may not suspend or revoke a money services license, place a money services licensee in receivership, issue an order to cease and desist, suspend or revoke the designation of an authorized delegate, or assess a civil penalty without notice and an opportunity to be heard. The department shall also hold a hearing when requested to hold a hearing by an applicant whose application for a license is denied.

(b) Under AS 06.55.106(c) and 06.55.204(c), the department may suspend a money services license without a hearing unless the money services licensee requests a hearing.

Sec. 06.55.703. Investigative powers. (a) In its investigations under this chapter, the department may administer oaths or affirmations and, on its own motion or on the request of a party to a proceeding, may subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of material that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of books, documents, and other tangible items, and the identity and location of persons having knowledge of relevant facts or other material reasonably calculated to lead to the discovery of admissible evidence.

(c) If a person fails without a lawful excuse to obey a subpoena, and after reasonable notice to all persons affected by the failure, the department may apply to the superior court for an order compelling the person to obey the subpoena.

Article 8. Miscellaneous Provisions.

Sec. 06.55.801. Uniformity of application and construction. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 06.55.802. Exclusions. This chapter does not apply to

- (1) the United States or a department, an agency, or an instrumentality of the United States;
- (2) money transmission by the United States Postal Service or by a contractor on behalf of the United States Postal Service;
- (3) a state, a municipality, a county, or another governmental agency

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

or governmental subdivision of a state;

(4) a bank, a bank holding company, an office of an international banking corporation, a branch of a foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service Company Act), or a corporation organized under 12 U.S.C. 611 - 633 (Edge Act) under the laws of a state or the United States, if it does not issue, sell, or provide payment instruments or stored value through an authorized delegate who is not a bank, a bank holding company, an office of an international banking corporation, a branch of a foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service Company Act), or a corporation organized under 12 U.S.C. 611 - 633 (Edge Act) under the laws of a state or the United States;

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

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

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

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

(7) a registered futures commission merchant under the federal commodities laws, to the extent of the merchant's operation as a registered futures commission merchant under the federal commodities laws;

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

(9) an operator of a payment system to the extent that the operator provides processing, clearing, or settlement services, between or among persons

1 excluded by this section, in connection with wire transfers, credit card transactions,
2 debit card transactions, stored-value transactions, automated clearing house transfers,
3 or similar funds transfers; or

4 (10) a person registered as a securities broker-dealer under federal or
5 state securities laws, to the extent of the person's operation as a securities broker-
6 dealer under federal or state securities laws.

7 **Sec. 06.55.810. Notices required.** (a) A money services licensee shall display
8 a sign at each location where the money services licensee provides money services
9 under this chapter. An authorized delegate shall display a sign at each location where
10 the authorized delegate provides money services under this chapter.

11 (b) The sign required by (a) of this section shall be displayed at all times in
12 full view of persons visiting the location and shall give the department's address and
13 the department's telephone number for receiving calls regarding complaints and other
14 concerns about money services licensees, authorized delegates, and the money
15 services provided by money services licensees and authorized delegates.

16 **Sec. 06.55.820. Transmission.** Within 10 business days after receiving the
17 money or equivalent value for money transmission, unless otherwise ordered by the
18 customer or unless the money services licensee has reason to believe a crime has
19 occurred, is occurring, or may occur as a result of the money transmission, a money
20 transmission licensee shall

21 (1) transmit after the deduction of fees the monetary equivalent of all
22 money or equivalent value received for the money transmission; or

23 (2) issue instructions making the money or its monetary equivalent
24 available to the person designated by the customer.

25 **Sec. 06.55.830. Receipt.** (a) A money transmission licensee who receives
26 money or equivalent value for a money transmission shall provide a receipt to the
27 customer that clearly states the amount of the money or the equivalent value presented
28 by the customer for the money transmission and the total fees charged by the money
29 transmission licensee.

30 (b) If a money transmission licensee fixes, when the money transmission is
31 initiated, the rate of exchange for a money transmission to be paid in the currency of

1 another government, the receipt provided by (a) of this section must disclose the rate
2 of exchange for the transaction and any limit on the length of time that the payment
3 will be made at that fixed rate of exchange.

4 (c) If a money transmission licensee does not fix the rate of exchange for a
5 money transmission to be paid in the currency of another government, the receipt
6 provided under (a) of this section must disclose that the rate of exchange for the
7 money transmission will be set when the person designated by the customer to receive
8 the money takes possession of the money.

9 **Sec. 06.55.840. Refunds.** (a) Within 10 days after receiving a written request
10 for a refund, a money transmission licensee shall refund to a customer money equal to
11 the money or equivalent value received from the customer for a money transmission,
12 unless

13 (1) before receiving the written request

14 (A) the money has been transmitted to the person designated by
15 the customer to receive the money transmission and the person has taken
16 possession of the money; in this section, "transmitted" means made available
17 to the person designated by the customer to receive the money, whether or not
18 the person designated by the customer has taken possession of the money; or

19 (B) instructions have been given making a monetary equivalent
20 available to the person designated by the customer to receive the money
21 transmission;

22 (2) the money transmission licensee has reason to believe that a crime
23 has occurred, is occurring, or may occur as a result of transmitting or refunding the
24 money as requested by the customer; or

25 (3) the money transmission licensee is otherwise prohibited by law
26 from making a refund.

27 **Sec. 06.55.850. Establishment of fees and other charges.** (a) The department
28 shall adopt regulations that establish the amount and manner of payment of fees
29 required under this chapter.

30 (b) The department shall establish fee levels under (a) of this section so that
31 the total amount of fees collected for both money transmission licenses and currency

1 exchange licenses under this chapter approximately equals the department's actual
2 total regulatory costs for both money transmission licenses and currency exchange
3 licenses. The department shall set the fee levels so that the fee levels for both money
4 transmission licenser and currency exchange licenses are the same.

5 (c) The department shall annually review each fee level to determine whether
6 the regulatory costs are approximately equal to fee collections. If the review indicates
7 that fee collections and regulatory costs are not approximately equal, the department
8 shall calculate fee adjustments and adopt regulations under (a) of this section to
9 implement the adjustments.

10 (d) In January of each year, the department shall report to the office of
11 management and budget all fee levels and revisions made for the previous year under
12 this section.

13 (e) In this section,

14 (1) "fee" means an application fee, a money services license fee, an
15 approval fee under AS 06.55.103, a renewal fee, the daily late fee for not submitting a
16 renewal report and paying the renewal fee under AS 06.55.106, investigation costs
17 under AS 06.55.105 and 06.55.203, an examination cost under AS 06.55.401, and a
18 fee for approving a change of control under AS 06.55.404;

19 (2) "regulatory costs" means the costs of the department that are
20 attributable to regulation of money services licensing under this chapter.

21 **Sec. 06.55.890. Definitions.** In AS 06.55.820 - 06.55.840,

22 (1) "fees" does not include revenue that a money services licensee
23 generates from a money transmission when converting the currency of one
24 government into the currency of another government;

25 (2) "monetary equivalent" means, for money transmissions that will be
26 redeemed in a currency other than the currency that the customer uses to purchase the
27 money transmission, the amount of money in the currency of the government that the
28 recipient of the money transmission is to receive, as converted at the retail exchange
29 rate offered by the money transmission licensee to the customer for the money
30 transmission.

31 (2) "money transmission licensee" means a person who holds a money

1 services license and a person who is an authorized delegate.

2

3 **Article 9. General Provisions.**

4 **Sec. 06.55.990. Definitions.** In this chapter, unless the context indicates
5 otherwise,

6 (1) "authorized delegate" means a person whom a money services
7 licensee designates to provide money services on behalf of the money services
8 licensee;

9 (2) "bank" means an institution organized under federal or state law
10 that accepts demand deposits or deposits that the depositor may use for payment to
11 third parties and engages in the business of making commercial loans;

12 (3) "control" means

13 (A) the ownership of, or the power to vote, directly or
14 indirectly, at least 25 percent of a class of voting securities or voting interests
15 of a money services licensee or person in control of a money services licensee;

16 (B) the power to elect a majority of executive officers,
17 managers, directors, trustees, or other persons exercising managerial authority
18 of a money services licensee or person in control of a money services licensee;
19 or

20 (C) the power to exercise directly or indirectly, a controlling
21 influence over the management or policies of a money services licensee or
22 person in control of a money services licensee;

23 (4) "currency exchange" means receipt of revenues from the exchange
24 of money of one government for money of another government;

25 (5) "currency exchange license" means a license under AS 06.55.201
26 06.55.204;

27 (6) "currency exchange licensee" means a person who holds a currency
28 exchange license;

29 (7) "department" means the Department of Commerce, Community,
30 and Economic Development;

31 (8) "executive officer" means a president, a chair of the executive

1 committee, a chief financial officer, a responsible individual, or another individual
2 who performs similar functions; in this paragraph, "responsible individual" means an
3 individual who is employed by a money services licensee and has principal managerial
4 authority over the provision of money services by the money services licensee in this
5 state;

6 (9) "mobile location" means a vehicle or a movable facility where
7 currency exchange occurs;

8 (10) "monetary value" means a medium of exchange, whether or not
9 redeemable in money;

10 (11) "money" means a medium of exchange that is authorized or
11 adopted by the United States or a foreign government, including a monetary unit of
12 account established by an intergovernmental organization or by agreement between
13 two or more governments;

14 (12) "money services" means money transmission or currency
15 exchange;

16 (13) "money services license" means a currency exchange license or a
17 money transmission license;

18 (14) "money services licensee" means a person who holds a currency
19 exchange license or a money transmission license;

20 (15) "money transmission" means selling or issuing payment
21 instruments or stored value, or receiving money or monetary value for transmission,
22 but does not include the provision solely of delivery, online services,
23 telecommunications services, or network access;

24 (16) "money transmission license" means a license under
25 AS 06.55.101 - 06.55.107 or an approval under AS 06.55.103;

26 (17) "money transmission licensee" means a person who holds a
27 money transmission license;

28 (18) "outstanding" with respect to a payment instrument, means issued
29 or sold by or for the money services licensee and reported as sold but not yet paid by
30 or for the licensee;

31 (19) "payment instrument" means a check, a draft, a money order, a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

traveler's check, or another instrument for the transmission or payment of money or monetary value, whether or not negotiable, but does not include a credit card voucher, a letter of credit, or an instrument that is redeemable by the issuer in goods or services;

(20) "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a government, a governmental subdivision, an agency, or an instrumentality, a public corporation, or any other legal or commercial entity;

(21) "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(22) "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular possession subject to the jurisdiction of the United States;

(23) "stored value" means monetary value that is evidenced by an electronic record;

(24) "unsafe or unsound practice" means a practice or conduct by a money transmission licensee or an authorized delegate of the money transmission licensee if the practice creates the likelihood of material loss, insolvency, or dissipation of the money transmission licensee's assets, or otherwise materially prejudices the interests of the money transmission licensee's customers.

Sec. 06.55.995. Short title. This chapter may be cited as the Alaska Uniform Money Services Act.

* **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act applies to the provision of money services on or after July 1, 2008.

* **Sec. 3.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Commerce, Community, and Economic Development may proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative

- 1 Procedure Act), but not before July 1, 2008.
- 2 * Sec. 4. Section 3 of this Act takes effect immediately under AS 01.10.070(c).
- 3 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2008.

25-LS0308UM
Bannister
3/26/07

CS FOR SENATE BILL NO. 116()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Spencer(s): SENATOR ELTON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Uniform Money Services Act, to money transmission services,**
2 **and to currency exchange services; and providing for an effective date."**

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

4 *** Section 1. AS 06 is amended by adding a new chapter to read:**

5 **Chapter 55. Alaska Uniform Money Services Act.**

6 **Article 1. Money Transmission Licenses.**

7 **Sec. 06.55.101. License required. (a) A person may not engage in the**
8 **business of money transmission or advertise, solicit, or hold the person out as**
9 **providing money transmission unless the person**

10 **(1) is licensed under AS 06.55.101 - 06.55.107 or approved to engage**
11 **in money transmission under AS 06.55.103;**

12 **(2) is an authorized delegate of a person licensed under AS 06.55.101 -**
13 **06.55.107; or**

14 **(3) is an authorized delegate of a person approved to engage in money**

1 transmission under AS 06.55.103.

2 (b) A license under AS 06.55.101 - 06.55.107 is not transferable or assignable.

3 **Sec. 06.55.102. Application for license.** (a) A person applying for a license
4 under AS 06.55.101 - 06.55.107 shall apply in a form and in a medium prescribed by
5 the department. The application must state or contain

6 (1) the legal name and residential and business addresses of the
7 applicant and any fictitious or trade name used by the applicant in conducting the
8 applicant's business;

9 (2) a list of any criminal convictions of the applicant and any material
10 litigation in which the applicant has been involved in the 10-year period next
11 preceding the submission of the application;

12 (3) a description of any money services previously provided by the
13 applicant and the money services that the applicant seeks to provide in this state;

14 (4) a list of the applicant's proposed authorized delegates and the
15 locations in this state where the applicant and its authorized delegates propose to
16 engage in money transmission or provide other money services;

17 (5) a list of other states in which the applicant is licensed to engage in
18 money transmission or provide other money services and any license revocations,
19 suspensions, or other disciplinary action taken against the applicant in another state;

20 (6) information concerning any bankruptcy or receivership
21 proceedings affecting the licensee;

22 (7) a sample form of contract for authorized delegates, if applicable,
23 and a sample form of payment instrument or instrument on which stored value is
24 recorded, if applicable;

25 (8) the name and address of any bank through which the applicant's
26 payment instruments and stored value will be paid;

27 (9) a description of the source of money and credit to be used by the
28 applicant to provide money services; and

29 (10) any other information the department reasonably requires with
30 respect to the applicant.

31 (b) If an applicant is a corporation, a limited liability company, a partnership,

1 or another entity, the applicant shall also provide

2 (1) the date of the applicant's incorporation or formation and state or
3 country of incorporation or formation;

4 (2) if applicable, a certificate of good standing from the state or
5 country in which the applicant is incorporated or formed;

6 (3) a brief description of the structure or organization of the applicant,
7 including any parent or subsidiary of the applicant, and whether any parent or
8 subsidiary is publicly traded;

9 (4) the legal name, any fictitious or trade name, all business and
10 residential addresses, and the employment, in the 10-year period next preceding the
11 submission of the application of each executive officer, manager, director, or person
12 who has control of the applicant;

13 (5) a list of any criminal convictions and material litigation in which
14 any executive officer, manager, director, or person in control of the applicant has been
15 involved in the 10-year period next preceding the submission of the application;

16 (6) a copy of the applicant's audited financial statements for the most
17 recent fiscal year and, if available, for the two-year period next preceding the
18 submission of the application;

19 (7) a copy of the applicant's unconsolidated financial statements for the
20 current fiscal year, whether audited or not, and, if available, for the two-year period
21 next preceding the submission of the application;

22 (8) if the applicant is publicly traded, a copy of the most recent report
23 filed with the United States Securities and Exchange Commission under 15 U.S.C.
24 78m (Securities Exchange Act of 1934);

25 (9) if the applicant is a wholly owned subsidiary of

26 (A) a corporation publicly traded in the United States, a copy of
27 audited financial statements for the parent corporation for the most recent
28 fiscal year or a copy of the parent corporation's most recent report filed under
29 15 U.S.C. 78m (Securities Exchange Act of 1934); or

30 (B) a corporation publicly traded outside the United States, a
31 copy of documentation that is similar to the documentation required by (A) of

1 this paragraph and that is filed with the regulator of the parent corporation's
2 domicile outside the United States;

3 (10) if the applicant has a registered agent in this state, the name and
4 address of the applicant's registered agent in this state; and

5 (11) any other information the department reasonably requires with
6 respect to the applicant.

7 (c) A nonrefundable application fee and a license fee must accompany an
8 application for a license under AS 06.55.101 - 06.55.107. The license fee shall be
9 refunded if the application is denied.

10 (d) The department may waive a requirement of (a) and (b) of this section or
11 permit an applicant to submit other information instead of the required information.

12 (e) In this section, "material litigation" means litigation that, according to
13 generally accepted accounting principles, is significant to an applicant's or a licensee's
14 financial health and would be required to be disclosed in the applicant's or licensee's
15 annual audited financial statements, report to shareholders, or similar records.

16 **Sec. 06.55.103. Approval to engage in money transmission when licensed**
17 **in another state.** (a) A person who is licensed to engage in money transmission in at
18 least one other state, with the approval of the department and under this section, may
19 engage in money transmission, currency exchange, or both money transmission and
20 currency exchange in this state without being licensed under AS 06.55.102 if

21 (1) the state in which the person is licensed has enacted the Uniform
22 Money Services Act or the department determines that the money transmission laws of
23 the state in which the person is licensed are substantially similar to those imposed by
24 this chapter;

25 (2) the person submits to, and in the form required by, the department

26 (A) in a record, an application for approval to engage in money
27 transmission, currency exchange, or both money transmission and currency
28 exchange in this state without being licensed under AS 06.55.102;

29 (B) a nonrefundable fee; and

30 (C) a certification of license history in the other state.

31 (b) Before granting a person approval under this section to engage in money

1 transmission, currency exchange, or both money transmission and currency exchange
2 in this state, the department shall make findings and conclusions as required by
3 regulation.

4 (c) When an application for approval under this section is complete, the
5 department shall promptly notify the applicant, in a record, of the date on which the
6 request was determined to be complete, and

7 (1) the department shall approve or deny the request within 120 days
8 after that date; or

9 (2) if the request is not approved or denied within 120 days after that
10 date,

11 (A) the request is approved; and

12 (B) the approval takes effect as of the first business day after
13 expiration of the 120-day period.

14 (d) A person who engages in money transmission, currency exchange, or both
15 money transmission and currency exchange in this state under this section shall
16 comply with the requirements of, and is subject to the sanctions under, AS 06.55.401 -
17 06.55.607 as if the person were licensed under AS 06.55.102.

18 **Sec. 06.55.104. Security.** (a) Except as otherwise provided in (b) of this
19 section, a surety bond, a letter of credit, or another similar security acceptable to the
20 department in the amount of \$25,000 plus \$5,000 for each location, not exceeding a
21 total addition of \$125,000, must accompany an application for a license.

22 (b) Security must be in a form satisfactory to the department and payable to
23 the state for the benefit of a claimant against the licensee to secure the faithful
24 performance of the obligations of the licensee with respect to money transmission.

25 (c) The aggregate liability on a surety bond may not exceed the principal sum
26 of the bond. A claimant against a licensee may maintain an action on the bond, or the
27 department may maintain an action on behalf of the claimant.

28 (d) A surety bond must cover claims for as long as the department specifies,
29 but for at least five years after the licensee ceases to provide money services in this
30 state. However, the department may permit the amount of security to be reduced or
31 eliminated before the expiration of that time to the extent the amount of the licensee's

1 payment instruments or stored-value obligations outstanding in this state is reduced.
2 The department may permit a licensee to substitute another form of security
3 acceptable to the department for the security effective at the time the licensee ceases to
4 provide money services in this state.

5 (e) Instead of the security prescribed in this section, an applicant for a license
6 or a licensee may provide security in a form prescribed by the department.

7 (f) The department may increase the amount of security required to a
8 maximum of \$500,000 if the financial condition of a licensee requires the increase, as
9 evidenced by reduction of net worth, financial losses, or other relevant criteria.

10 **Sec. 06.55.105. Issuance of license.** (a) When an application is filed under
11 AS 06.55.101 - 06.55.107, the department shall investigate the applicant's financial
12 condition and responsibility, financial and business experience, character, and general
13 fitness. The department may conduct an on-site investigation of the applicant, the
14 reasonable cost of which the applicant shall pay. The department shall issue a license
15 to an applicant under AS 06.55.101 - 06.55.107 if the department finds that all of the
16 following conditions have been fulfilled:

17 (1) the applicant has complied with AS 06.55.102, 06.55.104, and
18 06.55.107; and

19 (2) the financial condition and responsibility, financial and business
20 experience, character, and general fitness of the applicant, and the competence,
21 experience, character, and general fitness of the executive officers, managers,
22 directors, and persons in control of the applicant indicate that it is in the interest of the
23 public to permit the applicant to engage in money transmission;

24 (b) When an application for an original license under AS 06.55.101 -
25 06.55.107 is complete, the department shall promptly notify the applicant in a record
26 of the date on which the application was determined to be complete, and

27 (1) the department shall approve or deny the application within 120
28 days after that date; or

29 (2) if the application is not approved or denied within 120 days after
30 that date,

31 (A) the application is approved; and

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

3 (c) The department may for good cause extend the application period.

4 (d) An applicant whose application is denied by the department under
5 AS 06.55.101 - 06.55.107 may appeal, within 30 days after receipt of the notice of the
6 denial, from the denial and request a hearing.

7 **Sec. 06.55.106. Renewal of license.** (a) A licensee under AS 06.55.101 -
8 06.55.107 shall pay an annual renewal fee not later than 30 days before the
9 anniversary of the issuance of the license or, if the last day is not a business day, on the
10 next business day.

11 (b) A licensee under AS 06.55.101 - 06.55.107 shall submit a renewal report
12 with the renewal fee, in a form and in a medium prescribed by the department. The
13 renewal report must state or contain

14 (1) a copy of the licensee's most recent audited annual financial
15 statement or, if the licensee is a wholly owned subsidiary of another corporation, the
16 most recent audited consolidated annual financial statement of the parent corporation
17 or the licensee's most recent audited consolidated annual financial statement;

18 (2) the number and monetary amount of payment instruments and
19 stored value sold by the licensee in this state that have not been included in a renewal
20 report, and the monetary amount of payment instruments and stored value currently
21 outstanding;

22 (3) a description of each material change in information submitted by
23 the licensee in its original license application that has not been reported to the
24 department on any required report;

25 (4) a list of the licensee's permissible investments and a certification
26 that the licensee continues to maintain permissible investments according to the
27 requirements set out in AS 06.55.501 and 06.55.502;

28 (5) proof that the licensee continues to maintain adequate security as
29 required by AS 06.55.104; and

30 (6) a list of the locations in this state where the licensee or an
31 authorized delegate of the licensee engages in money transmission or provides other

1 money services.

2 (c) If a licensee does not file a renewal report or pay its renewal fee by the
3 renewal date or any extension of time granted by the department, the department shall
4 send the licensee a notice of suspension. Unless the licensee files the report and pays
5 the renewal fee before expiration of 10 days after the notice is sent, the licensee's
6 license is suspended 10 days after the department sends the notice of suspension. The
7 suspension shall be lifted if, within 20 days after its license is suspended, the licensee

8 (1) files the report and pays the renewal fee; and

9 (2) pays a late fee for each day after suspension that the department did
10 not receive the renewal report and the renewal fee.

11 (d) The department for good cause may grant an extension of the renewal date.

12 **Sec. 06.55.107. Net worth.** A licensee under AS 06.55.101 - 06.55.107 shall
13 maintain a net worth of at least \$25,000 determined under generally accepted
14 accounting principles.

15 **Article 2. Currency Exchange Licenses.**

16 **Sec. 06.55.201. License required.** (a) A person may not engage in currency
17 exchange or advertise, solicit, or hold the person out as providing currency exchange
18 for which the person receives revenues equal or greater than five percent of total
19 revenues unless the person

20 (1) is licensed under AS 06.55.201 - 06.55.204;

21 (2) is licensed for money transmission under AS 06.55.101 - 06.55.107
22 or approved to engage in money transmission under AS 06.55.103;

23 (3) is an authorized delegate of a person licensed under AS 06.55.101 -
24 06.55.107; or

25 (4) is an authorized delegate of a person approved to engage in money
26 transmission under AS 06.55.103.

27 (b) A license under AS 06.55.201 - 06.55.204 is not transferable or assignable.

28 **Sec. 06.55.202. Application for license.** (a) A person applying for a license
29 under AS 06.55.201 - 06.55.204 shall apply in a form and in a medium prescribed by
30 the department. The application must state or contain

31 (1) the legal name and residential and business addresses of the

1 applicant if the applicant is an individual or, if the applicant is not an individual, the
2 name of each partner, executive officer, manager, and director;

3 (2) the location of the principal office of the applicant;

4 (3) the complete addresses of other locations in this state where the
5 applicant proposes to engage in currency exchange, including all mobile locations;

6 (4) a description of the source of money and credit to be used by the
7 applicant to engage in currency exchange; and

8 (5) other information the department reasonably requires with respect
9 to the applicant, but not more than the department may require under AS 06.55.101 -
10 06.55.107.

11 (b) A nonrefundable application fee and a license fee must accompany an
12 application for a license under AS 06.55.201 - 06.55.204. The license fee shall be
13 refunded if the application is denied.

14 **Sec. 06.55.203. Issuance of license.** (a) When an application is filed under
15 AS 06.55.201 - 06.55.204, the department shall investigate the applicant's financial
16 condition and responsibility, financial and business experience, character, and general
17 fitness. The department may conduct an on-site investigation of the applicant, the
18 reasonable cost of which the applicant shall pay. The department shall issue a license
19 to an applicant under AS 06.55.201 - 06.55.204 if the department finds that all of the
20 following conditions have been fulfilled:

21 (1) the applicant has complied with AS 06.55.202; and

22 (2) the financial condition and responsibility, financial and business
23 experience, character, and general fitness of the applicant, and the competence,
24 experience, character, and general fitness of the executive officers, managers,
25 directors, and persons in control of the applicant indicate that it is in the interest of the
26 public to permit the applicant to engage in currency exchange.

27 (b) When an application for an original license under AS 06.55.201 -
28 06.55.204 is complete, the department shall promptly notify the applicant in a record
29 of the date on which the application was determined to be complete, and

30 (1) the department shall approve or deny the application within 120
31 days after that date; or

1 (2) if the application is not approved or denied within 120 days after
2 that date,

3 (A) the application is approved; and

4 (B) the department shall issue the license under AS 06.55.201 -
5 06.55.204, to take effect as of the first business day after expiration of the
6 period.

7 (c) The department may for good cause extend the application period.

8 (d) An applicant whose application is denied by the department under
9 AS 06.55.201 - 06.55.204 may appeal, within 30 days after receipt of the notice of the
10 denial, from the denial and request a hearing.

11 **Sec. 06.55.204. Renewal of license.** (a) A licensee under AS 06.55.201 -
12 06.55.204 shall pay a biennial renewal fee not later than 30 days before each biennial
13 anniversary of the issuance of the license or, if the last day is not a business day, on the
14 next business day.

15 (b) A licensee under AS 06.55.201 - 06.55.204 shall submit a renewal report
16 with the renewal fee, in a form and in a medium prescribed by the department. The
17 renewal report must state or contain

18 (1) a description of each material change in information submitted by
19 the licensee in its original license application that has not been reported to the
20 department on any required report; and

21 (2) a list of the locations in this state where the licensee or an
22 authorized delegate of the licensee engages in currency exchange, including mobile
23 locations.

24 (c) If a licensee does not file a renewal report and pay its renewal fee by the
25 renewal date or any extension of time granted by the department, the department shall
26 send the licensee a notice of suspension. Unless the licensee files the report and pays
27 the renewal fee before expiration of 10 days after the notice is sent, the licensee's
28 license is suspended 10 days after the department sends the notice of suspension.

29 (d) The department for good cause may grant an extension of the renewal date.

30 **Article 3. Authorized Delegates.**

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

1 A contract between a licensee and an authorized delegate must require the authorized
2 delegate to operate in full compliance with this chapter. The licensee shall furnish in a
3 record to each authorized delegate policies and procedures sufficient for compliance
4 with this chapter.

5 (b) An authorized delegate shall remit all money owing to the licensee under
6 the terms of the contract between the licensee and the authorized delegate. In this
7 subsection, "remit" means to make direct payments of money to a licensee or its
8 representative authorized to receive money or to deposit money in a bank in an
9 account specified by the licensee.

10 (c) If a license is suspended or revoked or a licensee does not renew its
11 license, the department shall notify all authorized delegates of the licensee whose
12 names are in a record filed with the department of the suspension, revocation, or
13 nonrenewal. After notice is sent or publication is made, an authorized delegate shall
14 immediately cease to provide money services as an authorized delegate of the licensee.

15 (d) An authorized delegate may not provide money services outside the scope
16 of activity permissible under the contract between the authorized delegate and the
17 licensee, except activity in which the authorized delegate is authorized to engage
18 under AS 06.55.101 - 06.55.204. An authorized delegate of a licensee holds in trust for
19 the benefit of the licensee all money net of fees received from money transmission.

20 (e) An authorized delegate may not use a subdelegate to conduct money
21 services on behalf of a licensee.

22 **Sec. 06.55.302. Unauthorized activities.** A person may not act as an
23 authorized delegate for, or otherwise provide money services on behalf of, a person
24 not licensed under this chapter.

25 **Article 4. Examinations, Reports, Records.**

26 **Sec. 06.55.401. Authority to conduct examinations.** (a) The department may
27 conduct an annual examination of a licensee or of any of its authorized delegates upon
28 45 days' notice in a record to the licensee.

29 (b) The department may examine a licensee or its authorized delegate, at any
30 time, without notice, if the department has reason to believe that the licensee or
31 authorized delegate is engaging in an unsafe or unsound practice or has violated or is

1 violating this chapter or a regulation adopted or an order issued under this chapter.

2 (c) If the department concludes that an on-site examination is necessary under
3 (a) of this section, the licensee shall pay the reasonable cost of the examination.

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

6 **Sec. 06.55.402. Cooperation.** The department may consult and cooperate with
7 other state money services regulators in enforcing and administering this chapter. The
8 department and other state money service regulators may jointly pursue examinations
9 and take other official action that they are otherwise empowered to take.

10 **Sec. 06.55.403. Reports.** (a) A licensee shall file with the department within 15
11 business days any material changes in information provided in a licensee's application
12 as prescribed by the department.

13 (b) A licensee shall file with the department within 45 days after the end of
14 each fiscal quarter a current list of all authorized delegates and locations in this state
15 where the licensee or an authorized delegate of the licensee provides money services,
16 including mobile locations. The licensee shall state the name and street address of
17 each location and authorized delegate.

18 (c) A licensee shall file a report with the department within one business day
19 after the licensee has reason to know of the occurrence of any of the following events:

20 (1) the filing of a petition by or against the licensee under 11 U.S.C.
21 101 - 110 (Bankruptcy Code) for bankruptcy or reorganization;

22 (2) the filing of a petition by or against the licensee for receivership,
23 the commencement of any other judicial or administrative proceeding for its
24 dissolution or reorganization, or the making of a general assignment for the benefit of
25 its creditors;

26 (3) the commencement of a proceeding to revoke or suspend its license
27 in a state or country in which the licensee engages in business or is licensed;

28 (4) the cancellation or other impairment of the licensee's bond or other
29 security;

30 (5) a charge against or conviction of the licensee or of an executive
31 officer, manager, director, or person in control of the licensee for a felony; or

1 (6) a charge against or conviction of an authorized delegate for a
2 felony.

3 **Sec. 06.55.404. Change of control.** (a) A licensee shall

4 (1) give the department notice in a record of a proposed change of
5 control within 15 days after learning of the proposed change of control;

6 (2) request approval of the acquisition; and

7 (3) submit a nonrefundable fee with the notice.

8 (b) After review of a request for approval under (a) of this section, the
9 department may require the licensee to provide additional information concerning the
10 proposed persons in control of the licensee. The additional information must be
11 limited to the same types required of the licensee or persons in control of the licensee
12 as part of its original license or renewal application.

13 (c) The department shall approve a request for change of control under (a) of
14 this section if, after investigation, the department determines that the person or group
15 of persons requesting approval has the competence, experience, character, and general
16 fitness to operate the licensee or person in control of the licensee in a lawful and
17 proper manner and that the public interest will not be jeopardized by the change of
18 control.

19 (d) When an application for a change of control under AS 06.55.401 -
20 06.55.407 is complete, the department shall notify the licensee in a record of the date
21 on which the request was determined to be complete, and

22 (1) the department shall approve or deny the request within 120 days
23 after that date; or

24 (2) if the request is not approved or denied within 120 days after that
25 date,

26 (A) the request is approved; and

27 (B) the department shall permit the change of control under this
28 section, to take effect as of the first business day after expiration of the period.

29 (e) The department, by regulation or order, may exempt a person from any of
30 the requirements of (a)(2) and (3) of this section if it is in the public interest to exempt
31 the person.

1 (f) The provisions of (a) of this section do not apply to a public offering of
2 securities.

3 (g) Before filing a request for approval to acquire control of a licensee or
4 person in control of a licensee, a person may request in a record a determination from
5 the department as to whether the person would be considered a person in control of a
6 licensee upon consummation of a proposed transaction. If the department determines
7 that the person would not be a person in control of a licensee, the department shall
8 enter an order to that effect, and the proposed person and transaction are not subject to
9 the requirements of (a) - (c) of this section.

10 **Sec. 06.55.405. Records.** (a) A licensee shall maintain the following records
11 for determining its compliance with this chapter for at least three years:

12 (1) a record of each payment instrument or stored-value obligation
13 sold;

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

16 (3) bank statements and bank reconciliation records;

17 (4) records of outstanding payment instruments and stored-value
18 obligations;

19 (5) records of each payment instrument and stored-value obligation
20 paid within the three-year period;

21 (6) a list of the last known names and addresses of all of the licensee's
22 authorized delegates; and

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

24 (b) The items specified in (a) of this section may be maintained in any form of
25 record.

26 (c) Records may be maintained outside this state if they are made accessible to
27 the department on seven business days' notice that is sent in a record.

28 (d) All records maintained by the licensee as required in (a) - (c) of this
29 section are open to inspection by the department under AS 06:55.401.

30 **Sec. 06.55.406. Money laundering reports.** (a) A licensee and an authorized
31 delegate shall file with the attorney general all reports required by federal currency

1 reporting, record keeping, and suspicious transaction reporting requirements as set out
2 in 31 U.S.C. 5311, 31 C.F.R. 103, and other federal and state laws pertaining to money
3 laundering.

4 (b) The timely filing of a complete and accurate report required under (a) of
5 this section with the appropriate federal agency is compliance with the requirements of
6 (a) of this section, unless the department notifies the licensee that the attorney general
7 has notified the department that reports of this type are not being regularly and
8 comprehensively transmitted by the federal agency to the attorney general.

9 **Sec. 06.55.407. Confidentiality.** (a) Except as otherwise provided in (b) of this
10 section, all information or reports obtained by the department from an applicant, a
11 licensee, or an authorized delegate are confidential and not subject to disclosure under
12 AS 40.25.100 - 40.25.220, including

13 (1) all information contained in or related to examination,
14 investigation, operating, or condition reports prepared by, on behalf of, or for the use
15 of the department; and

16 (2) financial statements, balance sheets, and authorized delegate
17 information.

18 (b) The department may disclose information that is not otherwise subject to
19 disclosure under (a) of this section to representatives of state or federal agencies who
20 promise in a record that they will maintain the confidentiality of the information or if
21 the department finds that the release is reasonably necessary for the protection of the
22 public and in the interests of justice, and the licensee has been given previous notice
23 by the department of its intent to release the information.

24 (c) This section does not prohibit the department from disclosing to the public
25 a list of persons licensed under this chapter or the aggregated financial data concerning
26 those licensees.

27 **Article 5. Permissible Investments.**

28 **Sec. 06.55.501. Maintenance of permissible investments.** (a) A licensee shall
29 maintain at all times permissible investments that have a market value computed under
30 generally accepted accounting principles of not less than the aggregate amount of all
31 of its outstanding payment instruments and stored value obligations issued or sold in

1 all states and money transmitted from all states by the licensee.

2 (b) The department, with respect to any licensees, may limit the extent to
3 which a type of investment within a class of permissible investments may be
4 considered a permissible investment, except for money and certificates of deposit
5 issued by a bank. The department by regulation may prescribe or by order allow other
6 types of investments that the department determines to have a safety substantially
7 equivalent to other permissible investments.

8 (c) Permissible investments, even if commingled with other assets of the
9 licensee, are held in trust for the benefit of the purchasers and holders of the licensee's
10 outstanding payment instruments and stored value obligations in the event of
11 bankruptcy or receivership of the licensee.

12 **Sec. 06.55.502. Types of permissible investments.** (a) Except to the extent
13 otherwise limited by the department under AS 06.55.501, the following investments
14 are permissible under AS 06.55.501:

15 (1) cash, a certificate of deposit, or a senior debt obligation of an
16 insured depository institution; in this paragraph, "insured depository institution" has
17 the meaning given in 12 U.S.C. 1813 (Federal Deposit Insurance Act);

18 (2) banker's acceptance or bill of exchange that is eligible for purchase
19 on endorsement by a member bank of the Federal Reserve System and is eligible for
20 purchase by a Federal Reserve Bank;

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

23 (4) an investment security that is an obligation of the United States or a
24 department, agency, or instrumentality of the United States, an investment in an
25 obligation that is guaranteed fully as to principal and interest by the United States, or
26 an investment in an obligation of a state or a governmental subdivision, agency, or
27 instrumentality of a state;

28 (5) receivables that are payable to a licensee from its authorized
29 delegates, in the ordinary course of business, under contracts that are not past due or
30 doubtful of collection if the aggregate amount of receivables under this paragraph does
31 not exceed 20 percent of the total permissible investments of a licensee and the

1 licensee does not hold at one time receivables under this paragraph in any one person
2 aggregating more than 10 percent of the licensee's total permissible investments; and

3 (6) a share or a certificate issued by an open-end management
4 investment company that is registered with the United States Securities and Exchange
5 Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), and
6 whose portfolio is restricted by the management company's investment policy to
7 investments specified in (1) - (4) of this subsection.

8 (b) The following investments are permissible under AS 06.55.501, but only
9 to the extent specified:

10 (1) an interest-bearing bill, note, bond, or debenture of a person whose
11 equity shares are traded on a national securities exchange or on a national over-the-
12 counter market, if the aggregate of investments under this paragraph does not exceed
13 20 percent of the total permissible investments of a licensee and the licensee does not
14 at one time hold investments under this paragraph in any one person aggregating more
15 than 10 percent of the licensee's total permissible investments;

16 (2) a share of a person traded on a national securities exchange or a
17 national over-the-counter market or a share or a certificate issued by an open-end
18 management investment company that is registered with the United States Securities
19 and Exchange Commission under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act
20 of 1940), and whose portfolio is restricted by the management company's investment
21 policy to shares of a person traded on a national securities exchange or a national over-
22 the-counter market, if the aggregate of investments under this paragraph does not
23 exceed 20 percent of the total permissible investments of a licensee and the licensee
24 does not at one time hold investments in any one person aggregating more than 10
25 percent of the licensee's total permissible investments;

26 (3) a demand-borrowing agreement made to a corporation or a
27 subsidiary of a corporation whose securities are traded on a national securities
28 exchange, if the aggregate of the amount of principal and interest outstanding under
29 demand-borrowing agreements under this paragraph does not exceed 20 percent of the
30 total permissible investments of a licensee and the licensee does not at one time hold
31 principal and interest outstanding under demand-borrowing agreements under this

1 paragraph with any one person aggregating more than 10 percent of the licensee's total
2 permissible investments; and

3 (4) any other investment the department designates, to the extent
4 specified by the department.

5 (c) The aggregate of investments under (b) of this section may not exceed 50
6 percent of the total permissible investments of a licensee calculated under
7 AS 06.55.501.

8 Article 6. Enforcement.

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

12 (1) the licensee violates this chapter or a regulation adopted or an order
13 issued under this chapter;

14 (2) the licensee does not cooperate with an examination or
15 investigation by the department;

16 (3) the licensee engages in fraud, intentional misrepresentation, or
17 gross negligence;

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

22 (5) the competence, experience, character, or general fitness of the
23 licensee, authorized delegate, person in control of a licensee, or responsible person of
24 the licensee or authorized delegate indicates that it is not in the public interest to
25 permit the person to provide money services;

26 (6) the licensee engages in an unsafe or unsound practice;

27 (7) the licensee is insolvent, suspends payment of its obligations, or
28 makes a general assignment for the benefit of its creditors; or

29 (8) the licensee does not remove an authorized delegate after the
30 department issues and serves upon the licensee a final order including a finding that
31 the authorized delegate has violated this chapter.

1 (b) In determining whether a licensee is engaging in an unsafe or unsound
2 practice, the department may consider the size and condition of the licensee's money
3 transmission, the magnitude of the loss, the gravity of the violation of this chapter, and
4 the previous conduct of the person involved.

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

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

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

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

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

16 (5) the competence, experience, character, or general fitness of the
17 authorized delegate or a person in control of the authorized delegate indicates that it is
18 not in the public interest to permit the authorized delegate to provide money services;
19 or

20 (6) the authorized delegate is engaging in an unsafe or unsound
21 practice.

22 (b) In determining whether an authorized delegate is engaging in an unsafe or
23 unsound practice, the department may consider the size and condition of the
24 authorized delegate's provision of money services, the magnitude of the loss, the
25 gravity of the violation of this chapter or a regulation adopted or order issued under
26 this chapter, and the previous conduct of the authorized delegate.

27 **Sec. 06.55.603. Orders to cease and desist.** (a) If the department determines
28 that a violation of this chapter or of a regulation adopted or an order issued under this
29 chapter by a licensee or authorized delegate is likely to cause immediate and
30 irreparable harm to the licensee, its customers, or the public as a result of the violation,
31 or cause insolvency or significant dissipation of assets of the licensee, the department

1 may issue an order requiring the licensee or authorized delegate to cease and desist
2 from the violation. The order becomes effective on service of it on the licensee or
3 authorized delegate.

4 (b) The department may issue an order against a licensee to cease and desist
5 from providing money services through an authorized delegate who is the subject of a
6 separate order by the department.

7 (c) An order to cease and desist remains effective and enforceable pending the
8 completion of an administrative proceeding under AS 06.55.601 or 06.55.602.

9 (d) A licensee or an authorized delegate who is served with an order to cease
10 and desist may petition the superior court for a judicial order setting aside, limiting, or
11 suspending the enforcement, operation, or effectiveness of the order pending the
12 completion of an administrative proceeding under AS 06.55.601 or 06.55.602.

13 (e) An order to cease and desist expires unless the department commences an
14 administrative proceeding under AS 06.55.601 or 06.55.602 within 10 days after it is
15 issued.

16 **Sec. 06.55.604. Consent orders.** The department may enter into a consent
17 order at any time with a person to resolve a matter arising under this chapter or a
18 regulation adopted or order issued under this chapter. A consent order shall be signed
19 by the person to whom it is issued or by the person's authorized representative and
20 must indicate agreement with the terms contained in the order. A consent order may
21 provide that it does not constitute an admission by a person that this chapter or a
22 regulation adopted or an order issued under this chapter has been violated.

23 **Sec. 06.55.605. Civil penalties.** The department may assess a civil penalty
24 against a person who violates this chapter or a regulation adopted or an order issued
25 under this chapter in an amount not to exceed \$1,000 each day for each day the
26 violation is outstanding.

27 **Sec. 06.55.606. Criminal penalties.** (a) A person who intentionally makes a
28 false statement, misrepresentation, or false certification in a record filed or required to
29 be maintained under this chapter or who intentionally makes a false entry or omits a
30 material entry in a record filed or required to be maintained under this chapter is guilty
31 of a class C felony.

1 (b) A person who knowingly engages in an activity for which a license is
2 required under this chapter without being licensed under this chapter and who receives
3 more than \$500 in compensation within a 30-day period from this activity is guilty of
4 a class C felony.

5 (c) A person who knowingly engages in an activity for which a license is
6 required under this chapter without being licensed under this chapter and who receives
7 no more than \$500 in compensation within a 30-day period from this activity is guilty
8 of a class A misdemeanor.

9 **Sec. 06.55.607. Unlicensed persons.** (a) If the department has reason to
10 believe that a person has violated or is violating AS 06.55.101 or 06.55.201, the
11 department may issue an order to show cause why an order to cease and desist should
12 not issue requiring that the person cease and desist from the violation of AS 06.55.101
13 or 06.55.201.

14 (b) In an emergency, the department may petition the superior court for the
15 issuance of a temporary restraining order.

16 (c) An order to cease and desist becomes effective upon service of it upon the
17 person.

18 (d) An order to cease and desist remains effective and enforceable pending the
19 completion of an administrative proceeding under AS 06.55.701 and 06.55.702.

20 (e) A person who is served with an order to cease and desist for violating
21 AS 06.55.101 or 06.55.201 may petition the superior court for a judicial order setting
22 aside, limiting, or suspending the enforcement, operation, or effectiveness of the order
23 pending the completion of an administrative proceeding under AS 06.55.701 and
24 06.55.702.

25 (f) An order to cease and desist expires unless the department commences an
26 administrative proceeding within 10 days after it is issued.

27 **Article 7. Administrative Procedures.**

28 **Sec. 06.55.701. Administrative proceedings.** All administrative proceedings
29 under this chapter shall be conducted under AS 44.62 (Administrative Procedure Act),
30 except that hearings shall be conducted by the office of administrative hearings
31 (AS 44.64.010).

1 **Sec. 06.55.702. Hearings.** (a) Except as otherwise provided in AS 06.55.603
2 and 06.55.607 and in (b) of this section, the department may not suspend or revoke a
3 license, place a licensee in receivership, issue an order to cease and desist, suspend or
4 revoke the designation of an authorized delegate, or assess a civil penalty without
5 notice and an opportunity to be heard. The department shall also hold a hearing when
6 requested to hold a hearing by an applicant whose application for a license is denied.

7 (b) Under AS 06.55.106(c) and 06.55.204(c), the department may suspend a
8 license without a hearing unless the licensee requests a hearing.

9 **Sec. 06.55.703. Investigative powers.** (a) In its investigations under this
10 chapter, the department may administer oaths or affirmations and, on its own motion
11 or on the request of a party to a proceeding, may subpoena witnesses, compel the
12 attendance of witnesses, take evidence, and require the production of material that is
13 relevant to the investigation, including the existence, description, nature, custody,
14 condition, and location of books, documents, and other tangible items, and the identity
15 and location of persons having knowledge of relevant facts or other material
16 reasonably calculated to lead to the discovery of admissible evidence.

17 (c) If a person fails without a lawful excuse to obey a subpoena, and after
18 reasonable notice to all persons affected by the failure, the department may apply to
19 the superior court for an order compelling the person to obey the subpoena.

20 **Article 8. Miscellaneous Provisions.**

21 **Sec. 06.55.801. Uniformity of application and construction.** In applying and
22 construing this chapter, consideration shall be given to the need to promote uniformity
23 of the law with respect to its subject matter among states that enact it.

24 **Sec. 06.55.802. Exclusions.** This chapter does not apply to

25 (1) the United States or a department, an agency, or an instrumentality
26 of the United States;

27 (2) money transmission by the United States Postal Service or by a
28 contractor on behalf of the United States Postal Service;

29 (3) a state, a municipality, a county, or another governmental agency
30 or governmental subdivision of a state;

31 (4) a bank, a bank holding company, an office of an international