

1 AN ACT

2 relating to the regulation of money services businesses; creating a
3 criminal offense; creating administrative penalties; authorizing
4 the imposition of a fee.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. MONEY SERVICES MODERNIZATION ACT

7 SECTION 1.01. Subtitle E, Title 3, Finance Code, is amended
8 by adding Chapter 152 to read as follows:

9 CHAPTER 152. REGULATION OF MONEY SERVICES BUSINESSES

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 152.001. SHORT TITLE. This chapter may be cited as the
12 Money Services Modernization Act.

13 Sec. 152.002. PURPOSE; CONSTRUCTION OF CHAPTER. (a) The
14 purposes of this chapter are to:

15 (1) protect the interests of purchasers of money
16 services and the public;

17 (2) preserve and protect the safety and soundness of
18 money services businesses; and

19 (3) protect against drug trafficking, terrorist
20 funding, money laundering, structuring, or related financial
21 crimes.

22 (b) In applying and construing this chapter, consideration
23 shall be given to the need to promote uniformity of the law with
24 respect to its subject matter among states that enact laws

1 substantially similar to this chapter.

2 Sec. 152.003. DEFINITIONS. In this chapter:

3 (1) "Acting in concert" means knowingly acting
4 together with a common goal of jointly acquiring control of a money
5 services licensee whether or not under an express agreement.

6 (2) "Authorized delegate" means a person designated by
7 a money transmission licensee to engage in money transmission
8 services on behalf of the licensee.

9 (3) "Average daily money transmission liability"
10 means the amount of a money services licensee's outstanding money
11 transmission obligations in this state at the end of each day in a
12 given period of time, added together, and divided by the total
13 number of days in the given period of time. For purposes of
14 calculating average daily money transmission liability under this
15 chapter as required by a money services licensee, the given period
16 of time shall be:

17 (A) the calendar quarters;

18 (B) a period described by this chapter; or

19 (C) any other period of time designated by the
20 commissioner during an examination.

21 (4) "Bank Secrecy Act" means the Bank Secrecy Act (31
22 U.S.C. Section 5311), and its implementing regulations.

23 (5) "Closed-loop stored value" means stored value that
24 is redeemable by the issuer only for goods or services provided by
25 the issuer, the issuer's affiliate, or a franchisee of the issuer or
26 the issuer's affiliate, except to the extent required by applicable
27 law to be redeemable in cash for its cash value.

1 (6) "Commission" means the Finance Commission of
2 Texas.

3 (7) "Commissioner" means the banking commissioner of
4 Texas or a person designated by the banking commissioner and acting
5 under the banking commissioner's direction and authority.

6 (8) "Control" means the power to:

7 (A) directly or indirectly vote at least 25
8 percent or more of the outstanding voting shares or voting
9 interests of a money services licensee or person in control of a
10 money services licensee;

11 (B) elect or appoint a majority of key
12 individuals or executive officers, managers, directors, trustees,
13 or other persons exercising managerial authority of a person in
14 control of a money services licensee; or

15 (C) directly or indirectly exercise a
16 controlling influence over the management or policies of a money
17 services licensee or person in control of a money services
18 licensee.

19 (9) "Currency" means the coin and paper money issued
20 by the United States or another country that is designated as legal
21 tender, circulates, and is customarily used and accepted as a
22 medium of exchange in the country of issuance.

23 (10) "Currency exchange" means receiving:

24 (A) the currency of one government and exchanging
25 it for the currency of another government; or

26 (B) a negotiable instrument, as defined by
27 Section 3.104, Business & Commerce Code, and exchanging it for the

1 currency of another government.

2 (11) "Currency exchange licensee" means a holder of a
3 currency exchange license under this chapter.

4 (12) "Department" means the Texas Department of
5 Banking.

6 (13) "Eligible rating" means a sufficiently high
7 credit rating given by an eligible rating service. If a security
8 has differing credit ratings given by multiple eligible rating
9 services, the highest rating shall apply when determining whether
10 the security has an eligible rating. For purposes of this
11 definition, a sufficiently high credit rating is a credit rating of
12 any of the three highest rating categories provided by an eligible
13 rating service, including:

14 (A) a long-term credit rating of A- or higher by
15 S&P Global;

16 (B) a short-term credit rating of A-2, SP-2, or
17 higher by S&P Global; or

18 (C) the relative equivalent rating from an
19 eligible rating service that does not have a rating described by
20 Paragraphs (A) and (B).

21 (14) "Eligible rating service" means:

22 (A) a Nationally Recognized Statistical Rating
23 Organization as defined by the United States Securities and
24 Exchange Commission; and

25 (B) any other organization designated by the
26 commissioner by rule or order.

27 (15) "Federally insured depository financial

1 institution" means a bank, credit union, savings and loan
2 association, trust company, savings association, savings bank,
3 industrial bank, or industrial loan company organized under the
4 laws of the United States or any state of the United States that has
5 federally insured deposits.

6 (16) "In this state" means:

7 (A) for a transaction requested in person, a
8 physical location within this state; or

9 (B) for a transaction requested electronically
10 or by phone, a determination that the person requesting the
11 transaction is in this state based on:

12 (i) information provided by the person
13 regarding:

14 (a) if the person is an individual,
15 the location of the individual's residential address; or

16 (b) if the person is a business
17 entity, the entity's principal place of business or other physical
18 address location; and

19 (ii) any records associated with the person
20 that the provider of money transmission has that indicate the
21 person's location, including an address associated with a person's
22 account.

23 (17) "Key individual" means an individual who is
24 ultimately responsible for establishing or directing policies and
25 procedures of a money services licensee, including an executive
26 officer, manager, director, or trustee.

27 (18) "Material litigation" means litigation that,

1 according to United States generally accepted accounting
2 principles, is significant to a person's financial health and would
3 be required to be disclosed in the person's annual audited
4 financial statements, report to shareholders, or similar records.

5 (19) "Money" or "monetary value" means currency or a
6 claim that can be converted into currency through a financial
7 institution, electronic payments network, or other formal or
8 informal payment system. The term includes stablecoin that:

9 (A) is pegged to a sovereign currency;

10 (B) is fully backed by assets held in reserve;

11 and

12 (C) grants a holder of the stablecoin the right
13 to redeem the stablecoin for sovereign currency from the issuer.

14 (20) "Money services" means money transmission
15 services or currency exchange services.

16 (21) "Money services licensee" means a holder of a
17 money transmission license or currency exchange license under this
18 chapter.

19 (22) "Money transmission":

20 (A) means:

21 (i) selling or issuing payment instruments
22 to a person located in this state;

23 (ii) selling or issuing stored value to a
24 person located in this state; or

25 (iii) receiving money for money
26 transmission services from a person located in this state;

27 (B) includes payroll processing services; and

1 (C) does not include the provision solely of
2 online or telecommunications services or network access.

3 (23) "Money transmission licensee" means a holder of a
4 money transmission license under this chapter.

5 (24) "MSB-accredited state" means a state agency that
6 is accredited by the Conference of State Bank Supervisors and Money
7 Transmitter Regulators Association for money transmission
8 licensing and supervision.

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

15 (26) "NMLS" means the Nationwide Multistate Licensing
16 System and Registry developed by the Conference of State Bank
17 Supervisors and the American Association of Residential Mortgage
18 Regulators and owned and operated by the State Regulatory Registry,
19 LLC, for the licensing and registration of persons in financial
20 services industries, or a successor or affiliated entity.

21 (27) "Outstanding money transmission obligation," as
22 established and extinguished in accordance with applicable state
23 law, means:

24 (A) a payment instrument or stored value:

25 (i) that has been:

26 (a) issued or sold by a money
27 transmission licensee to a person located in any state, territory,

1 or possession of the United States, the District of Columbia, the
2 Commonwealth of Puerto Rico, or a United States military
3 installation that is located in a foreign country; or

4 (b) reported as sold by an authorized
5 delegate to a person who is located in any state, territory, or
6 possession of the United States, the District of Columbia, the
7 Commonwealth of Puerto Rico, or a United States military
8 installation that is located in a foreign country; and

9 (ii) that has not been:

10 (a) paid or refunded by or for the
11 licensee; or

12 (b) escheated in accordance with
13 applicable abandoned property laws; or

14 (B) money received for money transmission
15 services by a money transmission licensee or an authorized delegate
16 from a person located in any state, territory, or possession of the
17 United States, the District of Columbia, the Commonwealth of Puerto
18 Rico, or a United States military installation that is located in a
19 foreign country that has not been:

20 (i) received by the payee or refunded to the
21 person; or

22 (ii) escheated in accordance with
23 applicable abandoned property laws.

24 (28) "Passive investor" means a person who:

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

1 person in control of a money services licensee;

2 (B) is not employed by and does not have any
3 managerial duties of a money services licensee or person in control
4 of a money services licensee;

5 (C) does not have the power to directly or
6 indirectly exercise a controlling influence over the management or
7 policies of a money services licensee or person in control of a
8 money services licensee; and

9 (D) either:

10 (i) attests to Paragraphs (A), (B), and (C)
11 in a form and medium prescribed by the commissioner; or

12 (ii) commits to the passivity
13 characteristics of Paragraphs (A), (B), and (C) in a written
14 document.

15 (29) "Patriot Act" means the Uniting and Strengthening
16 America by Providing Appropriate Tools Required to Intercept and
17 Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Pub. L.
18 No. 107-56).

19 (30) "Payment instrument" means a written or
20 electronic check, draft, money order, traveler's check, or other
21 written or electronic instrument for the transmission or payment of
22 money or monetary value, whether or not the instrument is
23 negotiable. The term does not include stored value or an instrument
24 that is:

25 (A) redeemable by the issuer only for goods or
26 services provided by the issuer, the issuer's affiliate, or a
27 franchisee of the issuer or the issuer's affiliate, except to the

1 extent required by applicable law to be redeemable in cash for its
2 cash value; or

3 (B) not sold to the public but issued and
4 distributed as part of a loyalty, rewards, or promotional program.

5 (31) "Payroll processing services" means receiving
6 money for money transmission services under a contract with a
7 person to deliver wages or salaries, make payment of payroll taxes
8 to state and federal agencies, make payments relating to an
9 employee benefit plan, or make distributions of other authorized
10 deductions from wages or salaries. The term does not include:

11 (A) an employer performing payroll processing
12 services on its own behalf or on behalf of its affiliate; or

13 (B) a professional employer organization subject
14 to regulation under other applicable state law.

15 (32) "Person" means an individual, general
16 partnership, limited partnership, limited liability company,
17 corporation, trust, association, joint stock corporation, or other
18 corporate entity identified by the commissioner.

19 (33) "Receiving money for money transmission" means
20 receiving money or monetary value in the United States for money
21 transmission services by electronic or other means that occurs
22 within or outside the United States.

23 (34) "Stored value" means monetary value representing
24 a claim against the issuer evidenced by an electronic or digital
25 record that is intended and accepted for use as a means of
26 redemption for money or monetary value or payment for goods or
27 services. The term includes prepaid access as defined by 31 C.F.R.

1 Section 1010.100(ww). The term does not include a payment
2 instrument, closed-loop stored value, or stored value not sold to
3 the public but issued and distributed as part of a loyalty, rewards,
4 or promotional program.

5 (35) "Tangible net worth" means the aggregate assets
6 of a money services licensee excluding all intangible assets, less
7 liabilities, as determined in accordance with United States
8 generally accepted accounting principles.

9 (36) "Unsafe or unsound act or practice" means a
10 practice of or conduct by a money services licensee or an authorized
11 delegate that:

12 (A) creates the likelihood of material loss,
13 insolvency, or dissipation of the licensee's assets; or

14 (B) otherwise materially prejudices the
15 interests of the licensee or the licensee's customers.

16 Sec. 152.004. EXEMPTIONS. This chapter does not apply to:

17 (1) an operator of a payment system to the extent that
18 the operator provides processing, clearing, or settlement
19 services, between or among persons exempted by this section or
20 money services licensees, in connection with wire transfers, credit
21 card transactions, debit card transactions, stored-value
22 transactions, automated clearing house transfers, or similar funds
23 transfers;

24 (2) a person appointed as an agent of a payee to
25 collect and process a payment from a payor to the payee for goods or
26 services, other than money transmission services, provided to the
27 payor by the payee, provided that:

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

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

6 (C) payment for the goods and services is treated
7 as received by the payee on receipt by the agent, the payor's
8 obligation is extinguished, and there is no risk of loss to the
9 payor if the agent fails to remit the funds to the payee;

10 (3) a person who acts as an intermediary by processing
11 payments between an entity that has directly incurred an
12 outstanding money transmission obligation to a sender, and the
13 sender's designated recipient, provided that the entity that has
14 incurred the outstanding money transmission obligation:

15 (A) is licensed or exempt from the licensing
16 requirements of this chapter;

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

20 (C) bears sole responsibility to satisfy the
21 outstanding money transmission obligation to the sender, including
22 the obligation to make the sender whole in connection with a failure
23 to transmit the funds to the sender's designated recipient;

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

27 (5) money transmission services by the United States

- 1 Postal Service or by an agent of the United States Postal Service;
2 (6) a state, county, city, or any other governmental
3 agency or governmental subdivision or instrumentality of a state,
4 or its agent;
5 (7) a federally insured depository financial
6 institution, bank holding company, office of an international
7 banking corporation, foreign bank that establishes a federal branch
8 under the International Banking Act of 1978 (12 U.S.C. Section
9 3102), corporation organized under the Bank Service Company Act (12
10 U.S.C. Sections 1861-1867), or corporation organized under the Edge
11 Act (12 U.S.C. Sections 611-633);
12 (8) a trust company, as defined by Section 187.001,
13 that is organized under the laws of this state;
14 (9) an attorney or title company that in connection
15 with a real property transaction receives and disburses domestic
16 currency or issues an escrow or trust fund check only on behalf of a
17 party to the transaction;
18 (10) an electronic funds transfer of governmental
19 benefits for a federal, state, county, or governmental agency by a
20 contractor on behalf of the United States or a department, agency,
21 or instrumentality of the United States, or on behalf of a state or
22 governmental subdivision, agency, or instrumentality of a state;
23 (11) a board of trade designated as a contract market
24 under the federal Commodity Exchange Act (7 U.S.C. Sections 1-25),
25 or a person who, in the ordinary course of business, provides
26 clearance and settlement services for a board of trade to the extent
27 of its operation as or for a board of trade;

1 (12) a registered futures commission merchant under
2 the federal commodities laws to the extent of its operation as such
3 a merchant;

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

7 (14) an individual employed by a money services
8 licensee, authorized delegate, or person exempted from the
9 licensing requirements of this chapter when acting within the scope
10 of employment and under the supervision of the licensee, authorized
11 delegate, or exempted person as an employee and not as an
12 independent contractor;

13 (15) a person expressly appointed as a third-party
14 service provider to or agent of an entity exempt under Subdivision
15 (7), solely to the extent that:

16 (A) the service provider or agent engages in
17 money transmission services on behalf of and under a written
18 agreement with the exempt entity that provides the specific
19 functions that the service provider or agent is to perform; and

20 (B) the exempt entity assumes all risk of loss
21 and all legal responsibility for satisfying the outstanding money
22 transmission obligations owed to purchasers and holders of the
23 outstanding money transmission obligations on receipt of the
24 purchaser's or holder's money or monetary value by the service
25 provider or agent; and

26 (16) a person exempt by a regulation or order of the
27 commissioner finding that:

1 (A) the exemption is in the public interest; and

2 (B) the regulation of the person is not necessary
3 for the purposes of this chapter.

4 Sec. 152.005. AUTHORITY TO REQUIRE DEMONSTRATION OF
5 EXEMPTION. The commissioner may require a person claiming to be
6 exempt from licensing under Section 152.004 to provide information
7 and documentation to the commissioner demonstrating that the person
8 qualifies for the exemption claimed.

9 Sec. 152.006. CENTRALIZED DIGITAL CURRENCY PROHIBITED.
10 This chapter does not authorize the creation of any centralized
11 bank digital currency or any other action that prohibits or limits
12 the use of paper currency.

13 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

14 Sec. 152.051. ADMINISTRATION. The department shall
15 administer this chapter.

16 Sec. 152.052. RULES; FEES. (a) The commission may adopt
17 rules to administer and enforce this chapter, including rules
18 necessary or appropriate to implement and clarify this chapter.

19 (b) The commission may by rule impose and collect
20 proportionate and equitable fees and costs for notices,
21 applications, examinations, investigations, and other actions
22 required to:

23 (1) recover the cost of:

24 (A) maintaining and operating the department;
25 and

26 (B) administering and enforcing this chapter and
27 other applicable law; and

1 (2) achieve the purposes of this chapter.

2 (c) The presence or absence of a specific reference in this
3 chapter to a rule regarding a particular subject is not intended to
4 and does not limit the general rulemaking authority granted to the
5 commission by this section.

6 Sec. 152.053. IMPLEMENTATION. The commissioner may,
7 subject to Sections 152.055(a) and (b):

8 (1) enter into agreements or relationships with other
9 government officials or federal and state regulatory agencies and
10 regulatory associations in order to improve efficiencies and reduce
11 regulatory burden by standardizing methods or procedures and
12 sharing resources, records, or related information obtained under
13 this chapter;

14 (2) use, hire, contract for, or employ analytical
15 systems, methods, or software to examine or investigate a person
16 subject to this chapter;

17 (3) accept from other state or federal government
18 agencies or officials licensing, examination, or investigation
19 reports made by the other state or federal government agencies or
20 officials; and

21 (4) accept audit reports made by an independent
22 certified public accountant or other qualified third-party auditor
23 for an applicant or money services licensee and incorporate the
24 audit report in a report of examination or investigation.

25 Sec. 152.054. COMMISSIONER'S GENERAL AUTHORITY. (a) A
26 power granted to the commissioner under this chapter is in addition
27 to and does not limit another power granted under this chapter or

1 other law. The commissioner's exercise of authority under another
2 law does not preclude the commissioner from exercising a power
3 under this chapter.

4 (b) The commissioner may impose on an authority, approval,
5 exemption, license, or order issued or granted under this chapter
6 any condition the commissioner considers reasonably necessary or
7 appropriate to carry out and achieve the purposes of this chapter.

8 Sec. 152.055. CONFIDENTIALITY. (a) Except as provided by
9 Subsection (b), the following are confidential and not subject to
10 disclosure under Chapter 552, Government Code:

11 (1) all information or reports obtained by the
12 commissioner from an applicant, money services licensee, or
13 authorized delegate;

14 (2) all information contained in or related to an
15 examination, investigation, operating report, or condition report
16 prepared by, on behalf of, or for the use of the commissioner; and

17 (3) financial statements, balance sheets, or
18 authorized delegate information.

19 (b) The commissioner may disclose information not otherwise
20 subject to disclosure under Subsection (a):

21 (1) to representatives of state or federal agencies
22 who affirm in a record that the representatives will maintain the
23 confidentiality of the information; or

24 (2) when the commissioner finds that the disclosure is
25 reasonably necessary for the protection and interest of the public
26 in accordance with Chapter 552, Government Code.

27 (c) This section does not prohibit the commissioner from

1 disclosing to the public a list of all money services licensees or
2 the aggregated financial or transactional data concerning those
3 licensees.

4 (d) The following information for each money services
5 licensee contained in the records of the department is not
6 confidential and may be made available to the public in its entirety
7 on the department's Internet website or in the NMLS, or as
8 responsive on receipt by the department of a written request:

9 (1) the name, business address, telephone number, and
10 unique identifier of the licensee;

11 (2) the business address of the licensee's registered
12 agent for service;

13 (3) the name, business address, and telephone number
14 of each authorized delegate for the licensee, if applicable;

15 (4) the terms of or a copy of any bond filed by the
16 licensee, provided that confidential information under Subsection
17 (a), including prices and fees for the bond, is redacted;

18 (5) copies of any nonconfidential final orders of the
19 department relating to a violation of this chapter or a regulation
20 implementing this chapter; and

21 (6) notice of the imposition of an administrative fine
22 or penalty under this chapter.

23 Sec. 152.056. INVESTIGATIONS. (a) The commissioner may
24 conduct investigations in or outside this state and the United
25 States as the commissioner considers necessary or appropriate to
26 administer and enforce this chapter.

27 (b) For purposes of an investigation, examination, or other

1 proceeding under this chapter, the commissioner may:

2 (1) administer oaths or cause oaths to be
3 administered;

4 (2) subpoena witnesses;

5 (3) compel the attendance of witnesses;

6 (4) take evidence; and

7 (5) require the production of any document that the
8 commissioner determines to be relevant to the inquiry.

9 (c) If a person refuses to obey a subpoena, a district court
10 of Travis County, on application by the commissioner, may issue an
11 order requiring the person to appear before the commissioner and
12 produce documents or give evidence regarding the matter under
13 investigation.

14 (d) The commissioner may employ a person or request the
15 attorney general, the Department of Public Safety, or any other
16 state, federal, or local law enforcement agency to assist in
17 enforcing this chapter.

18 (e) The commissioner may recover the reasonable costs
19 incurred in connection with an investigation conducted under this
20 chapter from the person that is the subject of the investigation.

21 Sec. 152.057. SUPERVISION. (a) The commissioner may
22 conduct an examination or investigation of a money services
23 licensee or authorized delegate or otherwise take independent
24 action authorized by this chapter or by a rule adopted or order
25 issued under this chapter as reasonably necessary or appropriate to
26 administer and enforce this chapter, regulations implementing this
27 chapter, and other applicable law, including the Bank Secrecy Act

1 and the Patriot Act.

2 (b) The commissioner may:

3 (1) conduct an examination on-site or off-site as the
4 commissioner may reasonably require;

5 (2) conduct an examination in conjunction with an
6 examination conducted by representatives of other state agencies or
7 agencies of another state or of the federal government;

8 (3) accept the examination report of another state
9 agency or an agency of another state or of the federal government,
10 or a report prepared by an independent accounting firm; and

11 (4) summon and examine under oath a key individual or
12 employee of a money services licensee or authorized delegate and
13 require the person to produce records regarding a matter related to
14 the condition and business of the licensee or authorized delegate.

15 (c) If the commissioner accepts a report under Subsection
16 (b)(3), the report is considered for all purposes an official
17 report of the commissioner.

18 (d) A money services licensee or authorized delegate shall
19 provide, and the commissioner shall have full and complete access
20 to, all records the commissioner may reasonably require to conduct
21 a complete examination. Records must be provided at the location
22 and in the format specified by the commissioner, provided the
23 commissioner may use multistate record production standards and
24 examination procedures when those standards will reasonably
25 achieve the requirements of this section.

26 (e) Unless otherwise directed by the commissioner, a money
27 services licensee shall pay all costs reasonably incurred in

1 connection with an examination of the licensee or an authorized
2 delegate of the licensee.

3 Sec. 152.058. NETWORKED SUPERVISION. (a) To efficiently
4 and effectively administer and enforce this chapter and to minimize
5 regulatory burden, the commissioner may participate in multistate
6 supervisory processes established between states and coordinated
7 through the Conference of State Bank Supervisors, Money Transmitter
8 Regulators Association, and affiliates and successors of those
9 entities for all money services licensees that hold licenses in
10 this state and other states.

11 (b) If the commissioner participates in multistate
12 supervision, the commissioner shall:

13 (1) cooperate, coordinate, and share information with
14 other state and federal regulators in accordance with Section
15 152.055(b);

16 (2) enter into written cooperation, coordination, or
17 information-sharing contracts or agreements with organizations
18 made up of state or federal governmental agencies; and

19 (3) cooperate, coordinate, and share information with
20 organizations made up of state or federal governmental agencies, if
21 the organizations agree in writing to maintain the confidentiality
22 and security of the shared information in accordance with Section
23 152.055.

24 (c) The commissioner may not waive, and nothing in this
25 section constitutes a waiver of, the commissioner's authority to
26 conduct an examination or investigation or otherwise take
27 independent action authorized by this chapter or a rule adopted or

1 order issued under this chapter to enforce compliance with
2 applicable state or federal law.

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

6 Sec. 152.059. RELATIONSHIP TO FEDERAL LAW. (a) If state
7 money transmission jurisdiction is conditioned in federal law, any
8 inconsistency between a provision of this chapter and the federal
9 law governing money transmission shall be governed by the
10 applicable federal law to the extent of the inconsistency.

11 (b) In the event of any inconsistency between this chapter
12 and federal law that governs under Subsection (a), the commissioner
13 may provide interpretive guidance that:

14 (1) identifies the inconsistency; and
15 (2) prescribes the appropriate means of compliance
16 with federal law.

17 Sec. 152.060. CONSENT TO SERVICE OF PROCESS. A money
18 services licensee, an authorized delegate, or a person who
19 knowingly engages in activities that are regulated and require a
20 license under this chapter, with or without filing an application
21 for a license or holding a license under this chapter, is considered
22 to have consented to the jurisdiction of the courts of this state
23 for all actions arising under this chapter.

24 Sec. 152.061. PRESUMPTION OF CONTROL. (a) A person is
25 presumed to exercise a controlling influence over a money services
26 licensee if the person holds the power to directly or indirectly
27 vote not less than 10 percent of the outstanding voting shares or

1 voting interests of a money services licensee or person in control
2 of a money services licensee.

3 (b) The presumption under Subsection (a) may be rebutted by
4 evidence that the person who is presumed to exercise a controlling
5 influence under Subsection (a) is a passive investor.

6 (c) For purposes of determining the percentage of a money
7 services licensee controlled by a person, the person's interest
8 shall be aggregated with the interest of any person:

9 (1) related within the second degree of consanguinity
10 or affinity, other than a person's grandparent or grandchild; or

11 (2) who shares the person's home.

12 SUBCHAPTER C. MONEY SERVICES LICENSES

13 Sec. 152.101. MONEY TRANSMISSION LICENSE REQUIRED. (a) A
14 person may not engage in the business of money transmission or
15 advertise, solicit, or hold itself out as engaging in the business
16 of money transmission unless the person is licensed under this
17 chapter.

18 (b) For the purposes of this chapter, a person engages in
19 the business of money transmission if the person receives
20 compensation or expects to receive compensation, directly or
21 indirectly, for conducting money transmission.

22 (c) Subsection (a) does not apply to a person who:

23 (1) is an authorized delegate of a money transmission
24 licensee acting within the scope of authority conferred by a
25 written contract with the licensee;

26 (2) is exempt under Section 152.004 and does not
27 engage in money transmission outside the scope of the applicable

1 exemption; or

2 (3) has been granted an exemption under Subsection
3 (e).

4 (d) A license issued under Section 152.106 is not
5 transferable or assignable.

6 (e) On receiving an application and finding that the
7 exemption is in the public interest, the commissioner may exempt a
8 person who:

9 (1) incidentally engages in the business of money
10 transmission only to the extent reasonable and necessary to
11 accomplish a primary business objective unrelated to the business
12 of money transmission;

13 (2) does not advertise or offer money transmission to
14 the public except to the extent reasonable and necessary to fairly
15 advertise or offer the person's primary business services; and

16 (3) transmits money without a fee as an inducement for
17 customer participation in the person's primary business.

18 (f) In accordance with the investigation provisions of this
19 chapter, the commissioner may examine a person to verify the
20 person's exempt status under Subsection (e).

21 Sec. 152.102. CURRENCY EXCHANGE LICENSE REQUIRED. (a) A
22 person may not engage in the business of currency exchange or
23 advertise, solicit, or hold itself out as providing currency
24 exchange unless the person is licensed under this chapter.

25 (b) For the purposes of this chapter, a person engages in
26 the business of currency exchange services if the person receives
27 compensation or expects to receive compensation, directly or

1 indirectly, for conducting currency exchange services.

2 (c) Subsection (a) does not apply to a person who:

3 (1) is a money transmission licensee;

4 (2) is an authorized delegate of a money transmission
5 licensee acting within the scope of authority conferred by a
6 written contract with the licensee;

7 (3) is exempt under Section 152.004 and does not
8 engage in currency exchange services outside the scope of the
9 applicable exemption; or

10 (4) has been granted an exemption under Subsection
11 (e).

12 (d) A license issued under Section 152.106 is not
13 transferable or assignable.

14 (e) On receiving an application and finding that the
15 exemption is in the public interest, the commissioner may exempt a
16 retailer, wholesaler, or service provider that in the ordinary
17 course of business accepts currency of a foreign country or
18 government as payment for goods or services, unless:

19 (1) the value of the goods or services purchased in a
20 single transaction with the retailer, wholesaler, or service
21 provider exceeds \$10,000;

22 (2) the change given or made as a result of the
23 transaction with the retailer, wholesaler, or service provider
24 exceeds \$100;

25 (3) the person attempts to structure the transaction
26 in a manner that evades the licensing requirements of this chapter
27 or avoids using a money services licensee under this chapter;

1 (4) the person is engaged in the business of cashing
2 checks, drafts, or other payment instruments for consideration and
3 is not otherwise exempt from licensing under this chapter; or

4 (5) the person would not be eligible for a license
5 under this chapter.

6 (f) In accordance with the investigation provisions of this
7 chapter, the commissioner may examine a person to verify the
8 person's exempt status under Subsection (e).

9 (g) A currency exchange licensee may engage in the business
10 of currency exchange services at one or more locations in this state
11 directly or indirectly owned by the licensee under a single
12 license.

13 Sec. 152.103. CONSISTENT STATE LICENSING. (a) The
14 commissioner may require that a person submit through the NMLS in
15 the form and manner prescribed by the commissioner and acceptable
16 to the registry any information or document or payment of a fee
17 required to be submitted under this chapter or rules adopted under
18 this chapter.

19 (b) The commissioner may use the NMLS as a channeling agent
20 for obtaining information required for licensing purposes under
21 this chapter or rules adopted under this chapter, including:

22 (1) criminal history record information from the
23 Federal Bureau of Investigation, the United States Department of
24 Justice, or any other agency or entity at the commissioner's
25 discretion;

26 (2) information related to any administrative, civil,
27 or criminal findings by a governmental jurisdiction; and

1 (3) information requested by the commissioner under
2 Section 152.104(a)(10) or (c)(13).

3 Sec. 152.104. APPLICATION FOR MONEY SERVICES LICENSE. (a)
4 An applicant for a money services license shall apply in a form and
5 medium prescribed by the commissioner. The application must
6 contain:

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

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

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

17 (4) a list of the applicant's proposed authorized
18 delegates and the locations in this state where the applicant and
19 the applicant's authorized delegates propose to engage in money
20 transmission, if applicable;

21 (5) a list of other states in which the applicant is
22 licensed to engage in money services, and any license revocations,
23 suspensions, or other disciplinary action taken against the
24 applicant in another state;

25 (6) information concerning any bankruptcy or
26 receivership proceedings affecting the applicant or a person in
27 control of the applicant;

1 (7) a sample form of contract for authorized
2 delegates, if applicable;

3 (8) a sample form of payment instrument or stored
4 value, if applicable;

5 (9) the name and address of any federally insured
6 depository financial institution through which the applicant plans
7 to conduct licensable activity; and

8 (10) any other information the commissioner
9 reasonably requires with respect to the applicant.

10 (b) A form adopted by the commissioner under Subsection (a)
11 must contain content as provided by commission rule or instruction
12 or procedure of the commissioner and may be changed or updated by
13 the commissioner in accordance with applicable law in order to
14 carry out the purposes of this chapter and maintain consistency
15 with NMLS licensing standards and practices.

16 (c) If an applicant is a corporation, limited liability
17 company, partnership, or other legal entity, the applicant shall
18 also provide:

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

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

24 (3) a brief description of the structure or
25 organization of the applicant, including any parent entity or
26 subsidiary of the applicant, and whether any parent entity or
27 subsidiary is publicly traded;

1 (4) the legal name, any fictitious or trade name, all
2 business and residential addresses, and the employment, as
3 applicable, of each key individual and person in control of the
4 applicant in the 10-year period preceding the submission of the
5 application;

6 (5) a list of any criminal convictions and material
7 litigation in which a person in control of the applicant that is not
8 an individual has been involved in the 10-year period preceding the
9 submission of the application;

10 (6) if the application is for a money transmission
11 license, a copy of audited financial statements of the applicant
12 for the most recent fiscal year and for the two-year period
13 preceding the submission of the application;

14 (7) if the application is for a currency exchange
15 license, or if the application is for a money transmission license
16 and the commissioner otherwise determines it to be acceptable,
17 certified unaudited financial statements for the most recent fiscal
18 year or other period acceptable to the commissioner;

19 (8) a certified copy of unaudited financial statements
20 of the applicant for the most recent fiscal quarter;

21 (9) if the applicant is a publicly traded corporation,
22 a copy of the most recent report filed with the United States
23 Securities and Exchange Commission under Section 13, Securities
24 Exchange Act of 1934 (15 U.S.C. Section 78m);

25 (10) if the applicant is a wholly owned subsidiary of a
26 corporation publicly traded in the United States, a copy of audited
27 financial statements for the parent corporation for the most recent

1 fiscal year or a copy of the parent corporation's most recent report
2 filed under Section 13, Securities Exchange Act of 1934 (15 U.S.C.
3 Section 78m);

4 (11) if the applicant is a corporation publicly traded
5 outside the United States, a copy of documentation similar to the
6 documentation required under Subdivision (10) filed with the
7 regulator of the parent corporation's domicile outside the United
8 States;

9 (12) the name and address of the applicant's
10 registered agent in this state; and

11 (13) any other information the commissioner
12 reasonably requires with respect to the applicant.

13 (d) At the time an application for a license under this
14 section is submitted, an applicant must file with the department a
15 nonrefundable application fee in the amount established by
16 commission rule.

17 (e) The commissioner may waive one or more requirements of
18 Subsections (a) and (c) or permit an applicant to submit other
19 information in lieu of the information required by this section.

20 Sec. 152.105. INFORMATION REQUIREMENTS FOR CERTAIN
21 INDIVIDUALS. (a) In addition to the requirements of Section
22 152.104, an applicant shall provide additional information to the
23 commissioner if the applicant is an individual who:

24 (1) is in control of a money services licensee or
25 applicant;

26 (2) seeks to acquire control of a money services
27 licensee; or

1 (3) is a key individual.

2 (b) Additional information provided to the commissioner by
3 an individual under this section must include the individual's:

4 (1) fingerprints for submission to the Federal Bureau
5 of Investigation and the commissioner for purposes of a national
6 criminal history background check unless the person currently
7 resides outside of the United States and has resided outside of the
8 United States for the 10-year period preceding the submission of
9 the application; and

10 (2) personal history and experience, in a form and
11 medium prescribed by the commissioner, that contains the following
12 information:

13 (A) if the individual has a social security
14 number, an independent credit report for the individual from a
15 consumer reporting agency;

16 (B) information related to any criminal
17 convictions or pending charges against the individual; and

18 (C) information related to any regulatory or
19 administrative action and any civil litigation against the
20 individual involving claims of fraud, misrepresentation,
21 conversion, mismanagement of funds, breach of fiduciary duty, or
22 breach of contract.

23 (c) If an individual to whom this section applies has
24 resided outside of the United States at any time in the preceding 10
25 years, the individual shall also provide an investigative
26 background report prepared by an independent search firm that at a
27 minimum:

1 (1) demonstrates that the search firm:

2 (A) has sufficient knowledge and resources and
3 employs accepted and reasonable methodologies to conduct the
4 research of the background report; and

5 (B) is not affiliated with and does not have an
6 interest with the individual being researched; and

7 (2) is written in the English language and contains
8 the following information:

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

15 (B) criminal records information for the past 10
16 years, including felonies, misdemeanors, or similar convictions
17 for violations of law in the countries, provinces, states, cities,
18 towns, and contiguous areas where the individual resided and
19 worked;

20 (C) employment history;

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

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

27 Sec. 152.106. ISSUANCE OF LICENSE. (a) An application for

1 a license under this chapter that appears to include all the items
2 and address all of the matters that are required under Sections
3 152.104 and 152.105 is considered complete and the commissioner
4 shall promptly notify the applicant in writing of the date on which
5 the application is determined to be complete.

6 (b) The commissioner shall approve or deny the application
7 not later than the 120th day after the date the application is
8 determined to be complete under Subsection (a). If the application
9 is not approved or denied within 120 days after the completion date,
10 the application is approved and the license takes effect on the
11 first business day after expiration of the 120-day period. The
12 commissioner may extend the application approval period for good
13 cause.

14 (c) A determination by the commissioner under Subsection
15 (a) that an application is complete and is accepted for processing
16 is not an assessment of the substance of the application or of the
17 sufficiency of the information provided, and means only that the
18 application, on its face, appears to include all of the items,
19 including the national criminal history background check response
20 from the Federal Bureau of Investigation under Section 152.105(b),
21 and address all of the matters that are required under Sections
22 152.104 and 152.105.

23 (d) When an application is filed and considered complete
24 under this section, the commissioner shall investigate the
25 applicant's financial condition and responsibility, financial and
26 business experience, character, and general fitness. The
27 commissioner may conduct an on-site investigation of the applicant,

1 the reasonable cost of which the applicant must pay.

2 (e) The commissioner shall issue a license to an applicant
3 under this section if the commissioner finds that:

4 (1) the applicant has complied with Sections 152.104
5 and 152.105; and

6 (2) it is in the interest of the public to permit the
7 applicant to engage in money transmission services, currency
8 exchange services, or both, considering:

9 (A) the financial condition and responsibility,
10 financial and business experience, competence, character, and
11 general fitness of the applicant; and

12 (B) the experience, competence, character, and
13 general fitness of the key individuals and persons in control of the
14 applicant.

15 (f) If an applicant participates in or is subject to a
16 multistate licensing process:

17 (1) the commissioner may accept the investigation
18 results of a lead investigative state for the purpose of Subsection
19 (d) if the lead investigative state has sufficient staffing,
20 expertise, and minimum standards; or

21 (2) if this state is a lead investigative state, the
22 commissioner may investigate the applicant under Subsection (d) and
23 the time frames established by agreement through the multistate
24 licensing process, provided that the time frame complies with the
25 period in Subsection (b).

26 (g) If the commissioner finds that the applicant fails to
27 meet the qualifications or satisfy the requirements for the license

1 for which application is made, the commissioner shall inform the
2 applicant in writing that the application is denied and state the
3 reasons for the denial. The applicant may appeal the denial by
4 filing a written request for a hearing with the commissioner not
5 later than the 30th day after the date the notice is mailed. A
6 hearing on the denial must be held not later than the 45th day after
7 the date the commissioner receives the written request unless the
8 administrative law judge extends the period for good cause or the
9 parties agree to a later hearing date. The hearing is considered a
10 contested case hearing and is subject to Section 152.451.

11 (h) Except as provided by Subsection (b), the license takes
12 effect on the day the application is approved.

13 Sec. 152.107. MAINTENANCE OF LICENSE. (a) If a money
14 services licensee does not continue to meet the qualifications or
15 satisfy the requirements that apply to an applicant for a money
16 services license, the commissioner may suspend or revoke the
17 licensee's license in accordance with the procedures established by
18 this chapter or other applicable state law governing suspension or
19 revocation.

20 (b) An applicant for a money transmission license must
21 demonstrate that it meets or will meet the requirements in Sections
22 152.351, 152.352, 152.354, and 152.355. A money transmission
23 licensee must at all times continue to meet the requirements of
24 those sections.

25 (c) An applicant for a currency exchange license must
26 demonstrate that it meets or will meet the requirements in Sections
27 152.353, 152.354, and 152.355. A currency exchange licensee must

1 at all times continue to meet the requirements of those sections.

2 (d) In addition to complying with the requirements of
3 Subsection (a) and, as applicable, Subsection (b) or (c), a money
4 services licensee must annually:

5 (1) pay a license fee in an amount established by
6 commission rule; and

7 (2) submit a report under oath in the form and medium
8 prescribed by the commissioner that contains the following
9 information:

10 (A) if the licensee is a money transmission
11 licensee, an audited, unconsolidated financial statement dated as
12 of the last day of the money transmission licensee's fiscal year
13 that ended in the immediately preceding calendar year;

14 (B) if the licensee is a currency exchange
15 licensee, a financial statement, audited or unaudited, dated as of
16 the last day of the currency exchange licensee's fiscal year that
17 ended in the immediately preceding calendar year; and

18 (C) documentation and certification, or any
19 other information the commissioner reasonably requires to
20 determine:

21 (i) the security, net worth, permissible
22 investments, and other requirements the money services licensee
23 must satisfy; and

24 (ii) whether the money services licensee
25 continues to meet the qualifications and requirements for
26 licensure.

27 (e) If the department does not receive a money services

1 licensee's annual license fee and complete annual report under
2 Subsection (d) on or before the due date prescribed by the
3 commissioner under this section, the commissioner shall notify the
4 money services licensee in writing that the money services licensee
5 must:

6 (1) submit the report and pay the license fee not later
7 than the 45th day after the due date prescribed by the commissioner;
8 and

9 (2) pay a late fee, in an amount established by
10 commission rule and not subject to appeal, for each business day
11 after the due date specified by the commissioner that the
12 commissioner does not receive the completed report and license fee.

13 (f) If the money services licensee fails to submit the
14 completed annual report and pay the annual license fee and any late
15 fee due within the time prescribed by Subsection (e), the license
16 expires, and the money services licensee must cease and desist from
17 engaging in the business of money services as of that date. The
18 expiration of a license under this section is not subject to appeal.

19 (g) On timely receipt of a money services licensee's
20 complete annual report, annual license fee, and any late fee due,
21 the department shall review the report and, if necessary,
22 investigate the business and records of the money services
23 licensee. On completion of the review and investigation, if any,
24 the commissioner may:

25 (1) impose conditions on the license the commissioner
26 considers reasonably necessary or appropriate; or

27 (2) suspend or revoke the license on the basis of a

1 ground specified in Section 152.403.

2 (h) On written application and for good cause shown, the
3 commissioner may extend the due date for filing the annual license
4 fee and annual report required under this section.

5 (i) The holder, principal, or person in control of the
6 holder of a license issued under this chapter that has expired or
7 that the holder has surrendered under Section 152.108 that wishes
8 to conduct activities for which a license is required under this
9 chapter must file a new license application under Section 152.104
10 and satisfy all requirements for licensure that apply at the time
11 the new application is filed.

12 Sec. 152.108. SURRENDER OF LICENSE. (a) A money services
13 licensee may surrender the licensee's license by delivering the
14 original license to the commissioner along with a written notice of
15 surrender that includes the location at which the licensee's
16 records will be stored and the name, address, telephone number, and
17 other contact information for an individual who is authorized to
18 provide access to the records.

19 (b) A money services licensee shall surrender the
20 licensee's license under this section if the licensee becomes
21 ineligible for a license issued under this chapter.

22 (c) The surrender of a license does not reduce or eliminate
23 a money services licensee's civil or criminal liability arising
24 from any acts or omissions before the surrender of the license,
25 including any administrative action undertaken by the commissioner
26 to revoke or suspend a license, assess an administrative penalty,
27 order the payment of restitution, or exercise any other authority

1 under this chapter. Further, the surrender of a license does not
2 release the security required of a licensee under Section 152.352
3 or 152.353.

4 Sec. 152.109. REFUND OF FEE OR COST PAID BY MONEY SERVICES
5 LICENSEE. A fee or cost paid by a money services licensee under
6 this chapter is not refundable.

7 SUBCHAPTER D. ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

8 Sec. 152.151. ACQUISITION OF CONTROL. (a) A person or
9 group of persons acting in concert seeking to acquire control of a
10 money services licensee must obtain written approval from the
11 commissioner before acquiring control. An individual is not
12 considered to acquire control of a money services licensee and is
13 not subject to the acquisition of control provisions of this
14 subchapter if that individual becomes a key individual in the
15 ordinary course of business.

16 (b) A person or group of persons acting in concert seeking
17 to acquire control of a money services licensee shall, in
18 cooperation with the licensee, submit:

19 (1) an application in a form and medium prescribed by
20 the commissioner; and

21 (2) a nonrefundable fee in the amount established by
22 commission rule.

23 (c) On request, the commissioner may permit a money services
24 licensee or the person or group of persons acting in concert to
25 submit some or all information required by the commissioner under
26 Subsection (b)(1) without using the NMLS.

27 (d) The application required by Subsection (b)(1) must

1 include information required by Section 152.105 for any new key
2 individual that has not previously completed the requirements of
3 Section 152.105 for the money services licensee.

4 (e) When an application for acquisition of control under
5 this section appears to include all the items and address all of the
6 matters that are required, the application is considered complete
7 and the commissioner shall promptly notify the applicant in writing
8 of the date on which the application was determined to be complete.

9 (f) The commissioner shall approve or deny the application
10 not later than the 60th day after the completion date. If the
11 application is not approved or denied before the 61st day after the
12 completion date, the application is approved and the person or
13 group of persons acting in concert are not prohibited from
14 acquiring control. The commissioner may extend the application
15 period for good cause.

16 (g) A determination by the commissioner under Subsection
17 (e) that an application is complete and is accepted for processing
18 is not an assessment of the substance of the application or of the
19 sufficiency of the information provided. That determination means
20 only that the application, on its face, appears to include all of
21 the items and address all of the matters that are required under
22 Subsection (b).

23 (h) When an application is filed and considered complete
24 under Subsection (e), the commissioner shall investigate the
25 financial condition and responsibility, financial and business
26 experience, character, and general fitness of the person or group
27 of persons acting in concert seeking to acquire control.

1 (i) The commissioner shall approve an acquisition of
2 control under this section if the commissioner finds that:

3 (1) the requirements of Subsections (b) and (d) have
4 been met, as applicable; and

5 (2) it is in the interest of the public to permit the
6 person or group of persons acting in concert to control the money
7 services licensee, considering:

8 (A) the financial condition and responsibility,
9 financial and business experience, competence, character, and
10 general fitness of the person or group of persons acting in concert
11 seeking to acquire control; and

12 (B) the experience, competence, character, and
13 general fitness of the key individuals and persons that would be in
14 control of the money services licensee after the acquisition of
15 control.

16 (j) If an applicant participates in or is subject to a
17 multistate licensing process:

18 (1) the commissioner may accept the investigation
19 results of a lead investigative state for the purpose of Subsection
20 (h) if the lead investigative state has sufficient staffing,
21 expertise, and minimum standards; or

22 (2) if this state is a lead investigative state, the
23 commissioner may investigate the applicant under Subsection (h) and
24 the time frames established by agreement through the multistate
25 licensing process, provided that the time frame complies with the
26 period in Subsection (f).

27 (k) If the commissioner determines that a proposed person in

1 control fails to meet the qualifications or satisfy the
2 requirements of this chapter, the commissioner shall inform the
3 money services licensee and the proposed person in control in
4 writing that the application is denied and state the reasons for the
5 denial. The money services licensee or the proposed person in
6 control may appeal the denial by filing a written request for a
7 hearing with the commissioner not later than the 30th day after the
8 date the notice is mailed. A hearing on the denial must be held not
9 later than the 45th day after the date the commissioner receives the
10 written request unless the administrative law judge extends the
11 period for good cause or the parties agree to a later hearing date.
12 The hearing is considered a contested case hearing and is subject to
13 Section 152.451.

14 (1) The requirements of Subsections (a) and (b) do not apply
15 to:

16 (1) a person who acts as a proxy for the sole purpose
17 of voting at a designated meeting of the shareholders or holders of
18 voting shares or voting interests of a money services licensee or a
19 person in control of a money services licensee;

20 (2) a person who acquires control of a money services
21 licensee by devise or descent;

22 (3) a person who acquires control of a money services
23 licensee as a personal representative, custodian, guardian,
24 conservator, or trustee, or as an officer appointed by a court of
25 competent jurisdiction or by operation of law;

26 (4) a person who is exempt under Section 152.004(7);

27 (5) a person who the commissioner determines is not

1 subject to Subsection (a) based on the public interest;

2 (6) a public offering of securities of a money
3 services licensee or a person in control of a money services
4 licensee; or

5 (7) an internal reorganization of a person in control
6 of the money services licensee resulting in the same person
7 remaining in control of the licensee.

8 (m) A person to whom Subsections (a) and (b) do not apply
9 under Subsection (1)(2), (3), (4), (6), or (7) shall, in
10 cooperation with the money services licensee, notify the
11 commissioner not later than the 15th day after the date of the
12 acquisition of control of the person's grounds for not complying
13 with Subsection (a) or (b).

14 Sec. 152.152. STREAMLINED ACQUISITION OF CONTROL. (a) The
15 requirements of Section 152.151 do not apply to a person who has
16 complied with and received approval to engage in money services
17 under this chapter or was identified as a person in control in a
18 previous application filed with and approved by the commissioner or
19 by an MSB-accredited state under a multistate licensing process,
20 provided that:

21 (1) the person has not:

22 (A) had a money services license revoked or
23 suspended; or

24 (B) controlled a money services licensee that has
25 had a money services license revoked or suspended while the person
26 was in control of the licensee in the previous five years;

27 (2) if the person is a money services licensee, the

1 person:

2 (A) is well managed; and

3 (B) if a rating for compliance has been given to
4 the person by an MSB-accredited state, received a satisfactory
5 rating in its most recent examination;

6 (3) in the case of a money transmission licensee, the
7 person to be acquired and the person acquiring control are both
8 money transmission licensees projected to meet the requirements of
9 Sections 152.351, 152.352, 152.354, and 152.355 after the
10 acquisition of control is completed;

11 (4) in the case of a currency exchange licensee, the
12 person to be acquired and the person acquiring control are both
13 currency exchange licensees projected to meet the requirements of
14 Sections 152.353 and 152.354 after the acquisition of control is
15 completed;

16 (5) the money services licensee to be acquired will
17 not implement any material changes to the licensee's business plan
18 as a result of the acquisition of control, and if the person
19 acquiring control is a money services licensee, the acquiring
20 licensee also will not implement any material changes to its
21 business plan as a result of the acquisition of control; and

22 (6) the person provides notice of the acquisition in
23 cooperation with the money services licensee and attests to
24 Subdivisions (1) through (5), as applicable, in a form and medium
25 prescribed by the commissioner.

26 (b) If the notice under Subsection (a)(6) is not disapproved
27 before the 31st day after the date on which the notice was

1 determined to be complete, the notice is considered approved.

2 (c) Before filing an application for approval to acquire
3 control of a money services licensee, a person may request in
4 writing a determination from the commissioner as to whether the
5 person would be considered a person in control of a money services
6 licensee on consummation of a proposed transaction. If the
7 commissioner determines that the person would not be a person in
8 control of a money services licensee, the proposed transaction is
9 not subject to the requirements of Section 152.151.

10 (d) If a multistate licensing process includes a
11 determination under Subsection (c) and an applicant participates in
12 or is subject to the multistate licensing process:

13 (1) the commissioner may accept the control
14 determination of a lead investigative state with sufficient
15 staffing, expertise, and minimum standards for the purpose of
16 Subsection (c); or

17 (2) if this state is a lead investigative state, the
18 commissioner may investigate the applicant under Subsection (c) and
19 the time frames established by agreement through the multistate
20 licensing process.

21 Sec. 152.153. NOTICE AND INFORMATION REQUIREMENTS FOR
22 CHANGE OF KEY INDIVIDUALS. (a) A money services licensee adding or
23 replacing a key individual shall provide:

24 (1) notice in a manner prescribed by the commissioner
25 not later than the 15th day after the effective date of the key
26 individual's appointment; and

27 (2) information as required by Section 152.105 not

1 later than the 45th day after that effective date.

2 (b) Not later than the 90th day after the date on which
3 notice provided under Subsection (a) is determined to be complete,
4 the commissioner may issue a notice of disapproval of a key
5 individual if it would not be in the best interests of the public or
6 the customers of the money services licensee to permit the
7 individual to be a key individual of the licensee, considering the
8 competence, experience, character, or integrity of the individual.

9 (c) A notice of disapproval shall be sent to the money
10 services licensee and the disapproved individual and must contain a
11 statement of the basis for disapproval. A money services licensee
12 may appeal a notice of disapproval by filing a written request for a
13 hearing with the commissioner not later than the 30th day after the
14 date the notice is mailed. A hearing on the denial must be held not
15 later than the 45th day after the date the commissioner receives the
16 written request unless the administrative law judge extends the
17 period for good cause or the parties agree to a later hearing date.
18 The hearing is considered a contested case hearing and is subject to
19 Section 152.451.

20 (d) If the notice provided under Subsection (a) is not
21 disapproved before the 91st day after the date on which the notice
22 is determined to be complete, the key individual is considered
23 approved.

24 (e) If a multistate licensing process includes a key
25 individual notice review and disapproval process under this section
26 and the money services licensee participates in or is subject to the
27 multistate licensing process:

1 (1) the commissioner may accept the determination of
2 another state if the investigating state has sufficient staffing,
3 expertise, and minimum standards for the purposes of this section;
4 or

5 (2) if this state is a lead investigative state, the
6 commissioner may investigate the applicant in the same manner as
7 for a determination under Subsection (b) and in accordance with the
8 time frames established by agreement through the multistate
9 licensing process.

10 SUBCHAPTER E. REPORTING AND RECORDS

11 Sec. 152.201. MONEY TRANSMISSION REPORT. (a) Each money
12 transmission licensee shall submit a report of condition not later
13 than the 45th day after the end of the calendar quarter, or within
14 an extended time as the commissioner may prescribe.

15 (b) The report of condition must include:

16 (1) the licensee's financial information;

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

21 (3) a report on the licensee's permissible
22 investments;

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

25 (5) any other information the commissioner reasonably
26 requires with respect to the licensee.

27 (c) The commissioner may:

1 (1) use the NMLS for the submission of the report
2 required by this section; and

3 (2) change or update the requirements of this section
4 as necessary to carry out the purposes of this chapter and maintain
5 consistency with NMLS reporting.

6 (d) The information required by Subsection (b)(4) may only
7 be included in a report of condition submitted not later than the
8 45th day after the end of the fourth calendar quarter.

9 Sec. 152.202. CURRENCY EXCHANGE REPORT. (a) A currency
10 exchange licensee shall submit:

11 (1) the annual report required by Section
12 152.107(d)(2), including a financial statement that may be audited
13 or unaudited and that is dated as of the last day of the currency
14 exchange licensee's fiscal year that ended in the immediately
15 preceding calendar year;

16 (2) a quarterly interim financial statement and
17 transaction report that reflects the licensee's financial
18 condition and currency exchange services business as of the last
19 day of the calendar quarter to which the statement and report relate
20 and that are prepared not later than the 45th day after the end of
21 the calendar quarter; and

22 (3) any other report required by rule of the
23 commission or reasonably requested by the commissioner to determine
24 compliance with this chapter.

25 (b) A currency exchange licensee shall file the statements
26 and reports required under this section with the commissioner as
27 required by this chapter, by commission rule, or as requested by the

1 commissioner.

2 (c) On written application and for good cause shown, the
3 commissioner may extend the time for preparing or filing a
4 statement or report required under this section.

5 Sec. 152.203. FINANCIAL STATEMENTS. (a) A money services
6 licensee shall, not later than the 90th day after the end of each
7 fiscal year, or within an extended time prescribed by the
8 commissioner, file with the commissioner:

9 (1) for a money transmission licensee, an audited
10 unconsolidated financial statement of the licensee for the fiscal
11 year prepared in accordance with United States generally accepted
12 accounting principles;

13 (2) for a currency exchange licensee, a financial
14 statement, audited or unaudited, dated as of the last day of the
15 licensee's fiscal year that ended in the immediately preceding
16 calendar year; and

17 (3) any other information as the commissioner may
18 reasonably require.

19 (b) A financial statement required by Subsection (a)(1)
20 must be prepared by an independent certified public accountant or
21 independent public accountant who is satisfactory to the
22 commissioner.

23 (c) An audited financial statement required by Subsection
24 (a) must include or be accompanied by a certificate of opinion of
25 the independent certified public accountant or independent public
26 accountant that is satisfactory in form and content to the
27 commissioner. If the certificate of opinion is qualified, the

1 commissioner may order the money services licensee to take any
2 action the commissioner finds necessary to enable the independent
3 certified public accountant or independent public accountant to
4 remove the qualification.

5 Sec. 152.204. AUTHORIZED DELEGATE REPORTING. (a) A money
6 transmission licensee shall submit a report of authorized delegates
7 not later than the 45th day after the end of each calendar quarter.
8 The commissioner may use the NMLS for the submission of the report
9 required by this section if NMLS functionality is consistent with
10 the requirements of this section.

11 (b) The authorized delegate report must include for each
12 authorized delegate:

13 (1) the authorized delegate's legal name;

14 (2) the authorized delegate's taxpayer employer
15 identification number;

16 (3) the authorized delegate's principal provider
17 identifier;

18 (4) the authorized delegate's physical address;

19 (5) the authorized delegate's mailing address;

20 (6) any business the authorized delegate conducts in
21 other states;

22 (7) any fictitious or trade name the authorized
23 delegate uses;

24 (8) a contact person name, phone number, and e-mail;

25 (9) a start date as the money transmission licensee's
26 authorized delegate;

27 (10) an end date as the money transmission licensee's

1 authorized delegate, if applicable; and

2 (11) any other information the commissioner
3 reasonably requires with respect to the authorized delegate.

4 Sec. 152.205. REPORTS OF CERTAIN EVENTS. (a) A money
5 services licensee shall file a report with the commissioner not
6 later than the first business day after the licensee has reason to
7 know of:

8 (1) the filing of a petition by or against the licensee
9 under the United States Bankruptcy Code (11 U.S.C. Sections
10 101-1532) for bankruptcy or reorganization;

11 (2) the filing of a petition by or against the licensee
12 for receivership, the commencement of any other judicial or
13 administrative proceeding for the licensee's dissolution or
14 reorganization, or the making of a general assignment for the
15 benefit of the licensee's creditors; or

16 (3) the commencement of a proceeding to revoke or
17 suspend the licensee's license in a state or country in which the
18 licensee engages in or is licensed to engage in money services
19 business.

20 (b) A money services licensee shall file a report with the
21 commissioner not later than the third business day after the
22 licensee has reason to know of the occurrence of a felony charge or
23 conviction of:

24 (1) the licensee or a key individual;

25 (2) a person in control of the licensee; or

26 (3) an authorized delegate.

27 Sec. 152.206. BANK SECRECY ACT REPORTS. A money services

1 licensee and an authorized delegate shall file all reports required
2 by federal currency reporting, record keeping, and suspicious
3 activity reporting requirements as provided by the Bank Secrecy Act
4 and other federal and state laws relating to money laundering. The
5 timely filing of a complete and accurate report required under this
6 section with the appropriate federal agency is considered compliant
7 with the requirements of this section.

8 Sec. 152.207. RECORDS. (a) A money services licensee shall
9 maintain the following records for determining its compliance with
10 this chapter for at least five years:

11 (1) a general ledger posted at least monthly
12 containing all asset, liability, capital, income, and expense
13 accounts;

14 (2) bank statements and bank reconciliation records;

15 (3) for a money transmission licensee:

16 (A) records of outstanding money transmission
17 obligations;

18 (B) records of each outstanding money
19 transmission obligation paid within the five-year period;

20 (C) records of each outstanding money
21 transmission obligation sold; and

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

24 (4) for a currency exchange licensee, a record of each
25 currency exchange transaction; and

26 (5) any other records the commissioner reasonably
27 requires by rule.

1 (b) The records required to be maintained by Subsection
2 (a)(3)(C) may be maintained in any form of record.

3 (c) Records required to be maintained by Subsection (a) may
4 be maintained outside this state if they are made accessible to the
5 commissioner not later than the seventh business day after the
6 commissioner sends notice in writing.

7 (d) All records maintained by a money services licensee as
8 required by this section are open to examination by the
9 commissioner under Section 152.057(a).

10 SUBCHAPTER F. AUTHORIZED DELEGATES

11 Sec. 152.251. LIABILITY OF MONEY TRANSMISSION LICENSEE. A
12 money transmission licensee is liable for the payment of all money
13 or monetary value received for transmission directly or by an
14 authorized delegate appointed under this subchapter.

15 Sec. 152.252. RELATIONSHIP BETWEEN MONEY TRANSMISSION
16 LICENSEE AND AUTHORIZED DELEGATE. (a) In this section, "remit"
17 means to make a direct payment of money to a money transmission
18 licensee or the licensee's representative authorized to receive
19 money or to deposit money in a bank in an account specified by the
20 licensee.

21 (b) Before a money transmission licensee may conduct
22 business through an authorized delegate or may allow a person to act
23 as the licensee's authorized delegate, the licensee must:

24 (1) adopt, and update as necessary, written policies
25 and procedures reasonably designed to ensure that the licensee's
26 authorized delegate complies with applicable state and federal law;

27 (2) enter into a written contract appointing an

1 authorized delegate that complies with Subsection (d); and

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

6 (c) An authorized delegate shall operate in full compliance
7 with this chapter.

8 (d) The written contract required by Subsection (b)(2) must
9 be signed by the money transmission licensee and the authorized
10 delegate and must, at a minimum:

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

14 (2) provide the nature and scope of the relationship
15 between the licensee and the authorized delegate and the respective
16 rights and responsibilities of the parties;

17 (3) require the authorized delegate to agree to fully
18 comply with all applicable state and federal laws, rules, and
19 regulations pertaining to money transmission services, including
20 this chapter and regulations implementing this chapter, relevant
21 provisions of the Bank Secrecy Act, and the Patriot Act;

22 (4) require the authorized delegate to remit and
23 handle money and monetary value in accordance with the terms of the
24 contract between the licensee and the authorized delegate;

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

1 (6) require the authorized delegate to prepare and
2 maintain records as required by this chapter or regulations
3 implementing this chapter, or as reasonably requested by the
4 commissioner;

5 (7) acknowledge that the authorized delegate consents
6 to examination or investigation by the commissioner;

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

12 (9) acknowledge receipt of the written policies and
13 procedures required under Subsection (b)(1).

14 (e) If a money transmission licensee's license is
15 suspended, revoked, surrendered, or expired, the licensee must, not
16 later than the fifth business day after the date the licensee's
17 license is suspended, revoked, surrendered, or expired, provide
18 documentation to the commissioner that the licensee has notified
19 all applicable authorized delegates of the licensee whose names are
20 in a record filed with the commissioner of the suspension,
21 revocation, surrender, or expiration of a license. On suspension,
22 revocation, surrender, or expiration of a license, applicable
23 authorized delegates shall immediately cease to provide money
24 transmission services as an authorized delegate of the money
25 transmission licensee.

26 (f) An authorized delegate of a money transmission licensee
27 holds in trust for the benefit of the licensee all money net of fees

1 received from money transmission. If an authorized delegate
2 commingles any funds received from money transmission with any
3 other funds or property owned or controlled by the authorized
4 delegate, all commingled funds and other property shall be
5 considered held in trust in favor of the money transmission
6 licensee in an amount equal to the amount of money net of fees
7 received from money transmission.

8 (g) An authorized delegate may not use a subdelegate to
9 conduct money transmission on behalf of a money transmission
10 licensee.

11 Sec. 152.253. DISCLOSURE REQUIREMENTS. (a) A money
12 transmission licensee's name and mailing address or telephone
13 number must be provided to the purchaser in connection with each
14 money transmission transaction conducted by the licensee directly
15 or through an authorized delegate.

16 (b) A money transmission licensee receiving currency or an
17 instrument payable in currency for transmission shall comply with
18 Chapter 278.

19 Sec. 152.254. UNAUTHORIZED ACTIVITIES. A person may not
20 engage in the business of money transmission on behalf of a person
21 not licensed under this chapter or not exempt under Section
22 152.004. A person who engages in unauthorized activity provides
23 money transmission to the same extent as if the person were a money
24 transmission licensee, and shall be jointly and severally liable
25 with the unlicensed or nonexempt person. Any business for which a
26 license is required under this chapter that is conducted by an
27 authorized delegate outside the scope of authority conferred in the

1 contract between the authorized delegate and the licensee is
2 unlicensed activity.

3 SUBCHAPTER G. TIMELY TRANSMISSION, REFUNDS, AND DISCLOSURES BY
4 MONEY TRANSMISSION LICENSEE

5 Sec. 152.301. TIMELY TRANSMISSION. (a) A money
6 transmission licensee shall forward all money received for money
7 transmission in accordance with the terms of the agreement between
8 the licensee and the sender unless the licensee has a reasonable
9 belief or a reasonable basis to believe that the sender may be a
10 victim of fraud or that a crime or violation of law, rule, or
11 regulation has occurred, is occurring, or may occur.

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

17 Sec. 152.302. REFUNDS. (a) This section does not apply to
18 money received for money transmission that is:

19 (1) subject to the federal requirements for remittance
20 transfers under 12 C.F.R. Part 1005, Subpart B; or

21 (2) under a written agreement between a money
22 transmission licensee and a payee to process payments for goods or
23 services provided by the payee.

24 (b) A money transmission licensee shall refund any and all
25 money received for money transmission services to the sender not
26 later than the 10th day after the date of receipt of the sender's
27 written request for a refund unless:

1 (1) the money has been forwarded not later than the
2 10th day after the date on which the money was received for
3 transmission;

4 (2) instructions have been given committing an
5 equivalent amount of money to the person designated by the sender
6 not later than the 10th day after the date on which the money was
7 received for transmission;

8 (3) an agreement between the licensee and the sender
9 instructs the licensee to forward the money at a time that is later
10 than the 10th day after the date on which the money was received for
11 transmission;

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

16 (5) the refund request does not enable a money
17 transmission licensee to identify:

18 (A) the sender's name and address or telephone
19 number; or

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

22 (c) If funds have not yet been forwarded in accordance with
23 the terms of an agreement between a money transmission licensee and
24 a sender under Subsection (b)(3), the licensee shall issue a refund
25 in accordance with the other provisions of this section.

26 Sec. 152.303. RECEIPTS. (a) This section does not apply
27 to:

1 (1) money received for money transmission subject to
2 the federal requirements for remittance transfers under 12 C.F.R.
3 Part 1005, Subpart B;

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

6 (3) money received for money transmission under a
7 written agreement between a money transmission licensee and a payee
8 to process payments for goods or services provided by the payee; or

9 (4) payroll processing services.

10 (b) In this section, "receipt" means a paper receipt,
11 electronic record, or other written confirmation.

12 (c) For a transaction conducted in person, a receipt may be
13 provided electronically if the sender requests or agrees to receive
14 an electronic receipt. For a transaction conducted electronically
15 or by phone, a receipt may be provided electronically. All
16 electronic receipts shall be provided in a retainable form.

17 (d) A money transmission licensee or the licensee's
18 authorized delegate shall provide the sender a receipt for money
19 received for money transmission services.

20 (e) A receipt must contain, as applicable:

21 (1) the name of the sender;

22 (2) the name of the designated recipient;

23 (3) the date of the transaction;

24 (4) the unique transaction or identification number;

25 (5) the name of the money transmission licensee, the
26 licensee's NMLS Unique ID, the licensee's business address, and the
27 licensee's customer service telephone number;

1 (6) the amount of the transaction in United States
2 dollars;

3 (7) any fee charged by the money transmission licensee
4 to the sender for the transaction; and

5 (8) any taxes collected by the money transmission
6 licensee from the sender for the transaction.

7 (f) The receipt required by this section must be in English
8 and in a language other than English if the money transmission
9 licensee or authorized delegate principally uses that language to
10 advertise, solicit, or negotiate, either orally or in writing, for
11 a transaction conducted in person, electronically, or by phone.

12 Sec. 152.304. DISCLOSURES FOR PAYROLL PROCESSING SERVICES.

13 (a) A money transmission licensee that provides payroll processing
14 services shall:

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

18 (2) make available worker pay stubs or an equivalent
19 statement to workers.

20 (b) Subsection (a) does not apply to a money transmission
21 licensee providing payroll processing services where the
22 licensee's client designates the intended recipients to the
23 licensee and is responsible for providing the disclosures required
24 by Subsection (a)(2).

25 SUBCHAPTER H. PRUDENTIAL STANDARDS

26 Sec. 152.351. NET WORTH OF MONEY TRANSMISSION LICENSEE.

27 (a) A money transmission licensee under this chapter shall

1 maintain at all times a tangible net worth in an amount not less
2 than:

3 (1) for a licensee with total assets in an amount not
4 greater than \$100 million, the greater of:

5 (A) \$100,000; or

6 (B) 3 percent of the value of the licensee's
7 total assets;

8 (2) for a licensee with total assets in an amount
9 greater than \$100 million and not greater than \$1 billion, the sum
10 of \$3 million and 2 percent of the additional assets in excess of
11 \$100 million; and

12 (3) for a licensee with total assets in an amount
13 greater than \$1 billion, the sum of \$21 million and 0.5 percent of
14 the additional assets in excess of \$1 billion.

15 (b) Tangible net worth under this section must be
16 demonstrated at the initial application by the applicant's most
17 recent audited or unaudited financial statements under Section
18 152.104(c)(6).

19 (c) Notwithstanding other provisions of this section, the
20 commissioner may, for good cause shown, exempt a money transmission
21 licensee wholly or partly from the requirements of this section.

22 Sec. 152.352. SECURITY FOR MONEY TRANSMISSION LICENSEE.

23 (a) A money transmission licensee shall at all times maintain
24 security consisting of a surety bond in a form satisfactory to the
25 commissioner. With the commissioner's approval, a money
26 transmission licensee may maintain a deposit in lieu of a bond under
27 this section.

1 (b) The amount of the required security for a money
2 transmission licensee under this section is:

3 (1) for a licensee with a tangible net worth in an
4 amount not greater than 10 percent of the licensee's total assets,
5 the greater of:

6 (A) \$100,000; or

7 (B) 100 percent of the licensee's average daily
8 money transmission liability in this state for the most recently
9 completed three-month period, up to a maximum amount of \$500,000;
10 or

11 (2) for a licensee with a tangible net worth in an
12 amount greater than 10 percent of the licensee's total assets,
13 \$100,000.

14 (c) A money transmission licensee that maintains a bond in
15 the maximum amount provided for under Subsection (b) may not be
16 required to calculate the licensee's average daily money
17 transmission liability in this state for purposes of this section.

18 (d) A money transmission licensee may exceed the maximum
19 required bond amount under Section 152.356(a)(5).

20 Sec. 152.353. SECURITY FOR CURRENCY EXCHANGE LICENSEE. (a)
21 A currency exchange licensee shall at all times maintain security
22 in the amount applicable to the licensee under this section. The
23 security must satisfy the requirements of and is subject to Section
24 152.354.

25 (b) A currency exchange licensee shall maintain security in
26 the amount of \$2,500 if the licensee conducts business with persons
27 located in this state exclusively at one or more physical locations

1 through in-person, contemporaneous transactions.

2 (c) Except as provided by Subsection (e), if Subsection (b)
3 does not apply to a currency exchange licensee, the licensee shall
4 maintain security in an amount not less than the greater of:

5 (1) \$2,500; or

6 (2) an amount equal to one percent of the licensee's
7 total dollar volume of currency exchange business in this state for
8 the preceding year.

9 (d) For purposes of demonstrating prospective compliance
10 with this section under Section 152.107(c), an applicant for a
11 currency exchange license may use the applicant's projected total
12 dollar volume of currency exchange business in this state for the
13 first year of licensure to determine the amount under Subsection
14 (c)(2).

15 (e) The maximum amount of security that may be required
16 under this section is \$1 million.

17 Sec. 152.354. ADDITIONAL SECURITY REQUIREMENTS. (a) In
18 addition to the requirements of Section 152.352 or 152.353, a
19 security under this subchapter must:

20 (1) be in a form satisfactory to the commissioner;

21 (2) be payable to any claimant or to the commissioner,
22 on behalf of a claimant or this state, for any liability arising out
23 of a money transmission licensee's money transmission business in
24 this state, incurred under, subject to, or by virtue of this
25 chapter; and

26 (3) if the security is a bond, be issued by a qualified
27 surety company authorized to engage in business in this state and

1 acceptable to the commissioner or, if the security is an
2 irrevocable letter of credit, be issued by a financial institution
3 acceptable to the commissioner.

4 (b) A claimant may bring suit directly on the security, or
5 the commissioner may bring suit on behalf of the claimant or the
6 state, either in one action or in successive actions.

7 (c) The commissioner may collect from the security or
8 proceeds of the security any delinquent fee, assessment, cost,
9 penalty, or other amount imposed on and owed by a money services
10 licensee. If the security is a surety bond, the commissioner shall
11 give the surety reasonable prior notice of a hearing to impose an
12 administrative penalty against the money services licensee,
13 provided that a surety may not be considered an interested,
14 aggrieved, or affected person for purposes of an administrative
15 proceeding under Section 152.451 of this code or Chapter 2001,
16 Government Code.

17 (d) A security remains in effect until canceled, which may
18 occur only after providing 30 days' written notice to the
19 commissioner. Cancellation does not affect any liability incurred
20 or accrued during the period covered by the security.

21 (e) A security must cover claims for at least five years
22 after the money services licensee surrenders the licensee's license
23 or otherwise ceases to engage in activities for which a license is
24 required under this subchapter. However, the commissioner may
25 permit the amount of the security to be reduced or eliminated before
26 that time to the extent that the amount of the money services
27 licensee's obligations to the department and to purchasers in this

1 state is reduced. The commissioner may permit a money services
2 licensee to substitute another form of security when the licensee
3 ceases to provide money transmission in this state.

4 (f) If the commissioner at any time reasonably determines
5 that the required security is insecure, deficient in amount, or
6 exhausted in whole or in part, the commissioner by written order
7 shall require the money services licensee to file or make new or
8 additional security to comply with this section.

9 (g) Instead of providing all or part of the amount of the
10 security required by this section, an applicant for a money
11 services license or a money services licensee may deposit, with a
12 financial institution possessing trust powers that is authorized to
13 conduct a trust business in this state and is acceptable to the
14 commissioner, an aggregate amount of United States currency,
15 certificates of deposit, or other cash equivalents that equals the
16 total amount of the required security or the remaining part of the
17 security.

18 (h) A deposit under Subsection (g):

19 (1) must be held in trust in the name of and be pledged
20 to the commissioner;

21 (2) must secure the same obligations as the security;
22 and

23 (3) is subject to other conditions and terms the
24 commissioner may reasonably require.

25 (i) The security is considered by operation of law to be
26 held in trust for the benefit of this state and any individual to
27 whom an obligation arising under this chapter is owed, and may not

1 be considered an asset or property of the money services licensee in
2 the event of bankruptcy, receivership, or a claim against the
3 licensee unrelated to the licensee's obligations under this
4 chapter.

5 Sec. 152.355. MAINTENANCE OF PERMISSIBLE INVESTMENTS BY
6 MONEY TRANSMISSION LICENSEE. (a) A money transmission licensee
7 shall maintain at all times permissible investments that have a
8 market value computed in accordance with United States generally
9 accepted accounting principles of not less than the aggregate
10 amount of all of its outstanding money transmission obligations.

11 (b) Except for permissible investments allowed under
12 Section 152.356(a), the commissioner, with respect to a money
13 transmission licensee, may limit the extent to which a specific
14 investment maintained by a licensee within a class of permissible
15 investments may be considered a permissible investment, if the
16 specific investment represents undue risk to customers not
17 reflected in the market value of investments.

18 (c) Permissible investments are held in trust for the
19 benefit of the purchasers and holders of the money transmission
20 licensee's outstanding money transmission obligations in the event
21 of:

22 (1) insolvency;

23 (2) the filing of a petition by or against the licensee
24 under the United States Bankruptcy Code (11 U.S.C. Sections
25 101-1532) for bankruptcy or reorganization;

26 (3) the filing of a petition by or against the licensee
27 for receivership;

1 (4) the commencement of any other judicial or
2 administrative proceeding for the licensee's dissolution or
3 reorganization; or

4 (5) an action by a creditor who is not a beneficiary of
5 the trust under this section against the licensee.

6 (d) A permissible investment impressed with a trust under
7 Subsection (c) is not subject to attachment, levy of execution, or
8 sequestration by order of any court, except for a beneficiary of the
9 trust.

10 (e) On the establishment of a trust under Subsection (c) or
11 when any funds are drawn on a letter of credit under Section
12 152.356(a)(4), the commissioner shall notify the applicable
13 regulator of each state in which the money transmission licensee is
14 licensed to engage in money transmission services of the
15 establishment of the trust or the funds drawn on the letter of
16 credit, as applicable. Notice under this subsection is considered
17 to be given if performed under a multistate agreement or through the
18 NMLS.

19 (f) Funds drawn on a letter of credit, and any other
20 permissible investments held in trust for the benefit of the
21 purchasers and holders of the money transmission licensee's
22 outstanding money transmission obligations, are considered held in
23 trust for the benefit of those purchasers and holders on a pro rata
24 and equitable basis in accordance with statutes under which
25 permissible investments are required to be held in this state, and
26 other states, as applicable.

27 (g) A trust established under Subsection (c) shall be

1 terminated on extinguishment of all of the money transmission
2 licensee's outstanding money transmission obligations.

3 (h) The commissioner may allow other types of investments
4 that the commissioner determines are of sufficient liquidity and
5 quality to be a permissible investment. The commissioner may
6 participate in efforts with other state regulators to determine
7 that other types of investments are of sufficient liquidity and
8 quality to be a permissible investment.

9 Sec. 152.356. TYPES OF PERMISSIBLE INVESTMENTS. (a) The
10 following investments are permissible under Section 152.355:

11 (1) cash, including:

12 (A) demand deposits;

13 (B) savings deposits;

14 (C) funds in accounts under Paragraphs (A) and
15 (B) held for the benefit of a money transmission licensee's
16 customers in a federally insured depository financial institution;

17 (D) cash equivalents, including automated
18 clearing house items:

19 (i) in transit to the money transmission
20 licensee; and

21 (ii) in transit to a payee;

22 (E) international wires in transit to a payee;

23 (F) cash in transit via armored car;

24 (G) cash in smart safes;

25 (H) cash in money transmission licensee-owned
26 locations;

27 (I) debit card or credit card-funded

1 transmission receivables owed by a bank; or
2 (J) money market mutual funds rated "AAA" by S&P
3 Global or an equivalent rating from an eligible rating service;
4 (2) certificates of deposit or senior debt obligations
5 of an insured depository institution, as defined by Section 3,
6 Federal Deposit Insurance Act (12 U.S.C. Section 1813) or the
7 Federal Credit Union Act (12 U.S.C. Section 1781);
8 (3) an obligation:
9 (A) of the United States or a commission, agency,
10 or instrumentality of the United States;
11 (B) that is guaranteed fully as to principal and
12 interest by the United States; or
13 (C) of a state or a governmental subdivision,
14 agency, or instrumentality of the United States;
15 (4) the full drawable amount of an irrevocable standby
16 letter of credit for which the stated beneficiary is the
17 commissioner that stipulates that the commissioner need only draw a
18 sight draft under the letter of credit and present it to obtain
19 funds up to the letter of credit amount on presentation of the items
20 required by Subsection (f);
21 (5) 100 percent of the surety bond or deposit provided
22 for under Section 152.352 that exceeds the average daily money
23 transmission liability in this state; or
24 (6) stablecoin, to the extent of outstanding
25 transmission obligations received by the licensee in the same kind
26 of stablecoin.
27 (b) Unless permitted by the commissioner to exceed the limit

1 provided, the following investments are permissible under Section
2 152.355 to the extent specified:

3 (1) receivables that are payable to a money
4 transmission licensee from its authorized delegates in the ordinary
5 course of business that are less than seven days old are permissible
6 up to the amount of 50 percent of the aggregate value of the
7 licensee's total permissible investments;

8 (2) receivables under Subdivision (1) that are payable
9 to a money transmission licensee from a single authorized delegate
10 in the ordinary course of business are permissible up to the amount
11 of 10 percent of the aggregate value of the licensee's total
12 permissible investments;

13 (3) the following investments are permissible up to
14 the amount of 20 percent of the aggregate value of a money
15 transmission licensee's total permissible investments for the
16 amount under each paragraph and the amount of 50 percent of the
17 aggregate value of the licensee's total permissible investments for
18 the total amount under this subdivision:

19 (A) a short-term investment of not more than six
20 months bearing an eligible rating;

21 (B) commercial paper bearing an eligible rating;

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

24 (D) a United States tri-party repurchase
25 agreement collateralized at 100 percent or more with United States
26 or agency security, municipal bonds, or other security bearing an
27 eligible rating;

1 (E) a money market mutual fund rated less than
2 "AAA" and not less than "A-" by S&P Global, or the equivalent from
3 an eligible rating service; and

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

7 (4) cash, including demand deposits, savings
8 deposits, and funds in an account held for the benefit of a money
9 transmission licensee's customers at a foreign depository
10 institution is permissible up to the amount of 10 percent of the
11 aggregate value of the licensee's total permissible investments if:

12 (A) the licensee has received a satisfactory
13 rating in its most recent examination; and

14 (B) the foreign depository institution:

15 (i) has an eligible rating;

16 (ii) is registered under the Foreign
17 Account Tax Compliance Act (Pub. L. No. 111-147);

18 (iii) is not located in a country subject to
19 sanctions from the Office of Foreign Assets Control; and

20 (iv) is not located in a jurisdiction
21 designated high-risk or uncooperative by the Financial Action Task
22 Force.

23 (c) A letter of credit under Subsection (a)(4) must:

24 (1) be issued by:

25 (A) a federally insured depository financial
26 institution;

27 (B) a foreign bank authorized under federal law

1 to maintain a federal agency or federal branch office in a state or
2 states; or

3 (C) a foreign bank that is authorized under state
4 law to maintain a branch in a state that:

5 (i) bears an eligible rating or whose
6 parent company bears an eligible rating;

7 (ii) is regulated, supervised, and examined
8 by United States federal or state authorities having regulatory
9 authority over banks, credit unions, and trust companies; and

10 (iii) is approved by the commissioner;

11 (2) be irrevocable and unconditional and indicate that
12 it is not subject to any condition or qualifications outside of the
13 letter of credit;

14 (3) not contain reference to any other agreement,
15 document or entity, or otherwise provide for a security interest in
16 the money transmission licensee;

17 (4) contain an issue date and expiration date; and

18 (5) expressly provide for automatic extension without
19 a written amendment for an additional period of one year from a
20 current or future expiration date, unless the issuer of the letter
21 of credit notifies the commissioner in writing by certified or
22 registered mail, courier mail, or other receipted means, not more
23 than the 60th day before any expiration date, that the irrevocable
24 letter of credit will not be extended.

25 (d) On receipt of a notice of expiration or non-extension of
26 a letter of credit issued under Subsection (c)(5), the commissioner
27 shall require a money transmission licensee to demonstrate to the

1 satisfaction of the commissioner, not later than the 15th day
2 before expiration, that the licensee maintains and will maintain
3 permissible investments in accordance with Section 152.355 after
4 the letter of credit expires.

5 (e) If the money transmission licensee is not able to
6 satisfactorily demonstrate to the commissioner that the licensee
7 will maintain permissible investments under Subsection (d), the
8 commissioner may draw on the letter of credit in an amount up to the
9 amount necessary to meet the licensee's requirements to maintain
10 permissible investments in accordance with Section 152.355. The
11 commissioner shall offset the draw against the money transmission
12 licensee's outstanding money transmission obligations. The
13 commissioner or the commissioner's designated agent shall hold
14 drawn funds in trust to the extent authorized by law as agent for
15 the benefit of the purchasers and holders of the money transmission
16 licensee's outstanding money transmission obligations.

17 (f) A letter of credit under Subsection (a)(4) must provide
18 that the issuer of the letter of credit will honor, at sight, a
19 presentation made by the commissioner to the issuer on or before the
20 expiration date of the letter of credit of:

21 (1) the original letter of credit, including any
22 amendments; and

23 (2) a written statement from the commissioner stating
24 that:

25 (A) a petition has been filed by or against the
26 money transmission licensee under the United States Bankruptcy Code
27 (11 U.S.C. Sections 101-1532) for bankruptcy or reorganization;

1 (B) a petition has been filed by or against the
2 money transmission licensee for receivership, or the commencement
3 of any other judicial or administrative proceeding for the
4 licensee's dissolution or reorganization;

5 (C) a money transmission licensee's assets have
6 been seized by the commissioner under an emergency order issued in
7 accordance with applicable law on the basis of an action,
8 violation, or condition that has caused or is likely to cause the
9 insolvency of the licensee; or

10 (D) the commissioner has received notice of
11 expiration or non-extension of a letter of credit under Subsection
12 (c)(5), and the money transmission licensee failed to demonstrate
13 to the satisfaction of the commissioner under Subsection (d) that
14 the licensee will maintain permissible investments in accordance
15 with Section 152.355 on the expiration or non-extension of the
16 letter of credit.

17 (g) The commissioner may designate an agent to serve on the
18 commissioner's behalf as beneficiary to a letter of credit if the
19 agent and letter of credit meet requirements established by the
20 commissioner. The commissioner's agent may serve as agent for
21 multiple licensing authorities for a single irrevocable letter of
22 credit if the proceeds of the drawable amount for the purposes of
23 Subsection (a)(4) are assigned to the commissioner.

24 (h) The commissioner may participate in multistate
25 processes designed to facilitate the issuance and administration of
26 letters of credit, including but not limited to services provided
27 by the NMLS and State Regulatory Registry, LLC.

SUBCHAPTER I. ENFORCEMENT

1 Sec. 152.401. INJUNCTIVE RELIEF. (a) If a person appears
2 to have violated, or if reasonable cause exists to believe that a
3 person is likely to violate, this chapter or a rule adopted under
4 this chapter, the following persons may bring an action for
5 injunctive relief to enjoin the violation or enforce compliance
6 with the provision:

- 7 (1) the commissioner, through the attorney general;
8 (2) the attorney general;
9 (3) the district attorney of Travis County; or
10 (4) the prosecuting attorney of the county in which
11 the violation is alleged to have occurred.

12 (b) In addition to the authority granted to the commissioner
13 under Subsection (a), the commissioner, through the attorney
14 general, may bring an action for injunctive relief if the
15 commissioner has reason to believe that a person has violated or is
16 likely to violate an order of the commissioner issued under this
17 chapter.

18 (c) An action for injunctive relief brought by the
19 commissioner, the attorney general, or the district attorney of
20 Travis County under Subsection (a), or brought by the commissioner
21 under Subsection (b), must be brought in a district court in Travis
22 County. An action brought by a prosecuting attorney under
23 Subsection (a)(4) must be brought in a district court in the county
24 in which all or part of the violation is alleged to have occurred.

25 (d) On a proper showing, the court may issue a restraining
26 order, an order freezing assets, a preliminary or permanent
27 order.

1 injunction, or a writ of mandate, or may appoint a receiver for the
2 defendant or the defendant's assets.

3 (e) A receiver appointed by the court under Subsection (d)
4 may, with approval of the court, exercise all of the powers of the
5 defendant's directors, officers, partners, trustees, or persons
6 who exercise similar powers and perform similar duties.

7 (f) An action brought under this section may include a claim
8 for ancillary relief, including a claim by the commissioner for
9 costs or civil penalties authorized under this chapter, or for
10 restitution or damages on behalf of the persons injured by the act
11 constituting the subject matter of the action, and the court has
12 jurisdiction to award that relief.

13 Sec. 152.402. CEASE AND DESIST ORDERS FOR UNLICENSED
14 PERSONS. (a) If the commissioner has reason to believe that an
15 unlicensed person has engaged or is likely to engage in an activity
16 for which a license is required under this chapter, the
17 commissioner may order the person to cease and desist from the
18 violation until the person is issued a license under this chapter.
19 The commissioner's order is subject to Section 152.409, unless the
20 order is issued as an emergency order. The commissioner may issue
21 an emergency cease and desist order under Section 152.410 if the
22 commissioner finds that the person's violation or likely violation
23 threatens immediate and irreparable harm to the public.

24 (b) A cease and desist order under this section may require
25 the unlicensed person to take affirmative action to correct any
26 condition resulting from or contributing to the activity or
27 violation, including the payment of restitution to each resident of

1 this state damaged by the violation.

2 Sec. 152.403. SUSPENSION AND REVOCATION OF MONEY SERVICES
3 LICENSE. (a) The commissioner shall revoke a money services
4 license if the commissioner finds that:

5 (1) the money services licensee does not provide the
6 security required under this chapter; or

7 (2) for a money transmission licensee, the net worth
8 of the licensee is less than the amount required under this chapter.

9 (b) The commissioner may suspend or revoke a money services
10 license or order a money transmission licensee to revoke the
11 designation of an authorized delegate if the commissioner has
12 reason to believe that:

13 (1) the money services licensee has violated this
14 chapter, a rule adopted or order issued under this chapter, a
15 written agreement entered into with the department or commissioner,
16 or any other state or federal law applicable to the licensee's money
17 services business;

18 (2) the money services licensee has refused to permit
19 or has not cooperated with an examination or investigation
20 authorized by this chapter;

21 (3) the money services licensee has engaged in fraud,
22 knowing misrepresentation, deceit, or gross negligence in
23 connection with the operation of the licensee's money services
24 business or any transaction subject to this chapter;

25 (4) an authorized delegate of the money transmission
26 licensee has knowingly violated this chapter, a rule adopted or
27 order issued under this chapter, or a state or federal

1 anti-money-laundering or terrorist funding law, and the licensee
2 knows or should have known of the violation and has failed to make a
3 reasonable effort to prevent or correct the violation;

4 (5) the competence, experience, character, or general
5 fitness of the money services licensee or the authorized delegate
6 of a money transmission licensee, or a principal of, person in
7 control of, or responsible person of a money services licensee or
8 authorized delegate of a money transmission licensee, indicates
9 that it is not in the public interest to permit the licensee or
10 authorized delegate to provide money services;

11 (6) the money services licensee has engaged in an
12 unsafe or unsound act or practice or has conducted business in an
13 unsafe or unsound manner;

14 (7) the money services licensee has suspended payment
15 of the licensee's obligations, made a general assignment for the
16 benefit of the licensee's creditors, or admitted in writing the
17 licensee's inability to pay debts of the licensee as they become
18 due;

19 (8) the money transmission licensee has failed to
20 terminate the authority of an authorized delegate after the
21 commissioner has issued and served on the licensee a final order
22 finding that the authorized delegate has violated this chapter;

23 (9) a fact or condition exists that, if it had been
24 known at the time the money services licensee applied for the
25 license, would have been grounds for denying the application;

26 (10) the money services licensee has engaged in false,
27 misleading, or deceptive advertising;

1 (11) the money services licensee has failed to pay a
2 judgment entered in favor of a claimant or creditor in an action
3 arising out of the licensee's activities under this chapter not
4 later than the 30th day after the date the judgment becomes final or
5 not later than the 30th day after the date the stay of execution
6 expires or is terminated, as applicable;

7 (12) the money services licensee has knowingly made a
8 material misstatement or has suppressed or withheld material
9 information on an application, request for approval, report, or
10 other document required to be filed with the department under this
11 chapter; or

12 (13) the money services licensee has committed a
13 breach of trust or of a fiduciary duty.

14 (c) In determining whether a money services licensee has
15 engaged in an unsafe or unsound act or practice or has conducted
16 business in an unsafe or unsound manner, the commissioner may
17 consider factors that include:

18 (1) the size and condition of the licensee's provision
19 of money services;

20 (2) the magnitude of the loss or potential loss;

21 (3) the gravity of the violation of this chapter or
22 rule adopted or order issued under this chapter;

23 (4) any action taken against the licensee by this
24 state, another state, or the federal government; and

25 (5) the previous conduct of the licensee.

26 (d) The commissioner's order suspending or revoking a money
27 services license or directing a money transmission licensee to

1 revoke the designation of an authorized delegate is subject to
2 Section 152.409, unless the order is issued as an emergency order.
3 The commissioner may issue an emergency order suspending a money
4 services license or directing a money transmission licensee to
5 revoke the designation of an authorized delegate in accordance with
6 Section 152.410 if the commissioner finds that the factors
7 identified in Section 152.410(b) exist.

8 Sec. 152.404. SUSPENSION AND REVOCATION OF AUTHORIZED
9 DELEGATE DESIGNATION. (a) The commissioner may suspend or revoke
10 the designation of an authorized delegate by a money transmission
11 licensee if the commissioner has reason to believe that:

12 (1) the authorized delegate has violated this chapter,
13 a rule adopted or order issued under this chapter, a written
14 agreement entered into with the commissioner or the department, or
15 any other state or federal law applicable to a money transmission
16 business;

17 (2) the authorized delegate has refused to permit or
18 has not cooperated with an examination or investigation under this
19 chapter;

20 (3) the authorized delegate has engaged in fraud,
21 knowing misrepresentation, deceit, gross negligence, or an unfair
22 or deceptive act or practice in connection with the operation of the
23 delegate's business on behalf of the money transmission licensee or
24 any transaction subject to this chapter;

25 (4) the competence, experience, character, or general
26 fitness of the authorized delegate, or a principal of, person in
27 control of, or responsible person of the authorized delegate,

1 indicates that it is not in the public interest to permit the
2 authorized delegate to provide money transmission;

3 (5) the authorized delegate has engaged in an unsafe
4 or unsound act or practice or conducted business in an unsafe and
5 unsound manner;

6 (6) the authorized delegate, or a principal or
7 responsible person of the authorized delegate, is listed on the
8 Specially Designated Nationals and Blocked Persons List prepared by
9 the United States Department of the Treasury as a potential threat
10 to commit terrorist acts or to fund terrorist acts; or

11 (7) the authorized delegate, or a principal or
12 responsible person of the authorized delegate, has been convicted
13 of a state or federal anti-money-laundering or terrorist funding
14 law.

15 (b) In determining whether an authorized delegate has
16 engaged in an unsafe or unsound act or practice or conducted
17 business in an unsafe or unsound manner, the commissioner may
18 consider factors that include:

19 (1) the size and condition of the authorized
20 delegate's provision of money transmission;

21 (2) the magnitude of the loss or potential loss;

22 (3) the gravity of the violation of this chapter or
23 rule adopted or order issued under this chapter;

24 (4) any action taken against the authorized delegate
25 by this state, another state, or the federal government; and

26 (5) the previous conduct of the authorized delegate.

27 (c) The commissioner's order suspending or revoking the

1 designation of an authorized delegate is subject to Section
2 152.409, unless the order is issued as an emergency order. The
3 commissioner may issue an emergency order suspending the
4 designation of an authorized delegate in accordance with Section
5 152.410 if the commissioner finds that the factors identified in
6 Section 152.410(b) exist.

7 Sec. 152.405. CEASE AND DESIST ORDERS FOR MONEY SERVICES
8 LICENSEE OR AUTHORIZED DELEGATE. (a) The commissioner may issue an
9 order to cease and desist if the commissioner finds that:

10 (1) an action, violation, or condition listed in
11 Section 152.403 or 152.404 exists with respect to a money services
12 licensee or authorized delegate; and

13 (2) a cease and desist order is necessary to protect
14 the interests of the money services licensee, the purchasers of the
15 licensee's money services, or the public.

16 (b) A cease and desist order may require a money services
17 licensee or authorized delegate to cease and desist from the action
18 or violation or to take affirmative action to correct any condition
19 resulting from or contributing to the action or violation, and the
20 requirements of the order may apply to a principal or responsible
21 person of the licensee or authorized delegate.

22 (c) The cease and desist order is subject to Section
23 152.409, unless the order is issued as an emergency order. The
24 commissioner may issue an emergency cease and desist order in
25 accordance with Section 152.410 if the commissioner finds that the
26 factors identified in Section 152.410(b) exist.

27 Sec. 152.406. CONSENT ORDERS. (a) The commissioner may

1 enter into a consent order at any time with a person to resolve a
2 matter arising under this chapter or a rule adopted or order issued
3 under this chapter.

4 (b) A consent order must be signed by the person to whom the
5 order is issued or by the person's authorized representative and
6 must indicate agreement with the terms contained in the order.
7 However, a consent order may provide that the order does not
8 constitute an admission by a person that the person has violated
9 this chapter or a rule adopted or order issued under this chapter.

10 (c) A consent order is a final order and may not be appealed.

11 Sec. 152.407. ADMINISTRATIVE PENALTY. (a) After notice
12 and hearing, the commissioner may assess an administrative penalty
13 against a person who:

14 (1) has violated this chapter or a rule adopted or
15 order issued under this chapter and has failed to correct the
16 violation not later than the 30th day after the date the department
17 sends written notice of the violation to the person;

18 (2) if the person is a money services licensee, has
19 engaged in conduct described by Section 152.403;

20 (3) has engaged in a pattern of violations; or

21 (4) has demonstrated wilful disregard for the
22 requirements of this chapter, the rules adopted under this chapter,
23 or an order issued under this chapter.

24 (b) A violation corrected after a person receives written
25 notice from the department of the violation may be considered for
26 purposes of determining whether a person has engaged in a pattern of
27 violations under Subsection (a)(3) or demonstrated wilful

1 disregard under Subsection (a)(4).

2 (c) The amount of the penalty may not exceed \$5,000 for each
3 violation or, in the case of a continuing violation, \$5,000 for each
4 day that the violation continues. Each transaction in violation of
5 this chapter and each day that a violation continues is a separate
6 violation.

7 (d) In determining the amount of the penalty, the
8 commissioner shall consider factors that include the seriousness of
9 the violation, the person's compliance history, and the person's
10 good faith in attempting to comply with this chapter, provided that
11 if the person is found to have demonstrated wilful disregard under
12 Subsection (a)(4), the trier of fact may recommend that the
13 commissioner impose the maximum administrative penalty permitted
14 under Subsection (c).

15 (e) A hearing to assess an administrative penalty is
16 considered a contested case hearing and is subject to Section
17 152.451.

18 (f) An order imposing an administrative penalty after
19 notice and hearing becomes effective and is final for purposes of
20 collection and appeal immediately on issuance.

21 (g) The commissioner may collect an administrative penalty
22 assessed under this section:

23 (1) in the same manner that a money judgment is
24 enforced in court; or

25 (2) if the penalty is imposed against a money services
26 licensee or an authorized delegate, from the proceeds of the
27 licensee's security in accordance with Section 152.354(c).

1 Sec. 152.408. CRIMINAL PENALTY. (a) A person commits an
2 offense if the person:

3 (1) intentionally makes a false statement,
4 misrepresentation, or certification in a record or application
5 filed with the department or required to be maintained under this
6 chapter or a rule adopted or order issued under this chapter, or
7 intentionally makes a false entry or omits a material entry in the
8 record or application; or

9 (2) knowingly engages in an activity for which a money
10 services license is required under this chapter without being
11 licensed under this chapter.

12 (b) An offense under this section is a felony of the third
13 degree.

14 (c) An offense under this section may be prosecuted in
15 Travis County or in the county in which the offense is alleged to
16 have been committed.

17 (d) Nothing in this section limits the power of the state to
18 punish a person for an act that constitutes an offense under this or
19 any other law.

20 Sec. 152.409. NOTICE, HEARING, AND OTHER PROCEDURES FOR
21 NONEMERGENCY ORDERS. (a) This section applies to an order issued
22 by the commissioner under this subchapter that is not an emergency
23 order.

24 (b) An order to which this section applies becomes effective
25 only after notice and an opportunity for hearing. The order must:

26 (1) state the grounds on which the order is based;

27 (2) to the extent applicable, state the action or

1 violation from which the person subject to the order must cease and
2 desist or the affirmative action the person must take to correct a
3 condition resulting from the violation or that is otherwise
4 appropriate;

5 (3) be delivered by personal delivery or sent by
6 certified mail, return receipt requested, to the person against
7 whom the order is directed at the person's last known address;

8 (4) state the effective date of the order, which may
9 not be before the 21st day after the date the order is delivered or
10 mailed; and

11 (5) include a notice that a person may file a written
12 request for a hearing on the order with the commissioner not later
13 than the 20th day after the date the order is delivered or mailed.

14 (c) Unless the commissioner receives a written request for a
15 hearing from the person against whom the order is directed not later
16 than the 20th day after the date the order is delivered or mailed,
17 the order takes effect as stated in the order and is final against
18 and non-appealable by that person from that date.

19 (d) A hearing on the order must be held not later than the
20 45th day after the date the commissioner receives the written
21 request for the hearing unless the administrative law judge extends
22 the period for good cause or the parties agree to a later hearing
23 date.

24 (e) An order that has been affirmed or modified after a
25 hearing becomes effective and is final for purposes of enforcement
26 and appeal immediately on issuance. The order may be appealed to
27 the district court of Travis County as provided by Section

1 152.451(b).

2 Sec. 152.410. REQUIREMENTS AND NOTICE AND HEARING
3 PROCEDURES FOR EMERGENCY ORDERS. (a) This section applies to an
4 emergency order issued by the commissioner under this subchapter.

5 (b) The commissioner may issue an emergency order, without
6 prior notice and an opportunity for hearing, if the commissioner
7 finds that:

8 (1) the action, violation, or condition that is the
9 basis for the order:

10 (A) has caused or is likely to cause the
11 insolvency of the money services licensee;

12 (B) has caused or is likely to cause the
13 substantial dissipation of the money services licensee's assets or
14 earnings;

15 (C) has seriously weakened or is likely to
16 seriously weaken the condition of the money services licensee; or

17 (D) has seriously prejudiced or is likely to
18 seriously prejudice the interests of the money services licensee, a
19 purchaser of the licensee's money services, or the public; and

20 (2) immediate action is necessary to protect the
21 interests of the money services licensee, a purchaser of the
22 licensee's money services, or the public.

23 (c) In connection with and as directed by an emergency
24 order, the commissioner may seize the records and assets of a money
25 services licensee or authorized delegate that relate to the
26 licensee's money services business.

27 (d) An emergency order must:

1 (1) state the grounds on which the order is based;

2 (2) advise the person against whom the order is
3 directed that the order takes effect immediately, and, to the
4 extent applicable, require the person to immediately cease and
5 desist from the conduct or violation that is the subject of the
6 order or to take the affirmative action stated in the order as
7 necessary to correct a condition resulting from the conduct or
8 violation or as otherwise appropriate;

9 (3) be delivered by personal delivery or sent by
10 certified mail, return receipt requested, to the person against
11 whom the order is directed at the person's last known address; and

12 (4) include a notice that a person may request a
13 hearing on the order by filing a written request for hearing with
14 the commissioner not later than the 15th day after the date the
15 order is delivered or mailed.

16 (e) An emergency order takes effect as soon as the person
17 against whom the order is directed has actual or constructive
18 knowledge of the issuance of the order.

19 (f) A money services licensee or authorized delegate
20 against whom an emergency order is directed must submit a written
21 certification to the commissioner, signed by the licensee or
22 authorized delegate, and their principals and responsible
23 individuals, as applicable, and each person named in the order,
24 stating that each person has received a copy of and has read and
25 understands the order.

26 (g) Unless the commissioner receives a written request for a
27 hearing from a person against whom an emergency order is directed

1 not later than the 15th day after the date the order is delivered or
2 mailed, the order is final and non-appealable as to that person on
3 the 16th day after the date the order is delivered or mailed.

4 (h) A request for a hearing does not stay an emergency
5 order.

6 (i) A hearing on an emergency order takes precedence over
7 any other matter pending before the commissioner, and must be held
8 not later than the 10th day after the date the commissioner receives
9 the written request for hearing unless the administrative law judge
10 extends the period for good cause or the parties agree to a later
11 hearing date.

12 (j) An emergency order that has been affirmed or modified
13 after a hearing is final for purposes of enforcement and appeal.
14 The order may be appealed to the district court of Travis County as
15 provided in Section 152.451(b).

16 SUBCHAPTER J. MISCELLANEOUS PROVISIONS

17 Sec. 152.451. ADMINISTRATIVE PROCEDURES. (a) All
18 administrative proceedings under this chapter must be conducted in
19 accordance with Chapter 2001, Government Code, and Title 7, Chapter
20 9, Texas Administrative Code.

21 (b) A person affected by a final order of the commissioner
22 issued under this chapter after a hearing may appeal the order by
23 filing a petition for judicial review in a district court of Travis
24 County. A petition for judicial review filed in the district court
25 under this subsection does not stay or vacate the appealed order
26 unless the court, after notice and hearing, specifically stays or
27 vacates the order.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 140A.104(e), Civil Practice and Remedies Code, is amended to read as follows:

(e) A bank or savings and loan association insured by the Federal Deposit Insurance Corporation, a credit union insured by the National Credit Union Administration, or the holder of a money transmission license as defined by Chapter 152 [~~151~~], Finance Code, may not be held liable in damages or for other relief under this chapter, unless the finder of fact finds by a preponderance of the evidence that the person or agent acquiring or maintaining an interest in or transporting, transacting, transferring, or receiving the funds on behalf of another did so knowing that the funds were the proceeds of an offense and that a director or high managerial agent performed, authorized, requested, commanded, participated in, ratified, or recklessly tolerated the unlawful conduct of the person or agent.

SECTION 2.02. Article 59.01(2), Code of Criminal Procedure, is amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under Chapter 43, Penal

1 Code, except as provided by Paragraph (B);

2 (iv) any felony under The Securities Act
3 (Title 12, Government Code); or

4 (v) any offense under Chapter 49, Penal
5 Code, that is punishable as a felony of the third degree or state
6 jail felony, if the defendant has been previously convicted three
7 times of an offense under that chapter;

8 (B) used or intended to be used in the commission
9 of:

10 (i) any felony under Chapter 481, Health
11 and Safety Code (Texas Controlled Substances Act);

12 (ii) any felony under Chapter 483, Health
13 and Safety Code;

14 (iii) a felony under Chapter 152 [~~151~~],
15 Finance Code;

16 (iv) any felony under Chapter 20A or 34,
17 Penal Code;

18 (v) a Class A misdemeanor under Subchapter
19 B, Chapter 365, Health and Safety Code, if the defendant has been
20 previously convicted twice of an offense under that subchapter;

21 (vi) any felony under Chapter 32, Human
22 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
23 involves a health care program, as defined by Section 35A.01, Penal
24 Code;

25 (vii) a Class B misdemeanor under Chapter
26 522, Business & Commerce Code;

27 (viii) a Class A misdemeanor under Section

1 306.051, Business & Commerce Code;

2 (ix) any offense under Section 42.10, Penal
3 Code;

4 (x) any offense under Section 46.06(a)(1)
5 or 46.14, Penal Code;

6 (xi) any offense under Chapter 71, Penal
7 Code;

8 (xii) any offense under Section 20.05,
9 20.06, 20.07, 43.04, or 43.05, Penal Code;

10 (xiii) an offense under Section 326.002,
11 Business & Commerce Code; or

12 (xiv) a Class A misdemeanor or any felony
13 under Section 545.420, Transportation Code, other than a Class A
14 misdemeanor that is classified as a Class A misdemeanor based
15 solely on conduct constituting a violation of Subsection (e)(2)(B)
16 of that section;

17 (C) the proceeds gained from the commission of a
18 felony listed in Paragraph (A) or (B) of this subdivision, a
19 misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), or (xii)
20 of this subdivision, or a crime of violence;

21 (D) acquired with proceeds gained from the
22 commission of a felony listed in Paragraph (A) or (B) of this
23 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
24 (xi), or (xii) of this subdivision, or a crime of violence;

25 (E) used to facilitate or intended to be used to
26 facilitate the commission of a felony under Section 15.031 or
27 Chapter 43, Penal Code; or

1 (F) used to facilitate or intended to be used to
2 facilitate the commission of an offense under Section 20.05, 20.06,
3 or 20.07 or Chapter 20A, Penal Code.

4 SECTION 2.03. Section 182.021, Finance Code, is amended to
5 read as follows:

6 Sec. 182.021. ACTIVITIES NOT REQUIRING CHARTER. Subject to
7 Subchapter C, Chapter 187, a company does not engage in the trust
8 business in a manner requiring a state charter by:

9 (1) acting in a manner authorized by law and in the
10 scope of authority as an agent of a trust institution;

11 (2) rendering a service customarily performed as an
12 attorney in a manner approved and authorized by the Supreme Court of
13 Texas or State Bar of Texas;

14 (3) acting as trustee under a deed of trust made only
15 as security for the payment of money or for the performance of
16 another act;

17 (4) conducting business as a trust institution if the
18 exercise of fiduciary powers in this state by the trust institution
19 is not otherwise prohibited by law;

20 (5) engaging in a business regulated by the Office of
21 Consumer Credit Commissioner, except as limited by rules adopted by
22 the finance commission;

23 (6) receiving and distributing rents and proceeds of
24 sale as a licensed real estate broker on behalf of a principal in a
25 manner authorized by the Texas Real Estate Commission;

26 (7) engaging in a securities transaction or providing
27 an investment advisory service as a licensed and registered dealer,

1 salesman, or advisor to the extent that the activity is regulated by
2 the State Securities Board or the Securities and Exchange
3 Commission;

4 (8) engaging in the sale and administration of an
5 insurance product by an insurance company or agent authorized or
6 licensed by the Texas Department of Insurance to the extent that the
7 activity is regulated by the Texas Department of Insurance;

8 (9) engaging in the lawful sale of prepaid funeral
9 benefits under a permit issued by the banking commissioner under
10 Chapter [154](#);

11 (10) engaging in the lawful business of a perpetual
12 care cemetery corporation under Chapter [712](#), Health and Safety
13 Code;

14 (11) engaging as a principal in the money services
15 business under a license issued by the banking commissioner under
16 Chapter [152](#) [~~151~~];

17 (12) acting as trustee under a voting trust as
18 provided by Section [6.251](#), Business Organizations Code;

19 (13) acting as trustee by a public, private, or
20 independent institution of higher education or a university system,
21 as defined by Section [61.003](#), Education Code, including an
22 affiliated foundation or corporation of such an institution or
23 system acting as trustee as provided by the Education Code;

24 (14) engaging in another activity expressly excluded
25 from the application of this subtitle by rule of the finance
26 commission;

27 (15) rendering services customarily performed by a

1 certified accountant in a manner authorized by the Texas State
2 Board of Public Accountancy;

3 (16) serving as trustee of a charitable trust as
4 provided by Section 2.106, Business Organizations Code;

5 (17) performing escrow or settlement services if
6 licensed or authorized under Title 11, Insurance Code;

7 (18) acting as a qualified intermediary in a tax
8 deferred exchange under Section 1031, Internal Revenue Code of
9 1986, and applicable regulations;

10 (19) providing permitted services at a trust
11 representative office established in this state pursuant to
12 Subchapter C, Chapter 187; or

13 (20) acting as a trustee or custodian approved by the
14 Internal Revenue Service under 26 C.F.R. Section 1.408-2(e) of an
15 individual retirement account described by Section 408(a),
16 Internal Revenue Code of 1986.

17 SECTION 2.04. Section 278.001(1), Finance Code, is amended
18 to read as follows:

19 (1) "Currency" has the meaning assigned by Section
20 152.003 [~~151.501~~].

21 SECTION 2.05. Section 213.012(a), Labor Code, is amended to
22 read as follows:

23 (a) In this section, "payment instrument" has the meaning
24 assigned by Section 152.003 [~~151.301~~], Finance Code.

25 SECTION 2.06. Section 151.0035(b), Tax Code, is amended to
26 read as follows:

27 (b) "Data processing service" does not include:

1 (1) the transcription of medical dictation by a
2 medical transcriptionist;

3 (2) services exclusively to encrypt electronic
4 payment information for acceptance onto a payment card network
5 described by Subdivision (3)(E) to comply with standards set by the
6 Payment Card Industry Security Standards Council; or

7 (3) settling of an electronic payment transaction by:

8 (A) a downstream payment processor or point of
9 sale payment processor that routes electronic payment information
10 to an entity described by Paragraph (C) or (E);

11 (B) a person who is engaged in the business of
12 money transmission and required to obtain a license under Section
13 152.101 [~~151.302(a)~~], Finance Code;

14 (C) a federally insured financial institution,
15 as defined by Section 201.101, Finance Code, that is organized
16 under the laws of this state, another state, or the United States,
17 or an affiliate of the institution;

18 (D) a person who has entered into a sponsorship
19 agreement with an entity described by Paragraph (C) for the purpose
20 of settling that entity's electronic payment transactions through a
21 payment card network; or

22 (E) a payment card network that allows a person
23 to accept a specific brand of debit or credit card by routing
24 information and data to settle an electronic payment transaction.

25 ARTICLE 3. REPEALER

26 SECTION 3.01. Chapter 151, Finance Code, is repealed.

1 ARTICLE 4. TRANSITIONAL PROVISIONS

2 SECTION 4.01. (a) A license issued under Chapter 151,
3 Finance Code, that is in effect on September 1, 2023, remains in
4 force as a license under Chapter 152, Finance Code. Not later than
5 September 1, 2024, a licensee must satisfy the minimum requirements
6 to maintain a license established by Chapter 152, Finance Code, as
7 added by this Act.

8 (b) A contract between a licensee and an authorized delegate
9 entered into or renewed on or after the effective date of this Act
10 must satisfy the contract requirements established by Chapter 152,
11 Finance Code, as added by this Act.

12 (c) The Finance Commission of Texas may adopt rules to
13 further provide for the orderly transition to licensing and
14 regulation under this Act.

15 ARTICLE 5. EFFECTIVE DATE

16 SECTION 5.01. This Act takes effect September 1, 2023.

S.B. No. 895

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 895 passed the Senate on March 30, 2023, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 895 passed the House on May 16, 2023, by the following vote: Yeas 116, Nays 22, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor