First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading

LLS NO. 25-0524.01 Brita Darling x2241 **HOUSE BILL 25-1201**

HOUSE SPONSORSHIP

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House Committees
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A BILL FOR AN ACT

CONCERNING IMPLEMENTING A MODEL ACT TO MODERNIZE MONEY TRANSMISSION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill repeals the current "Money Transmitters Act" and replaces it with the "Money Transmission Modernization Act" (act). The new act enacts, in part, a model law developed in conjunction with the money transmitter industry.

The act reduces regulatory burden by modernizing outdated and inconsistent regulatory requirements, including:

- Clarifying the definition of "control" of a licensee and introducing a rebuttable presumption of control;
- Enabling Colorado's participation in multistate licensing initiatives;
- Codifying the agent-to-payee exemption to licensure;
- Revising prudential standards required for licensing and ongoing monitoring, such as tangible net worth and permissible investment calculations;
- Establishing an irrevocable, standby letter of credit as a permissible investment; and
- Expanding the enforcement actions available in case of nonperformance by a money transmitter.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments,** article 110 of title 11 as follows:

ARTICLE 110

Money Transmitters

PART 1

SHORT TITLE AND LEGISLATIVE DECLARATION

11-110-101. Short title. THE SHORT TITLE OF THIS ARTICLE 110 IS THE "MONEY TRANSMISSION MODERNIZATION ACT".

11-110-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS ARTICLE 110 IS TO:

(a) ENSURE STATES CAN COORDINATE IN ALL AREAS OF REGULATION, LICENSING, AND SUPERVISION TO ELIMINATE UNNECESSARY REGULATORY BURDEN AND MORE EFFECTIVELY UTILIZE REGULATOR RESOURCES;

(b) PROTECT THE PUBLIC FROM FINANCIAL CRIME;

(c) STANDARDIZE THE TYPES OF ACTIVITIES THAT ARE SUBJECT TO LICENSING OR OTHERWISE EXEMPT FROM LICENSING; AND

(d) MODERNIZE SAFETY AND SOUNDNESS REQUIREMENTS TO ENSURE CUSTOMER MONEY IS PROTECTED IN AN ENVIRONMENT THAT SUPPORTS INNOVATIVE AND COMPETITIVE BUSINESS PRACTICES.

PART 2

DEFINITIONS

11-110-201. Definitions - rules. AS USED IN THIS ARTICLE 110, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACTING IN CONCERT" MEANS PERSONS KNOWINGLY ACTING TOGETHER WITH A COMMON GOAL OF JOINTLY ACQUIRING CONTROL OF A LICENSEE, WHETHER OR NOT PURSUANT TO AN EXPRESS AGREEMENT.

(2) "AUTHORIZED DELEGATE" MEANS A PERSON A LICENSEE DESIGNATES TO ENGAGE IN MONEY TRANSMISSION ON BEHALF OF THE LICENSEE.

(3) "AVERAGE DAILY MONEY TRANSMISSION LIABILITY" MEANS THE AMOUNT OF A LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS IN THIS STATE AT THE END OF EACH DAY IN A GIVEN PERIOD OF TIME, ADDED TOGETHER AND DIVIDED BY THE TOTAL NUMBER OF DAYS IN THE GIVEN PERIOD OF TIME. FOR PURPOSES OF CALCULATING AVERAGE DAILY MONEY TRANSMISSION LIABILITY UNDER THIS ARTICLE 110 FOR ANY LICENSEE REQUIRED TO DO SO, THE GIVEN PERIOD OF TIME IS THE QUARTERS ENDING MARCH 31, JUNE 30, SEPTEMBER 30, AND DECEMBER 31.

(4) "BANKING BOARD" OR "BOARD" MEANS THE BANKING BOARD CREATED IN SECTION 11-102-103.

(5) "BANK SECRECY ACT" MEANS THE FEDERAL "BANK SECRECY ACT", 31 U.S.C. SEC. 5311 ET SEQ., AS AMENDED, AND ITS IMPLEMENTING REGULATIONS.

(6) "CLOSED LOOP STORED VALUE" MEANS STORED VALUE THAT IS REDEEMABLE BY AN ISSUER ONLY FOR GOODS OR SERVICES PROVIDED BY THE ISSUER OR ITS AFFILIATE OR FRANCHISEES OF THE ISSUER OR ITS AFFILIATE, EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE REDEEMABLE IN CASH FOR ITS CASH VALUE.

(7) "COMMISSIONER" MEANS THE STATE BANK COMMISSIONER APPOINTED AND SERVING PURSUANT TO SECTION 11-102-101 (2).

(8) (a) "CONTROL" MEANS THE POWER TO:

(I) VOTE, DIRECTLY OR INDIRECTLY, AT LEAST TWENTY-FIVE PERCENT OF THE OUTSTANDING VOTING SHARES OR VOTING INTERESTS OF A LICENSEE OR PERSON IN CONTROL OF A LICENSEE;

(II) ELECT OR APPOINT A MAJORITY OF KEY INDIVIDUALS OR EXECUTIVE OFFICERS, MANAGERS, DIRECTORS, TRUSTEES, OR OTHER INDIVIDUALS EXERCISING MANAGERIAL AUTHORITY OF A PERSON IN CONTROL OF A LICENSEE; OR

(III) EXERCISE, DIRECTLY OR INDIRECTLY, A CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF A LICENSEE OR PERSON IN CONTROL OF A LICENSEE.

(b) **Rebuttable presumption of control.** (I) A PERSON IS PRESUMED TO EXERCISE A CONTROLLING INFLUENCE WHEN THE PERSON HOLDS THE POWER TO VOTE, DIRECTLY OR INDIRECTLY, AT LEAST TEN PERCENT OF THE OUTSTANDING VOTING SHARES OR VOTING INTERESTS OF A LICENSEE OR PERSON IN CONTROL OF A LICENSEE.

(II) A PERSON PRESUMED TO EXERCISE A CONTROLLING INFLUENCE AS DESCRIBED IN THIS SUBSECTION (8) MAY REBUT THE PRESUMPTION OF CONTROL IF THE PERSON IS A PASSIVE INVESTOR.

(c) FOR PURPOSES OF DETERMINING THE PERCENTAGE OF A PERSON

CONTROLLED BY ANY OTHER PERSON, THE PERSON'S INTEREST SHALL BE AGGREGATED WITH THE INTEREST OF ANY OTHER IMMEDIATE FAMILY MEMBER, INCLUDING THE PERSON'S SPOUSE, PARENTS, CHILDREN, SIBLINGS, MOTHERS- AND FATHERS-IN-LAW, SONS- AND DAUGHTERS-IN-LAW, AND BROTHERS- AND SISTERS-IN-LAW AND ANY OTHER PERSON WHO SHARES SUCH PERSON'S HOME.

(9) "DIVISION" MEANS THE DIVISION OF BANKING CREATED IN SECTION 11-102-101.

(10) "ELIGIBLE RATING" MEANS A CREDIT RATING OF ANY OF THE THREE HIGHEST RATING CATEGORIES PROVIDED BY AN ELIGIBLE RATING SERVICE, WHEREBY EACH CATEGORY MAY INCLUDE RATING CATEGORY MODIFIERS SUCH AS "PLUS" OR "MINUS" FOR S&P GLOBAL RATINGS OR THE EQUIVALENT FOR ANY OTHER ELIGIBLE RATING SERVICE. LONG-TERM CREDIT RATINGS ARE DEEMED ELIGIBLE IF THE RATING IS EQUAL TO "A-" OR HIGHER BY S&P GLOBAL RATINGS OR THE EQUIVALENT FROM ANY OTHER ELIGIBLE RATING SERVICE. SHORT-TERM CREDIT RATINGS ARE DEEMED ELIGIBLE IF THE RATING IS EQUAL TO OR HIGHER THAN "A-2" OR "SP-2" BY S&P GLOBAL RATINGS OR THE EQUIVALENT FROM ANY OTHER ELIGIBLE RATING SERVICE. IN THE EVENT THAT RATINGS DIFFER AMONG ELIGIBLE RATING SERVICES, THE HIGHEST RATING APPLIES WHEN DETERMINING WHETHER A SECURITY BEARS AN ELIGIBLE RATING.

(11) "ELIGIBLE RATING SERVICE" MEANS ANY NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION, OR "NRSRO", AS DEFINED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION, AND ANY OTHER ORGANIZATION DESIGNATED BY THE BANKING BOARD BY RULE OR ORDER.

(12) "FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION"

MEANS A BANK, CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, TRUST COMPANY, SAVINGS ASSOCIATION, SAVINGS BANK, INDUSTRIAL BANK, OR INDUSTRIAL LOAN COMPANY ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE OF THE UNITED STATES, WHEN SUCH BANK, CREDIT UNION, SAVINGS AND LOAN ASSOCIATION, TRUST COMPANY, SAVINGS ASSOCIATION, SAVINGS BANK, INDUSTRIAL BANK, OR INDUSTRIAL LOAN COMPANY HAS FEDERALLY INSURED DEPOSITS.

(13) "INDIVIDUAL" MEANS A NATURAL PERSON.

(14) (a) "IN THIS STATE" MEANS AT A PHYSICAL LOCATION WITHIN THIS STATE FOR A TRANSACTION REQUESTED IN PERSON.

(b) FOR A TRANSACTION REQUESTED ELECTRONICALLY OR BY PHONE, THE PROVIDER OF MONEY TRANSMISSION SHALL DETERMINE IF THE PERSON REQUESTING THE TRANSACTION IS "IN THIS STATE" BY RELYING ON OTHER INFORMATION PROVIDED BY THE PERSON REGARDING THE LOCATION OF THE INDIVIDUAL'S RESIDENTIAL ADDRESS OR A BUSINESS ENTITY'S PRINCIPAL PLACE OF BUSINESS OR OTHER PHYSICAL ADDRESS LOCATION, AND ANY RECORDS ASSOCIATED WITH THE PERSON THAT THE PROVIDER OF MONEY TRANSMISSION MAY HAVE THAT INDICATE SUCH LOCATION, INCLUDING BUT NOT LIMITED TO AN ADDRESS ASSOCIATED WITH AN ACCOUNT.

(15) "KEY INDIVIDUAL" MEANS ANY INDIVIDUAL ULTIMATELY RESPONSIBLE FOR ESTABLISHING OR DIRECTING POLICIES AND PROCEDURES OF A LICENSEE, SUCH AS AN EXECUTIVE OFFICER, MANAGER, DIRECTOR, OR TRUSTEE.

(16) "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE 110.

(17) "MATERIAL LITIGATION" MEANS LITIGATION THAT,

ACCORDING TO UNITED STATES GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, IS SIGNIFICANT TO A PERSON'S FINANCIAL HEALTH AND WOULD BE REQUIRED TO BE DISCLOSED IN THE PERSON'S ANNUAL AUDITED FINANCIAL STATEMENTS OR REPORT TO SHAREHOLDERS OR SIMILAR RECORDS.

(18) "MONETARY VALUE" MEANS A MEDIUM OF EXCHANGE, WHETHER OR NOT REDEEMABLE IN MONEY.

(19) (a) "MONEY" MEANS A MEDIUM OF EXCHANGE THAT IS AUTHORIZED OR ADOPTED BY THE UNITED STATES OR A FOREIGN GOVERNMENT.

(b) "MONEY" INCLUDES A MONETARY UNIT OF ACCOUNT ESTABLISHED BY AN INTERGOVERNMENTAL ORGANIZATION OR BY AGREEMENT BETWEEN TWO OR MORE GOVERNMENTS.

(20) (a) "MONEY TRANSMISSION" MEANS ANY OF THE FOLLOWING:

(I) SELLING OR ISSUING PAYMENT INSTRUMENTS TO A PERSON LOCATED IN THIS STATE;

(II) SELLING OR ISSUING STORED VALUE TO A PERSON LOCATED IN THIS STATE; OR

(III) RECEIVING MONEY FOR TRANSMISSION FROM A PERSON LOCATED IN THIS STATE.

(b) "MONEY TRANSMISSION" INCLUDES PAYROLL PROCESSING SERVICES.

(c) "MONEY TRANSMISSION" DOES NOT INCLUDE THE SOLE PROVISION OF ONLINE OR TELECOMMUNICATIONS SERVICES OR NETWORK ACCESS.

(21) "MSB ACCREDITED STATE" MEANS A STATE AGENCY THAT IS ACCREDITED BY THE CONFERENCE OF STATE BANK SUPERVISORS AND THE

MONEY TRANSMITTER REGULATORS ASSOCIATION FOR MONEY TRANSMISSION LICENSING AND SUPERVISION.

(22) "MULTISTATE LICENSING PROCESS" MEANS ANY AGREEMENT ENTERED INTO BY AND AMONG STATE REGULATORS RELATING TO COORDINATED PROCESSING OF APPLICATIONS FOR MONEY TRANSMISSION LICENSES, APPLICATIONS FOR THE ACQUISITION OF CONTROL OF A LICENSEE, CONTROL DETERMINATIONS, OR NOTICE AND INFORMATION REQUIREMENTS FOR A CHANGE OF KEY INDIVIDUALS.

(23) "NMLS" MEANS THE NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY DEVELOPED BY THE CONFERENCE OF STATE BANK SUPERVISORS AND THE AMERICAN ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS AND OWNED AND OPERATED BY THE STATE REGULATORY REGISTRY, LLC, OR ANY SUCCESSOR OR AFFILIATED ENTITY, FOR THE LICENSING AND REGISTRATION OF PERSONS IN FINANCIAL SERVICES INDUSTRIES.

(24) (a) "OUTSTANDING MONEY TRANSMISSION OBLIGATION" MEANS, AS ESTABLISHED AND EXTINGUISHED IN ACCORDANCE WITH APPLICABLE STATE LAW:

(I) ANY PAYMENT INSTRUMENT OR STORED VALUE ISSUED OR SOLD BY A LICENSEE TO A PERSON LOCATED IN THE UNITED STATES OR REPORTED AS SOLD BY AN AUTHORIZED DELEGATE OF THE LICENSEE TO A PERSON THAT IS LOCATED IN THE UNITED STATES THAT HAS NOT YET BEEN PAID OR REFUNDED BY OR FOR THE LICENSEE OR ESCHEATED IN ACCORDANCE WITH APPLICABLE ABANDONED PROPERTY LAWS; OR

(II) ANY MONEY RECEIVED FOR TRANSMISSION BY A LICENSEE OR AN AUTHORIZED DELEGATE OF THE LICENSEE IN THE UNITED STATES FROM A PERSON LOCATED IN THE UNITED STATES THAT HAS NOT BEEN RECEIVED

BY THE PAYEE OR REFUNDED TO THE SENDER OR ESCHEATED IN ACCORDANCE WITH APPLICABLE ABANDONED PROPERTY LAWS.

(b) AS USED IN THIS SUBSECTION (24), "IN THE UNITED STATES" MEANS, TO THE EXTENT APPLICABLE, A PERSON IN ANY STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES; THE DISTRICT OF COLUMBIA; THE COMMONWEALTH OF PUERTO RICO; OR A UNITED STATES MILITARY INSTALLATION THAT IS LOCATED IN A FOREIGN COUNTRY.

(25) "PASSIVE INVESTOR" MEANS A PERSON THAT:

(a) DOES NOT HAVE THE POWER TO ELECT A MAJORITY OF KEY INDIVIDUALS OR EXECUTIVE OFFICERS, MANAGERS, DIRECTORS, TRUSTEES, OR OTHER PERSONS EXERCISING MANAGERIAL AUTHORITY OF A PERSON IN CONTROL OF A LICENSEE;

(b) IS NOT EMPLOYED BY AND DOES NOT HAVE ANY MANAGERIAL DUTIES OF THE LICENSEE OR PERSON IN CONTROL OF A LICENSEE;

(c) DOES NOT HAVE THE POWER TO EXERCISE, DIRECTLY OR INDIRECTLY, A CONTROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF A LICENSEE OR PERSON IN CONTROL OF A LICENSEE; AND

(d) EITHER:

(I) ATTESTS TO SUBSECTIONS (25)(a) TO (25)(c) OF THIS SECTION IN A FORM AND IN A MEDIUM PRESCRIBED BY THE BANKING BOARD BY RULE; OR

(II) COMMITS TO THE PASSIVITY CHARACTERISTICS OF SUBSECTIONS (25)(a) TO (25)(c) OF THIS SECTION IN A WRITTEN DOCUMENT.

(26) (a) "PAYMENT INSTRUMENT" MEANS A WRITTEN OR ELECTRONIC CHECK, DRAFT, MONEY ORDER, TRAVELER'S CHECK, OR OTHER WRITTEN OR ELECTRONIC INSTRUMENT FOR THE TRANSMISSION OR

PAYMENT OF MONEY OR MONETARY VALUE, WHETHER OR NOT NEGOTIABLE.

(b) "PAYMENT INSTRUMENT" DOES NOT INCLUDE STORED VALUE OR ANY INSTRUMENT THAT:

(I) IS REDEEMABLE BY THE ISSUER ONLY FOR GOODS OR SERVICES PROVIDED BY THE ISSUER OR ITS AFFILIATE OR FRANCHISEES OF THE ISSUER OR THEIR AFFILIATES, EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE REDEEMABLE IN CASH FOR ITS CASH VALUE; OR

(II) IS NOT SOLD TO THE PUBLIC BUT ISSUED AND DISTRIBUTED AS PART OF A LOYALTY, REWARDS, OR PROMOTIONAL PROGRAM.

(27) (a) "PAYROLL PROCESSING SERVICES" MEANS RECEIVING MONEY FOR TRANSMISSION PURSUANT TO A CONTRACT WITH A PERSON TO DELIVER WAGES OR SALARIES, MAKE PAYMENT OF PAYROLL TAXES TO STATE AND FEDERAL AGENCIES, MAKE PAYMENTS RELATING TO EMPLOYEE BENEFIT PLANS, OR MAKE DISTRIBUTIONS OF OTHER AUTHORIZED DEDUCTIONS FROM WAGES OR SALARIES.

(b) "PAYROLL PROCESSING SERVICES" DOES NOT INCLUDE:

(I) AN EMPLOYER PERFORMING PAYROLL PROCESSING SERVICES ON ITS OWN BEHALF OR ON BEHALF OF ITS AFFILIATE OR A PROFESSIONAL EMPLOYER ORGANIZATION SUBJECT TO REGULATION UNDER OTHER APPLICABLE STATE LAW; OR

(II) A PERSON APPOINTED AS AN AGENT OF AN EMPLOYER FOR PURPOSES OF PROVIDING PAYROLL PROCESSING SERVICES FOR WHICH THE AGENT WOULD OTHERWISE NEED TO BE LICENSED, SO LONG AS ALL OF THE FOLLOWING APPLY:

(A) THERE IS A WRITTEN AGREEMENT BETWEEN THE EMPLOYER AND THE AGENT THAT DIRECTS THE AGENT TO PROVIDE PAYROLL

PROCESSING SERVICES ON THE EMPLOYER'S BEHALF;

(B) THE EMPLOYER HOLDS THE AGENT OUT TO EMPLOYEES AND OTHER PAYEES AS PROVIDING PAYROLL PROCESSING SERVICES ON THE EMPLOYER'S BEHALF; AND

(C) THE EMPLOYER'S OBLIGATION TO A PAYEE, INCLUDING AN EMPLOYEE OR OTHER PARTY ENTITLED TO RECEIVE MONEY VIA THE PAYROLL PROCESSING SERVICES PROVIDED BY THE AGENT, IS NOT EXTINGUISHED IF THE AGENT FAILS TO REMIT THE MONEY TO THE PAYEE.

(28) "PERSON" MEANS ANY INDIVIDUAL, GENERAL PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION, TRUST, ASSOCIATION, JOINT STOCK CORPORATION, OR OTHER CORPORATE ENTITY IDENTIFIED BY THE BANKING BOARD.

(29) "RECEIVING MONEY FOR TRANSMISSION" OR "MONEY RECEIVED FOR TRANSMISSION" MEANS RECEIVING MONEY OR MONETARY VALUE IN THE UNITED STATES FOR TRANSMISSION WITHIN OR OUTSIDE THE UNITED STATES BY ELECTRONIC OR OTHER MEANS.

(30) (a) "STORED VALUE" MEANS MONETARY VALUE THAT REPRESENTS A CLAIM AGAINST THE ISSUER EVIDENCED BY AN ELECTRONIC OR DIGITAL RECORD AND THAT IS INTENDED AND ACCEPTED FOR USE AS A MEANS OF REDEMPTION FOR MONEY OR MONETARY VALUE OR PAYMENT FOR GOODS OR SERVICES. "STORED VALUE" INCLUDES BUT IS NOT LIMITED TO "PREPAID ACCESS" AS DEFINED BY 31 CFR 1010.100.

(b) NOTWITHSTANDING SUBSECTION (30)(a) OF THIS SECTION, "STORED VALUE" DOES NOT INCLUDE A PAYMENT INSTRUMENT OR CLOSED LOOP STORED VALUE OR STORED VALUE NOT SOLD TO THE PUBLIC BUT ISSUED AND DISTRIBUTED AS PART OF A LOYALTY, REWARDS, OR PROMOTIONAL PROGRAM.

(31) "TANGIBLE NET WORTH" MEANS THE AGGREGATE ASSETS OF A LICENSEE EXCLUDING ALL INTANGIBLE ASSETS, LESS LIABILITIES, AS DETERMINED IN ACCORDANCE WITH UNITED STATES GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

PART 3

EXEMPTIONS

11-110-301. Exemptions. (1) THIS ARTICLE 110 DOES NOT APPLY TO:

(a) AN OPERATOR OF A PAYMENT SYSTEM TO THE EXTENT THAT IT PROVIDES PROCESSING, CLEARING, OR SETTLEMENT SERVICES, BETWEEN OR AMONG PERSONS EXEMPTED BY THIS SECTION OR LICENSEES, IN CONNECTION WITH WIRE TRANSFERS, CREDIT CARD TRANSACTIONS, DEBIT CARD TRANSACTIONS, STORED-VALUE TRANSACTIONS, AUTOMATED CLEARING HOUSE TRANSFERS, OR SIMILAR MONEY TRANSFERS;

(b) A PERSON APPOINTED AS AN AGENT OF A PAYEE TO COLLECT AND PROCESS A PAYMENT FROM A PAYER TO THE PAYEE FOR GOODS OR SERVICES, OTHER THAN MONEY TRANSMISSION ITSELF, PROVIDED TO THE PAYER BY THE PAYEE, SO LONG AS:

(I) THERE EXISTS A WRITTEN AGREEMENT BETWEEN THE PAYEE AND THE AGENT DIRECTING THE AGENT TO COLLECT AND PROCESS PAYMENTS FROM PAYERS ON THE PAYEE'S BEHALF;

(II) THE PAYEE HOLDS THE AGENT OUT TO THE PUBLIC AS ACCEPTING PAYMENTS FOR GOODS OR SERVICES ON THE PAYEE'S BEHALF; AND

(III) PAYMENT FOR THE GOODS AND SERVICES IS TREATED AS RECEIVED BY THE PAYEE UPON RECEIPT BY THE AGENT SO THAT THE PAYER'S OBLIGATION IS EXTINGUISHED AND THERE IS NO RISK OF LOSS TO

THE PAYER IF THE AGENT FAILS TO REMIT THE MONEY TO THE PAYEE;

(c) A PERSON THAT ACTS AS AN INTERMEDIARY BY PROCESSING PAYMENTS BETWEEN AN ENTITY THAT HAS DIRECTLY INCURRED AN OUTSTANDING MONEY TRANSMISSION OBLIGATION TO A SENDER, AND THE SENDER'S DESIGNATED RECIPIENT, IF THE ENTITY:

(I) IS PROPERLY LICENSED OR EXEMPT FROM LICENSING REQUIREMENTS UNDER THIS ARTICLE 110;

(II) PROVIDES A RECEIPT, ELECTRONIC RECORD, OR OTHER WRITTEN CONFIRMATION TO THE SENDER IDENTIFYING THE ENTITY AS THE PROVIDER OF MONEY TRANSMISSION IN THE TRANSACTION; AND

(III) BEARS SOLE RESPONSIBILITY TO SATISFY THE OUTSTANDING MONEY TRANSMISSION OBLIGATION TO THE SENDER, INCLUDING THE OBLIGATION TO MAKE THE SENDER WHOLE IN CONNECTION WITH ANY FAILURE TO TRANSMIT THE MONEY TO THE SENDER'S DESIGNATED RECIPIENT;

(d) THE UNITED STATES OR A DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES OR ITS AGENT;

(e) MONEY TRANSMISSION BY THE UNITED STATES POSTAL SERVICE OR BY AN AGENT OF THE UNITED STATES POSTAL SERVICE;

(f) A STATE, COUNTY, OR CITY OR ANY OTHER GOVERNMENTAL AGENCY OR GOVERNMENTAL SUBDIVISION OR INSTRUMENTALITY OF A STATE OR ITS AGENT;

(g) A FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION; BANK HOLDING COMPANY; OFFICE OF AN INTERNATIONAL BANKING CORPORATION; FOREIGN BANK THAT ESTABLISHES A FEDERAL BRANCH PURSUANT TO THE FEDERAL "INTERNATIONAL BANK ACT", 12 U.S.C. SEC. 3102, AS AMENDED; A CORPORATION ORGANIZED PURSUANT TO THE

FEDERAL "BANK SERVICE CORPORATION ACT", 12 U.S.C. SECS. 1861 TO 1867, AS AMENDED; A CORPORATION ORGANIZED UNDER THE "EDGE ACT", 12 U.S.C. SECS. 611 TO 633, AS AMENDED; OR AN ENTITY ORGANIZED UNDER THE GENERAL BANKING, SAVINGS AND LOAN, OR CREDIT UNION LAWS OF THIS STATE, ANOTHER STATE, OR THE UNITED STATES;

(h) ELECTRONIC FUNDS TRANSFER OF GOVERNMENTAL BENEFITS FOR A FEDERAL, STATE, COUNTY, OR GOVERNMENTAL AGENCY BY A CONTRACTOR ON BEHALF OF THE UNITED STATES OR A DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES OR ON BEHALF OF A STATE OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY OF A STATE;

(i) A BOARD OF TRADE DESIGNATED AS A CONTRACT MARKET UNDER THE FEDERAL "COMMODITY EXCHANGE ACT", 7 U.S.C. SECS. 1 TO 25, AS AMENDED, OR A PERSON THAT, IN THE ORDINARY COURSE OF BUSINESS, PROVIDES CLEARANCE AND SETTLEMENT SERVICES FOR A BOARD OF TRADE TO THE EXTENT OF ITS OPERATION AS OR FOR SUCH A BOARD;

(j) A REGISTERED FUTURES COMMISSION MERCHANT UNDER FEDERAL COMMODITIES LAWS TO THE EXTENT OF ITS OPERATION AS SUCH A MERCHANT;

(k) A PERSON REGISTERED AS A SECURITIES BROKER-DEALER UNDER FEDERAL OR STATE SECURITIES LAWS TO THE EXTENT OF THE PERSON'S OPERATION AS SUCH A BROKER-DEALER;

(l) AN INDIVIDUAL EMPLOYED BY A LICENSEE, AN AUTHORIZED DELEGATE, OR ANY PERSON EXEMPTED FROM THE LICENSING REQUIREMENTS OF THIS ARTICLE 110 WHEN ACTING WITHIN THE SCOPE OF

EMPLOYMENT AND UNDER THE SUPERVISION OF THE LICENSEE, AUTHORIZED DELEGATE, OR EXEMPTED PERSON AS AN EMPLOYEE AND NOT AS AN INDEPENDENT CONTRACTOR;

(m) A PERSON EXPRESSLY APPOINTED AS A THIRD-PARTY SERVICE PROVIDER TO OR AGENT OF AN ENTITY EXEMPT UNDER SUBSECTION (1)(g) OF THIS SECTION, SOLELY TO THE EXTENT THAT:

(I) THE SERVICE PROVIDER OR AGENT IS ENGAGING IN MONEY TRANSMISSION ON BEHALF OF AND PURSUANT TO A WRITTEN AGREEMENT WITH THE EXEMPT ENTITY THAT SETS FORTH THE SPECIFIC FUNCTIONS THAT THE SERVICE PROVIDER OR AGENT IS TO PERFORM; AND

(II) THE EXEMPT ENTITY ASSUMES ALL RISK OF LOSS AND ALL LEGAL RESPONSIBILITY FOR SATISFYING THE OUTSTANDING MONEY TRANSMISSION OBLIGATIONS OWED TO PURCHASERS AND HOLDERS OF THE OUTSTANDING MONEY TRANSMISSION OBLIGATIONS UPON RECEIPT OF THE PURCHASER'S OR HOLDER'S MONEY OR MONETARY VALUE BY THE SERVICE PROVIDER OR AGENT; OR

(n) A PERSON EXEMPT BY REGULATION OR ORDER IF THE BANKING BOARD FINDS AN EXEMPTION TO BE IN THE PUBLIC INTEREST AND THAT THE REGULATION OF SUCH PERSON IS NOT NECESSARY FOR THE PURPOSES OF THIS ARTICLE 110.

11-110-302. Authority to require demonstration of exemption. THE BANKING BOARD MAY REQUIRE THAT A PERSON CLAIMING TO BE EXEMPT FROM LICENSING PURSUANT TO SECTION 11-110-301 PROVIDE INFORMATION AND DOCUMENTATION TO THE BOARD DEMONSTRATING THAT THE PERSON QUALIFIES FOR THE CLAIMED EXEMPTION.

PART 4

IMPLEMENTATION, CONFIDENTIALITY, SUPERVISION,

AND RELATIONSHIP TO FEDERAL LAW

11-110-401. Implementation - rules. (1) **Powers.** IN ORDER TO CARRY OUT THE PURPOSES OF THIS ARTICLE 110, THE BANKING BOARD MAY, SUBJECT TO THE PROVISIONS OF SECTION 11-110-402 (1) AND (2):

(a) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER GOVERNMENT OFFICIALS OR FEDERAL AND STATE REGULATORY AGENCIES AND REGULATORY ASSOCIATIONS IN ORDER TO IMPROVE EFFICIENCIES AND REDUCE REGULATORY BURDEN BY STANDARDIZING METHODS OR PROCEDURES AND SHARING RESOURCES, RECORDS, OR RELATED INFORMATION OBTAINED UNDER THIS ARTICLE 110;

(b) USE, HIRE, CONTRACT, OR EMPLOY ANALYTICAL SYSTEMS, METHODS, OR SOFTWARE TO EXAMINE OR INVESTIGATE ANY PERSON SUBJECT TO THIS ARTICLE 110;

(c) ACCEPT, FROM OTHER STATE OR FEDERAL GOVERNMENTAL AGENCIES OR OFFICIALS, LICENSING, EXAMINATION, OR INVESTIGATION REPORTS MADE BY SUCH OTHER STATE OR FEDERAL GOVERNMENTAL AGENCIES OR OFFICIALS; AND

(d) ACCEPT AUDIT REPORTS MADE BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OR OTHER QUALIFIED THIRD-PARTY AUDITOR FOR AN APPLICANT OR LICENSEE AND INCORPORATE THE AUDIT REPORT IN ANY REPORT OF EXAMINATION OR INVESTIGATION.

(2) **Broad administrative authority - rules.** (a) THE BANKING BOARD HAS BROAD ADMINISTRATIVE AUTHORITY TO:

(I) ADMINISTER, INTERPRET, AND ENFORCE THIS ARTICLE 110;

(II) ADOPT RULES IMPLEMENTING THIS ARTICLE 110, INCLUDING RULES TO CONFORM TO APPLICABLE FEDERAL REGULATIONS;

(III) RECOVER THE COST OF ADMINISTERING AND ENFORCING THIS

ARTICLE 110 BY IMPOSING AND COLLECTING PROPORTIONATE AND EQUITABLE FEES AND COSTS ASSOCIATED WITH APPLICATIONS, EXAMINATIONS, AND INVESTIGATIONS; AND

(IV) TAKE OTHER REASONABLE ACTIONS REQUIRED TO ACHIEVE THE PURPOSES OF THIS ARTICLE 110.

(b) THE POWERS, DUTIES, AND FUNCTIONS OF THE BANKING BOARD AND THE COMMISSIONER SET FORTH IN ARTICLE 102 OF THIS TITLE 11 AND THE DECLARATION OF POLICY SET FORTH IN SECTION 11-101-102 APPLY TO THIS ARTICLE 110. FOR PURPOSES OF THIS SECTION AND SECTION 11-102-104, THE BANKING BOARD HAS THE SAME POWERS, DUTIES, AND FUNCTIONS CONCERNING A VIOLATION OF THIS ARTICLE 110, OR A RULE ADOPTED PURSUANT TO THIS ARTICLE 110, AS THE BOARD HAS CONCERNING A VIOLATION OF THE "COLORADO BANKING CODE", ARTICLES 101 TO 109 AND ARTICLE 10.5 OF THIS TITLE 11, OR A RULE ADOPTED PURSUANT TO THAT CODE.

11-110-402. Confidentiality. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, ALL INFORMATION OR REPORTS OBTAINED BY THE BANKING BOARD FROM AN APPLICANT, LICENSEE, OR AUTHORIZED DELEGATE, AND ALL INFORMATION CONTAINED IN OR RELATED TO AN EXAMINATION, INVESTIGATION, OPERATING REPORT, OR CONDITION REPORT PREPARED BY, ON BEHALF OF, OR FOR THE USE OF THE BOARD, OR FINANCIAL STATEMENTS, BALANCE SHEETS, OR AUTHORIZED DELEGATE INFORMATION, ARE CONFIDENTIAL AND ARE NOT SUBJECT TO DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

(2) THE BANKING BOARD MAY DISCLOSE INFORMATION NOT OTHERWISE SUBJECT TO DISCLOSURE UNDER SUBSECTION (1) OF THIS

SECTION TO REPRESENTATIVES OF STATE OR FEDERAL AGENCIES WHO PROMISE IN A RECORD THAT THEY WILL MAINTAIN THE CONFIDENTIALITY OF THE INFORMATION OR WHERE THE BOARD FINDS THAT THE RELEASE IS REASONABLY NECESSARY FOR THE PROTECTION AND INTEREST OF THE PUBLIC.

(3) THIS SECTION DOES NOT PROHIBIT THE BANKING BOARD FROM DISCLOSING TO THE PUBLIC A LIST OF ALL LICENSEES OR THE AGGREGATED FINANCIAL OR TRANSACTIONAL DATA CONCERNING THOSE LICENSEES.

(4) INFORMATION CONTAINED IN THE RECORDS OF THE DIVISION THAT IS NOT CONFIDENTIAL AND MAY BE MADE AVAILABLE TO THE PUBLIC EITHER ON THE DIVISION'S WEBSITE, UPON RECEIPT BY THE DIVISION OF A WRITTEN REQUEST, OR IN NMLS MUST INCLUDE:

(a) THE NAME, BUSINESS ADDRESS, TELEPHONE NUMBER, AND UNIQUE IDENTIFIER OF A LICENSEE;

(b) THE BUSINESS ADDRESS OF A LICENSEE'S REGISTERED AGENT FOR SERVICE;

(c) THE NAME, BUSINESS ADDRESS, AND TELEPHONE NUMBER OF ALL AUTHORIZED DELEGATES;

(d) THE TERMS OF OR A COPY OF ANY BOND FILED BY A LICENSEE, SO LONG AS CONFIDENTIAL INFORMATION, INCLUDING BUT NOT LIMITED TO PRICES AND FEES, FOR SUCH BOND IS REDACTED;

(e) COPIES OF ANY NONCONFIDENTIAL FINAL ORDERS OF THE DIVISION RELATING TO ANY VIOLATION OF THIS ARTICLE 110 OR RULES IMPLEMENTING THIS ARTICLE 110; AND

(f) IMPOSITION OF AN ADMINISTRATIVE FINE OR PENALTY UNDER THIS ARTICLE 110.

11-110-403. Supervision. (1) THE BANKING BOARD MAY

CONDUCT AN EXAMINATION OR INVESTIGATION OF A LICENSEE OR AUTHORIZED DELEGATE OR OTHERWISE TAKE INDEPENDENT ACTION AUTHORIZED BY THIS ARTICLE 110 OR BY A RULE ADOPTED OR ORDER ISSUED UNDER THIS ARTICLE 110 AS REASONABLY NECESSARY OR APPROPRIATE TO ADMINISTER AND ENFORCE THIS ARTICLE 110, RULES IMPLEMENTING THIS ARTICLE 110, AND OTHER APPLICABLE LAW, INCLUDING THE BANK SECRECY ACT AND THE FEDERAL "USA PATRIOT ACT", PUB.L. 107-56. THE BANKING BOARD MAY:

(a) CONDUCT AN EXAMINATION EITHER ON SITE OR OFF SITE AS THE BOARD MAY REASONABLY REQUIRE;

(b) CONDUCT AN EXAMINATION IN CONJUNCTION WITH AN EXAMINATION CONDUCTED BY REPRESENTATIVES OF OTHER STATE AGENCIES OR AGENCIES OF ANOTHER STATE OR OF THE FEDERAL GOVERNMENT;

(c) ACCEPT THE EXAMINATION REPORT OF ANOTHER STATE AGENCY OR AN AGENCY OF ANOTHER STATE OR OF THE FEDERAL GOVERNMENT, OR A REPORT PREPARED BY AN INDEPENDENT ACCOUNTING FIRM, WHICH, UPON BEING ACCEPTED, IS CONSIDERED FOR ALL PURPOSES AS AN OFFICIAL REPORT OF THE BOARD; AND

(d) SUMMON AND EXAMINE UNDER OATH A KEY INDIVIDUAL OR EMPLOYEE OF A LICENSEE OR AUTHORIZED DELEGATE AND REQUIRE THE KEY INDIVIDUAL, EMPLOYEE, OR AUTHORIZED DELEGATE TO PRODUCE RECORDS REGARDING ANY MATTER RELATED TO THE CONDITION AND BUSINESS OF THE LICENSEE OR AUTHORIZED DELEGATE.

(2) A LICENSEE OR AUTHORIZED DELEGATE SHALL PROVIDE, AND THE BANKING BOARD SHALL HAVE FULL AND COMPLETE ACCESS TO, ALL RECORDS THE BOARD MAY REQUIRE TO CONDUCT A COMPLETE

EXAMINATION. THE RECORDS MUST BE PROVIDED AT THE LOCATION AND IN THE FORMAT SPECIFIED BY THE BOARD; HOWEVER, THE BOARD MAY UTILIZE MULTISTATE RECORD PRODUCTION STANDARDS AND EXAMINATION PROCEDURES WHEN SUCH STANDARDS WILL REASONABLY ACHIEVE THE REQUIREMENTS OF THIS SUBSECTION (2).

(3) UNLESS OTHERWISE DIRECTED BY THE BANKING BOARD, A LICENSEE SHALL PAY ALL COSTS REASONABLY INCURRED IN CONNECTION WITH AN EXAMINATION OF THE LICENSEE OR THE LICENSEE'S AUTHORIZED DELEGATES.

11-110-404. Networked supervision. (1) TO EFFICIENTLY AND EFFECTIVELY ADMINISTER AND ENFORCE THIS ARTICLE 110 AND TO MINIMIZE REGULATORY BURDEN, THE BANKING BOARD MAY PARTICIPATE IN MULTISTATE SUPERVISORY PROCESSES ESTABLISHED BETWEEN STATES AND COORDINATED THROUGH THE CONFERENCE OF STATE BANK SUPERVISORS, THE MONEY TRANSMITTER REGULATORS ASSOCIATION, AND AFFILIATES AND SUCCESSORS THEREOF FOR ALL LICENSEES THAT HOLD LICENSES IN THIS STATE AND OTHER STATES. AS A PARTICIPANT IN MULTISTATE SUPERVISION, THE BANKING BOARD SHALL:

(a) COOPERATE, COORDINATE, AND SHARE INFORMATION WITH OTHER STATE AND FEDERAL REGULATORS IN ACCORDANCE WITH SECTION 11-110-402;

(b) ENTER INTO WRITTEN COOPERATION, COORDINATION, OR INFORMATION-SHARING CONTRACTS OR AGREEMENTS WITH ORGANIZATIONS, THE MEMBERSHIP OF WHICH IS MADE UP OF STATE OR FEDERAL GOVERNMENTAL AGENCIES; AND

(c) COOPERATE, COORDINATE, AND SHARE INFORMATION WITH ORGANIZATIONS, THE MEMBERSHIP OF WHICH IS MADE UP OF STATE OR

FEDERAL GOVERNMENTAL AGENCIES, IF THE ORGANIZATIONS AGREE IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND SECURITY OF THE SHARED INFORMATION IN ACCORDANCE WITH SECTION 11-110-402.

(2) THE BANKING BOARD DOES NOT WAIVE, AND NOTHING IN THIS SECTION CONSTITUTES A WAIVER OF, THE BOARD'S AUTHORITY TO CONDUCT AN EXAMINATION OR INVESTIGATION OR OTHERWISE TAKE INDEPENDENT ACTION AUTHORIZED BY THIS ARTICLE 110 OR A RULE ADOPTED OR ORDER ISSUED UNDER THIS ARTICLE 110 TO ENFORCE COMPLIANCE WITH APPLICABLE STATE OR FEDERAL LAW.

(3) A JOINT EXAMINATION OR INVESTIGATION, OR ACCEPTANCE OF AN EXAMINATION OR INVESTIGATION REPORT, DOES NOT WAIVE AN EXAMINATION ASSESSMENT PROVIDED FOR IN THIS ARTICLE 110.

11-110-405. Relationship to federal law - interpretative guidance. (1) IN THE EVENT STATE MONEY TRANSMISSION JURISDICTION IS CONDITIONED ON A FEDERAL LAW, ANY INCONSISTENCIES BETWEEN A PROVISION OF THIS ARTICLE 110 AND FEDERAL LAW GOVERNING MONEY TRANSMISSION IS GOVERNED BY THE APPLICABLE FEDERAL LAW TO THE EXTENT OF THE INCONSISTENCY.

(2) IN THE EVENT OF ANY INCONSISTENCIES BETWEEN THIS ARTICLE 110 AND FEDERAL LAW THAT GOVERNS MONEY TRANSMISSION PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE BANKING BOARD MAY PROVIDE INTERPRETIVE GUIDANCE THAT:

(a) IDENTIFIES THE INCONSISTENCY; AND

(b) IDENTIFIES THE APPROPRIATE MEANS OF COMPLIANCE WITH FEDERAL LAW.

PART 5

MONEY TRANSMISSION LICENSES

11-110-501. License required. (1) A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF MONEY TRANSMISSION OR ADVERTISE, SOLICIT, OR MAKE REPRESENTATIONS THAT THE PERSON MAY PROVIDE MONEY TRANSMISSION UNLESS THE PERSON IS LICENSED UNDER THIS ARTICLE 110.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO:

(a) A PERSON THAT IS AN AUTHORIZED DELEGATE OF A PERSON LICENSED UNDER THIS ARTICLE 110 ACTING WITHIN THE SCOPE OF AUTHORITY CONFERRED BY A WRITTEN CONTRACT WITH THE LICENSEE; OR

(b) A PERSON THAT IS EXEMPT PURSUANT TO SECTION 11-110-301 AND DOES NOT ENGAGE IN MONEY TRANSMISSION OUTSIDE THE SCOPE OF SUCH EXEMPTION.

11-110-502. Consistent state licensing - rules. (1) TO ESTABLISH CONSISTENT LICENSING BETWEEN COLORADO AND OTHER STATES, THE BANKING BOARD MAY:

(a) IMPLEMENT ALL LICENSING PROVISIONS OF THIS ARTICLE 110 IN A MANNER THAT IS CONSISTENT WITH OTHER STATES THAT HAVE ADOPTED LAWS REGULATING MONEY TRANSMISSION THAT ARE SIMILAR TO THE PROVISIONS OF THIS ARTICLE 110 OR MULTISTATE LICENSING PROCESSES; AND

(b) PARTICIPATE IN NATIONWIDE PROTOCOLS FOR LICENSING COOPERATION AND COORDINATION AMONG STATE REGULATORS IF SUCH PROTOCOLS ARE CONSISTENT WITH THIS ARTICLE 110.

(2) IN ORDER TO FULFILL THE PURPOSES OF THIS ARTICLE 110, THE BANKING BOARD MAY ESTABLISH RELATIONSHIPS OR CONTRACTS WITH NMLS OR OTHER ENTITIES DESIGNATED BY NMLS TO ENABLE THE BOARD TO:

(a) COLLECT AND MAINTAIN RECORDS;

(b) COORDINATE MULTISTATE LICENSING PROCESSES AND SUPERVISION PROCESSES;

(c) PROCESS FEES; AND

(d) FACILITATE COMMUNICATION BETWEEN COLORADO AND LICENSEES OR OTHER PERSONS SUBJECT TO THIS ARTICLE 110.

(3) THE BANKING BOARD MAY UTILIZE NMLS FOR ALL ASPECTS OF LICENSING IN ACCORDANCE WITH THIS ARTICLE 110, INCLUDING BUT NOT LIMITED TO LICENSE APPLICATIONS, APPLICATIONS FOR ACQUISITIONS OF CONTROL, SURETY BONDS, REPORTING, CRIMINAL HISTORY BACKGROUND CHECKS, CREDIT CHECKS, FEE PROCESSING, AND EXAMINATIONS.

(4) THE BANKING BOARD MAY UTILIZE NMLS FORMS, PROCESSES, AND FUNCTIONALITIES IN ACCORDANCE WITH THIS ARTICLE 110. IN THE EVENT NMLS DOES NOT PROVIDE FORMS, PROCESSES, OR FUNCTIONALITIES FOR A PROVISION OF THIS ARTICLE 110, THE BOARD MAY IMPLEMENT THIS ARTICLE 110 IN A MANNER THAT FACILITATES UNIFORMITY WITH RESPECT TO LICENSING, SUPERVISION, REPORTING, AND REGULATION OF LICENSEES THAT ARE LICENSED IN MULTIPLE JURISDICTIONS.

(5) **Waive or modify requirements.** FOR THE PURPOSE OF PARTICIPATING IN NMLS, THE BANKING BOARD MAY WAIVE OR MODIFY, IN WHOLE OR IN PART, BY RULE OR ORDER, ANY OR ALL OF THE REQUIREMENTS AND ESTABLISH NEW REQUIREMENTS AS REASONABLY NECESSARY TO PARTICIPATE IN NMLS.

11-110-503. Application for license - license fee - rules. (1) AN APPLICANT FOR A LICENSE SHALL APPLY WITH THE BANKING BOARD IN A FORM AND IN A MEDIUM PRESCRIBED BY THE BOARD. THE BOARD BY RULE OR PROCEDURE SHALL DETERMINE THE CONTENT OF THE APPLICATION AND

MAY CHANGE OR UPDATE THE APPLICATION IN ACCORDANCE WITH APPLICABLE LAW OR TO CARRY OUT THE PURPOSES OF THIS ARTICLE 110 AND MAINTAIN CONSISTENCY WITH NMLS LICENSING STANDARDS OR PRACTICES. THE APPLICATION MUST STATE OR CONTAIN, AS APPLICABLE:

(a) THE LEGAL NAME AND RESIDENTIAL AND BUSINESS ADDRESSES OF THE APPLICANT AND ANY FICTITIOUS OR TRADE NAME USED BY THE APPLICANT IN CONDUCTING THE APPLICANT'S BUSINESS;

(b) A LIST OF ANY CRIMINAL CONVICTIONS OF THE APPLICANT AND ANY MATERIAL LITIGATION IN WHICH THE APPLICANT HAS BEEN INVOLVED IN THE TEN-YEAR PERIOD IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION;

(c) A DESCRIPTION OF ANY MONEY TRANSMISSION PREVIOUSLY PROVIDED BY THE APPLICANT AND THE MONEY TRANSMISSION THAT THE APPLICANT SEEKS TO PROVIDE IN THIS STATE;

(d) A LIST OF THE APPLICANT'S PROPOSED AUTHORIZED DELEGATES AND THE LOCATIONS IN THIS STATE WHERE THE APPLICANT AND THE APPLICANT'S AUTHORIZED DELEGATES PROPOSE TO ENGAGE IN MONEY TRANSMISSION;

(e) A LIST OF OTHER STATES IN WHICH THE APPLICANT IS LICENSED TO ENGAGE IN MONEY TRANSMISSION AND ANY LICENSE REVOCATIONS, SUSPENSIONS, OR OTHER DISCIPLINARY ACTION TAKEN AGAINST THE APPLICANT IN ANOTHER STATE;

(f) INFORMATION CONCERNING ANY BANKRUPTCY OR RECEIVERSHIP PROCEEDINGS AFFECTING THE APPLICANT OR A PERSON IN CONTROL OF AN APPLICANT;

(g) A SAMPLE FORM OF CONTRACT FOR AUTHORIZED DELEGATES, IF APPLICABLE;

(h) A SAMPLE FORM OF PAYMENT INSTRUMENT OR STORED VALUE, AS APPLICABLE;

(i) THE NAME AND ADDRESS OF ANY FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION THROUGH WHICH THE APPLICANT PLANS TO CONDUCT MONEY TRANSMISSION; AND

(j) ANY OTHER INFORMATION THE BOARD OR NMLS REASONABLY REQUIRES WITH RESPECT TO THE APPLICANT.

(2) IF AN APPLICANT IS A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER LEGAL ENTITY, THE APPLICANT SHALL ALSO PROVIDE:

(a) THE DATE OF THE APPLICANT'S INCORPORATION OR FORMATION AND STATE OR COUNTRY OF INCORPORATION OR FORMATION;

(b) IF APPLICABLE, A CERTIFICATE OF GOOD STANDING FROM THE STATE OR COUNTRY IN WHICH THE APPLICANT IS INCORPORATED OR FORMED;

(c) A BRIEF DESCRIPTION OF THE STRUCTURE OR ORGANIZATION OF THE APPLICANT, INCLUDING ANY PARENTS OR SUBSIDIARIES OF THE APPLICANT, AND WHETHER ANY PARENTS OR SUBSIDIARIES ARE PUBLICLY TRADED;

(d) THE LEGAL NAME, ANY FICTITIOUS OR TRADE NAME, ALL BUSINESS AND RESIDENTIAL ADDRESSES, AND THE EMPLOYMENT, AS APPLICABLE, IN THE TEN-YEAR PERIOD IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION OF EACH KEY INDIVIDUAL AND PERSON IN CONTROL OF THE APPLICANT;

(e) A LIST OF ANY CRIMINAL CONVICTIONS AND MATERIAL LITIGATION IN WHICH A PERSON IN CONTROL OF THE APPLICANT THAT IS NOT AN INDIVIDUAL HAS BEEN INVOLVED IN THE TEN-YEAR PERIOD

IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION;

(f) A COPY OF AUDITED FINANCIAL STATEMENTS OF THE APPLICANT FOR THE MOST RECENT FISCAL YEAR AND FOR THE TWO-YEAR PERIOD IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION OR, IF DETERMINED TO BE ACCEPTABLE TO THE BANKING BOARD, CERTIFIED UNAUDITED FINANCIAL STATEMENTS FOR THE MOST RECENT FISCAL YEAR OR OTHER PERIOD ACCEPTABLE TO THE BOARD;

(g) A CERTIFIED COPY OF UNAUDITED FINANCIAL STATEMENTS OF THE APPLICANT FOR THE MOST RECENT FISCAL QUARTER;

(h) IF THE APPLICANT IS A PUBLICLY TRADED CORPORATION, A COPY OF THE MOST RECENT REPORT FILED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION UNDER SECTION 13 OF THE FEDERAL "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78m, AS AMENDED;

(i) IF THE APPLICANT IS A WHOLLY OWNED SUBSIDIARY OF:

(I) A CORPORATION PUBLICLY TRADED IN THE UNITED STATES, A COPY OF AUDITED FINANCIAL STATEMENTS FOR THE PARENT CORPORATION FOR THE MOST RECENT FISCAL YEAR OR A COPY OF THE PARENT CORPORATION'S MOST RECENT REPORT FILED UNDER SECTION 13 OF THE FEDERAL "SECURITIES EXCHANGE ACT OF 1934", 15 U.S.C. SEC. 78m, AS AMENDED; OR

(II) A CORPORATION PUBLICLY TRADED OUTSIDE THE UNITED STATES, A COPY OF SIMILAR DOCUMENTATION FILED WITH THE REGULATOR OF THE PARENT CORPORATION'S DOMICILE OUTSIDE THE UNITED STATES;

(j) THE NAME AND ADDRESS OF THE APPLICANT'S REGISTERED AGENT IN THIS STATE; AND

(k) ANY OTHER INFORMATION THE BANKING BOARD REASONABLY

REQUIRES WITH RESPECT TO THE APPLICANT.

(3) AN APPLICANT MUST SUBMIT A NONREFUNDABLE LICENSE FEE, AS DETERMINED BY THE BANKING BOARD, WITH THE APPLICATION FOR A LICENSE.

(4) THE BANKING BOARD MAY WAIVE ONE OR MORE REQUIREMENTS OF SUBSECTION (1) OR (2) OF THIS SECTION OR PERMIT AN APPLICANT TO SUBMIT OTHER INFORMATION IN LIEU OF THE REQUIRED INFORMATION.

11-110-504. Information requirements for certain individuals - background check - name-based judicial record check. (1) AN INDIVIDUAL IN CONTROL OF A LICENSEE OR APPLICANT, AN INDIVIDUAL THAT SEEKS TO ACQUIRE CONTROL OF A LICENSEE, AND EACH KEY INDIVIDUAL SHALL FURNISH TO THE BANKING BOARD THROUGH NMLS THE FOLLOWING ITEMS:

(a) THE INDIVIDUAL'S FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION AND THE BOARD FOR PURPOSES OF A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK UNLESS THE PERSON CURRENTLY RESIDES OUTSIDE OF THE UNITED STATES AND HAS RESIDED OUTSIDE OF THE UNITED STATES FOR THE LAST TEN YEARS; AND

(b) PERSONAL HISTORY AND EXPERIENCE IN A FORM AND IN A MEDIUM PRESCRIBED BY THE BOARD TO OBTAIN THE FOLLOWING:

(I) INFORMATION RELATED TO ANY CRIMINAL CONVICTIONS OR PENDING CHARGES; AND

(II) INFORMATION RELATED TO ANY REGULATORY OR ADMINISTRATIVE ACTION AND ANY CIVIL LITIGATION INVOLVING CLAIMS OF FRAUD, MISREPRESENTATION, CONVERSION, MISMANAGEMENT OF MONEY, BREACH OF FIDUCIARY DUTY, OR BREACH OF CONTRACT.

(2) IF THE INDIVIDUAL DESCRIBED IN SUBSECTION (1) OF THIS SECTION HAS RESIDED OUTSIDE OF THE UNITED STATES AT ANY TIME IN THE LAST TEN YEARS, THE INDIVIDUAL SHALL ALSO PROVIDE TO THE BANKING BOARD AN INVESTIGATIVE BACKGROUND REPORT PREPARED BY AN INDEPENDENT SEARCH FIRM THAT MEETS THE FOLLOWING REQUIREMENTS:

(a) AT A MINIMUM, THE SEARCH FIRM SHALL:

(I) DEMONSTRATE THAT IT HAS SUFFICIENT KNOWLEDGE AND RESOURCES AND EMPLOYS ACCEPTED AND REASONABLE METHODOLOGIES TO CONDUCT THE RESEARCH OF THE BACKGROUND REPORT; AND

(II) NOT BE AFFILIATED WITH OR HAVE AN INTEREST WITH THE INDIVIDUAL IT IS RESEARCHING.

(b) AT A MINIMUM, THE INVESTIGATIVE BACKGROUND REPORT MUST BE WRITTEN IN THE ENGLISH LANGUAGE AND MUST CONTAIN THE FOLLOWING:

(I) CRIMINAL RECORDS INFORMATION FOR THE PAST TEN YEARS, INCLUDING BUT NOT LIMITED TO FELONIES, MISDEMEANORS, OR SIMILAR CONVICTIONS FOR VIOLATIONS OF LAW IN THE COUNTRIES, PROVINCES, STATES, CITIES, TOWNS, AND CONTIGUOUS AREAS WHERE THE INDIVIDUAL RESIDED AND WORKED;

(II) EMPLOYMENT HISTORY;

(III) MEDIA HISTORY, INCLUDING AN ELECTRONIC SEARCH OF NATIONAL AND LOCAL PUBLICATIONS, WIRE SERVICES, AND BUSINESS APPLICATIONS; AND

(IV) FINANCIAL SERVICES-RELATED REGULATORY HISTORY, INCLUDING BUT NOT LIMITED TO MONEY TRANSMISSION, SECURITIES, BANKING, INSURANCE, AND MORTGAGE-RELATED INDUSTRIES.

(3) WHEN THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK PERFORMED PURSUANT TO THIS SECTION REVEAL A RECORD OF ARREST WITHOUT A DISPOSITION, THE BOARD SHALL REQUIRE THE INDIVIDUAL TO SUBMIT TO AND PAY THE REQUIRED COST FOR A NAME-BASED JUDICIAL RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d).

11-110-505. Issuance of license - investigation of financial condition - initial license term - denial - appeal. (1) WHEN AN APPLICATION FOR AN ORIGINAL LICENSE APPEARS TO INCLUDE ALL THE ITEMS AND ADDRESSES ALL OF THE MATTERS THAT ARE REQUIRED PURSUANT TO THIS ARTICLE 110, THE APPLICATION IS COMPLETE, AND THE BANKING BOARD SHALL PROMPTLY NOTIFY THE APPLICANT IN A RECORD OF THE DATE ON WHICH THE APPLICATION IS DETERMINED TO BE COMPLETE AND THE DATE OF SCHEDULED ACTION BY THE BOARD.

(2) A DETERMINATION BY THE BANKING BOARD THAT AN APPLICATION IS COMPLETE AND IS ACCEPTED FOR PROCESSING MEANS ONLY THAT THE APPLICATION, ON ITS FACE, APPEARS TO INCLUDE ALL OF THE ITEMS, INCLUDING THE CRIMINAL BACKGROUND CHECK RESPONSE FROM THE FEDERAL BUREAU OF INVESTIGATION AND THE RESULTS OF A NAME-BASED JUDICIAL RECORD CHECK, IF APPLICABLE, AND ADDRESSES ALL OF THE MATTERS THAT ARE REQUIRED PURSUANT TO THIS ARTICLE 110, AND THE DETERMINATION IS NOT AN ASSESSMENT OF THE SUBSTANCE OF THE APPLICATION OR OF THE SUFFICIENCY OF THE INFORMATION PROVIDED.

(3) WHEN AN APPLICATION IS FILED AND CONSIDERED COMPLETE UNDER THIS SECTION, THE BANKING BOARD SHALL INVESTIGATE THE APPLICANT'S FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND GENERAL FITNESS.

THE BOARD MAY CONDUCT AN ON-SITE INVESTIGATION OF THE APPLICANT, WITH THE APPLICANT PAYING THE REASONABLE COST OF THE INVESTIGATION. THE BOARD SHALL ISSUE A LICENSE TO AN APPLICANT UNDER THIS SECTION IF THE BOARD FINDS THAT ALL OF THE FOLLOWING CONDITIONS HAVE BEEN FULFILLED:

(a) THE APPLICANT HAS COMPLIED WITH SECTIONS 11-110-503 AND 11-110-504; AND

(b) THE FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND GENERAL FITNESS OF THE APPLICANT, AND THE COMPETENCE, EXPERIENCE, CHARACTER, AND GENERAL FITNESS OF THE KEY INDIVIDUALS AND PERSONS IN CONTROL OF THE APPLICANT, INDICATE THAT IT IS IN THE INTEREST OF THE PUBLIC TO PERMIT THE APPLICANT TO ENGAGE IN MONEY TRANSMISSION.

(4) IF AN APPLICANT USES OR IS OTHERWISE SUBJECT TO A MULTISTATE LICENSING PROCESS:

(a) THE BANKING BOARD MAY ACCEPT THE INVESTIGATION RESULTS OF A LEAD INVESTIGATIVE STATE FOR THE PURPOSE OF SUBSECTION (3) OF THIS SECTION IF THE LEAD INVESTIGATIVE STATE HAS SUFFICIENT STAFFING, EXPERTISE, AND MINIMUM STANDARDS; OR

(b) IF COLORADO IS A LEAD INVESTIGATIVE STATE, THE BANKING BOARD MAY INVESTIGATE THE APPLICANT PURSUANT TO SUBSECTION (3) OF THIS SECTION AND THE TIME FRAMES ESTABLISHED BY AGREEMENT THROUGH THE MULTISTATE LICENSING PROCESS.

(5) THE BANKING BOARD SHALL ISSUE A FORMAL WRITTEN NOTICE OF THE DENIAL OF A LICENSE APPLICATION WITHIN THIRTY DAYS AFTER THE DECISION TO DENY THE APPLICATION. THE BOARD SHALL SET FORTH

IN THE NOTICE OF DENIAL THE SPECIFIC REASONS FOR THE DENIAL OF THE APPLICATION. AN APPLICANT WHOSE APPLICATION IS DENIED BY THE BOARD UNDER THIS SUBSECTION (5) MAY APPEAL WITHIN THIRTY DAYS AFTER RECEIPT OF THE WRITTEN NOTICE OF THE DENIAL PURSUANT TO STATE ADMINISTRATIVE LAW PROCEDURES.

(6) THE INITIAL LICENSE TERM BEGINS ON THE DAY THE LICENSE IS ISSUED. THE LICENSE EXPIRES ON DECEMBER 31 OF THE YEAR IN WHICH THE LICENSE TERM BEGAN; EXCEPT THAT, IF THE INITIAL LICENSE DATE IS BETWEEN NOVEMBER 1 AND DECEMBER 31, THE INITIAL LICENSE TERM RUNS THROUGH DECEMBER 31 OF THE FOLLOWING YEAR.

(7) A LICENSE ISSUED UNDER THIS SECTION IS NOT TRANSFERABLE OR ASSIGNABLE.

11-110-506. Renewal of license - annual fee - renewal report.

(1) (a) A LICENSE ISSUED UNDER THIS ARTICLE 110 SHALL BE RENEWED ANNUALLY.

(b) NOT MORE THAN SIXTY DAYS BEFORE THE LICENSE EXPIRATION, A LICENSEE SHALL PAY AN ANNUAL LICENSE FEE TO THE BANKING BOARD, AS ESTABLISHED BY THE BANKING BOARD.

(c) THE RENEWAL TERM IS FOR A PERIOD OF ONE YEAR AND BEGINS ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL LICENSE TERM AND EXPIRES ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM BEGINS.

(2) A LICENSEE SHALL SUBMIT A RENEWAL REPORT WITH THE ANNUAL FEE TO THE BANKING BOARD, IN A FORM AND IN A MEDIUM PRESCRIBED BY THE BOARD BY RULE. THE RENEWAL REPORT MUST STATE OR CONTAIN A DESCRIPTION OF EACH MATERIAL CHANGE IN INFORMATION SUBMITTED BY THE LICENSEE IN ITS ORIGINAL LICENSE APPLICATION THAT HAS NOT BEEN REPORTED TO THE BOARD.

(3) THE BANKING BOARD MAY GRANT AN EXTENSION OF THE RENEWAL DATE FOR GOOD CAUSE.

(4) THE BANKING BOARD MAY UTILIZE NMLS TO PROCESS LICENSE RENEWALS IF THE FUNCTIONALITY IS CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

11-110-507. Maintenance of license - suspension and revocation. (1) IF A LICENSEE DOES NOT CONTINUE TO MEET THE QUALIFICATIONS OR SATISFY THE REQUIREMENTS FOR AN APPLICANT FOR A NEW MONEY TRANSMISSION LICENSE DESCRIBED IN THIS ARTICLE 110, THE BANKING BOARD MAY SUSPEND OR REVOKE THE LICENSEE'S LICENSE IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED BY THIS ARTICLE 110 OR OTHER APPLICABLE STATE LAW FOR SUCH SUSPENSION OR REVOCATION.

(2) AN APPLICANT FOR A MONEY TRANSMISSION LICENSE SHALL DEMONSTRATE THAT THE APPLICANT MEETS OR WILL MEET, AND A LICENSEE SHALL AT ALL TIMES MEET, THE REQUIREMENTS IN SECTIONS 11-110-1001, 11-110-1002, AND 11-110-1003.

PART 6

ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

11-110-601. Acquisition of control - application - fee - investigation of financial condition - denial - appeal - exemptions. (1) A PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, SEEKING TO ACQUIRE CONTROL OF A LICENSEE SHALL OBTAIN THE WRITTEN APPROVAL OF THE BANKING BOARD PRIOR TO ACQUIRING CONTROL. AN INDIVIDUAL IS NOT DEEMED TO ACQUIRE CONTROL OF A LICENSEE AND IS NOT SUBJECT TO THIS SECTION IF THAT INDIVIDUAL BECOMES A KEY INDIVIDUAL IN THE

ORDINARY COURSE OF BUSINESS.

(2) A PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, SEEKING TO ACQUIRE CONTROL OF A LICENSEE SHALL, IN COOPERATION WITH THE LICENSEE:

(a) SUBMIT AN APPLICATION IN A FORM AND IN A MEDIUM PRESCRIBED BY THE BANKING BOARD BY RULE; AND

(b) SUBMIT WITH THE REQUEST FOR APPROVAL A NONREFUNDABLE FEE ESTABLISHED BY THE BANKING BOARD.

(3) UPON REQUEST, THE BANKING BOARD MAY PERMIT A LICENSEE OR A PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, TO SUBMIT SOME OR ALL INFORMATION REQUIRED BY THE BOARD PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION WITHOUT USING NMLS.

(4) THE APPLICATION REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION MUST INCLUDE INFORMATION REQUIRED BY SECTION 11-110-504 FOR NEW KEY INDIVIDUALS THAT HAVE NOT PREVIOUSLY COMPLETED THE REQUIREMENTS OF SECTION 11-110-504 FOR A LICENSEE.

(5) WHEN AN APPLICATION FOR ACQUISITION OF CONTROL SUBMITTED UNDER THIS SECTION APPEARS TO INCLUDE ALL THE ITEMS AND ADDRESS ALL OF THE MATTERS THAT ARE REQUIRED, THE APPLICATION IS CONSIDERED COMPLETE, AND THE BANKING BOARD SHALL PROMPTLY NOTIFY THE APPLICANT IN A RECORD OF THE DATE ON WHICH THE APPLICATION WAS DETERMINED TO BE COMPLETE AND APPROVE OR DENY THE APPLICATION WITHIN SIXTY DAYS AFTER THE COMPLETION DATE.

(6) WHEN AN APPLICATION IS FILED AND CONSIDERED COMPLETE PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE BANKING BOARD SHALL INVESTIGATE THE FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND

GENERAL FITNESS OF THE PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, SEEKING TO ACQUIRE CONTROL. THE BOARD SHALL APPROVE AN ACQUISITION OF CONTROL PURSUANT TO THIS SECTION IF THE BOARD FINDS THAT ALL OF THE FOLLOWING CONDITIONS HAVE BEEN FULFILLED:

(a) THE REQUIREMENTS OF SUBSECTIONS (2) AND (4) OF THIS SECTION HAVE BEEN MET, AS APPLICABLE; AND

(b) THE FINANCIAL CONDITION AND RESPONSIBILITY, FINANCIAL AND BUSINESS EXPERIENCE, COMPETENCE, CHARACTER, AND GENERAL FITNESS OF THE PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, SEEKING TO ACQUIRE CONTROL, AND THE COMPETENCE, EXPERIENCE, CHARACTER, AND GENERAL FITNESS OF THE KEY INDIVIDUALS AND PERSONS THAT WOULD BE IN CONTROL OF THE LICENSEE AFTER THE ACQUISITION OF CONTROL, INDICATE THAT IT IS IN THE INTEREST OF THE PUBLIC TO PERMIT THE PERSON, OR GROUP OF PERSONS ACTING IN CONCERT, TO CONTROL THE LICENSEE.

(7) IF AN APPLICANT USES OR IS OTHERWISE SUBJECT TO A MULTISTATE LICENSING PROCESS:

(a) THE BANKING BOARD MAY ACCEPT THE INVESTIGATION RESULTS OF A LEAD INVESTIGATIVE STATE FOR THE PURPOSE OF SUBSECTION (6) OF THIS SECTION IF THE LEAD INVESTIGATIVE STATE HAS SUFFICIENT STAFFING, EXPERTISE, AND MINIMUM STANDARDS; OR

(b) IF COLORADO IS A LEAD INVESTIGATIVE STATE, THE BANKING BOARD MAY INVESTIGATE THE APPLICANT PURSUANT TO SUBSECTION (6) OF THIS SECTION AND THE TIME FRAMES ESTABLISHED BY AGREEMENT THROUGH THE MULTISTATE LICENSING PROCESS.

(8) THE BANKING BOARD SHALL ISSUE A FORMAL WRITTEN NOTICE OF THE DENIAL OF AN APPLICATION TO ACQUIRE CONTROL WITHIN THIRTY

DAYS AFTER THE DECISION TO DENY THE APPLICATION. THE BOARD SHALL SET FORTH IN THE NOTICE OF DENIAL THE SPECIFIC REASONS FOR THE DENIAL OF THE APPLICATION. AN APPLICANT WHOSE APPLICATION IS DENIED BY THE BOARD UNDER THIS SUBSECTION (8) MAY APPEAL WITHIN THIRTY DAYS AFTER RECEIPT OF THE WRITTEN NOTICE OF THE DENIAL PURSUANT TO STATE ADMINISTRATIVE LAW PROCEDURES.

(9) THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO ANY OF THE FOLLOWING:

(a) A PERSON THAT ACTS AS A PROXY FOR THE SOLE PURPOSE OF VOTING AT A DESIGNATED MEETING OF THE SHAREHOLDERS OR HOLDERS OF VOTING SHARES OR VOTING INTERESTS OF A LICENSEE OR A PERSON IN CONTROL OF A LICENSEE;

(b) A PERSON THAT ACQUIRES CONTROL OF A LICENSEE BY DEVISE OR DESCENT;

(c) A PERSON THAT ACQUIRES CONTROL OF A LICENSEE AS A PERSONAL REPRESENTATIVE, CUSTODIAN, GUARDIAN, CONSERVATOR, OR TRUSTEE OR AS AN OFFICER APPOINTED BY A COURT OF COMPETENT JURISDICTION OR BY OPERATION OF LAW;

(d) A PERSON THAT IS EXEMPT UNDER SECTION 11-110-301 (1)(g);

(e) A PERSON THAT THE BANKING BOARD DETERMINES IS NOT SUBJECT TO SUBSECTION (1) OF THIS SECTION BASED ON THE PUBLIC INTEREST;

(f) A PUBLIC OFFERING OF SECURITIES OF A LICENSEE OR A PERSON IN CONTROL OF A LICENSEE; OR

(g) AN INTERNAL REORGANIZATION OF A PERSON IN CONTROL OF A LICENSEE WHERE THE ULTIMATE PERSON IN CONTROL OF THE LICENSEE REMAINS THE SAME.

(10) PERSONS DESCRIBED IN SUBSECTIONS (9)(b), (9)(c), (9)(d), (9)(f), AND (9)(g) OF THIS SECTION SHALL, IN COOPERATION WITH THE LICENSEE, NOTIFY THE BANKING BOARD WITHIN FIFTEEN DAYS AFTER THE ACQUISITION OF CONTROL.

(11) **Streamlined acquisition of control.** (a) THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO A PERSON THAT HAS COMPLIED WITH AND RECEIVED APPROVAL TO ENGAGE IN MONEY TRANSMISSION UNDER THIS ARTICLE 110 OR WAS IDENTIFIED AS A PERSON IN CONTROL IN A PRIOR APPLICATION FILED WITH AND APPROVED BY THE BANKING BOARD OR BY AN MSB ACCREDITED STATE PURSUANT TO A MULTISTATE LICENSING PROCESS, SO LONG AS:

(I) THE PERSON HAS NOT HAD A LICENSE REVOKED OR SUSPENDED OR CONTROLLED A LICENSEE THAT HAS HAD A LICENSE REVOKED OR SUSPENDED WHILE THE PERSON WAS IN CONTROL OF THE LICENSEE IN THE PREVIOUS FIVE YEARS;

(II) IF THE PERSON IS A LICENSEE, THE PERSON IS WELL MANAGED AND HAS RECEIVED AT LEAST A SATISFACTORY RATING FOR COMPLIANCE AT THE PERSON'S MOST RECENT EXAMINATION BY AN MSB ACCREDITED STATE IF SUCH RATING WAS GIVEN;

(III) THE LICENSEE TO BE ACQUIRED IS PROJECTED TO MEET THE REQUIREMENTS OF SECTIONS 11-110-1001, 11-110-1002, AND 11-110-1003 AFTER THE ACQUISITION OF CONTROL IS COMPLETED, AND, IF THE PERSON ACQUIRING CONTROL IS A LICENSEE, THAT LICENSEE IS ALSO PROJECTED TO MEET THE REQUIREMENTS OF SECTIONS 11-110-1001, 11-110-1002, AND 11-110-1003 AFTER THE ACQUISITION OF CONTROL IS COMPLETED;

(IV) THE LICENSEE TO BE ACQUIRED WILL NOT IMPLEMENT ANY

MATERIAL CHANGES TO ITS BUSINESS PLAN AS A RESULT OF THE ACQUISITION OF CONTROL, AND, IF THE PERSON ACQUIRING CONTROL IS A LICENSEE, THAT LICENSEE ALSO WILL NOT IMPLEMENT ANY MATERIAL CHANGES TO ITS BUSINESS PLAN AS A RESULT OF THE ACQUISITION OF CONTROL; AND

(V) THE PERSON PROVIDES NOTICE OF THE ACQUISITION IN COOPERATION WITH THE LICENSEE AND ATTESTS TO THE CONDITIONS SPECIFIED IN SUBSECTIONS (11)(a)(I) TO (11)(a)(IV) OF THIS SECTION IN A FORM AND IN A MEDIUM PRESCRIBED BY THE BOARD BY RULE.

(b) IF THE NOTICE IS NOT DISAPPROVED WITHIN THIRTY DAYS AFTER THE DATE ON WHICH THE NOTICE WAS DETERMINED TO BE COMPLETE, THE NOTICE IS DEEMED APPROVED.

(12) BEFORE FILING AN APPLICATION FOR APPROVAL TO ACQUIRE CONTROL OF A LICENSEE, A PERSON MAY REQUEST IN WRITING A DETERMINATION FROM THE BANKING BOARD AS TO WHETHER THE PERSON WOULD BE CONSIDERED A PERSON IN CONTROL OF A LICENSEE UPON CONSUMMATION OF A PROPOSED TRANSACTION. IF THE BOARD DETERMINES THAT THE PERSON WOULD NOT BE A PERSON IN CONTROL OF A LICENSEE, THE PROPOSED PERSON AND TRANSACTION IS NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION.

(13) IF A MULTISTATE LICENSING PROCESS INCLUDES A DETERMINATION MADE PURSUANT TO SUBSECTION (12) OF THIS SECTION AND AN APPLICANT USES OR IS OTHERWISE SUBJECT TO THE MULTISTATE LICENSING PROCESS:

(a) THE BANKING BOARD IS AUTHORIZED AND ENCOURAGED TO ACCEPT THE CONTROL DETERMINATION OF A LEAD INVESTIGATIVE STATE WITH SUFFICIENT STAFFING, EXPERTISE, AND MINIMUM STANDARDS FOR

THE PURPOSE OF THIS SUBSECTION (13); OR

(b) IF THE STATE IS A LEAD INVESTIGATIVE STATE, THE BANKING BOARD IS AUTHORIZED AND ENCOURAGED TO INVESTIGATE THE APPLICANT PURSUANT TO THIS SUBSECTION (13) AND THE TIME FRAMES ESTABLISHED BY AGREEMENT THROUGH THE MULTISTATE LICENSING PROCESS.

11-110-602. Notice and information requirements for a change of key individuals. A LICENSEE ADDING OR REPLACING A KEY INDIVIDUAL SHALL PROVIDE NOTICE TO THE BANKING BOARD IN A MANNER PRESCRIBED BY THE BOARD BY RULE WITHIN FIFTEEN DAYS AFTER THE EFFECTIVE DATE OF THE KEY INDIVIDUAL'S APPOINTMENT.

PART 7

REPORTING AND RECORDS

11-110-701. Report of condition. (1) EACH LICENSEE SHALL SUBMIT A REPORT OF CONDITION TO THE BANKING BOARD WITHIN FORTY-FIVE DAYS AFTER THE END OF A CALENDAR QUARTER OR WITHIN ANY EXTENDED TIME AS THE BOARD BY RULE MAY PRESCRIBE.

(2) THE REPORT OF CONDITION MUST INCLUDE:

(a) FINANCIAL INFORMATION AT THE LICENSEE LEVEL;

(b) NATIONWIDE AND STATE-SPECIFIC MONEY TRANSMISSION TRANSACTION INFORMATION IN EVERY JURISDICTION IN THE UNITED STATES WHERE THE LICENSEE IS LICENSED TO ENGAGE IN MONEY TRANSMISSION;

(c) A PERMISSIBLE INVESTMENTS REPORT;

(d) TRANSACTION DESTINATION COUNTRY REPORTING FOR MONEY RECEIVED FOR TRANSMISSION, IF APPLICABLE; AND

(e) ANY OTHER INFORMATION THE BANKING BOARD REASONABLY REQUIRES WITH RESPECT TO THE LICENSEE.

(3) THE INFORMATION REQUIRED BY SUBSECTION (2)(d) OF THIS SECTION SHALL ONLY BE INCLUDED IN A REPORT OF CONDITION SUBMITTED WITHIN FORTY-FIVE DAYS AFTER THE END OF THE FOURTH CALENDAR QUARTER.

11-110-702. Audited financials. (1) EACH LICENSEE SHALL, WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, OR WITHIN ANY EXTENDED TIME AS THE BANKING BOARD BY RULE MAY PRESCRIBE, FILE WITH THE BOARD:

(a) AN AUDITED FINANCIAL STATEMENT OF THE LICENSEE FOR THE FISCAL YEAR PREPARED IN ACCORDANCE WITH UNITED STATES GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AND

(b) ANY OTHER INFORMATION THAT THE BOARD MAY REASONABLY REQUIRE.

(2) THE AUDITED FINANCIAL STATEMENTS SHALL BE PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OR INDEPENDENT PUBLIC ACCOUNTANT WHO IS SATISFACTORY TO THE BANKING BOARD.

(3) THE AUDITED FINANCIAL STATEMENTS MUST INCLUDE OR BE ACCOMPANIED BY A CERTIFICATE OF OPINION OF THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OR INDEPENDENT PUBLIC ACCOUNTANT THAT IS SATISFACTORY IN FORM AND CONTENT TO THE BANKING BOARD. IF THE CERTIFICATE OR OPINION IS QUALIFIED, THE BOARD MAY ORDER THE LICENSEE TO TAKE ANY ACTION THAT THE BOARD MAY FIND NECESSARY TO ENABLE THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT OR INDEPENDENT PUBLIC ACCOUNTANT TO REMOVE THE QUALIFICATION.

11-110-703. Authorized delegate reporting. (1) EACH LICENSEE SHALL SUBMIT A REPORT OF AUTHORIZED DELEGATES TO THE BANKING BOARD WITHIN FORTY-FIVE DAYS AFTER THE END OF A CALENDAR

QUARTER. THE BOARD IS AUTHORIZED AND ENCOURAGED TO UTILIZE NMLS FOR THE SUBMISSION OF THE REPORT REQUIRED BY THIS SECTION IF THE FUNCTIONALITY IS CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

(2) THE AUTHORIZED DELEGATE REPORT MUST INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION FOR EACH AUTHORIZED DELEGATE:

(a) COMPANY LEGAL NAME;

(b) TAXPAYER EMPLOYER IDENTIFICATION NUMBER;

(c) PRINCIPAL PROVIDER IDENTIFIER;

(d) PHYSICAL ADDRESS;

(e) MAILING ADDRESS;

(f) BUSINESS CONDUCTED IN OTHER STATES, IF ANY;

(g) FICTITIOUS OR TRADE NAMES, IF ANY;

(h) CONTACT PERSON NAME, PHONE NUMBER, AND EMAIL;

(i) START DATE AS LICENSEE'S AUTHORIZED DELEGATE;

(j) END DATE ACTING AS LICENSEE'S AUTHORIZED DELEGATE, IF APPLICABLE; AND

(k) OTHER INFORMATION THE BANKING BOARD REASONABLY REQUIRES WITH RESPECT TO THE AUTHORIZED DELEGATE.

11-110-704. Reports of certain events. (1) A LICENSEE SHALL FILE A REPORT WITH THE BANKING BOARD WITHIN ONE BUSINESS DAY AFTER THE LICENSEE HAS REASON TO KNOW OF THE OCCURRENCE OF ANY OF THE FOLLOWING EVENTS:

(a) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE UNDER THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. SECS. 101 TO 110, AS AMENDED, FOR BANKRUPTCY OR REORGANIZATION;

(b) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE FOR RECEIVERSHIP, THE COMMENCEMENT OF ANY OTHER JUDICIAL OR ADMINISTRATIVE PROCEEDING FOR THE LICENSEE'S DISSOLUTION OR REORGANIZATION, OR THE MAKING OF A GENERAL ASSIGNMENT FOR THE BENEFIT OF THE LICENSEE'S CREDITORS; OR

(c) THE COMMENCEMENT OF A PROCEEDING TO REVOKE OR SUSPEND THE LICENSEE'S LICENSE IN A STATE OR COUNTRY IN WHICH THE LICENSEE ENGAGES IN BUSINESS OR IS LICENSED.

(2) A LICENSEE SHALL FILE A REPORT WITH THE BANKING BOARD WITHIN THREE BUSINESS DAYS AFTER THE LICENSEE HAS REASON TO KNOW OF THE OCCURRENCE OF ANY OF THE FOLLOWING EVENTS:

(a) A CHARGE OR CONVICTION OF THE LICENSEE OR OF A KEY INDIVIDUAL OR PERSON IN CONTROL OF THE LICENSEE FOR A FELONY; OR

(b) A CHARGE OR CONVICTION OF AN AUTHORIZED DELEGATE FOR A FELONY.

11-110-705. Bank secrecy act reports. A LICENSEE AND AN AUTHORIZED DELEGATE SHALL FILE ALL REPORTS REQUIRED BY FEDERAL CURRENCY REPORTING, RECORD-KEEPING, AND SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS AS SET FORTH IN THE BANK SECRECY ACT AND OTHER FEDERAL AND STATE LAWS PERTAINING TO MONEY LAUNDERING. THE TIMELY FILING OF A COMPLETE AND ACCURATE REPORT REQUIRED UNDER THIS SECTION WITH THE APPROPRIATE FEDERAL AGENCY IS DEEMED COMPLIANT WITH THE REQUIREMENTS OF THIS SECTION.

11-110-706. Records - rules. (1) A LICENSEE SHALL MAINTAIN THE FOLLOWING RECORDS FOR DETERMINING THE LICENSEE'S COMPLIANCE WITH THIS ARTICLE 110 FOR AT LEAST THREE YEARS AFTER THE CREATION OF THE RECORD:

(a) A RECORD OF EACH OUTSTANDING MONEY TRANSMISSION OBLIGATION SOLD;

(b) A GENERAL LEDGER POSTED AT LEAST MONTHLY CONTAINING ALL ASSET, LIABILITY, CAPITAL, INCOME, AND EXPENSE ACCOUNTS;

(c) BANK STATEMENTS AND BANK RECONCILIATION RECORDS;

(d) RECORDS OF OUTSTANDING MONEY TRANSMISSION OBLIGATIONS;

(e) RECORDS OF EACH OUTSTANDING MONEY TRANSMISSION OBLIGATION PAID WITHIN THE THREE-YEAR PERIOD;

(f) A LIST OF THE LAST-KNOWN NAMES AND ADDRESSES OF ALL OF THE LICENSEE'S AUTHORIZED DELEGATES; AND

(g) ANY OTHER RECORDS THE BANKING BOARD BY RULE REASONABLY REQUIRES.

(2) THE ITEMS SPECIFIED IN SUBSECTION (1) OF THIS SECTION MAY BE MAINTAINED IN ANY FORM OF RECORD.

(3) RECORDS SPECIFIED IN SUBSECTION (1) OF THIS SECTION MAY BE MAINTAINED OUTSIDE THIS STATE IF THEY ARE MADE ACCESSIBLE TO THE BANKING BOARD WITH TEN BUSINESS DAYS' NOTICE THAT IS SENT IN A RECORD.

(4) ALL RECORDS MAINTAINED BY THE LICENSEE AS REQUIRED IN SUBSECTIONS (1) TO (3) OF THIS SECTION ARE OPEN TO INSPECTION BY THE BANKING BOARD PURSUANT TO SECTION 11-110-403 (1).

PART 8

AUTHORIZED DELEGATES

11-110-801. Relationship between licensee and authorized delegate - written policies and procedures required - background investigation - definition. (1) AS USED IN THIS SECTION, "REMIT" MEANS

TO MAKE DIRECT PAYMENTS OF MONEY TO A LICENSEE OR THE LICENSEE'S REPRESENTATIVE AUTHORIZED TO RECEIVE MONEY OR TO DEPOSIT MONEY IN A BANK IN AN ACCOUNT SPECIFIED BY THE LICENSEE.

(2) BEFORE A LICENSEE IS AUTHORIZED TO CONDUCT BUSINESS THROUGH AN AUTHORIZED DELEGATE OR ALLOWS A PERSON TO ACT AS THE LICENSEE'S AUTHORIZED DELEGATE, THE LICENSEE SHALL:

(a) ADOPT, AND UPDATE AS NECESSARY, WRITTEN POLICIES AND PROCEDURES REASONABLY DESIGNED TO ENSURE THAT THE LICENSEE'S AUTHORIZED DELEGATES COMPLY WITH APPLICABLE STATE AND FEDERAL LAW;

(b) ENTER INTO A WRITTEN CONTRACT THAT COMPLIES WITH SUBSECTION (4) OF THIS SECTION; AND

(c) CONDUCT A REASONABLE RISK-BASED BACKGROUND INVESTIGATION SUFFICIENT FOR THE LICENSEE TO DETERMINE WHETHER THE AUTHORIZED DELEGATE HAS COMPLIED AND WILL LIKELY COMPLY WITH APPLICABLE STATE AND FEDERAL LAW.

(3) AN AUTHORIZED DELEGATE MUST OPERATE IN FULL COMPLIANCE WITH THIS ARTICLE 110.

(4) THE WRITTEN CONTRACT REQUIRED BY SUBSECTION (2)(b) OF THIS SECTION MUST:

(a) BE SIGNED BY THE LICENSEE AND THE AUTHORIZED DELEGATE AND, AT A MINIMUM, MUST APPOINT THE PERSON SIGNING THE CONTRACT AS THE LICENSEE'S AUTHORIZED DELEGATE WITH THE AUTHORITY TO CONDUCT MONEY TRANSMISSION ON BEHALF OF THE LICENSEE;

(b) SET FORTH THE NATURE AND SCOPE OF THE RELATIONSHIP BETWEEN THE LICENSEE AND THE AUTHORIZED DELEGATE AND THE RESPECTIVE RIGHTS AND RESPONSIBILITIES OF THE PARTIES;

(c) REQUIRE THE AUTHORIZED DELEGATE TO AGREE TO FULLY COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAWS, RULES, AND REGULATIONS PERTAINING TO MONEY TRANSMISSION, INCLUDING THIS ARTICLE 110 AND RULES IMPLEMENTING THIS ARTICLE 110 AND RELEVANT PROVISIONS OF THE BANK SECRECY ACT AND THE FEDERAL "USA PATRIOT ACT", PUB.L. 107-56;

(d) REQUIRE THE AUTHORIZED DELEGATE TO REMIT AND HANDLE MONEY AND MONETARY VALUE IN ACCORDANCE WITH THE TERMS OF THE CONTRACT BETWEEN THE LICENSEE AND THE AUTHORIZED DELEGATE;

(e) IMPOSE A TRUST ON MONEY AND MONETARY VALUE NET OF FEES RECEIVED FOR MONEY TRANSMISSION FOR THE BENEFIT OF THE LICENSEE;

(f) REQUIRE THE AUTHORIZED DELEGATE TO PREPARE AND MAINTAIN RECORDS AS REQUIRED BY THIS ARTICLE 110 OR RULES IMPLEMENTING THIS ARTICLE 110 OR AS REASONABLY REQUESTED BY THE BANKING BOARD;

(g) ACKNOWLEDGE THAT THE AUTHORIZED DELEGATE CONSENTS TO EXAMINATION OR INVESTIGATION BY THE BANKING BOARD;

(h) STATE THAT THE LICENSEE IS SUBJECT TO REGULATION BY THE BANKING BOARD AND THAT, AS PART OF THAT REGULATION, THE BOARD MAY SUSPEND OR REVOKE AN AUTHORIZED DELEGATE DESIGNATION OR REQUIRE THE LICENSEE TO TERMINATE AN AUTHORIZED DELEGATE DESIGNATION; AND

(i) ACKNOWLEDGE RECEIPT OF THE WRITTEN POLICIES AND PROCEDURES REQUIRED UNDER SUBSECTION (2)(a) OF THIS SECTION.

(5) IF THE LICENSEE'S LICENSE IS SUSPENDED, REVOKED, SURRENDERED, OR EXPIRED, THE LICENSEE MUST, WITHIN FIVE BUSINESS

DAYS, PROVIDE DOCUMENTATION TO THE BANKING BOARD THAT THE LICENSEE HAS NOTIFIED ALL APPLICABLE AUTHORIZED DELEGATES OF THE LICENSEE WHOSE NAMES ARE IN A RECORD FILED WITH THE BOARD OF THE SUSPENSION, REVOCATION, SURRENDER, OR EXPIRATION OF A LICENSE. UPON SUSPENSION, REVOCATION, SURRENDER, OR EXPIRATION OF A LICENSE, APPLICABLE AUTHORIZED DELEGATES SHALL IMMEDIATELY CEASE TO PROVIDE MONEY TRANSMISSION AS AN AUTHORIZED DELEGATE OF THE LICENSEE.

(6) AN AUTHORIZED DELEGATE OF A LICENSEE HOLDS IN TRUST FOR THE BENEFIT OF THE LICENSEE ALL MONEY NET OF FEES RECEIVED FROM MONEY TRANSMISSION. IF AN AUTHORIZED DELEGATE COMMINGLES ANY MONEY RECEIVED FROM MONEY TRANSMISSION WITH ANY OTHER MONEY OR PROPERTY OWNED OR CONTROLLED BY THE AUTHORIZED DELEGATE, ALL COMMINGLED MONEY AND OTHER PROPERTY SHALL BE CONSIDERED HELD IN TRUST IN FAVOR OF THE LICENSEE IN AN AMOUNT EQUAL TO THE AMOUNT OF MONEY NET OF FEES RECEIVED FROM MONEY TRANSMISSION.

(7) AN AUTHORIZED DELEGATE SHALL NOT USE A SUBDELEGATE TO CONDUCT MONEY TRANSMISSION ON BEHALF OF A LICENSEE.

11-110-802. Unauthorized activities - joint and several liability. A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF MONEY TRANSMISSION ON BEHALF OF A PERSON NOT LICENSED UNDER THIS ARTICLE 110 OR NOT EXEMPT PURSUANT TO PART 3 OF THIS ARTICLE 110. A PERSON THAT ENGAGES IN SUCH ACTIVITY PROVIDES MONEY TRANSMISSION TO THE SAME EXTENT AS IF THE PERSON WERE A LICENSEE AND SHALL BE JOINTLY AND SEVERALLY LIABLE WITH THE UNLICENSED OR NONEXEMPT PERSON.

PART 9

TIMELY TRANSMISSION, REFUNDS, AND DISCLOSURES

11-110-901. Timely transmission. (1) EVERY LICENSEE SHALL FORWARD ALL MONEY RECEIVED FOR TRANSMISSION IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT BETWEEN THE LICENSEE AND THE SENDER UNLESS THE LICENSEE HAS A REASONABLE BELIEF OR A REASONABLE BASIS TO BELIEVE THAT THE SENDER MAY BE A VICTIM OF FRAUD OR THAT A CRIME OR VIOLATION OF A LAW, RULE, OR REGULATION HAS OCCURRED, IS OCCURRING, OR MAY OCCUR.

(2) IF A LICENSEE FAILS TO FORWARD MONEY RECEIVED FOR TRANSMISSION IN ACCORDANCE WITH THIS SECTION, THE LICENSEE MUST RESPOND TO INQUIRIES BY THE SENDER WITH THE REASON FOR THE FAILURE UNLESS PROVIDING A RESPONSE WOULD VIOLATE A STATE OR FEDERAL LAW, RULE, OR REGULATION.

11-110-902. Refunds. (1) THIS SECTION DOES NOT APPLY TO:

(a) MONEY RECEIVED FOR TRANSMISSION SUBJECT TO THE FEDERAL REMITTANCE RULE, 12 CFR 1005, SUBPART B; OR

(b) MONEY RECEIVED FOR TRANSMISSION PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE LICENSEE AND PAYEE TO PROCESS PAYMENTS FOR GOODS OR SERVICES PROVIDED BY THE PAYEE.

(2) EVERY LICENSEE SHALL REFUND TO THE SENDER WITHIN TEN DAYS AFTER RECEIPT OF THE SENDER'S WRITTEN REQUEST FOR A REFUND ANY AND ALL MONEY RECEIVED FOR TRANSMISSION UNLESS ANY OF THE FOLLOWING OCCURS:

(a) THE MONEY HAS BEEN FORWARDED WITHIN TEN DAYS AFTER THE DATE ON WHICH THE MONEY WAS RECEIVED FOR TRANSMISSION;

(b) INSTRUCTIONS HAVE BEEN GIVEN COMMITTING AN EQUIVALENT AMOUNT OF MONEY TO THE PERSON DESIGNATED BY THE SENDER WITHIN

TEN DAYS AFTER THE DATE ON WHICH THE MONEY WAS RECEIVED FOR TRANSMISSION;

(c) THE AGREEMENT BETWEEN THE LICENSEE AND THE SENDER INSTRUCTS THE LICENSEE TO FORWARD THE MONEY AT A TIME THAT IS BEYOND TEN DAYS AFTER THE DATE ON WHICH THE MONEY WAS RECEIVED FOR TRANSMISSION. IF MONEY HAS NOT YET BEEN FORWARDED IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT BETWEEN THE LICENSEE AND THE SENDER, THE LICENSEE SHALL ISSUE A REFUND IN ACCORDANCE WITH THE OTHER PROVISIONS OF THIS SECTION.

(d) THE REFUND IS REQUESTED FOR A TRANSACTION THAT THE LICENSEE HAS NOT COMPLETED BASED ON A REASONABLE BELIEF OR A REASONABLE BASIS TO BELIEVE THAT A CRIME OR VIOLATION OF LAW, RULE, OR REGULATION HAS OCCURRED, IS OCCURRING, OR MAY OCCUR; OR

(e) THE REFUND REQUEST DOES NOT ENABLE THE LICENSEE TO:

(I) IDENTIFY THE SENDER'S NAME AND ADDRESS OR TELEPHONE NUMBER; OR

(II) IDENTIFY THE PARTICULAR TRANSACTION TO BE REFUNDED IN THE EVENT THE SENDER HAS MULTIPLE TRANSACTIONS OUTSTANDING.

11-110-903. Receipts - definition. (1) THIS SECTION DOES NOT APPLY TO:

(a) MONEY RECEIVED FOR TRANSMISSION SUBJECT TO THE FEDERAL REMITTANCE RULE, 12 CFR 1005, SUBPART B;

(b) MONEY RECEIVED FOR TRANSMISSION THAT IS NOT PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES;

(c) MONEY RECEIVED FOR TRANSMISSION PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE LICENSEE AND PAYEE TO PROCESS PAYMENTS FOR GOODS OR SERVICES PROVIDED BY THE PAYEE; OR

(d) PAYROLL PROCESSING SERVICES.

(2) AS USED IN THIS SECTION, "RECEIPT" MEANS A PAPER RECEIPT, ELECTRONIC RECORD, OR OTHER WRITTEN CONFIRMATION. FOR A TRANSACTION CONDUCTED IN PERSON, THE RECEIPT MAY BE PROVIDED ELECTRONICALLY IF THE SENDER REQUESTS OR AGREES TO RECEIVE AN ELECTRONIC RECEIPT. FOR A TRANSACTION CONDUCTED ELECTRONICALLY OR BY PHONE, A RECEIPT MAY BE PROVIDED ELECTRONICALLY. ALL ELECTRONIC RECEIPTS SHALL BE PROVIDED IN A RETAINABLE FORM.

(3) (a) EVERY LICENSEE OR EVERY LICENSEE'S AUTHORIZED DELEGATE SHALL PROVIDE THE SENDER A RECEIPT FOR MONEY RECEIVED FOR TRANSMISSION.

(b) THE RECEIPT MUST CONTAIN THE FOLLOWING INFORMATION, AS APPLICABLE:

(I) THE NAME OF THE SENDER;

(II) THE NAME OF THE DESIGNATED RECIPIENT;

(III) THE DATE OF THE TRANSACTION;

(IV) THE UNIQUE TRANSACTION OR IDENTIFICATION NUMBER;

(V) THE NAME OF THE LICENSEE, THE NMLS UNIQUE IDENTIFIER, THE LICENSEE'S BUSINESS ADDRESS, AND THE LICENSEE'S CUSTOMER SERVICE TELEPHONE NUMBER;

(VI) THE AMOUNT OF THE TRANSACTION IN UNITED STATES DOLLARS;

(VII) THE FEE CHARGED BY THE LICENSEE TO THE SENDER FOR THE TRANSACTION, IF ANY; AND

(VIII) TAXES COLLECTED BY THE LICENSEE FROM THE SENDER FOR THE TRANSACTION, IF ANY.

(c) THE RECEIPT REQUIRED BY THIS SECTION MUST BE IN ENGLISH

AND IN THE LANGUAGE PRINCIPALLY USED BY THE LICENSEE OR AUTHORIZED DELEGATE, IF OTHER THAN ENGLISH, TO ADVERTISE, SOLICIT, OR NEGOTIATE, EITHER ORALLY OR IN WRITING, FOR A TRANSACTION CONDUCTED IN PERSON, ELECTRONICALLY, OR BY PHONE.

11-110-904. Notice. EVERY LICENSEE OR AUTHORIZED DELEGATE SHALL INCLUDE ON A RECEIPT DESCRIBED IN SECTION 11-110-903 OR DISCLOSE ON THE LICENSEE'S WEBSITE OR MOBILE APPLICATION THE NAME AND PHONE NUMBER OF THE DIVISION AND A STATEMENT THAT THE LICENSEE'S CUSTOMERS CAN CONTACT THE DIVISION WITH QUESTIONS OR COMPLAINTS ABOUT THE LICENSEE'S MONEY TRANSMISSION SERVICES.

11-110-905. Disclosures for payroll processing services. (1) A LICENSEE THAT PROVIDES PAYROLL PROCESSING SERVICES SHALL:

(a) ISSUE REPORTS TO CLIENTS DETAILING CLIENT PAYROLL OBLIGATIONS IN ADVANCE OF THE PAYROLL MONEY BEING DEDUCTED FROM AN ACCOUNT; AND

(b) MAKE AVAILABLE WORKER PAY STUBS OR AN EQUIVALENT STATEMENT TO WORKERS.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A LICENSEE PROVIDING PAYROLL PROCESSING SERVICES WHERE THE LICENSEE'S CLIENT DESIGNATES THE INTENDED RECIPIENTS TO THE LICENSEE AND IS RESPONSIBLE FOR PROVIDING THE DISCLOSURES REQUIRED BY SUBSECTION (1)(b) OF THIS SECTION.

PART 10

PRUDENTIAL STANDARDS

11-110-1001. Net worth. (1) A LICENSEE LICENSED PURSUANT TO THIS ARTICLE 110 SHALL MAINTAIN AT ALL TIMES A TANGIBLE NET WORTH OF THE GREATER OF ONE HUNDRED THOUSAND DOLLARS OR THREE

PERCENT OF TOTAL ASSETS FOR THE FIRST ONE HUNDRED MILLION DOLLARS, TWO PERCENT OF ADDITIONAL ASSETS FOR ONE HUNDRED MILLION DOLLARS TO ONE BILLION DOLLARS, AND ONE-HALF OF ONE PERCENT OF ADDITIONAL ASSETS FOR OVER ONE BILLION DOLLARS.

(2) TANGIBLE NET WORTH REQUIRED BY SUBSECTION (1) OF THIS SECTION MUST BE DEMONSTRATED AT INITIAL APPLICATION BY THE APPLICANT'S MOST RECENT AUDITED OR UNAUDITED FINANCIAL STATEMENTS PURSUANT TO SECTION 11-110-503 (2)(f).

(3) NOTWITHSTANDING SUBSECTIONS (1) AND (2) OF THIS SECTION, THE BANKING BOARD MAY, FOR GOOD CAUSE SHOWN, EXEMPT, IN PART OR IN WHOLE, AN APPLICANT OR LICENSEE FROM THE REQUIREMENTS SET FORTH IN THIS SECTION.

11-110-1002. Surety bond. (1) AN APPLICANT FOR A MONEY TRANSMISSION LICENSE SHALL PROVIDE, AND A LICENSEE AT ALL TIMES SHALL MAINTAIN, SECURITY CONSISTING OF A SURETY BOND IN A FORM SATISFACTORY TO THE BANKING BOARD OR, WITH THE BOARD'S APPROVAL, A DEPOSIT INSTEAD OF A BOND IN ACCORDANCE WITH THIS SECTION.

(2) THE AMOUNT OF THE REQUIRED SECURITY IS THE GREATER OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE LICENSEE'S AVERAGE DAILY MONEY TRANSMISSION LIABILITY IN THIS STATE CALCULATED FOR THE MOST RECENTLY COMPLETED THREE-MONTH PERIOD, UP TO A MAXIMUM OF ONE MILLION DOLLARS.

(3) A LICENSEE THAT MAINTAINS A BOND IN THE MAXIMUM AMOUNT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION IS NOT REQUIRED TO CALCULATE ITS AVERAGE DAILY MONEY TRANSMISSION LIABILITY IN THIS STATE FOR PURPOSES OF THIS SECTION.

11-110-1003. Maintenance of permissible investments - statutory trust - rules. (1) A LICENSEE SHALL MAINTAIN AT ALL TIMES PERMISSIBLE INVESTMENTS THAT HAVE A MARKET VALUE COMPUTED IN ACCORDANCE WITH UNITED STATES GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OF NOT LESS THAN THE AGGREGATE AMOUNT OF ALL OF THE LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS.

(2) EXCEPT FOR PERMISSIBLE INVESTMENTS ENUMERATED IN SECTION 11-110-1004 (1), THE BANKING BOARD, WITH RESPECT TO A LICENSEE, MAY BY RULE OR ORDER LIMIT THE EXTENT TO WHICH A SPECIFIC INVESTMENT MAINTAINED BY A LICENSEE WITHIN A CLASS OF PERMISSIBLE INVESTMENTS MAY BE CONSIDERED A PERMISSIBLE INVESTMENT IF THE SPECIFIC INVESTMENT REPRESENTS UNDUE RISK TO CUSTOMERS NOT REFLECTED IN THE MARKET VALUE OF INVESTMENTS.

(3) PERMISSIBLE INVESTMENTS, EVEN IF COMMINGLED WITH OTHER ASSETS OF A LICENSEE, ARE HELD IN TRUST FOR THE BENEFIT OF THE PURCHASERS AND HOLDERS OF THE LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS IN THE EVENT OF INSOLVENCY; THE FILING OF A PETITION BY OR AGAINST THE LICENSEE UNDER THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. SECS. 101 TO 110, AS AMENDED, FOR BANKRUPTCY OR REORGANIZATION; THE FILING OF A PETITION BY OR AGAINST THE LICENSEE FOR RECEIVERSHIP; THE COMMENCEMENT OF ANY OTHER JUDICIAL OR ADMINISTRATIVE PROCEEDING FOR THE LICENSEE'S DISSOLUTION OR REORGANIZATION; OR AN ACTION AGAINST THE LICENSEE BY A CREDITOR THAT IS NOT A BENEFICIARY OF THE STATUTORY TRUST. PERMISSIBLE INVESTMENTS IMPRESSED WITH A TRUST PURSUANT TO THIS SECTION ARE NOT SUBJECT TO ATTACHMENT, LEVY OF EXECUTION, OR SEQUESTRATION BY ORDER OF ANY COURT, EXCEPT FOR A BENEFICIARY OF

THE STATUTORY TRUST.

(4) UPON THE ESTABLISHMENT OF A STATUTORY TRUST IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION OR WHEN MONEY IS DRAWN ON A LETTER OF CREDIT PURSUANT TO SECTION 11-110-1004 (1)(d), THE BANKING BOARD SHALL NOTIFY THE APPLICABLE REGULATOR OF EACH STATE IN WHICH THE LICENSEE IS LICENSED TO ENGAGE IN MONEY TRANSMISSION, IF ANY, OF THE ESTABLISHMENT OF THE TRUST OR THE MONEY DRAWN ON THE LETTER OF CREDIT, AS APPLICABLE. NOTICE IS DEEMED SATISFIED IF PERFORMED PURSUANT TO A MULTISTATE AGREEMENT OR THROUGH NMLS. MONEY DRAWN ON A LETTER OF CREDIT, AND ANY OTHER PERMISSIBLE INVESTMENTS HELD IN TRUST FOR THE BENEFIT OF THE PURCHASERS AND HOLDERS OF THE LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS, IS DEEMED HELD IN TRUST FOR THE BENEFIT OF SUCH PURCHASERS AND HOLDERS ON A PRO RATA AND EQUITABLE BASIS IN ACCORDANCE WITH STATUTES PURSUANT TO WHICH PERMISSIBLE INVESTMENTS ARE REQUIRED TO BE HELD IN THIS STATE, AND OTHER STATES, AS APPLICABLE. A STATUTORY TRUST ESTABLISHED PURSUANT TO THIS SECTION IS TERMINATED UPON EXTINGUISHMENT OF ALL OF THE LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS.

(5) THE BANKING BOARD BY RULE MAY ALLOW OTHER TYPES OF INVESTMENTS THAT THE BOARD DETERMINES ARE OF SUFFICIENT LIQUIDITY AND QUALITY TO BE A PERMISSIBLE INVESTMENT. THE BANKING BOARD MAY PARTICIPATE IN EFFORTS WITH OTHER STATE REGULATORS TO DETERMINE THAT OTHER TYPES OF INVESTMENTS ARE OF SUFFICIENT LIQUIDITY AND QUALITY TO BE A PERMISSIBLE INVESTMENT.

11-110-1004. Types of permissible investments - rules. (1) THE

FOLLOWING INVESTMENTS ARE PERMISSIBLE UNDER SECTION 11-110-1003:

(a) CASH, INCLUDING DEMAND DEPOSITS, SAVINGS DEPOSITS, AND MONEY IN SUCH ACCOUNTS HELD FOR THE BENEFIT OF THE LICENSEE'S CUSTOMERS IN A FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION, AND CASH EQUIVALENTS, INCLUDING ACH ITEMS IN TRANSIT TO THE LICENSEE AND ACH ITEMS OR INTERNATIONAL WIRES IN TRANSIT TO A PAYEE, CASH IN TRANSIT VIA ARMORED CAR, CASH IN SMART SAFES, CASH IN LICENSEE-OWNED LOCATIONS, DEBIT CARD OR CREDIT CARD-FUNDED TRANSMISSION RECEIVABLES OWED BY A BANK, OR MONEY MARKET MUTUAL FUNDS RATED "AAA" BY S&P GLOBAL RATINGS OR THE EQUIVALENT FROM ANY ELIGIBLE RATING SERVICE;

(b) CERTIFICATES OF DEPOSIT OR SENIOR DEBT OBLIGATIONS OF AN INSURED DEPOSITORY INSTITUTION, AS DEFINED IN SECTION 3 OF THE "FEDERAL DEPOSIT INSURANCE ACT", 12 U.S.C. SEC. 1813, AS AMENDED, OR AS DEFINED UNDER THE "FEDERAL CREDIT UNION ACT", 12 U.S.C. SEC. 1781, AS AMENDED;

(c) AN OBLIGATION OF THE UNITED STATES OR A COMMISSION, AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES; AN OBLIGATION THAT IS GUARANTEED FULLY AS TO PRINCIPAL AND INTEREST BY THE UNITED STATES; OR AN OBLIGATION OF A STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY OF A STATE; OR

(d) THE FULL DRAWABLE AMOUNT OF AN IRREVOCABLE STANDBY LETTER OF CREDIT FOR WHICH THE STATED BENEFICIARY IS THE BANKING BOARD THAT STIPULATES THAT THE BENEFICIARY NEED ONLY DRAW A SIGHT DRAFT UNDER THE LETTER OF CREDIT AND PRESENT IT TO OBTAIN MONEY UP TO THE LETTER OF CREDIT AMOUNT WITHIN SEVEN DAYS AFTER PRESENTATION OF THE ITEMS REQUIRED BY SUBSECTION (2)(c) OF THIS

SECTION.

(2) (a) THE LETTER OF CREDIT DESCRIBED IN SUBSECTION (1)(d) OF THIS SECTION MUST:

(I) BE ISSUED BY:

(A) A FEDERALLY INSURED DEPOSITORY FINANCIAL INSTITUTION;

(B) A FOREIGN BANK THAT IS AUTHORIZED UNDER FEDERAL LAW TO MAINTAIN A FEDERAL AGENCY OR FEDERAL BRANCH OFFICE IN A STATE OR STATES; OR

(C) A FOREIGN BANK THAT BEARS AN ELIGIBLE RATING, OR WHOSE PARENT COMPANY BEARS AN ELIGIBLE RATING; THAT IS REGULATED, SUPERVISED, AND EXAMINED BY FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS, CREDIT UNIONS, AND TRUST COMPANIES; AND THAT IS AUTHORIZED UNDER STATE LAW TO MAINTAIN A BRANCH IN A STATE;

(II) BE IRREVOCABLE, BE UNCONDITIONAL, AND INDICATE THAT THE LETTER OF CREDIT IS NOT SUBJECT TO ANY CONDITION OR QUALIFICATIONS OUTSIDE OF THE LETTER OF CREDIT;

(III) NOT CONTAIN REFERENCE TO ANY OTHER AGREEMENTS, DOCUMENTS, OR ENTITIES OR OTHERWISE PROVIDE FOR ANY SECURITY INTEREST IN THE LICENSEE; AND

(IV) CONTAIN AN ISSUE DATE AND EXPIRATION DATE, AND EXPRESSLY PROVIDE FOR AUTOMATIC EXTENSION, WITHOUT A WRITTEN AMENDMENT, FOR AN ADDITIONAL PERIOD OF ONE YEAR AFTER THE PRESENT AND EACH FUTURE EXPIRATION DATE, UNLESS THE ISSUER OF THE LETTER OF CREDIT NOTIFIES THE BANKING BOARD IN WRITING BY CERTIFIED OR REGISTERED MAIL OR COURIER MAIL OR OTHER RECEIPTED MEANS, AT LEAST SIXTY DAYS PRIOR TO ANY EXPIRATION DATE, THAT THE

IRREVOCABLE LETTER OF CREDIT WILL NOT BE EXTENDED.

(b) IN THE EVENT OF A NOTICE OF EXPIRATION OR NONEXTENSION OF A LETTER OF CREDIT ISSUED UNDER SUBSECTION (2)(a)(IV) OF THIS SECTION, THE LICENSEE IS REQUIRED TO DEMONSTRATE TO THE SATISFACTION OF THE BANKING BOARD, AT LEAST FIFTEEN DAYS PRIOR TO EXPIRATION, THAT THE LICENSEE MAINTAINS AND WILL MAINTAIN PERMISSIBLE INVESTMENTS IN ACCORDANCE WITH SECTION 11-110-1003 (1) UPON THE EXPIRATION OF THE LETTER OF CREDIT. IF THE LICENSEE IS NOT ABLE TO DO SO, THE BOARD MAY DRAW ON THE LETTER OF CREDIT IN AN AMOUNT UP TO THE AMOUNT NECESSARY TO MEET THE LICENSEE'S REQUIREMENTS TO MAINTAIN PERMISSIBLE INVESTMENTS IN ACCORDANCE WITH SECTION 11-110-1003 (1). A DRAW ON THE LETTER OF CREDIT BY THE BOARD SHALL BE OFFSET AGAINST THE LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS. THE DRAWN MONEY SHALL BE HELD IN TRUST BY THE BOARD OR THE BOARD'S DESIGNATED AGENT, TO THE EXTENT AUTHORIZED BY LAW, AS AGENT FOR THE BENEFIT OF THE PURCHASERS AND HOLDERS OF THE LICENSEE'S OUTSTANDING MONEY TRANSMISSION OBLIGATIONS.

(c) THE LETTER OF CREDIT MUST PROVIDE THAT THE ISSUER OF THE LETTER OF CREDIT WILL HONOR, AT SIGHT, A PRESENTATION MADE BY THE BENEFICIARY TO THE ISSUER OF THE FOLLOWING DOCUMENTS ON OR PRIOR TO THE EXPIRATION DATE OF THE LETTER OF CREDIT:

(I) THE ORIGINAL LETTER OF CREDIT, INCLUDING ANY AMENDMENTS; AND

(II) A WRITTEN STATEMENT FROM THE BENEFICIARY STATING THAT ANY OF THE FOLLOWING EVENTS HAVE OCCURRED:

(A) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE

UNDER THE UNITED STATES BANKRUPTCY CODE, 11 U.S.C. SECS. 101 TO 110, AS AMENDED, FOR BANKRUPTCY OR REORGANIZATION;

(B) THE FILING OF A PETITION BY OR AGAINST THE LICENSEE FOR RECEIVERSHIP OR THE COMMENCEMENT OF ANY OTHER JUDICIAL OR ADMINISTRATIVE PROCEEDING FOR ITS DISSOLUTION OR REORGANIZATION;

(C) THE SEIZURE OF ASSETS OF A LICENSEE BY A BANKING BOARD PURSUANT TO AN EMERGENCY ORDER ISSUED IN ACCORDANCE WITH APPLICABLE LAW, ON THE BASIS OF AN ACTION, VIOLATION, OR CONDITION THAT HAS CAUSED OR IS LIKELY TO CAUSE THE INSOLVENCY OF THE LICENSEE; OR

(D) THE BENEFICIARY HAS RECEIVED NOTICE OF EXPIRATION OR NONEXTENSION OF A LETTER OF CREDIT, AND THE LICENSEE FAILED TO DEMONSTRATE TO THE SATISFACTION OF THE BENEFICIARY THAT THE LICENSEE WILL MAINTAIN PERMISSIBLE INVESTMENTS IN ACCORDANCE WITH SECTION 11-110-1003 (1) UPON THE EXPIRATION OR NONEXTENSION OF THE LETTER OF CREDIT.

(d) THE BANKING BOARD MAY DESIGNATE AN AGENT TO SERVE ON THE BOARD'S BEHALF AS BENEFICIARY TO A LETTER OF CREDIT SO LONG AS THE AGENT AND LETTER OF CREDIT MEET REQUIREMENTS ESTABLISHED BY THE BOARD. THE BOARD'S AGENT MAY SERVE AS AGENT FOR MULTIPLE LICENSING AUTHORITIES FOR A SINGLE IRREVOCABLE LETTER OF CREDIT IF THE PROCEEDS OF THE DRAWABLE AMOUNT FOR THE PURPOSES OF SUBSECTION (1)(d) OF THIS SECTION ARE ASSIGNED TO THE BOARD.

(e) THE BANKING BOARD IS AUTHORIZED AND ENCOURAGED TO PARTICIPATE IN MULTISTATE LICENSING PROCESSES DESIGNED TO FACILITATE THE ISSUANCE AND ADMINISTRATION OF LETTERS OF CREDIT, INCLUDING BUT NOT LIMITED TO SERVICES PROVIDED BY NMLS AND THE

STATE REGULATORY REGISTRY, LLC.

(3) UNLESS PERMITTED BY THE BANKING BOARD BY RULE OR BY ORDER TO EXCEED THE LIMITS AS SET FORTH IN THIS SUBSECTION (3), THE FOLLOWING INVESTMENTS ARE PERMISSIBLE UNDER SECTION 11-110-1003, TO THE EXTENT SPECIFIED:

(a) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(II) OF THIS SECTION, RECEIVABLES THAT ARE PAYABLE TO A LICENSEE FROM THE LICENSEE'S AUTHORIZED DELEGATES IN THE ORDINARY COURSE OF BUSINESS THAT ARE LESS THAN SEVEN DAYS OLD, UP TO FIFTY PERCENT OF THE AGGREGATE VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE INVESTMENTS.

(II) OF THE RECEIVABLES PERMISSIBLE UNDER SUBSECTION (3)(a)(I) OF THIS SECTION, RECEIVABLES THAT ARE PAYABLE TO A LICENSEE FROM A SINGLE AUTHORIZED DELEGATE IN THE ORDINARY COURSE OF BUSINESS MUST NOT EXCEED TEN PERCENT OF THE AGGREGATE VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE INVESTMENTS.

(b) THE FOLLOWING INVESTMENTS, UP TO TWENTY PERCENT PER CATEGORY AND COMBINED UP TO FIFTY PERCENT OF THE AGGREGATE VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE INVESTMENTS:

(I) A SHORT-TERM INVESTMENT OF UP TO SIX MONTHS BEARING AN ELIGIBLE RATING;

(II) COMMERCIAL PAPER BEARING AN ELIGIBLE RATING;

(III) A BILL, NOTE, BOND, OR DEBENTURE BEARING AN ELIGIBLE RATING;

(IV) UNITED STATES TRI-PARTY REPURCHASE AGREEMENTS, COLLATERALIZED AT ONE HUNDRED PERCENT OR MORE, WITH UNITED STATES GOVERNMENT OR AGENCY SECURITIES, MUNICIPAL BONDS, OR

OTHER SECURITIES BEARING AN ELIGIBLE RATING;

(V) MONEY MARKET MUTUAL FUNDS RATED LESS THAN "AAA" AND EQUAL TO OR HIGHER THAN "A-" BY S&P GLOBAL RATINGS OR THE EQUIVALENT FROM ANY OTHER ELIGIBLE RATING SERVICE; AND

(VI) A MUTUAL FUND OR OTHER INVESTMENT FUND COMPOSED SOLELY AND EXCLUSIVELY OF ONE OR MORE PERMISSIBLE INVESTMENTS LISTED IN SUBSECTIONS (1)(a) TO (1)(c) OF THIS SECTION; AND

(c) CASH, INCLUDING DEMAND DEPOSITS, SAVINGS DEPOSITS, AND CASH IN SUCH ACCOUNTS HELD FOR THE BENEFIT OF THE LICENSEE'S CUSTOMERS AT FOREIGN DEPOSITORY INSTITUTIONS, UP TO TEN PERCENT OF THE AGGREGATE VALUE OF THE LICENSEE'S TOTAL PERMISSIBLE INVESTMENTS IF THE LICENSEE HAS RECEIVED A SATISFACTORY RATING IN THE LICENSEE'S MOST RECENT EXAMINATION AND IF THE FOREIGN DEPOSITORY INSTITUTION:

(I) HAS AN ELIGIBLE RATING;

(II) IS REGISTERED UNDER THE FEDERAL "FOREIGN ACCOUNT TAX COMPLIANCE ACT", PUB.L. 111-47;

(III) IS NOT LOCATED IN ANY COUNTRY SUBJECT TO SANCTIONS FROM THE OFFICE OF FOREIGN ASSETS CONTROL; AND

(IV) IS NOT LOCATED IN A HIGH-RISK OR NONCOOPERATIVE JURISDICTION AS DESIGNATED BY THE INTERNATIONAL FINANCIAL ACTION TASK FORCE.

PART 11

ENFORCEMENT AND JUDICIAL REVIEW

11-110-1101. Suspension and revocation of license. (1) THE BANKING BOARD MAY SUSPEND OR REVOKE A LICENSE OR ORDER A LICENSEE TO REVOKE THE DESIGNATION OF AN AUTHORIZED DELEGATE IF:

(a) THE LICENSEE VIOLATES THIS ARTICLE 110 OR A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110;

(b) THE LICENSEE DOES NOT COOPERATE WITH AN EXAMINATION OR INVESTIGATION BY THE BOARD;

(c) THE LICENSEE ENGAGES IN FRAUD, INTENTIONAL MISREPRESENTATION, OR GROSS NEGLIGENCE;

(d) AN AUTHORIZED DELEGATE IS CONVICTED OF A VIOLATION OF A STATE OR FEDERAL ANTI-MONEY LAUNDERING STATUTE, OR VIOLATES A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110, AS A RESULT OF THE LICENSEE'S WILLFUL MISCONDUCT OR WILLFUL BLINDNESS;

(e) THE COMPETENCE, EXPERIENCE, CHARACTER, OR GENERAL FITNESS OF THE LICENSEE, AUTHORIZED DELEGATE, PERSON IN CONTROL OF THE LICENSEE, KEY INDIVIDUAL, OR RESPONSIBLE PERSON OF THE AUTHORIZED DELEGATE INDICATES THAT IT IS NOT IN THE PUBLIC INTEREST TO PERMIT THE PERSON TO PROVIDE MONEY TRANSMISSION;

(f) THE LICENSEE ENGAGES IN AN UNSAFE OR UNSOUND PRACTICE;

(g) THE LICENSEE IS INSOLVENT, SUSPENDS PAYMENT OF ITS OBLIGATIONS, OR MAKES A GENERAL ASSIGNMENT FOR THE BENEFIT OF ITS CREDITORS; OR

(h) THE LICENSEE DOES NOT REMOVE AN AUTHORIZED DELEGATE AFTER THE BOARD ISSUES AND SERVES UPON THE LICENSEE A FINAL ORDER, INCLUDING A FINDING THAT THE AUTHORIZED DELEGATE HAS VIOLATED THIS ARTICLE 110.

(2) IN DETERMINING WHETHER A LICENSEE IS ENGAGING IN AN UNSAFE OR UNSOUND PRACTICE, THE BANKING BOARD MAY CONSIDER THE SIZE AND CONDITION OF THE LICENSEE'S MONEY TRANSMISSION, THE MAGNITUDE OF THE LOSS, THE GRAVITY OF THE VIOLATION OF THIS

ARTICLE 110 OR A RULE ADOPTED OR ORDER ISSUED UNDER THIS ARTICLE 110, AND THE PREVIOUS CONDUCT OF THE PERSON INVOLVED.

11-110-1102. Suspension and revocation of authorized delegates. (1) THE BANKING BOARD MAY ISSUE AN ORDER SUSPENDING OR REVOKING THE DESIGNATION OF AN AUTHORIZED DELEGATE IF THE BOARD FINDS THAT:

(a) THE AUTHORIZED DELEGATE VIOLATED THIS ARTICLE 110 OR A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110;

(b) THE AUTHORIZED DELEGATE DID NOT COOPERATE WITH AN EXAMINATION OR INVESTIGATION BY THE BOARD;

(c) THE AUTHORIZED DELEGATE ENGAGED IN FRAUD, INTENTIONAL MISREPRESENTATION, OR GROSS NEGLIGENCE;

(d) THE AUTHORIZED DELEGATE IS CONVICTED OF A VIOLATION OF A STATE OR FEDERAL ANTI-MONEY LAUNDERING STATUTE;

(e) THE COMPETENCE, EXPERIENCE, CHARACTER, OR GENERAL FITNESS OF THE AUTHORIZED DELEGATE OR A PERSON IN CONTROL OF THE AUTHORIZED DELEGATE INDICATES THAT IT IS NOT IN THE PUBLIC INTEREST TO PERMIT THE AUTHORIZED DELEGATE TO PROVIDE MONEY TRANSMISSION; OR

(f) THE AUTHORIZED DELEGATE IS ENGAGING IN AN UNSAFE OR UNSOUND PRACTICE.

(2) IN DETERMINING WHETHER AN AUTHORIZED DELEGATE IS ENGAGING IN AN UNSAFE OR UNSOUND PRACTICE, THE BANKING BOARD MAY CONSIDER THE SIZE AND CONDITION OF THE AUTHORIZED DELEGATE'S PROVISION OF MONEY TRANSMISSION, THE MAGNITUDE OF THE LOSS, THE GRAVITY OF THE VIOLATION OF THIS ARTICLE 110 OR A RULE ADOPTED OR ORDER ISSUED UNDER THIS ARTICLE 110, AND THE PREVIOUS CONDUCT OF

THE AUTHORIZED DELEGATE.

(3) AN AUTHORIZED DELEGATE MAY APPLY FOR RELIEF FROM A SUSPENSION OR REVOCATION OF DESIGNATION AS AN AUTHORIZED DELEGATE ACCORDING TO PROCEDURES PRESCRIBED BY THE BANKING BOARD BY RULE.

11-110-1103. Orders to cease and desist. (1) IF THE BANKING BOARD DETERMINES THAT A VIOLATION OF THIS ARTICLE 110 OR A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110 BY A LICENSEE OR AUTHORIZED DELEGATE IS LIKELY TO CAUSE IMMEDIATE AND IRREPARABLE HARM TO THE LICENSEE, THE LICENSEE'S CUSTOMERS, OR THE PUBLIC AS A RESULT OF THE VIOLATION, OR CAUSE INSOLVENCY OR SIGNIFICANT DISSIPATION OF ASSETS OF THE LICENSEE, THE BOARD MAY ISSUE AN ORDER REQUIRING THE LICENSEE OR AUTHORIZED DELEGATE TO CEASE AND DESIST FROM THE VIOLATION. THE ORDER BECOMES EFFECTIVE UPON SERVICE OF THE ORDER UPON THE LICENSEE OR AUTHORIZED DELEGATE.

(2) THE BANKING BOARD MAY ISSUE AN ORDER AGAINST A LICENSEE TO CEASE AND DESIST FROM PROVIDING MONEY TRANSMISSION THROUGH AN AUTHORIZED DELEGATE THAT IS THE SUBJECT OF A SEPARATE ORDER BY THE BOARD.

(3) AN ORDER TO CEASE AND DESIST REMAINS EFFECTIVE AND ENFORCEABLE PENDING THE COMPLETION OF AN ADMINISTRATIVE PROCEEDING PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

(4) A LICENSEE OR AN AUTHORIZED DELEGATE THAT IS SERVED WITH AN ORDER TO CEASE AND DESIST MAY PETITION THE APPROPRIATE COURT FOR A JUDICIAL ORDER SETTING ASIDE, LIMITING, OR SUSPENDING THE ENFORCEMENT, OPERATION, OR EFFECTIVENESS OF THE ORDER

PENDING THE COMPLETION OF AN ADMINISTRATIVE PROCEEDING PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

(5) AN ORDER TO CEASE AND DESIST EXPIRES WITHIN TEN DAYS AFTER THE ORDER IS ISSUED UNLESS THE BANKING BOARD COMMENCES AN ADMINISTRATIVE PROCEEDING PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

11-110-1104. Consent orders. THE BANKING BOARD MAY ENTER INTO A CONSENT ORDER AT ANY TIME WITH A PERSON TO RESOLVE A MATTER ARISING UNDER THIS ARTICLE 110 OR A RULE ADOPTED OR ORDER ISSUED UNDER THIS ARTICLE 110. A CONSENT ORDER MUST BE SIGNED BY THE PERSON TO WHOM IT IS ISSUED OR BY THE PERSON'S AUTHORIZED REPRESENTATIVE AND MUST INDICATE AGREEMENT WITH THE TERMS CONTAINED IN THE ORDER. A CONSENT ORDER MAY PROVIDE THAT IT DOES NOT CONSTITUTE AN ADMISSION BY A PERSON THAT THIS ARTICLE 110 OR A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110 HAS BEEN VIOLATED.

11-110-1105. Criminal penalties. (1) AN INDIVIDUAL THAT INTENTIONALLY MAKES A FALSE STATEMENT, MISREPRESENTATION, OR FALSE CERTIFICATION IN A RECORD FILED OR REQUIRED TO BE MAINTAINED UNDER THIS ARTICLE 110 OR THAT INTENTIONALLY MAKES A FALSE ENTRY OR OMITS A MATERIAL ENTRY IN SUCH A RECORD COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

(2) AN INDIVIDUAL THAT KNOWINGLY ENGAGES IN AN ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE 110 WITHOUT BEING LICENSED UNDER THIS ARTICLE 110 AND THAT RECEIVES MORE THAN FIVE HUNDRED DOLLARS IN COMPENSATION WITHIN A THIRTY-DAY

PERIOD FROM THIS ACTIVITY COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

(3) AN INDIVIDUAL THAT KNOWINGLY ENGAGES IN AN ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER THIS ARTICLE 110 WITHOUT BEING LICENSED UNDER THIS ARTICLE 110 AND THAT RECEIVES NO MORE THAN FIVE HUNDRED DOLLARS IN COMPENSATION WITHIN A THIRTY-DAY PERIOD FROM THIS ACTIVITY COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

11-110-1106. Civil penalties. THE BANKING BOARD MAY ASSESS A CIVIL PENALTY AGAINST A PERSON THAT VIOLATES THIS ARTICLE 110 OR A RULE ADOPTED OR AN ORDER ISSUED UNDER THIS ARTICLE 110 IN AN AMOUNT AS DETERMINED BY THE BOARD FOR EACH DAY THE VIOLATION IS OUTSTANDING, PLUS THIS STATE'S COSTS AND EXPENSES FOR THE INVESTIGATION AND PROSECUTION OF THE MATTER, INCLUDING REASONABLE ATTORNEY FEES.

11-110-1107. Unlicensed persons. (1) IF THE BANKING BOARD HAS REASON TO BELIEVE THAT A PERSON HAS VIOLATED OR IS VIOLATING SECTION 11-110-501, THE BOARD MAY ISSUE AN ORDER TO SHOW CAUSE WHY AN ORDER TO CEASE AND DESIST SHOULD NOT BE ISSUED REQUIRING THAT THE PERSON CEASE AND DESIST FROM THE VIOLATION OF SECTION 11-110-501.

(2) IN AN EMERGENCY, THE BANKING BOARD MAY PETITION THE APPROPRIATE COURT FOR THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER EX PARTE PURSUANT TO THE RULES OF CIVIL PROCEDURE.

(3) AN ORDER TO CEASE AND DESIST BECOMES EFFECTIVE UPON SERVICE OF THE ORDER UPON THE PERSON.

(4) AN ORDER TO CEASE AND DESIST REMAINS EFFECTIVE AND

ENFORCEABLE PENDING THE COMPLETION OF AN ADMINISTRATIVE PROCEEDING PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

(5) A PERSON THAT IS SERVED WITH AN ORDER TO CEASE AND DESIST FOR VIOLATING SECTION 11-110-501 MAY PETITION THE APPROPRIATE COURT FOR A JUDICIAL ORDER SETTING ASIDE, LIMITING, OR SUSPENDING THE ENFORCEMENT, OPERATION, OR EFFECTIVENESS OF THE ORDER PENDING THE COMPLETION OF AN ADMINISTRATIVE PROCEEDING PURSUANT TO STATE ADMINISTRATIVE PROCEDURES.

11-110-1108. Judicial review. A PERSON AGGRIEVED AND DIRECTLY AFFECTED BY AN ORDER OF THE BANKING BOARD ISSUED UNDER THIS ARTICLE 110 MAY SEEK A REVIEW IN THE DISTRICT COURT OF THIS STATE IN AND FOR THE COUNTY IN WHICH THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT, LICENSEE, OR AUTHORIZED DELEGATE IS LOCATED WITHIN THIRTY DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE ORDER.

PART 12

MISCELLANEOUS PROVISIONS

11-110-1201. Uniformity of application and construction. IN APPLYING AND CONSTRUING THIS ARTICLE 110, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

11-110-1202. Severability. IF ANY PROVISION OF THIS ARTICLE 110 OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE 110 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE 110 ARE DECLARED TO BE SEVERABLE.

11-110-1203. Repeal of article - review of functions. THIS ARTICLE 110 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2030. BEFORE THE REPEAL, THIS ARTICLE 110 IS SCHEDULE FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.