STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

STD. 400 (REV. 01-2013)

For use by Secretary of State only

ENDORSED - FILED
in the office of the Secretary of State of the State of California
AUG 11 2015
1:49 pm

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2014-0709-01	2015-0706-02S	

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE
JUL 09 '14 JUL 25 '14
Office of Administrative Law
NOTICE

2015 JUL -6 PM 4:31
OFFICE OF ADMINISTRATIVE LAW
REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: Department of Business Oversight

AGENCY FILE NUMBER (If any): PRO 03/14

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE: Omnibus Money Transmission Act Regulations
TITLE(S): 10
FIRST SECTION AFFECTED: Subchapter 80
2. REQUESTED PUBLICATION DATE: July 25, 2014

3. NOTICE TYPE: [X] Notice re Proposed Regulatory Action [ ] Other
4. AGENCY CONTACT PERSON: Karen Fong or Dan Warren
TELEPHONE NUMBER: (916) 322-3553
FAX NUMBER (Optional): (916) 322-5875

OAL USE ONLY — ACTION ON PROPOSED NOTICE: [ ] Approved as Submitted [ ] Approved as Modified [ ] Disapproved/ Withdrawn
NOTICE REGISTER NUMBER: 2014, No. 30-Z
PUBLICATION DATE: 7/25/14

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Omnibus Money Transmission Act Regulations

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S): ~~Z-2014-0709-01~~ per agency request

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT: See additional sheet.
AMEND: See additional sheet. per agency request
REPEAL: See additional sheet.

TITLE(S): 10

3. TYPE OF FILING

[✓] Regular Rulemaking (Gov. Code §11346)
[ ] Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
[ ] Emergency (Gov. Code, §11346.1(b))
[ ] Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
[ ] Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
[ ] Emergency Readopt (Gov. Code, §11346.1(h))
[ ] File & Print
[ ] Other (Specify) per agency request
[ ] Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
[ ] Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
per agency request ~~July 25, 2014 to September 8, 2014~~, February 19, 2015 to March 6, 2015 → May 20, 2015 to June 4, 2015

5. EFFECTIVE DATE OF CHANGES (Gov. Code §§11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
per agency request
[X] Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
[✓] Effective on filing with Secretary of State
[ ] §100 Changes Without Regulatory Effect
[ ] Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
[ ] Department of Finance (Form STD. 399) (SAM §6660)
[ ] Fair Political Practices Commission
[ ] State Fire Marshal
[ ] Other (Specify)

7. CONTACT PERSON: Karen Fong or Dan Warren
TELEPHONE NUMBER: (916) 322-3553
FAX NUMBER (Optional): (916) 322-5875
E-MAIL ADDRESS (Optional): Dan.Warren@dbo.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE: Jan Lynn Owen
DATE: 6-25-2015
TYPED NAME AND TITLE OF SIGNATORY: Jan Lynn Owen, Commissioner of Business Oversight

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
AUG 11 2015
Office of Administrative Law

SUBMISSION OF REGULATIONS
(Form STD 400 - Revised Additional Sheet)

PART B. SUBMISSION OF REGULATION(S)

1a. SUBJECT OF REGULATIONS: Omnibus Money Transmission Act Regulations

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S):

ADOPT: 80.125.10, 80.129, 80.158.10, 80.166.10, 80.4100.10, 80.4105.10, 80.4105.11, 80.4118.10, 80.4118.11, 80.4305, 80.5100, 80.5200.1, 80.5210, 80.5304.1, 80.5305, 95.600.

AMEND: 80.1, 80.2, 80.3, 80.4, 80.5, 80.6, 80.7, 80.8, 80.9, 80.100, 80.125, 80.126, 80.150, 80.151, 80.152, 80.153, 80.154, 80.155, 80.156, 80.157, 80.158, 80.159, 80.160, 80.161, 80.162, 80.163, 80.164, 80.165, 80.166, 80.167, 80.168, 80.169, 80.170, 80.172, 80.173, 80.174, 80.175, 80.176, 80.177, 80.3000, 80.3001, 80.3002, 80.4000, 80.4100, 80.4101, 80.4102, 80.4103, 80.4104, 80.4105, 80.4106, 80.4107, 80.4108, 80.4109, 80.4111, 80.4113, 80.4115, 80.4117, 80.4118, 80.4119, 80.4120, 80.4121, 80.4123, 80.4124, 80.4125, 80.4126, 80.4127, 80.4200, 80.4201, 80.4300, 80.4301, 80.4302, 80.4303, 80.4304, 80.4308, 80.4309, 80.4310, 80.4311, 80.4312, 80.4313, 80.5000, 80.5200, 80.5201, 80.5300, 80.5301, 80.5302, 80.5303, 80.5304, 95.5025, 95.5030.

REPEAL: 80.127, 80.171, 80.4110, 80.4112, 80.4114, 80.4037, 80.5202, 95.2, 95.3, 95.5010.

STATE OF CALIFORNIA
DEPARTMENT OF BUSINESS OVERSIGHT

1. Subchapter 80 is amended to read:

Subchapter 80. ~~Payment Instruments~~ Money Transmission

2. Section 80.1 is amended to read:

§ 80.1. Scope.

(a) This Subchapter contains regulations relating to ~~payment instruments~~ money transmission.

(b) This Article contains general provisions relating to this Subchapter. The succeeding articles of this Subchapter contain regulations relating to various subjects regarding ~~payment instruments~~ money transmission.

(c) This Subarticle contains regulations relating to the citation and construction of this Subchapter. Subarticle 2 (commencing with Section 80.100) of this Article contains regulations relating to definitions.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

3. Section 80.2 is amended to read:

§ 80.2. Citation.

(a) This Subchapter shall be known and may be cited as the "~~Payment Instruments~~ Money Transmission Regulations."

(b) The first unit of the number of each section in this Subchapter is “80.” However, in citing a section of this Subchapter, a person may omit the first unit of the number of such section if it is clear that such person is referring to a section of this Subchapter.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

4. Section 80.3 is amended to read:

§ 80.3. Unsafe and Unsound Acts.

(a) Any act which is designated in this Subchapter as an “unsafe and unsound act” is an act which, in the usual or typical circumstances encountered, constitutes an unsafe and unsound act within the meaning of the ~~Payment Instruments Law~~ Money Transmission Act. However, it is impossible to foresee or to provide for all the varying circumstances which may arise in a particular case. Also, the acts designated in this Subchapter as “unsafe and unsound acts” are not intended to constitute a complete compilation of all the acts which constitute unsafe or unsound acts within the meaning of the ~~Payment Instruments Law~~ Money Transmission Act. Therefore, the Commissioner may, if and when warranted in any particular case, upon application or on the Commissioner's own initiative, decide that in such case an act which is designated in this Subchapter as an “unsafe and unsound act” does not constitute an unsafe or unsound act within the meaning of the ~~Payment Instruments Law~~ Money Transmission Act. Also, the Commissioner may decide that an act which is not designated in this Subchapter as an “unsafe and unsound act” constitutes an unsafe or unsound act within the meaning of the ~~Payment Instruments Law~~ Money Transmission Act.

(b) Subject to the qualifications set forth in Subdivision (a) of this Section, whenever a licensee commits any act which is designated in this Subchapter as an "unsafe and unsound act," such licensee shall be deemed:

(1) To be transacting and conducting its business in an unsafe and unsound manner within the meaning of the ~~Payment Instruments Law~~ Money Transmission Act; and

(2) If and to the extent that such act affects the condition of the licensee, to be in an unsafe and unsound condition within the meaning of ~~Payment Instruments Law~~ Money Transmission Act.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

5. Section 80.4 is amended to read:

§ 80.4. References to Corporations or Limited Liability Companies.

In this Subchapter, unless otherwise expressly provided, references to corporations or limited liability companies or to aspects of corporations or limited liability companies apply to all types of corporations or limited liability companies, whether for profit, nonprofit, or of any other type. For the sake of convenience, references in this Subchapter to corporations or limited liability companies and to aspects of corporations or limited liability companies are set forth in terms appropriate to corporations or limited liability companies for profit. However, whenever any reference in this Subchapter to a corporation or limited liability company or to an aspect of a corporation or limited liability company is applicable to a type of corporation or limited liability company other than a corporation or limited liability company for profit, if the term of such reference is not appropriate to such type of corporation or limited liability company, the term of

the reference shall be construed to be the closest equivalent term of reference appropriate to the type of corporation or limited liability company.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Division 16~~ Section 2031, Financial Code.

6. Section 80.5 is amended to read:

§ 80.5. Financial Statements and Accounting Items─Generally Accepted Accounting Principles.

In this Subchapter, unless otherwise expressly provided, references to financial statements and references to assets, liabilities, income, shareholders' equity, and similar accounting items mean such financial statements and such accounting items prepared or determined in conformity with United States generally accepted accounting principles then applicable, fairly presenting in conformity with generally accepted accounting principles the matters which they purport to present, subject to any specific accounting treatment required by the Commissioner, this Subchapter, the ~~Payment Instruments Law~~ Money Transmission Act, or any other applicable law.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

7. Section 80.6 is amended to read:

§ 80.6. Financial Statements─Certification.

Whenever the Commissioner or this Subchapter requires that a financial statement be filed with the Commissioner but does not require that such financial statement be set forth on a form provided by the Commissioner, if the financial statement is available as certified by an

independent certified public accountant in accordance with United States generally accepted accounting principles, the financial statement as so certified shall be filed with the Commissioner.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

8. Section 80.7 is amended to read:

§ 80.7. Financial Statements─Consolidating Statements.

Whenever this Chapter requires that a consolidating financial statement of a person be filed with the Commissioner, such statement shall include a schedule of eliminating entries, but need not include detail regarding any non-significant subsidiary of such person.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

9. Section 80.8 is amended to read:

§ 80.8. Actions of Courts and Governmental Agencies.

Whenever this Chapter requires that information be provided regarding an action taken by a court or a governmental agency (for example, the suspension or revocation of a license or other authorization or qualification to transact a business), information need not be provided regarding any such action which has been reversed or vacated.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

10. Section 80.9 is amended to read:

§ 80.9. Forms of Payment Instruments.

For purposes of this Subchapter and~~,~~ the ~~Payment Instruments Law~~ Money Transmission Act, ~~and Section 14.1 of Chapter 1347 of the Statutes of 1978,~~ payment instruments issued by a person which are identical in form except for the following differences shall be deemed to be in the same form:

(a) Differences in face amount, provided that such face amounts are denominated in the same currency.

(b) Differences in the name or logo, or both, of the agent who sells the payment instruments on behalf of the person, provided that such names and logos are set forth in substantially the same style.

Note: Authority cited: Sections ~~215~~ 321 and 334 ~~and 33202~~, Financial Code. Reference: ~~Division 16, Financial Code and Section 14.1, Chapter 1347, Statutes of 1978.~~ Section 2106, Financial Code.

11. Section 80.100 is amended to read:

§ 80.100. Scope.

This Subarticle contains regulations relating to definitions. This Part contains general provisions relating to definitions. Part 2 (commencing with Section 80.125) of this Subarticle contains regulations relating to ~~the~~ definitions of terms in ~~set forth in Article 3 (commencing with Section 33040), Chapter 1 of the Payment Instruments Law~~ the Money Transmission Act. Part 3 (commencing with Section 80.150) of this Subarticle contains definitions for this Subchapter.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Division 16~~ Section 2003, Financial Code. ~~Subarticle 2. Definitions -Payment Instruments Law~~

12. Part 2 is amended to read:

Part 2. Definitions - ~~Payment Instruments Law~~ Money Transmission Act

13. Section 80.125 is amended:

§ 80.125. Scope.

This Part contains regulations relating to ~~the~~ definitions of terms in ~~set forth in Article 3 (commencing with Section 33040), Chapter 1 of the Payment Instruments Law~~ the Money Transmission Act.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Article 3, Chapter 1, Division 16~~ Section 2003, Financial Code.

14. Section 80.125.10 is adopted to read:

§ 80.125.10. Advertising.

As used in Financial Code Section 2030, "advertise, solicit, or hold itself out" means advertising itself as being in the business of providing money transmission in this state, soliciting for itself money transmission business in this state, or holding itself out as being in the business of providing money transmission in this state.

Note: Authority cited: Sections 321 and 334, Financial Code. Reference: Section 2030, Financial Code.

15. Section 80.126 is amended to read:

80.126. ~~California~~ Agent.

~~In the case of an agent of an issuer of payment instruments who is authorized to sell or sells both inside and outside the State of California payment instruments issued by such issuer, "California agent," as defined in Financial Code Section 33045, means such agent with respect to~~

~~sales inside the State of California of payment instruments issued by the issuer and related matters.~~

"Agent," when referring to an agent of a licensee, means an agent as defined in Financial Code Section 2003(b).

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Section 33045~~ Sections 2003 and 2030, Financial Code.

16. Section 80.127 is repealed to read:

~~§ 80.127. Insured Bank.~~

~~"Insured bank," as defined in Financial Code Section 33051, includes an office of a bank organized under the laws of a foreign nation, which office is located in the United States and the deposits of which office are insured by the Federal Deposit Insurance Corporation.~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Section 33051, Financial Code.~~

17. Section 80.129 is adopted to read:

§ 80.129. Receiving Money for Transmission.

"Receiving money for transmission," as defined in Financial Code Section 2003, means actually or constructively receiving, taking possession, or holding any money or monetary value for transmission. It does not include only receiving instructions, orders, or directions to transmit money or monetary value.

Note: Authority cited: Sections 321 and 334, Financial Code. Reference: Section 2003, Financial Code.

18. Section 80.150 is amended to read:

§ 80.150. Scope.

This Part contains definitions for this Subchapter. Subject to additional definitions contained in this Subchapter which are applicable to specific provisions of this Subchapter and unless the context otherwise requires, the definitions in this Part apply throughout this Subchapter.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

19. Section 80.151 is amended to read:

§ 80.151. Definitions in ~~Payment Instruments Law~~ Money Transmission Act.

Subject to additional definitions contained in this Subchapter which are applicable to specific provisions of this Subchapter and unless this Subchapter otherwise provides or the context otherwise requires, the definitions in ~~Article 3 (commencing with Section 33040), Chapter 1 and Section 33560 of the Payment Instruments Law~~ Section 2003 of the Money Transmission Act apply throughout this Subchapter.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Division 16~~ Section 2003, Financial Code.

20. Section 80.152 is amended to read:

§ 80.152. __Percent Equity Security Owner.

"__percent equity security owner," when used with respect to a corporation or other organization, means any person who owns, directly or indirectly, of record or beneficially, the specified percentage or more of any class of the equity securities of such corporation or other organization.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

21. Section 80.153 is amended to read:

§ 80.153. __Percent (Including Associates) Equity Security Owner.

"__ percent (including associates) equity security owner," when used with respect to a corporation or other organization, means any person who owns, directly or indirectly, of record or beneficially, equity securities of such corporation or other organization which, when combined with the equity securities of the corporation or other organization owned, directly or indirectly, of record or beneficially, by all associates of such person, constitute the specified percentage or more of any class of the equity securities of the corporation or other organization.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

22. Section 80.154 is amended to read:

§ 80.154. __Percent Voting Security Owner.

"__percent voting security owner," when used with respect to a corporation or other organization, means any person who owns, directly or indirectly, of record or beneficially, the specified percentage or more of the voting securities of such corporation or other organization.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

23. Section 80.155 is amended to read:

§ 80.155. __Percent (Including Associates) Voting Security Owner.

"__percent (including associates) voting security owner," when used with respect to a corporation or other organization, means any person who owns, directly or indirectly, of record or beneficially, voting securities of such corporation or other organization which, when combined with the voting securities of the corporation or other organization owned, directly or indirectly, of record or beneficially, by all associates of such person, constitute the specified percentage or more of the voting securities of the corporation or other organization.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

24. Section 80.156 is amended to read:

§ 80.156. Associate.

"Associate," when used to indicate a relationship with a specified person who is related with a licensee or an applicant for a license, means:

(a) Any corporation or other organization (other than the licensee or applicant or a majority-owned subsidiary of the licensee or applicant) of which the specified person is an executive officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of the equity securities.

(b) Any trust or other estate in which the specified person has a substantial beneficial interest or as to which the specified person serves as a trustee or in any similar fiduciary capacity.

(c) Any relative or spouse of the specified person, or any relative of such spouse, who has the same home as the specified person or who is a director or executive officer of the licensee or applicant or of any parent or subsidiary of the licensee or applicant.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

25. Section 80.157 is amended to read:

§ 80.157. Beneficial.

"Beneficial," when used with respect to ownership of securities by a specified person, includes, in addition to direct and indirect beneficial ownership by such specified person, direct and indirect beneficial ownership:

(a) By the spouse (except where legally separated) and minor children (including stepchildren and adopted children) of the specified person; and

(b) By any other relative of the specified person who has the same home as the specified person.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

26. Section 80.158 is amended to read:

§ 80.158. California Corporation.

"California corporation" means a corporation which is organized under the laws of the State of California.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

27. Section 80.158.10 is adopted to read:

§ 80.158.10. California Limited Liability Company.

"California limited liability company" means an entity formed under Title 2.6 of the Corporations Code.

Note: Authority cited: Sections 321 and 334, Financial Code. Reference: Sections 2003 and 2031, Financial Code.

28. Section 80.159 is amended to read:

§ 80.159. Clearing Bank.

"Clearing bank," when used with respect to a payment instrument or stored value, means the bank on which such payment instrument or stored value is drawn or at or through which such payment instrument or stored value is payable.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

29. Section 80.160 is amended to read:

§ 80.160. Documented Nominee.

"Documented nominee" has the meaning set forth in Section 80.5302 of this Chapter.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Division 16,~~ Section 2084, Financial Code.

30. Section 80.161 is amended to read:

§ 80.161. Equity Security.

"Equity security" means any stock or similar security, or any security convertible, with or without consideration, into such a security or carrying any warrant or right to purchase such a security, or any such warrant or right.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

31. Section 80.162 is amended to read:

§ 80.162. Executive Officer.

"Executive officer," when used with respect to a specified person (other than an individual), means the president, the secretary, the chief financial officer, any vice-president in charge of a principal business function (such as sales, administration, or finance), or any other person who performs similar policy-making functions for such specified person. In the case of a licensee or of an applicant for a license, "executive officer" includes the person in charge of the ~~payment instrument~~ money transmission business.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

32. Section 80.163 is amended to read:

§ 80.163. Extend Credit.

(a) To "extend credit" to a person includes:

(1) To make or renew a loan to the person.

(2) To purchase a security or other asset from the person under a repurchase agreement.

(3) To acquire a note, draft, contract, or similar instrument with respect to which the person is liable, whether as maker, endorser, guarantor, or otherwise.

(4) To guarantee or become surety upon an obligation with respect to which the person is an obligor or obligee.

(b) Notwithstanding the provisions of Subdivision (a) of this Section, to "extend credit" to a person does not include:

(1) In case the person extending credit is an issuer of payment instruments or ~~travelers checks~~ stored value and the person to whom credit is extended is authorized to sell payment instruments or ~~travelers checks~~ stored value on behalf of the first person, any amount due from

the second person to the first person on account of sales of payment instruments or ~~travelers checks~~ stored value issued by the first person.

(2) In case the person extending credit is a bank, the giving of immediate credit upon uncollected items deposited in the ordinary course of business.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

33. Section 80.164 is amended to read:

§ 80.164. Foreign Corporation and Foreign Limited Liability Company.

(a) "Foreign corporation" means any corporation other than a corporation organized under the laws of the State of California.

(b) "Foreign limited liability company" means any unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company, except it does not include a limited liability company that is organized outside the United States.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Section 17701.02, Corporations Code; Section 2031, and Division ~~16~~ 1.2, Financial Code.

34. Section 80.165 is amended to read:

§ 80.165. Majority-Owned Subsidiary.

"Majority-owned subsidiary" means a subsidiary more than 50 percent of whose outstanding securities representing the right (other than as affected by events of default) to vote for the election of directors, is owned by the subsidiary's parent and/or one or more of the parent's other majority-owned subsidiaries.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

35. Section 80.166 is amended to read:

§ 80.166. Parent.

"Parent," when used with respect to a specified person (other than an individual), means any person (other than an individual) which controls such specified person, directly or indirectly through one or more intermediaries.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

36. Section 80.166.10 is adopted to read:

§ 80.166.10. Paying Agent.

"Paying agent" means a person that disburses transmission funds to the beneficiary.

Note: Authority cited: Sections 321 and 334, Financial Code. Reference: Section 2010, Financial Code.

37. Section 80.167 is amended to read:

§ 80.167. ~~Payment Instrument or Travelers Check~~ Money Transmitter License.

"~~Payment instrument or travelers check~~ Money transmitter license" means any license or other form of authorization or qualification by which a person is permitted to ~~transact~~ engage in the business of ~~issuing or selling payment instruments or the business of issuing or selling travelers checks. However, "travelers check or payment instrument license" does not include any such authorization or qualification which is issued by a city, county, or other local agency~~ money transmission.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

38. Section 80.168 is amended to read:

§ 80.168. Pre-Clear.

"Pre-clear," when used to designate a payment instrument, means a payment instrument which is sold by an agent of the issuer and which is paid by the issuer before the issuer receives a report of the sale from such agent.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

39. Section 80.169 is amended to read:

§ 80.169. Records.

"Records" includes books, accounts, and other records.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

40. Section 80.170 is amended to read:

§ 80.170. Reporting Company.

"Reporting company" means a person (other than an individual) which meets all of the following requirements:

(a) A class of the equity securities of the person is registered pursuant to Section 12 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder.

(b) The person is required to file reports and other documents under Sections 13 and 14 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder, has filed all documents so required to be filed for the last three years (or, if the person was subject to such requirements for less than the last three years, for such lesser period), and has filed all documents so required to be filed in a timely manner for the last one year (or, if the person was subject to such requirements for less than the last one year, for such lesser period).

(c) In case the person or a subsidiary of the person is subject to Section 80.8306 of this Chapter, the person or such subsidiary has filed with the Commissioner all documents required to be filed under Section 80.8306 for the last three years (or, if the person or the subsidiary was subject to Section 80.8306 for less than the last three years, for such lesser period), and has filed with the Commissioner all documents so required to be filed in a timely manner for the last one year (or, if the person was subject to Section 80.8306 for less than the last one year, for such lesser period).

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

41. Section 80.171 is repealed to read:

~~§ 80.171. Reporting/Remitting Office.~~

~~"Reporting/remitting office," when used with respect to a California agent of an issuer of payment instruments:~~

~~(a) In case the California agent is a bank, savings and loan association, industrial loan company, or credit union which maintains its head office in the State of California, such head office.~~

~~(b) In any other case, each location from which the California agent reports sales in the State of California of payment instruments to the issuer or from which the agent remits the proceeds of such sales to the issuer.~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Division 16, Financial Code.~~

42. Section 80.172 is amended to read:

§ 80.172. Security.

"Security" has the meaning set forth in Corporations Code Section 25019.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

43. Section 80.173 is amended to read:

§ 80.173. Significantly Involved in ~~Payment Instrument~~ Money Transmission Business.

"Significantly involved in ~~payment instrument~~ money transmission business," when used with respect to an affiliate of ~~an issuer of payment instruments~~ a money transmitter, means that such affiliate manages or performs a significant aspect of the ~~payment instrument~~ money transmission business of ~~such issuer~~ the licensee, such as:

(a) Distributing blank payment instruments or stored value to agents of the ~~issuer~~ licensee;

(b) Receiving reports of ~~sales of payment instruments~~ money transmission or remittances of proceeds ~~from sales of payment instruments~~ of money transmission from agents of the ~~issuer~~ licensee;

(c) Holding or investing proceeds from ~~sales of payment instruments~~ money transmission; or

(d) Serving as a clearing bank for the ~~issuer~~ licensee. However, "significantly involved in ~~payment instrument~~ money transmission business" does not include any affiliate of a~~n issuer~~ licensee of payment instruments or stored value solely on account of the fact that such affiliate is an agent of such ~~issuer~~ licensee.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

44. Section 80.174 is amended to read:

§ 80.174. Significant Subsidiary.

"Significant subsidiary" means a subsidiary or a subsidiary and its subsidiaries which meet any of the following requirements on the basis of the most recent annual financial statements of such subsidiary and of its parent:

(a) The parent's and its other subsidiaries' investments in and advances to, or their proportionate share (based on their equity interests) of the total assets (after intercompany eliminations) of, the subsidiary exceed 10 percent of the total assets of the parent and its consolidated subsidiaries.

(b) The parent's and its other subsidiaries' proportionate share (based on their equity interests) of the total sales and revenues (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total sales and revenues of the parent and its consolidated subsidiaries.

(c) The parent's and its other subsidiaries' equity in the income before income taxes and extraordinary items of the subsidiary exceeds 10 percent of (1) such income of the parent and its consolidated subsidiaries or (2) if such income of the parent and its consolidated subsidiaries is at least 10 percent lower than the average of such income for the last five fiscal years, such average income.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

45. Section 80.175 is amended to read:

§ 80.175. Subsidiary.

"Subsidiary," when used with respect to a specified person (other than an individual), means any person (other than an individual) controlled by such specified person, directly or indirectly through one or more intermediaries.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

46. Section 80.176 is amended to read:

§ 80.176. Unpaid.

"Unpaid," when used with respect to a payment instrument or stored value, means that such payment instrument or stored value has been issued and sold and has not yet been paid or redeemed by the issuer.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

47. Section 80.177 is amended to read:

§ 80.177. Voting Securities.

"Voting securities" means securities the holders of which are presently entitled to vote for the election of directors.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Division ~~16~~ 1.2, Financial Code.

48. Section 80.3000 is amended to read:

§ 80.3000. Scope.

This Article contains regulations relating to exemptions from the ~~Payment Instruments Law~~ Money Transmission Act.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Chapter 2,~~ Division ~~16~~ 1.2, Financial Code.

49. Section 80.3001 is amended to read:

§ 80.3001. Construction of Exemptions.

For purposes of Financial Code Sections ~~33401(b) and 34115~~ 2011:

~~(a)~~ Any person which is exempted from the ~~Payment Instruments Law~~ Money Transmission Act by Section 80.3002(a) and (b) of this Chapter shall be deemed to be a person referred to in Financial Code Section ~~33100(a)~~ 2011~~, and the provision of Section 80.3002(a) of this Chapter applicable to such person shall be deemed to be the paragraph of Financial Code Section 33100(a) applicable to the person~~.

~~(b) Any person which is exempted from the Payment Instruments Law by order of the Commissioner (other than a person exempted only as a California agent of a person so exempted) shall be deemed to be a person referred to in Financial Code Section 33100(a), and any provision of such order which specifies or limits such person's activities with respect to selling payment instruments shall be deemed to be the paragraph of Financial Code Section 33100(a) applicable to the person.~~

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Section~~s~~ ~~33102, 33401, and 34115~~ 2011, Financial Code.

50. Section 80.3002 is amended to read:

§ 80.3002. Exemptions.

(a) The Commissioner finds that exempting the persons and transactions specified in ~~the~~ subdivision~~s~~ (a) of this Section from the ~~Payment Instruments Law~~ Money Transmission Act is in the public interest and that the regulation of such persons and transactions is not necessary for the purposes of the ~~Payment Instruments Law~~ Money Transmission Act. Accordingly, in addition to the persons exempt pursuant to Financial Code Section 2010, the Commissioner exempts ~~the persons and transactions specified in the subdivisions of this Section~~ from the ~~Payment Instruments Law.~~ Money Transmission Act:

(1) The sale of a money transmission service or product of a person exempt pursuant to Financial Code Section 2010;

(2) A public benefit nonprofit which has received recognition of tax exemption under Internal Revenue Code Section 501(c)(3);

(3) An escrow agent licensed under the Escrow Law (Financial Code Section 17000 et seq.), only when acting as an escrow agent or Internet escrow agent as those terms are defined in Financial Code Sections 17004 and 17004.5, respectively; and

(4) a nonprofit community service organization that meets all of the criteria in Financial Code Section 12104 of the Check Sellers, Bill Payers and Proraters Law.

~~(a) Any bank organized under the laws of a foreign nation which maintains a federal agency (as defined in Section 1(b)(5) of the International Banking Act of 1978) or federal branch (as defined in Section 1(b)(6) of the International Banking Act of 1978) in the State of California, when selling any foreign currency payment instrument which is issued by such bank and which is not designated on its face by the term "money order" or "travelers check" or by any similar term.~~

~~(b) Any California agent of any person referred to in Subdivision (a) of this Section, when selling any payment instrument which is issued by such person and which such person is permitted to sell under the provisions of Subdivision (a) applicable to such person.~~

(b) As an administrative standard, the Commissioner may consider the following factors in determining whether a person or transaction or class of persons or transactions is exempt from all or part of the Money Transmission Act:

(1) Whether the person is licensed by a government agency and is examined by that licensing government agency in a manner satisfactory to the Commissioner for factors such as:

(A) The nature and volume of the projected or established business.

(B) The amount, nature, quality, and liquidity of its assets.

(C) The amount and nature of its liabilities.

(D) The amount of earnings and income.

(E) The quality of its operations.

(F) The quality of its management.

(2) Whether the transmission activity is necessary and incidental to the performance of the person's business transactions.

(3) The risk and potential harm of the proposed business activities to persons located in California.

(4) The actual or projected nature and volume of transactions with persons located in California.

(5) Other factors as may in the opinion of the Commissioner be relevant.

(c) To apply for an exemption under Financial Code Section 2011, the applicant shall submit a letter to the Commissioner in care of the Legal Division, 1515 K Street, Suite 200, Sacramento, CA 95814, which shall state or contain all of the following:

(1) Statement that the letter is a request for an order of exemption pursuant to Financial Code Section 2011.

(2) The legal name and business address of the applicant and any fictitious or trade name used by the applicant in conducting its business.

(3) A description of the applicant's business.

(4) A description of the structure or organization of the applicant, including any parent or subsidiary of the applicant.

(5) A description of the flow of funds, if applicable, among the sender of money or monetary value, the recipient of money or monetary value, the applicant, and any other relevant persons, and indicating whether such money or monetary value is held in depository accounts; how such depository accounts are titled; and which entities control the withdrawal of money or monetary value from such depository accounts. Attach relevant documents such as copies of contracts with financial institutions, terms of service, user agreements, and receipts which relate to how money or monetary value is transferred among the sender, the recipient, the applicant, and other relevant persons.

(6) The information called for in subdivision (b), if applicable.

(7) An objective legal analysis with a reasoned conclusion supporting a claim for an exemption. Such analysis shall be based on applicable law and regulations, any previous opinions issued by the Commissioner, state and federal court decisions, and other similar documents.

(8) Any other information the Commissioner requires with respect to the applicant.

(d) The commissioner may waive any of the information required under subdivision (c) or permit an applicant to submit other information instead of the required information.

Note: Authority cited: Section ~~33202~~ 2011, Financial Code. Reference: Section ~~33102~~ 2011, Financial Code.

51. Section 80.4000 is amended to read:

§ 80.4000. Definition of "Applicant" and Scope.

(a) In this Article, "applicant" means a corporation or limited liability company which has filed a substantially complete application ~~applies to~~ with the Commissioner for a license.

(b) This Article contains regulations relating to the issuance of a license pursuant to Chapter ~~4~~ 3 (commencing with Section ~~33400~~ 2030) of the ~~Payment Instruments Law~~ Money Transmission Act. This Subarticle contains general provisions relating to the issuance of a license. Subarticle 2 (commencing with Section 80.4100) of this Article contains regulations relating to an application for a license. Subarticle 3 (commencing with Section 80.4200) of this Article contains regulations which set forth administrative standards and procedures relating to an application for a license. Subarticle 4 (commencing with Section 80.4300) of this Article contains regulations relating to matters after an application for a license is approved by the Commissioner.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Chapter ~~4~~ 3, Division ~~16~~ 1.2, Financial Code.

52. Section 80.4100 is amended to read:

§ 80.4100. Scope.

This Subarticle contains regulations relating to an application for a license.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code

53. Section 80.4100.10 is adopted to read:

§ 80.4100.10. Pre-Filing Conference.

(a) The staff of the Department is available to confer with a prospective applicant in advance of the filing of an application for the purpose of discussing questions relating to such application. A pre-filing conference is recommended for all prospective applicants. However, no application will be decided in advance of filing.

(b) A prospective applicant may, before filing an application, submit pre-filing information concerning the prospective applicant's business plan, including a summary of the applicant's and any affiliates' current business, financial statements, financial projections, source and strength of capital, executive management, and other control persons to the Department for review in advance of the pre-filing conference.

Note: Authority cited: Sections 321 and 334, Financial Code. Reference: Sections 2003 and 2175, Financial Code.

54. Section 80.4101 is amended to read:

§ 80.4101. Included Applications.

(a) An application for a license shall, unless otherwise provided in such application, be deemed to include an application for approval pursuant to Financial Code Section 2100 of each form of receipt used by it or by its agent which is filed with such application for a license in accordance with Section 80.4119 of this subchapter. Approval of such an application for a license shall, unless otherwise provided in such approval, be deemed to include approval of such included application of each such form of receipt.

~~(a)~~(b) An application for a license shall, unless otherwise provided in such application, be deemed to include an application for approval pursuant to Financial Code Section ~~33521~~ 2106 of each form of payment instrument issued by the applicant which is filed with such application for a license in accordance with Section 80.4119 of this ~~Chapter~~ subchapter. Approval of such an

application for a license shall, unless otherwise provided in such approval, be deemed to include approval of such included application and of each such form of payment instrument.

~~(b) An application for a license shall, unless otherwise provided in such application, be deemed to include an application for approval pursuant to Financial Code Section 33522 of each bank which is proposed in such application for a license in accordance with Section 80.4120 of this Chapter as a clearing bank for payment instruments issued by the applicant. Approval of such an application for a license shall, unless otherwise provided in such approval, be deemed to include approval of such included application and of each such bank.~~

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Sections ~~33220~~ 2032, 2100 and 2106, ~~Chapter 4, Division 16, and Sections 33521 and 33522,~~ Financial Code.

55. Section 80.4102 is amended to read:

§ 80.4102. Facing Page.

An application for a license shall have as its first page a facing page in the form of Department Form ~~5010~~ DBO 2110, Application for a License to Engage in the Money Transmission Business (Rev. 8-13), hereby incorporated by reference, and shall contain the information called for therein.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

56. Section 80.4103 is amended to read:

§ 80.4103. Additional Information and Number of Copies.

(a) An application for a license shall contain, in addition to the information called for in the facing page, the information called for in Sections 80.4104 to 80.4124, inclusive, of this ~~Chapter~~ subchapter.

(b) The applicant shall submit one original and one copy of the application.

Note: Authority cited: Section ~~33202~~ 2032, Financial Code. Reference: Section ~~33220~~ 2032 and Chapter ~~4~~ 3, Division ~~16~~ 1.2, Financial Code.

57. Section 80.4104 is amended to read:

§ 80.4104. Information Regarding History and Business.

(a) Provide the legal name and residential business address of the applicant and any fictitious or trade name used by the applicant in conducting its business.

(b) Provide the date of the applicant's incorporation or formation and the state or country of incorporation or formation.

(c) Summarize the history of the applicant.

~~(a)~~ (d) Describe the business of the applicant.

(e) Explain the reason(s) why the applicant wishes to engage in the money transmission business.

(f) Provide the name, business address, and telephone number of at least two banking and two business references.

(g) Provide 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.

(h) Provide a copy of the applicant's most recent independent review regarding compliance with federal anti-money laundering laws, including the U.S. Patriot Act and the Bank Secrecy Act, and the applicant's response to such review.

~~(b)~~ (i) In case any of the following has occurred or is pending with respect to the applicant, any person who controls the applicant, any director or officer of the applicant, or any subsidiary of the applicant, describe the circumstances:

(1) ~~(A)~~ If any court or governmental agency has, for any reason, suspended or revoked any license or other authorization or qualification ~~of the applicant or of the subsidiary to transact the business of issuing or selling payment instruments, the business of issuing or selling travelers checks, the business of banking, the business of a bank holding company, or the securities business~~ to engage in any profession, occupation, vocation, or other business activity.

~~(B) In case any court or governmental agency has temporarily or permanently~~

~~1. prohibited the applicant or the subsidiary from transacting any business of the kind referred to in Subparagraph (A) of this Paragraph (1),~~

~~2. prohibited the applicant or the subsidiary from engaging in any conduct or practice with respect to any such business, or~~

~~3. imposed any monetary or other penalty upon the applicant or the subsidiary for having violated any law relating to any such business.~~

~~(C) If the applicant or the subsidiary is the subject of any pending proceeding of the kind referred to in Subparagraph (A) or (B) of this Paragraph (1).~~

~~(2) (A) If any court or governmental agency has, for any reason other than nonpayment of fees, suspended or revoked any license or other authorization or qualification of the applicant or of the subsidiary to engage in any profession, occupation, vocation, or other business activity (other than a license or other authorization or qualification of the kind referred to in Paragraph (1) of this Subdivision (c)).~~

~~(B) If the applicant or the subsidiary is the subject of any pending proceeding of the kind referred to in Subparagraph (A) of this Paragraph (2).~~

~~(3) (A) If the applicant or the subsidiary has applied for reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law.~~

~~(B) If any person has applied against the applicant or the subsidiary or against any business or property of the applicant or of the subsidiary for the appointment of a receiver, fiscal agent, or similar officer or for other relief of the kind described in Subparagraph (A) of this Paragraph (3), and such application is pending or such relief has been granted.~~

~~(4) If any court has entered judgment against the applicant or the subsidiary in any civil action based upon conduct involving fraud or dishonesty.~~

~~(5) If the applicant or the subsidiary has pleaded nolo contendere to, been convicted of, or been charged as a defendant in a pending criminal proceeding with, any crime relating to any business of the kind referred to in Subparagraph (A), Paragraph (1) of this Subdivision (c) or any crime involving fraud or dishonesty.~~

(2) Information concerning any bankruptcy or receivership proceedings or an application has been made for reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law;

(3) An application has been made by a third party for the appointment of a receiver, fiscal agent, or similar officer or for other relief of the kind described in subdivision (i)(2);

(4) Suffered judgment in any civil action based upon conduct involving fraud or dishonesty; or,

(5) Been convicted of, pleaded nolo contendere to, or is being charged with, any crime relating to the business of transmitting money, the business of issuing or selling payment instruments, issuing or selling stored value, the business of banking, the business of a bank holding company, the securities business, or any crime involving fraud or dishonesty.

Note: Authority cited: Section ~~33202~~ 2032, Financial Code. Reference: Sections ~~33220~~ 2032 and 2123 ~~and Chapter 4, Division 16~~, Financial Code.

58. Section 80.4105 is amended to read:

§ 80.4105. Information Regarding Directors, ~~and~~ Executive Officers, Control Persons, and 10% Equity Security Owners.

(a) In this Section:

(1) "Associated organization," when used with respect to a subject person and a legal proceeding, means any person (other than an individual) which was an associate of such subject person at or within two years before the commencement of such proceeding.

(2) To be "indebted" does not include indebtedness on account of any of the following:

(A) Any amount due for purchases subject to usual trade terms, for ordinary travel and expense advances, or for other transactions in the ordinary course of business.

(B) Any loan made by a bank, savings and loan association, or securities broker-dealer extending credit under Regulation T of the Board of Governors of the Federal Reserve System, provided that such loan is made in the ordinary course of business, is made on substantially the same terms (including interest rate and collateral) as those prevailing at the time for comparable transactions with other persons, and does not involve more than normal risk of ~~collectibility~~ collectability or present other unfavorable features.

(3) "Subject person of the applicant" means:

(A) In case the applicant is a reporting company,

(i) the chief executive officer of the applicant,

(ii) the chief financial officer of the applicant,

(iii) the person in charge of the ~~payment instrument~~ money transmission business of the applicant, ~~or~~

(iv) any other person who is a director or executive officer of the applicant and who was not listed as such in the last annual report (Securities and Exchange Commission Form 10-K)

filed by the applicant pursuant to Section 13 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder or who was not listed as a nominee for director in the last proxy statement issued by the parent to its shareholders, or

(v) any other person who is a 10% equity security owner of the applicant and who was not listed as such in the last annual report (Securities and Exchange Commission Form 10-K) filed by the applicant pursuant to Section 13 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder.

(B) In case the applicant is not a reporting company but a parent of the applicant is a reporting company,

(i) the chief executive officer of the applicant,

(ii) the chief financial officer of the applicant,

(iii) the person in charge of the ~~payment instrument~~ money transmission business of the applicant, ~~or~~

(iv) any other person who is a director or executive officer of the applicant and who was not listed as a director or executive officer of the parent in the last annual report (Securities and Exchange Commission Form 10-K) filed by the parent pursuant to Section 13 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder or who was not listed as a nominee for director in the last proxy statement issued by the parent to its shareholders, or

(v) any other person who is a 10% equity security owner of the applicant and who was not listed as a 10% shareholder of the parent in the last annual report (Securities and Exchange Commission Form 10-K) filed by the parent pursuant to Section 13 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder or who was not listed as a nominee for director in the last proxy statement issued by the parent to its shareholders.

(C) In case neither the applicant nor a parent of the applicant is a reporting company, each director, ~~and~~ executive officer, control person, or 10% equity security owner of the applicant.

(b) Provide a list showing, with respect to each person who is a director, ~~or~~ executive officer, control person, or 10% equity security owner of the applicant:

(1) Name.

(2) Social security number.

~~(2)~~ (3) Title of each position held with the applicant.

(c) For each person who is a director, executive officer, control person, or 10% equity security owner of the applicant, provide a Confidential Resume and a current Personal Financial Statement. Each Confidential Resume and Personal Financial Statement shall be signed as of a date within 90 days before the filing of the application. This requirement shall be satisfied by the use of the Federal Deposit Insurance Corporation Interagency Biographical and Financial Report Form (12 U.S.C § 27, 12 U.S.C §1464, 12 U.S.C §1815, 12 U.S.C §1817(j), and 12 U.S.C §1831(i)) or Department of Business Oversight Form DBO-2, Personal Financial Statement for the Confidential Use of the Commissioner of Business Oversight, State of California (Rev. 8-13) and DBO-3, Confidential Resume Submitted to the Commissioner of Business Oversight, State of California (Rev. 8-13), hereby incorporated by reference.

(d) Provide the legal name, any fictitious or trade name, all business and residential addresses, and the employment, in the 10-year period next preceding the submission of the application, of each executive officer, manager, director, or person that has control of the applicant, and the education background for each such person.

(e) Describe the amount and type of equity securities of the applicant owned by each 10% equity security owner.

(f) Provide the name, address, and telephone number of at least two banking and two business or personal references for each individual who is an executive officer, director, or 10% equity security owner of the applicant.

(g) Provide written authorizations signed by, and for, each individual who is an executive officer, director, control person, or 10% equity security owner authorizing the Commissioner to obtain information regarding their deposit and credit relationships with financial institutions, and general business background from business and personal references.

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

~~(c) Identify the executive officer of the applicant who is in charge of the payment instrument business of the applicant.~~

~~(d)~~(i) Provide the following information with respect to each subject person of the applicant:

(1) Give a brief account of the subject person's business experience during the last five years, including his principal occupations during such period and the name and principal address of any corporation or other organization in which such occupations were carried out.

(2) (A) In case any court or governmental agency has suspended or revoked any license or other authorization or qualification of the subject person or of any associated organization of the subject person to transact the business of receiving money for transmission, issuing or selling payment instruments, issuing or selling stored value, the business of issuing or selling travelers checks, the business of banking, the business of a bank holding company, or the securities business, describe the circumstances.

(B) In case any court or governmental agency has temporarily or permanently

(i) prohibited the subject person or any associated organization of the subject person from transacting any business of the kind referred to in Subparagraph (A) of this Paragraph (2),

(ii) prohibited the subject person or any associated organization of the subject person from engaging in any conduct or practice with respect to any such business,

(iii) removed the subject person or any associated organization of the subject person from, or prohibited the subject person or any associated organization of the subject person from having, any position or association with an organization engaged in any such business, or (iv) imposed any monetary or other penalty upon the subject person or any associated organization of the subject person for having violated any law relating to any such business, describe the circumstances.

(C) In case the subject person or any associated organization of the subject person is the subject of any pending proceeding of the kind referred to in Subparagraph (A) or (B) of this Paragraph (2), describe the circumstances.

(3) (A) In case any court or governmental agency has, for any reason other than nonpayment of fees, suspended or revoked any license or other authorization or qualification of the subject person to practice any profession, occupation, or vocation (other than a license or other authorization or qualification of the kind referred to in Paragraph (2) of this Subdivision (d)), describe the circumstances.

(B) In case the subject person is the subject of any pending proceeding of the kind referred to in Subparagraph (A) of this Paragraph (3), describe the circumstances.

(4) (A) In case the subject person or any associated organization of the subject person has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, describe the circumstances.

(B) In case any person has applied against the subject person or any associated organization of the subject person or against any business or property of the subject person or of

any associated organization of the subject person for the appointment of a receiver, fiscal agent, or similar officer or for other relief of the kind described in Subparagraph (A) of this Paragraph (4), and such application is pending or such relief has been granted, describe the circumstances.

(5) In case any court has entered judgment against the subject person or any associated organization of the subject person in any civil action based upon conduct involving fraud or dishonesty, describe the circumstances.

(6) In case the subject person or any associated organization of the subject person has pleaded nolo contendere to, been convicted of, or been charged as a defendant in a pending criminal proceeding with, any crime relating to any business of the kind referred to in Subparagraph (A), Paragraph (2) of this Subdivision (d) or any crime involving fraud or dishonesty, describe the circumstances.

~~(e)~~ (j) In case the applicant is ~~neither~~ not a reporting company ~~nor a bank nor a savings and loan association~~, if any person ~~who~~ is, or is an associate of, any director or executive officer of the applicant who was at any time during the last three years indebted to the applicant or the applicant's subsidiaries (except any subsidiary which is a bank, savings and loan association, or broker/dealer in securities extending credit under Regulation T of the Board of Governors of the Federal Reserve System) in an amount which in the aggregate exceeds ~~$10,000 or 1~~ 5 percent of the applicant's total assets, ~~whichever is less,~~ provide the following information:

(1) Identify the person, and describe the person's relationship to the applicant.

(2) Describe the nature of the indebtedness and of the transaction in which it was incurred.

(3) State the highest aggregate amount of the indebtedness outstanding at any time during the period since the filing of the applicant's last application for renewal of its license.

(4) State the aggregate amount of the indebtedness currently outstanding.

(5) State the rate of interest paid or charged on the indebtedness.

Note: Authority cited: Sections ~~33220~~ 321, 334 and 2032, Financial Code. Reference: Sections ~~33220~~ 2003 and 2032 ~~and Chapter 4, Division 16~~, Financial Code.

59. Section 80.4105.10 is adopted to read:

§ 80.4105.10. Fingerprint and Background Checks.

(a) A California Department of Justice Bureau of Criminal Identification Form FD-258 fingerprint card and Department of Justice Form CJIS 9004, Request for Exemption from Mandatory Electronic Fingerprint Submission Requirement, or

(b) a copy of Department of Justice Form BCIA 8016, "Requesting Agency Copy" (see Form DBO - 600, Request for Live Scan Service) must be submitted by each of the following persons:

(1) Applicant;

(2) Executive Officers and directors of the applicant;

(3) Control persons of the applicant;

(4) Executive officers and directors of each control person of the applicant;

(5) The general partners, officers, directors, and person owning or controlling, directly or indirectly, 10% or more of the outstanding interests or equity securities of the applicant; and

(6) Other key persons involved, such as managers/members, trustees, any other officers with direct responsibility for the conduct of applicant's money transmission activities, and the persons who will be in charge of the place of business.

Note: Authority cited: Section 2032, Financial Code. Reference: Sections 379, 1250, and 2032, Financial Code and Section 11077.1, Penal Code.

60. Section 80.4105.11 is adopted to read:

§ 80.4105.11. Information Regarding Control Persons Who Are Not Residents of the United States.

(a) If any control person of the applicant does not currently reside or has not resided in the United States for at least ten years, the applicant shall engage a search firm to perform an investigative background report of such control person, which shall be submitted directly to the Commissioner in addition to other background information required in the application. Such firm must be able to demonstrate that it has sufficient resources and is properly licensed to conduct the background search. The search firm may not be affiliated with or be an interest of any of the persons who are the subject of the search. The report must be in English. The cost of the report shall be paid by the applicant or control person.

(b) The report shall contain the following, at a minimum:

(1) A comprehensive credit report and/or history, including the actual credit report as well as a summary.

(2) Civil court and bankruptcy court records concerning the control person for the past ten years. The search for such records shall include a search of the court data in the country(ies), states, and towns where the person resided and worked and in the contiguous areas.

(3) Criminal records of the control person including felonies, misdemeanors and violations (excluding traffic violations). The search for such records shall include a search of court data in the country(ies), states, and towns where the person resided and worked and in the contiguous areas.

(4) Education records.

(5) Employment history during the last ten years.

(6) Media records referencing the control person. The search for such records shall include a search of national and local publications, wire services, and business publications.

(7) Regulatory history, particularly in securities, insurance, mortgage-related, or real estate.

(c) The report shall be accompanied by a search summary letter, which

(i) identifies the scope of the search,

(ii) indicates the independence of the search firm from the applicant and the control person(s) who are the subject of the search, and

(iii) identifies a person and contact information for that person, who the Commissioner may contact with questions regarding the report.

(d) If the control person has had a report, containing at least the information listed in subdivision (b) of this section, prepared for another licensing agency within 12 months of the filing of the application, the control person may request that licensing agency or the search firm to submit a copy of that report to the Commissioner. If the control person elects to submit a prior report as authorized in this subdivision, the control person shall also submit a statement of no material change in items in the report.

Note: Authority cited: Sections 321, 334 and 2032, Financial Code. Reference: Sections 2032, 2035 and 2036, Financial Code.

61. Section 80.4106 is amended to read:

§ 80.4106. Information Regarding Corporate or Limited Liability Matters.

~~(a) Provide a copy of the articles of the applicant, as amended to the date of the filing of the application, or, if the applicant has no articles, so state and provide a copy of the closest equivalent document, as amended to the date of the filing of the application. Such copy of the articles or of the closest equivalent document, as amended, shall be certified, in case the applicant is a California corporation, by the Secretary of State of the State of California or, in~~

~~case the applicant is a foreign corporation, by an appropriate public official of the domiciliary jurisdiction of the applicant.~~

(a)~~(b)~~ In case the applicant is a California corporation or limited liability company, provide a Certificate of Good Standing issued by the Secretary of State of the State of California as of a date within 30 days before the filing of the application, certifying that the applicant is a corporation or limited liability company which is duly organized, subsisting, and in good standing under the laws of the State of California.

(b) Provide a description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded.

(c) In case the applicant is a corporation, provide a copy of the Articles of Incorporation. In case the applicant is a limited liability company, provide a copy of the Articles of Organization and operating agreement. If the operating agreement is oral, provide a summary signed by all of the members of the matters contained in the operating agreement.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: ~~Section 33220 and Chapter 4, Division 16~~ Sections 202, 17701.02, 17701.10 and 17702.01, Corporations Code.

62. Section 80.4107 is amended to read:

§ 80.4107. Information Regarding Securities.

With respect to each type of security of the applicant which is issued and outstanding or which is proposed to be issued:

(a) Describe such type of security.

(b) State the amount of the securities of such type which are issued and outstanding or which are proposed to be issued.

Note: Authority cited: Section ~~33202~~ 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

63. Section 80.4108 is amended to read:

§ 80.4108. Information Regarding Equity Security Owners.

In case the applicant is not a reporting company and any person is known to the applicant to be a 10 percent (including associates) equity security owner of the applicant, or in case the applicant has a parent which is not a reporting company and any person is known to the applicant to be a 10 percent (including associates) equity security owner of such parent, provide the following information with respect to each such 10 percent (including associates) equity security owner:

(a) Name.

(b) Business address.

(c) Title of any position which the person holds with the applicant or with a parent of the applicant.

(d) Amount and types of equity securities of the applicant or of a parent of the applicant owned by the person and the person's associates.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

64. Section 80.4109 is amended to read:

§ 80.4109. Information Regarding Affiliates.

In case the applicant has a parent or any significant subsidiary, provide a list or diagram which includes the applicant and which contains the following information with respect to each affiliate of the applicant which is a parent of the applicant, a significant subsidiary of such

parent, or a significant subsidiary of the applicant or which is significantly involved or is proposed to be significantly involved in the ~~payment instrument~~ money transmission business of the applicant:

(a) State the name of the affiliate.

(b) Show the relationship of the affiliate to the applicant and to each other affiliate in the list or diagram. In case any affiliate which is a subsidiary is not wholly owned by its immediate parent, state the percentage of voting securities of such subsidiary which is owned by such immediate parent or the other basis upon which the subsidiary is controlled by the immediate parent.

(c) State in a word or phrase the principal line of business of the affiliate. Describe any other lines of business of the affiliate.

(d) In case the affiliate is significantly involved or is proposed to be significantly involved in the ~~payment instrument~~ money transmission business of the applicant, briefly describe such involvement.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

65. Section 80.4110 is repealed to read:

~~§ 80.4110. Information Regarding Controlling Persons.~~

~~In case any person controls the applicant, provide the following information:~~

~~(a) Identify the controlling person.~~

~~(b) Describe the basis of the controlling person's control of the applicant and state the percentage of each class of voting securities of the applicant which the controlling person owns, directly or indirectly, of record or beneficially.~~

~~(c) In case the controlling person participates in the management or operations of the applicant, describe such participation.~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Section 33220 and Chapter 4, Division 16, Financial Code.~~

66. Section 80.4111 is amended to read:

§ 80.4111. Information Regarding Financial Statements and Reports.

(a) In case the applicant is not a reporting company:

(1) Provide the following financial statements of the applicant:

(A) Balance sheet as of a date within ~~120~~ 60 days before the filing of the application. If asset values for any asset represent 10% or more of total assets, the applicant shall provide documentation to support the asset values of such assets.

(B) If the balance sheet called for in Subparagraph (A) of this Paragraph (1) is not as of the end of a fiscal year of the applicant, a balance sheet as of the end of the fiscal year of the applicant next preceding the date of such balance sheet.

(C) Statement of income, a statement of cash flows, and a statement of shareholders' equity for each of the two fiscal years of the applicant next preceding the date of the balance sheet called for in Subparagraph (A) of this Paragraph (1) and, if such balance sheet is not as of the end of a fiscal year of the applicant, a statement of income for the interim period from the date of the balance sheet called for in Subparagraph (B) of this Paragraph (1) to the date of the balance sheet called for in Subparagraph (A) of this Paragraph (1).

(2) In case the applicant has any subsidiaries, provide the financial statements called for in Paragraph (1) of this Subdivision (a) on a consolidated basis, including a schedule of eliminating entries.

(b) In case the applicant has a parent which is not a reporting company, provide the following financial statements of such parent on a consolidated basis.

(1) Balance sheet as of a date within ~~120~~ 60 days before the filing of the application.

(2) If the balance sheet called for in Paragraph (1) of this Subdivision (b) is not as of the end of a fiscal year of the parent, a balance sheet as of the end of the fiscal year of the applicant next preceding the date of such balance sheet.

(3) Statement of income, a statement of cash flows, and a statement of shareholders' equity for each of the two fiscal years of the parent next preceding the date of the balance sheet called for in Paragraph (1) of this Subdivision (b) and, if such balance sheet is not as of the end of the fiscal year of the applicant, a statement of income for the interim period from the date of the balance sheet called for in Paragraph (2) of this Subdivision (b) to the date of the balance sheet called for in Paragraph (1) of this Subdivision (b).

(c) In case the applicant presently transacts money transmission outside the State of California ~~the business of selling payment instruments issued by it~~:

(1) ~~Provide a statement showing the amount of payment instruments issued and sold the applicant during each of the periods covered by the statements of income referred to in Subparagraph (C), Paragraph (1), Subdivision (a) of this Section.~~ For money received for transmission, provide the following:

(A) A statement showing the total dollar amount in thousands of all outstanding money received for transmission that was received by the licensee in locations outside of California, but in the United States and territories, for the fiscal year immediately preceding the filing of the application.

(B) A statement showing the total dollar amount in thousands of all outstanding money received for transmission that was received by the licensee in locations outside of the United States, for the fiscal year immediately preceding the filing of the application.

(C) A statement showing the total amount of money received for transmission liability as of 60 days before the filing of the application.

(2) ~~Provide, if available, a statement showing the amount of payment instruments issued and sold by the applicant which were unpaid as of the date of each of the balance sheets referred to in Paragraph (1), Subdivision (a) of this Section.~~ For payment instruments, provide the following:

(A) A statement showing the total dollar amount in thousands of the outstanding payment instruments liability from sales in other U.S. States and territories, for the fiscal year immediately preceding the filing of the application.

(B) A statement showing the total dollar amount in thousands of the outstanding payment instruments liability from sales in locations outside of the United States, for the fiscal year immediately preceding the filing of the application.

(C) A statement showing the total amount of outstanding payment instruments as of 60 days before the filing of the application.

(3) ~~Provide a statement showing the amount of payment instruments issued and sold by the applicant which were reported outstanding as of the date of the balance sheet referred to in Subparagraph (A), Paragraph (1), Subdivision (a) of this Section~~. For stored value, provide the following:

(A) A statement showing the total dollar amount in thousands of the outstanding stored value liability from sales in other U.S. States and territories, for the fiscal year immediately preceding the filing of the application.

(B) A statement showing the total dollar amount in thousands of the outstanding stored value liability from sales in locations outside of the United States, for the fiscal year immediately preceding the filing of the application.

(C) A statement showing the total amount of outstanding stored value as of 60 days before the filing of the application.

(4) Provide a statement showing the amount of payment instruments issued and sold by the applicant which were pre-clears as of the date of each of the balance sheets referred to in Paragraph (1), Subdivision (a) of this Section.

(5) Provide a statement of the eligible securities owned by the applicant as of the date of the balance sheet referred to in Subparagraph (A), Paragraph (1), Subdivision (a) of this Section, showing the total value of such eligible securities, as determined in accordance with Financial Code Section ~~33560(g)~~ 2083.

(d)(1) Provide a copy of each of the last two annual reports of the applicant to its shareholders, a copy of any interim report issued by the applicant to its shareholders since the last annual report, and a copy of the last proxy or information statement issued by the applicant.

(2) If the applicant is required to file reports with the Securities and Exchange Commission pursuant to Section 13 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder, provide a copy of each of the last two annual reports (Securities and Exchange Commission Form 10-K) filed by the applicant with the Securities and Exchange Commission and a copy of each quarterly report (Securities and Exchange Commission Form 10-Q) and current report (Securities and Exchange Commission Form 8-K) filed by the applicant with the Securities and Exchange Commission since the last annual report.

(e) In case the applicant has a parent:

(1) Provide a copy of each of the last two annual reports of the parent to its shareholders, a copy of any interim report issued by the parent to its shareholders since the last annual report, and a copy of the last proxy or information statement issued by the parent.

(2) If the parent is required to file reports with the Securities and Exchange Commission pursuant to Section 13 of the Securities Exchange Act of 1934 and regulations of the Securities and Exchange Commission issued thereunder, provide a copy of each of the last two annual reports (Securities and Exchange Commission Form 10-K) filed by the parent with the Securities and Exchange Commission and a copy of each quarterly report (Securities and Exchange Commission Form 10-Q) and current report (Securities and Exchange Commission Form 8-K) filed by the parent with the Securities and Exchange Commission since the last annual report.

(f) Provide the following, audited if available, financial statements of the applicant each certified as correct by the chief financial officer of the applicant.

(1) A copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application.

(2) A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application.

(g) If the applicant is a wholly owned subsidiary of:

(1) 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. § 78m) and, if available, for the two-year period next preceding the submission of the application.

(2) A corporation publicly traded outside the United States, a copy of documentation similar to that described in subdivision (d)(1) of this section filed with the regulator of the parent corporation's domicile outside the United States.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Sections ~~33220 and 33403~~ 2032, Financial Code.

67. Section 80.4112 is repealed to read:

~~§ 80.4112. Information Regarding Extensions of Credit.~~

~~(a) In case the applicant or any affiliate of the applicant which is significantly involved or is proposed to be significantly involved in the payment instrument business of the applicant (other than an applicant or affiliate which is a bank) has extended credit or committed to extend credit in an amount exceeding $25,000 directly or indirectly to, or for the benefit of, any non-California agent or any proposed California agent of the applicant (other than a non-California agent or any proposed California agent or proposed California agent which is a subsidiary of the applicant) and such extension of credit or commitment is outstanding, identify the parties and describe the terms of the transaction.~~

~~(b) In case any person has made a commitment to extend credit to the applicant and such commitment is outstanding, identify such person (or, if the person was a group of banks, identify the lead bank of such group and indicate that it is the lead bank of a group of banks) and describe the terms of the commitment.~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Section 33220 and Chapter 4, Division 16, Financial Code~~.

68. Section 80.4113 is amended to read:

§ 80.4113. Information Regarding Legal Proceedings.

(a) For purposes of this Section:

(1) A proceeding involving the applicant or a subsidiary of the applicant shall not be deemed to be material:

(A) If the proceeding is ordinary routine litigation incidental to the business of the applicant or of the subsidiary; or

(B) If the proceeding involves primarily a claim for damages and if the amount of damages claimed (excluding interest and costs) against the applicant or the subsidiary does not exceed 10 percent of the current assets of the applicant and its subsidiaries on a consolidated basis. For purposes of computing the amount of damages claimed, in case a proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount of damages claimed in such proceeding shall be deemed to include the amounts of damages claimed in such other proceedings.

(2) Notwithstanding the provisions of Paragraph (1) of this subdivision (a), each of the following proceedings shall be deemed to be material:

(A) Any material proceeding in which any affiliate of the applicant or any person who is, or who is an associate of, any

(i) director,

(ii) executive officer, or

(iii) five percent voting security owner of the applicant, is a party adverse to, or has a material interest adverse to, the applicant or any subsidiary of the applicant.

(B) Any bankruptcy, receivership, or similar proceeding.

(b) In case the applicant is not a reporting company, if the applicant or any subsidiary of the applicant is a party to, or any property of the applicant or of any subsidiary of the applicant is the subject of, any material proceeding pending before any court or governmental agency, describe such proceeding, including:

(1) Title of the proceeding.

(2) Name and address of the court or of the governmental agency before which the proceeding is pending.

(3) Names of the principal parties to the proceeding.

(4) Date the proceeding was commenced.

(5) Description of factual basis alleged to underlie the proceeding.

(6) Relief sought in the proceeding.

(7) Status of the proceeding.

(c) In case the applicant is not a reporting company, if any material proceeding to which the applicant or any subsidiary of the applicant would be a party or of which any property of the applicant or of any subsidiary of the applicant would be the subject, is known to the applicant to be contemplated by any governmental agency, describe such proceeding, including information comparable to the information called for in Paragraphs (1) to (7), inclusive, of subdivision (b) of this Section.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

69. Section 80.4114 is repealed to read:

~~§ 80.4114. Information Regarding Payment Instrument or Travelers Check Licenses.~~

~~In case the applicant has any payment instrument or travelers check license issued by a governmental agency within the United States, provide the following information with respect to each such license:~~

~~(a) Name, address, and, if available, telephone number of the governmental agency by which the license was issued.~~

~~(b) Business which the applicant is authorized to transact under the license.~~

~~(c) Any material conditions to which the license is subject.~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Section 33220 and Chapter 4, Division 16, Financial Code~~.

70. Section 80.4115 is amended to read:

§ 80.4115. Information Regarding Business Plan.

Provide a business plan for the applicant which provides all of the following:

(a) ~~Description of the market that the applicant proposes to serve.~~ Identification of the geographical area in the State of California where applicant proposes to serve.

(b) If applicant has or proposes to have branch offices outside of California, provide:

(1) The current number of branch offices of applicant located outside of California;

(2) The estimated number of branch offices of applicant outside of California as of the end of one year;

~~(b)~~(c) Description of the services and products proposed to be offered by the applicant.

~~(c)~~(d) Analysis of the need for the services and products proposed to be offered by the applicant.

~~(d)~~(e) Description of competition in the proposed market of the applicant, including the name of each other business which provides to the proposed market of the applicant services and products that are similar to any of the principal services and products proposed to be provided by the applicant.

~~(e)~~(f) ~~Description of how services and products of the applicant will be marketed in consideration of the existing and anticipated competition.~~ Description of the applicant's plan for establishing its money transmission business and achieving a share of the money transmission business in the market areas identified in subdivisions (a) and (b) of this section.

~~(f)~~(g) Analysis of the capital, financial, physical and human resources required by the applicant to successfully implement the proposed business plan.

~~(g)~~(h) In case any material element of the business plan is based on an assumption, a statement of the assumption, and the justification for the assumption.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Sections ~~33220 and 33403~~ 2032, Financial Code.

71. Section 80.4117 is amended to read:

§ 80.4117. Information Regarding Proposed California Agents.

(a) In case the applicant proposes to have any California agents, provide the following information:

(1) The name and address of each proposed California agent, if known.

~~(a)~~(2) Describe the types of business conducted by the applicant's proposed California agents.

~~(b)~~(3) Provide a copy of each form of contract which the applicant proposes to make with its California agents in accordance with Financial Code Section ~~33700~~2060.

(b) If the applicant has or proposes to have agents outside of California, provide the following information:

(1) The current number of agent branch offices located outside of California.

(2) The estimated number of agent branch offices located outside of California as of the end of one year.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

72. Section 80.4118 is amended to read:

§ 80.4118. Information Regarding Operations.

(a) Describe the manner in which the applicant proposes to conduct its ~~payment instrument~~ money transmission business after it becomes a licensee, including the procedures and policies which the applicant proposes to follow with respect to the following matters:

(1) Selecting, monitoring, and ~~appointing~~ oversight of agents and paying agents. Describe how the applicant will investigate the character and financial condition of any proposed agent,

any proposed paying agent, any controlling person of the proposed agent or paying agent, and the officers and directors of the proposed agent or paying agent. Describe whether and in what manner such persons will be screened through the lists of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control.

(2) Distributing blank payment instruments to agents and controlling blank payment instruments.

(3) ~~Requiring agents to report sales of payment instruments in accordance with Article 3 (commencing with Section 33730), Chapter 6 of the Payment Instruments Law.~~ The procedures for receiving, processing, and forwarding of transmission money from the time it is received from a customer until the transmission liability is no longer outstanding. The procedures for issuing and selling stored value. The procedures for issuing and paying payment instruments.

(4) ~~Requiring California agents which are subject to Article 4 (commencing with Section 33740), of the Payment Instruments Law to remit proceeds from sales of payment instruments in accordance with Article 4, Chapter 6 of the Payment Instruments Law, and requiring other agents to remit proceeds from sales of payment instruments.~~ Recordkeeping of all money received from the sale of payment instruments or stored value or receiving money for transmission.

(5) ~~Receiving and investing proceeds from sales of payment instruments.~~ Processing and resolution of consumer complaints.

(6) ~~Accounting for amounts due from agents on account of sales of payment instruments.~~ Processing of requests for refunds.

(7) ~~Accounting for unpaid payment instruments.~~ Monitoring and oversight of branch office activities.

~~(8) Paying payment instruments.~~

(b) In case the applicant presently transacts outside the State of California the business of ~~selling payment instruments issued by it~~ money transmission, if its proposed operations, as

described in accordance with Subdivision (a) of this Section, differ in any material respect from its present operations, describe such difference.

(c) State the address of each place where the applicant proposes to maintain records relating to its ~~payment instrument~~ money transmission business.

(d) In case the applicant maintains or proposes to maintain any fidelity bond, describe such fidelity bond.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Sections ~~33220~~2032 and ~~33403~~2060, Financial Code.

73. Section 80.4118.10 is adopted to read:

§ 80.4118.10. Information Regarding Office of Foreign Assets Control ("OFAC") Compliance.

Describe in detail how the applicant proposes to comply with the laws administered by OFAC, including the following:

(a) The procedures for monitoring compliance by the applicant and by any agent of the applicant with the regulations of OFAC (Chapter V (commencing with Section 500) of Title 31 of the United States Code).

(b) If the system to match the names of persons on OFAC's lists of Specially Designated Nationals and Blocked Persons ("SDN") will be automated:

(1) The name of the software to be utilized.

(2) A description of the software's capabilities in relation to monitoring compliance with OFAC regulations.

(3) Whether the software will reject a transaction involving a person on OFAC's lists or whether the software will block the person's funds.

(c) If the system to match the names of persons on OFAC's lists will be performed manually:

(1) A description of how the matching will be accomplished, taking into account the number of money transmission transactions the applicant anticipates it will handle on a daily basis and the number of persons on OFAC's lists.

(2) The identity of the officer or other employee of the applicant who will be primarily responsible for performing the matching.

(d) Whether the applicant intends to match all of its transactions, including the transactions of its agents, against all of the OFAC lists for SDNs (including Specially Designated Global Terrorists).

(e) The frequency of which transactions will be matched.

(f) The manner and frequency of incorporating updated OFAC lists into the applicant's matching system or procedures, including whether the applicant updates information through OFAC's web site.

(g) The procedures followed in the event that a person's name matches a name on OFAC's lists, including the manner in which the applicant will notify OFAC of such matches.

(h) Whether blocked funds are segregated from other funds of the applicant, and if so, whether a separate bank account will be used.

(1) A description of the records or other documentation evidencing the frequency of the matching.

(k) Describe in detail whether and in what manner the applicant will maintain computerized books and records with respect to its money transmission business in California, including records relating to the money transmission business conducted by agents.

(l) Describe in detail whether and in what manner the applicant will utilize electronic data processing technology to record and maintain current information concerning its agents and branch offices of its agents.

Note: Authority cited: Sections 321, 334 and 2032, Financial Code. Reference: Section 2032, Financial Code.

74. Section 80.4118.11 is adopted to read:

§ 80.4118.11 Information Regarding Bank Secrecy Act ("BSA") Compliance.

Describe in detail how the applicant proposes to comply with the BSA/USA Patriot Act, including the following:

(a) Provide a copy of the applicant's Money Services Business registration with Financial Crimes Enforcement Network.

(b) Provide a copy of the latest risk assessment of the applicant.

(c) Provide a copy of the applicant's BSA/USA Patriot Act compliance manual.

(d) In case the applicant is a corporation, provide a copy of the resolution of the board of the applicant designating the BSA compliance officer. In case the applicant is a limited liability company, provide a copy of the designation the BSA compliance officer in accordance with the operating agreement.

(e) Provide a copy of the training materials and documentation of training for the board, managers and members or, in the case of a limited liability company, officers and employees of the applicant.

(f) Provide copy of the latest independent review of the applicant's BSA/USA Patriot Act compliance program and the response to the review by the applicant.

(g) Identify any bank(s) and bank services used by the applicant that may present a BSA risk due to the types of products or services offered and describe how the applicant will manage those identified risks.

Note: Authority cited: Sections 321, 334 and 2032, Financial Code. Reference: Sections 2032 and 2123, Financial Code.

75. Section 80.4119 is amended to read:

§ 80.4119. Information Regarding Forms of Receipts and Payment Instruments.

(a) Receipts for Receiving Money for Transmission.

(1) Provide a sample form of receipt for transactions that involve money received for transmission.

(2) Provide a certification by an officer of the applicant, in accordance with Section 5.3007, Title 10, California Code of Regulations, which certifies that the sample form of receipt is the receipt form used by the applicant and its agents.

(3) Provide a translator's certificate, if applicable, in accordance with Section 5.3002, Title 10, California Code of Regulations.

(b) Payment Instruments.

~~(a)~~ (1) Provide a specimen copy of each form of payment instrument issued by the applicant which the applicant proposes to sell in the state of California.

~~(b)~~ (2) In case the applicant proposes to sell a form of payment instrument only in certain circumstances (for example, only through a certain California agent or type of California agent or only in certain geographical areas), describe such circumstances.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: ~~Section 33220, Chapter 4, Division 16, and Section 33521~~ Sections 2100 and 2106, Financial Code.

76. Section 80.4120 is amended to read:

§ 80.4120. Information Regarding Clearing Bank.

In case any payment instruments or stored value issued by the applicant which the applicant proposes to sell in the State of California are drawn on, payable through, or payable at a bank, state the name of the clearing bank, the address of the head office of the clearing bank, and the address and telephone number of the office of the clearing bank on which the payment instruments or stored value are drawn, or at or through which the payment instruments or stored value are payable.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: ~~Section 33220, Chapter 4, Division 16, and Section 33522~~ Section 2032, Financial Code.

77. Section 80.4121 is amended to read:

§ 80.4121. Information Regarding Pro Forma Financial Statements.

(a) ~~Provide a pro forma balance sheet of the applicant as of the end of, a pro forma statement of income for, a pro forma statement of cash flows for, and a pro forma statement of shareholders' equity for, the first half-year of operation, the first year of operation, the second year of operation and the third year of operation.~~

~~(b)~~ Provide the applicant's plan for engaging in money transmission business, including without limitation, three years of pro forma financial statements and projections for its money transmission business. Provide a pro forma statement showing the amount of ~~payment instruments issued and sold~~ money transmission business conducted by the applicant ~~during the first half year of operation, the first year of operation, the second year of operation and the third year of operation~~, including total transmission money received for each period and average daily transmission liability outstanding for each period, on a monthly basis during the first year of

operation, and on a quarterly basis during the second year and third year of operation, detailing in each case the amount ~~sold~~ conducted in the State of California, ~~and~~ the total amount ~~sold~~ conducted in the United States, and the total amount conducted worldwide. Include the basis for the projections.

~~(c)~~ (b) Provide a pro forma ~~statement showing the amount of payment instruments issued and sold by the applicant which are reported outstanding as of the end of the first half year of operation, the first year of operation, the second year of operation, and the third year of operation.~~ balance sheet for the money transmission business as of the end of each quarter of the first year, as of the end of each half of the second year, and as of the end of the third year. Include the basis for the projections.

(c) Provide a pro forma statement of income for each quarter of the first year, for each half of the second year, and for the third year of money transmission business. Include the basis for the projections.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 and Chapter ~~4~~ 3, Division ~~16~~ 1.2, Financial Code.

78. Section 80.4123 is amended to read:

§ 80.4123. Information Regarding Compliance with Financial Code Section ~~33567~~ 2081.

In case the applicant presently transacts outside the State of California the business of ~~selling payment instruments issued by it~~ money transmission, if the value of the eligible securities owned by the applicant, as shown in the statement called for in Section 80.4111(c)(5) of this Chapter, is less than the amount of reported outstanding ~~payment instruments~~ money transmission liabilities ~~issued by the applicant~~ as of the date of the balance sheet referred to in Section 80.4111(a)(1)(A), show how the applicant plans to comply with the provisions of Financial Code Section ~~33567~~ 2081.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

79. Section 80.4124 is amended to read:

§ 80.4124. Information Regarding Authorization ~~of Board~~.

(a) Provide a copy of a resolution of the board of the applicant, or in the case of a limited liability company, a document of similar import:

(1) Authorizing the applicant to apply for a license.

(2) Authorizing the Commissioner to examine the applicant in connection with the application.

(3) Authorizing and directing all directors, officers, and employees of the applicant and any person having custody of any of the records of the applicant, to furnish to the Commissioner such information, and to permit the Commissioner to inspect and copy such records, as the Commissioner may request in connection with the application.

(4) Authorizing any bank or other financial institution with which the applicant has transacted business to furnish to the Commissioner such information, and to permit the Commissioner to inspect and copy such records, as the Commissioner may request in connection with the application.

(5) Authorizing any governmental agency which licenses or regulates money transmitters, issuers of payment instruments, issuers of travelers checks, or other financial institutions and which has information or records regarding the applicant, to furnish to the Commissioner such information, and to permit the Commissioner to inspect and copy such records, as the Commissioner may request in connection with the application.

(b) The copy of the resolution of the board called for in Subdivision (a) of this Section shall be certified by the secretary or by an assistant secretary of the applicant.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Sections ~~33220~~ 2031 and 2032 ~~and Chapter 4, Division 16~~, Financial Code.

80. Section 80.4125 is amended to read:

§ 80.4125. Signature, Acknowledgment, and Verification.

(a) An application for a license shall be signed at the place provided on the facing page in the name of the applicant by an executive officer of the applicant.

(b) The signature of the applicant on an application for a license shall be acknowledged.

(c) An application for a license shall be verified by the executive officer of the applicant who signs such application on behalf of the applicant. Such verification shall state that such executive officer has read the application (including the documents incorporated therein by reference), that he knows the contents of the application, and that the statements made in the application are true and correct.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

81. Section 80.4126 is amended to read:

§ 80.4126. Fee.

An application for a license shall be accompanied by the fee prescribed in Financial Code Section ~~33301(a)~~ 2032(b).

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33301~~ 2032, Financial Code.

82. Section 80.4127 is amended to read:

§ 80.4127. Amendment.

An amendment to an application for a license shall be signed in the name of the applicant by an executive officer of the applicant or by another person authorized to represent the applicant in connection with such application and shall be verified by such executive officer or other person.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

83. Section 80.4200 is amended to read:

§ 80.4200. Scope.

This Subarticle contains regulations which set forth administrative standards and procedures relating to an application for a license.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

84. Section 80.4201 is amended to read:

§ 80.4201. Incomplete Application.

As an administrative procedure, the Commissioner generally will reject for filing any application for a license which is not substantially complete.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section ~~33220~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

85. Section 80.4300 is amended to read:

§ 80.4300. Scope.

This Subarticle contains regulations relating to matters after an application for a license is approved by the Commissioner.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Section 33203 and~~ Chapter ~~4~~ 3, Division ~~16~~ 1.2, Financial Code.

86. Section 80.4301 is amended to read:

§ 80.4301. Time for Filing Documents.

In case a provision of this Subarticle calls for an applicant to file a document with the Commissioner not less than a specified number of days or business days before such applicant is issued a license, the applicant is encouraged to make the filing before such deadline, if possible, so as to allow ample time not only for the staff of the Department to process the document filed but also for the applicant to make any corrections or changes in such document that may be found to be necessary before the license is issued.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Section 33203 and~~ Chapter ~~4~~ 3, Division ~~16~~ 1.2, Financial Code.

87. Section 80.4302 is amended to read:

§ 80.4302. Reports.

In addition to filing with the Commissioner each report called for in this Subarticle, an applicant shall file with the Commissioner each report which the provisions of the ~~Payment Instruments Law~~ Money Transmission Act or of this Subchapter require of a licensee. A report required by any such provision shall be filed within the period specified in such provision; however, any report which is required of a licensee under the provisions of Subarticle 4 (commencing with Section 80.8300), Article 9 of this Subchapter and which relates to an event that occurs before a license is issued to an applicant shall be filed with the Commissioner not less than five business days before such license is issued, notwithstanding the fact that the provision which requires such report may allow a longer time for filing the report.

Note: Authority cited: Section ~~33202~~ 2039, Financial Code. Reference: ~~Section 33203, Chapter 4, Division 16, and Sections 33901 and 33902~~ Section 2039, Financial Code.

88. Section 80.4303 is amended to read:

§ 80.4303. Implementation of Proposals.

Not less than five business days before an applicant is issued a license, such applicant shall implement each of the proposals which it represented in its application for a license, explicitly or implicitly, that it would implement before commencing to transact in the State of California the business of ~~selling payment instruments issued by it~~ money transmission (for example, proposals to appoint officers, sell securities, or obtain financing) and shall file with the Commissioner a report regarding the implementation of each such proposal.

Note: Authority cited: Sections 321, 334 and ~~33202~~ 2039, Financial Code. Reference: ~~Sections 33203, 33221, and 33223, and Chapter 4, Division 16~~ Section 2039, Financial Code.

89. Section 80.4304 is amended to read:

§ 80.4304. Certificate of Good Standing.

(a) In case an applicant is a foreign corporation, such applicant shall, not less than five business days before being issued a license, file with the Commissioner a Certificate of Good Standing -Foreign Corporation of the Secretary of State of the State of California, certifying that the applicant has qualified to transact intrastate business in the State of California and is in good corporate standing under the laws of the State of California.

(b) In case an applicant is a foreign limited liability company, such applicant shall, not less than five business days before being issued a license, file with the Commissioner a Certificate of Good Standing -Foreign Limited Liability Company of the Secretary of State of the

State of California, certifying that the applicant has qualified to transact intrastate business in the State of California and is in good standing under the laws of the State of California.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: Section 17708.02, Corporations Code; Section ~~33203~~ 2032 ~~and Chapter 4, Division 16~~, Financial Code.

90. Section 80.4305 is adopted to read:

§ 80.4305. Report Regarding Directors, Executive Officers, and Balance Sheet.

(a) In case there is a change in the applicant's directors or executive officers since the filing of the application, the applicant shall file a report detailing such change(s) with the Commissioner within five business days of such change.

(b) The applicant shall file with the Commissioner a balance sheet as of a date within 30 days before the license is issued.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: ~~Sections 33203 and 33221, and Chapter 4 Division 16~~ Section 2033, Financial Code.

91. Section 80.4307 is repealed to read:

~~§ 80.4307. Agreement.~~

~~In accordance with Financial Code Section 33280, not less than five business days before an applicant is issued a license, such applicant shall file with the Commissioner an Agreement of Applicant for License Under Payment Instruments Law in the form of Department Form 5020, signed in the name of the applicant by an executive officer of the applicant. The signature of the applicant on such Agreement shall be acknowledged.~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Sections 33202 and 33280, and Chapter 4, Division 16, Financial Code.~~

92. Section 80.4308 is amended to read:

§ 80.4308. Appointment of Commissioner as Agent for Service of Process.

In accordance with Financial Code Section ~~33261~~ 2034, not less than five business days before an applicant is issued a license, such applicant shall file with the Commissioner an Appointment of Commissioner of ~~Financial Institutions~~ Business Oversight as Agent for Service of Process in the form of Department Form 5025, signed in the name of applicant by an executive officer of the applicant. The signature of the applicant on such Appointment shall be acknowledged.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2034, Financial Code. Reference: ~~Sections 33203 and 33261, and Chapter 4, Division 16~~ Section 2034, Financial Code.

93. Section 80.4309 is amended to read:

§ 80.4309. Authorization for Release of Information.

Not less than five business days before an applicant is issued a license, such applicant shall file with the Commissioner an Authorization for Release of Information in the form of Department Form 5030 signed in the name of the applicant by an executive officer of the applicant. The signature of the applicant on such Authorization shall be acknowledged.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: ~~Section 33203, Chapter 4, Division 16, and Section 33903~~ Section 2032, Financial Code.

94. Section 80.4310 is amended to read:

§ 80.4310. Report Regarding Differences from Application.

(a) Not more than 30 days nor less than five business days before an applicant is issued a license, such applicant shall file with the Commissioner a report signed by an executive officer

of the applicant, stating whether or not the applicant or the applicant's plan for transacting in the State of California the business of ~~selling payment instruments issued by it~~ money transmission is or is to be different in any material respect from what was set forth in its application for a license and, if so, describing such difference.

(b) As an administrative standard, if the Commissioner finds that an applicant or the applicant's plan for transacting in the State of California the business ~~of selling payment instruments issued by it~~ money transmission is or is to be different in any material respect from what was set forth in its application for a license and that, if such difference had existed at the time when the Commissioner decided such application, the Commissioner would have denied the application, the Commissioner will revoke his approval of the application and will not issue a license to the applicant.

Note: Authority cited: Section ~~33202~~ 2032, Financial Code. Reference: ~~Sections 33203, 33221, 33403 and 33406~~ Section 2032, Financial Code.

95. Section 80.4311 is amended to read:

§ 80.4311. Expiration and Extension of Approval of Application for License.

(a) The Commissioner's approval of an application for a license shall, unless extended by the Commissioner, expire ~~one year~~ three months after the date of such approval.

(b) An application for an extension of the Commissioner's approval of an application for a license shall contain the following information:

(1) Date on which the approval is scheduled to expire.

(2) Description of the applicant's progress to date in preparing to commence transacting in the State of California the business of ~~selling payment instruments issued by it~~ money transmission.

(3) Proposed timetable for completing preparations to commence transacting in the State of California the business of ~~selling payment instruments issued by it~~ money transmission.

(4) Amount of additional time requested for completing preparations to commence transacting in the State of California the business of ~~selling payment instruments issued by it~~ money transmission.

(5) Statement of reasons why such additional time is required for completing preparations to commence transacting in the State of California the business of ~~selling payment instruments issued by it~~ money transmission.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2032, Financial Code. Reference: ~~Sections 33203 and 33220, and Chapter 4, Division 16~~ Section 2032, Financial Code.

96. Section 80.4312 is amended to read:

§ 80.4312. License -Issuance and Expiration.

(a) Not less than one business day before an applicant is issued a license, such applicant shall file with the Commissioner an application for the issuance of such license. Such applicant shall state the date on which the applicant proposes to commence transacting in the State of California the business of ~~selling payment instruments issued by it~~ money transmission, and shall be accompanied by the fee prescribed in Financial Code Section ~~33301(b)~~ 374.

(b) An applicant may commence transacting in the State of California the business of ~~selling payment instruments issued by it~~ money transmission on or after the date on which a license is issued to such applicant. ~~However, such license shall expire on the earlier of the following dates unless the applicant shall have commenced transacting in the State of California the business of selling payment instruments issued by it on or before such date:~~

~~(1) Date on which the Commissioner's approval of the application for the license expires pursuant to Section 80.4311 of this Chapter.~~

~~(2) Thirtieth day after the date of the issuance of the license.~~

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2036, Financial Code. Reference: ~~Sections 33203, 33220, and 33301, and Chapter 4, Division 16~~ Sections 374, 2032, and 2036, Financial Code.

97. Section 80.4313 is amended to read:

§ 80.4313. Reports Regarding Commencement of Business, California Offices, and California Agents.

Not more than five business days after commencing to transact in the State of California the business of ~~selling payment instruments issued by it~~ money transmission, an applicant shall file with the Commissioner a report containing the following information:

(a) State the date on which the applicant commenced to transact in the State of California the business of ~~selling payment instruments issued by it~~ money transmission.

(b) State the address and telephone number of each of the applicant's offices in the State of California at which the applicant transacts ~~payment instruments business~~ money transmission, and describe the ~~payment instrument~~ money transmission business conducted at each such office.

(c) In case the applicant had any California agents as of the date on which it commenced to transact in the State of California the business of ~~selling payment instruments issued by it~~ money transmission, state the name of each California agent. ~~provide the following information with respect to each California agent:~~

~~(1) State the name of each California agent.~~

~~(2) State the address and, if available, the telephone number of each reporting/remitting office of the California agent.~~

Note: Authority cited: Section ~~33202~~ 2039, Financial Code. Reference: ~~Sections 33203, 33221, 33760 and 33902, Chapter 4, Division 16~~ Section 2039, Financial Code.

98. Section 80.5000 is amended to read:

§ 80.5000. Scope.

This Article contains regulations relating to licensees. This Subarticle contains general provisions relating to licensees. ~~(Subarticle 2 of this Article is reserved.)~~ Subarticle 2 (commencing with Section 80.5100) contains regulations relating to tangible shareholders' equity. Subarticle 3 (commencing with Section 80.5200) of this Article contains regulations relating to ~~the sale by a licensee of payment instruments issued by it~~ consumer disclosures. Subarticle 4 (commencing with Section 80.5300) of this Article contains regulations relating to eligible securities.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Chapter 5,~~ Division ~~16~~ 1.2, Financial Code.

99. Subarticle 2 is adopted to read:

SUBARTICLE 2. TANGIBLE SHAREHOLDERS' EQUITY.

100. Section 80.5100 is adopted to read:

§ 80.5100. Tangible Shareholders' Equity.

(a) In this Subarticle, "subject institution" means a California licensed money transmitter or an applicant for a money transmitter license.

(b) In considering the factors set forth in subdivision (c) of Financial Code Section 2040 to determine the amount of tangible shareholders' equity required of a subject institution, the Commissioner may assess how those factors when considered as whole would affect the safety and soundness of the subject institution and/or prejudice the interests of the customers of the subject institution.

Note: Authority cited: Section 2040, Financial Code. Reference: Section 2040, Financial Code.

101. Subarticle 3 is amended to read:

SUBARTICLE 3. ~~SALE OF PAYMENT INSTRUMENTS~~ CONSUMER DISCLOSURES.

102. Section 80.5200 is amended to read:

§ 80.5200. Scope.

This Subarticle contains regulations relating to receiving money for transmission and the sale by a licensee of payment instruments ~~issued by it~~, and other required disclosures.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Article 2,~~ Chapter ~~5~~ 6, Division ~~16~~ 1.2, Financial Code.

103. Section 80.5200.1 is adopted to read:

§ 80.5200.1. Forms of Receipt for Receiving Money for Transmission.

(a) An application by a licensee for approval under Financial Code Section 2100 of the form of receipt used by the licensee or by its agent shall contain the following:

(1) Provide a sample form of receipt.

(2) Provide a certification by an officer of the applicant, in accordance with Section 5.3007, Title 10, California Code of Regulations, which certifies that the sample form of receipt is the receipt form used by the applicant and its agents.

(3) Provide a translator's certificate, if applicable, in accordance with Section 5.3002, Title 10, California Code of Regulations.

Note: Authority cited: Sections 321 and 334, Financial Code. Reference: Section 2100, Financial Code.

104. Section 80.5201 is amended to read:

§ 80.5201. Forms of Payment Instruments.

(a) An application by a licensee for approval under Financial Code Section ~~33521~~2106 of the form of a payment instrument issued by such licensee shall contain the following:

(1) Provide a specimen copy of the form of payment instrument.

(2) In case the licensee proposes to sell the form of payment instrument only in certain circumstances (for example, only through a certain California agent or type of California agent or only in certain geographical areas), describe such circumstances.

(b) As an administrative standard, the Commissioner will generally deny an application by a licensee for approval of a form of payment instrument issued by such licensee which identifies the agent through which the licensee proposes to sell such form of payment instrument unless such form of payment instrument (1) indicates that such agent is an agent of the licensee and (2) identifies the licensee at least as conspicuously as it does the agent.

Note: Authority cited: Section~~s~~ ~~33202~~ 321 and 334, Financial Code. Reference: Section~~s~~ ~~33220~~ 2106 ~~and 33521~~, Financial Code.

105. Section 80.5202 is repealed to read:

~~§ 80.5202. Clearing Banks.~~

~~An application by a licensee for approval of a clearing bank under Financial Code Section 33522 shall state the name of the clearing bank, the address of the head office of the clearing bank, and the address and telephone number of the office of the clearing bank on which~~

~~payment instruments issued by the licensee are to be drawn or at or through which such payment instruments are to be payable.~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Sections 33220 and 33522, Financial Code.~~

106. Section 80.5210 is adopted to read:

§ 80.5210. Notices.

(a) The notice required by Financial Code Section 2104 only applies to branch offices, as defined by Financial Code Section 2003(e), and machines located in this state and operated by the licensee or agent, that issue or sell payment instruments to customers who are physically on the premises of the branch offices or physically on the premises where the machines are located.

(b) The notice required by Financial Code Section 2105 only applies to branch offices, as defined by Financial Code Section 2003(e), that conduct money transmission with customers who are physically in the branch offices.

Note: Authority cited: Sections 321 and 334, Financial Code. Reference: Sections 2104 and 2105, Financial Code.

107. Section 80.5300 is amended to read:

§ 80.5300. Scope.

This Subarticle contains regulations relating to eligible securities.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: ~~Article 3,~~ Chapter 5, Division ~~16~~ 1.2, Financial Code.

108. Section 80.5301 is amended to read:

§ 80.5301. Ownership -Ability to Transfer.

(a) For purposes of Financial Code Section ~~33561~~ 2084(a)(3), a licensee shall not be deemed to be able freely to otherwise transfer an eligible security which consists of a deposit in a bank or savings and loan association unless such licensee is able freely to withdraw such deposit. However, if the deposit is a savings or time deposit and is subject to restrictions on withdrawal usually imposed on a savings or time deposit, as the case may be, the licensee shall not, on account of such restrictions, be deemed unable freely to withdraw the deposit.

(b) For purposes of Financial Code Section ~~33561~~ 2084(a)(3), a licensee shall not be deemed to be able freely to negotiate, assign, or otherwise transfer an eligible security if any negotiation, assignment, or other transfer of such eligible security would constitute a breach or event of default by such licensee or by any affiliate of the licensee under any contract, obligation, note, or other security issued by the licensee or by any affiliate of the licensee. For example, for purposes of Financial Code Section ~~33561~~ 2084 (a)(3), a licensee shall not be deemed to be able freely to negotiate, assign, or otherwise transfer an eligible security which consists of a deposit in a bank if such licensee's failure to maintain such deposit would constitute a breach of a provision for compensating balances set forth in a loan contract between such bank and the licensee or a parent of the licensee.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Section ~~33561~~ 2084, Financial Code.

109. Section 80.5302 is amended to read:

§ 80.5302. Ownership -Documented Nominee.

For purposes of Financial Code Section ~~33561~~ 2084 and this Subchapter, “documented nominee,” when used with respect to a licensee, means a partnership:

(a) The articles of partnership of which authorize it to engage in no business other than the business of owning, buying, selling, or otherwise transferring of record securities which are owned beneficially by the licensee;

(b) The partners of which include no persons other than the licensee and officers and employees of the licensee;

(c) Which is controlled by the licensee;

(d) Which is beneficially owned solely and exclusively by the licensee; and

(e) Which is shown by the records of the licensee to comply with the provisions of Subdivisions (a) to (d), inclusive, of this Section.

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Sections ~~33561 and 33902~~ 2039 and 2084, Financial Code.

110. Section 80.5303 is amended to read:

§ 80.5303. Eligible Securities Rating Services.

The Commissioner finds that each of the securities rating services named in the subdivisions of this Section has been continuously engaged in the business of rating securities for a period of not less than three years, is competent to rate securities, is nationally recognized for rating securities in a competent manner, and publishes its ratings of securities on a nationwide basis. Therefore, the Commissioner declares each of the securities rating services named in the subdivisions of this Section to be eligible securities rating services for purposes of the ~~Payment Instruments Law~~ Money Transmission Act:

(a) Moody's Investors Service, Inc.

(b) Standard & ~~and~~ Poor's Ratings Services ~~Corporation~~.

(c) Fitch, Inc.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2088, Financial Code. Reference: Section ~~33564~~ 2088, Financial Code.

111. Section 80.5304 is amended to read:

§ 80.5304. Eligible Ratings.

The Commissioner finds that the ratings categories assigned to the respective classes of securities or the issuer of the securities by the respective eligible securities rating services, as specified in the subdivisions of this Section, indicate that ~~such respective~~ the applicable classes of securities of the rated issuer and the rated classes of securities are each of sufficient quality to be eligible securities for purposes of subdivisions (b)(4), (6) and (7) of Financial Code section 2082. Therefore, the Commissioner declares the ratings categories assigned to the respective classes of securities or the issuers of the applicable classes of securities by the respective eligible securities rating services, as specified in the subdivisions of this Section, to be eligible ratings for purposes of subdivisions (b)(4), (6) and (7) of Financial Code section 2082 ~~the Payment Instruments Law~~:

(a) Moody's Investors Service, Inc.:

(1) ~~Corporate, state, and municipal bonds and railroad equipment trust certificates~~ Long-term obligations: Aaa, Aa, and A categories.

(2) ~~Preferred stock: aaa, aa, and a.~~ Short-term obligations : P-1 and P-2.

(3) ~~Commercial paper: P-1 and P-2.~~ Municipal short-term obligations: MIG 1/VMIG 1 and MIG 2/VMIG 2.

(b) Standard & ~~and~~ Poor's Ratings Services ~~Corporation~~:

(1) ~~Corporate, state, and municipal bonds and railroad equipment trust certificates~~ Long-term obligations: AAA, AA, and A categories.

(2) ~~Preferred stock: AAA, AA, and A.~~ Short-term obligations : A-1+, A-1, and A-2.

(3) ~~Commercial paper: A-1 and A-2.~~ Municipal short-term notes: SP-1+, SP-1, and SP-2.

(c) Fitch, Inc.:

(1) Long-term obligations: AAA, AA, and A categories.

(2) Short-term obligations: F-1+, F-1, and F-2.

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2087, Financial Code. Reference: Section ~~33565~~ 2087, Financial Code.

112. Section 80.5304.1 is adopted to read:

§ 80.5304.1. Eligible Securities.

(a) Financial Code Section 2082(b)(12) provides that “any receivable owed by a bank and resulting from an automated clearinghouse, debit, or credit-funded transmission” is a United States currency eligible security. For purposes of this subarticle, the following terms shall apply:

(1) A receivable owed by a bank and resulting from an automated clearinghouse transmission will be termed an "ACH Receivable."

(2) A receivable owed by a bank and resulting from a credit-funded transmission will be termed a "Credit Card Receivable."

(3) A receivable owed by a bank and resulting from a debit funded transmission will be termed a "Debit Card Receivable."

(b) The terms ACH Receivables, Credit Card Receivables, and Debit Card Receivables are defined at §80.5305.

Note: Authority cited: Sections 2082 and 2086, Financial Code. Reference: Sections 2082 and 2086, Financial Code.

113. Section 80.5305 is adopted to read:

§ 80.5305. Computation of Aggregate Value of Eligible Securities.

(a) For purposes of this section:

(1) “Automated Clearing House (ACH) Receivables” are amounts debited from a customer’s depository account or ACH credits initiated by the customer through the ACH, which are for the purchase or payment of money transmission products and services.

(2) “Credit Card Receivables” are amounts owed by a licensee's merchant acquirer and arising from the licensee's submission of credit card transactions for settlement by the merchant acquirer for the purchase or payment of money transmission products and services.

(3) “Debit Card Receivables” are amounts owed by a licensee's merchant acquirer and arising from the licensee's submission of debit or pre-paid card transactions for settlement by the merchant acquirer for the purchase or payment of money transmission products and services.

(4) “Merchant acquirer” means an acquiring bank or its designated processor who forwards the transaction information to the respective credit card associations for authorization, clearing, and settlement. The acquiring bank must remain fully liable for payment to the licensee if the designated processor fails to settle with the licensee.

(b) In computing for purposes of Section 2082 of the Financial Code the aggregate value of ACH Receivables, Credit Card Receivables, and Debit Card Receivables owned by a licensee, the following shall be excluded:

(1) That portion of the aggregate value of ACH Receivables, Credit Card Receivables, and Debit Card Receivables that have been outstanding for more than 10 business days.

(c) ACH Receivables must be

(1) due from U.S. national or state-chartered depository institutions, and

(2) current and not past due or otherwise doubtful of collection;

(d) Credit Card Receivables must be current and not past due or otherwise doubtful of collection;

(e) Debit Card Receivables must be current and not past due or otherwise doubtful of collection; and

(f) Receivables may be reported by the licensee as

(1) cash, cash items, or cash in transit or

(2) as ACH, Credit Card, or Debit Card Receivables or due from banks on the licensee's balance sheet, or in any other manner approved by the Commissioner.

Note: Authority Cited: Sections 321, 334 and 2083, Financial Code. Reference: Sections 2082 and 2083, Financial Code.

114. Section 95.2 is repealed to read:

~~§ 95.2. Personal Financial Statement.~~

~~(a) The following is an illustration of the face side of Department Form 2:~~

~~Form 2~~

~~California Department of Financial Institutions~~

~~PERSONAL FINANCIAL STATEMENT FOR THE CONFIDENTIAL USE OF~~

~~THE COMMISSIONER OF FINANCIAL INSTITUTIONS, STATE OF CALIFORNIA~~

~~Name~~

~~Address~~

~~Business or Occupation~~

~~TO THE COMMISSIONER OF FINANCIAL INSTITUTIONS, STATE OF CALIFORNIA,~~

~~SAN FRANCISCO, CALIFORNIA 94104~~

~~CONDITION ON 19~~

~~ASSETS~~	~~DOLLARS~~		~~CENTS~~	~~LIABILITIES~~	~~DOLLARS~~		~~CENTS~~
~~CASH ON HAND~~				~~NOTES PAYABLE TO BANKS-UNSECURED~~			
~~CASH IN BANK~~							
~~NOTES RECEIVABLE – SECURED BY MORTGAGE~~							
~~NOTES RECEIVABLE – OTHERWISE SECURED~~				~~NOTES PAYABLE-OTHER THAN TO BANKS-UNSECURED~~			
~~NOTES RECEIVABLE – UNSECURED~~				~~NOTES PAYABLE WITH SECURITY OTHER THAN REAL ESTATE (ITEMIZE PAGE 2)~~			
~~ACCOUNTS RECEIVABLE – NOT DUE~~				~~ACCOUNTS PAYABLE~~			
~~ACCOUNTS RECEIVABLE – PAST DUE~~				~~LOANS ON LIFE INSURANCE~~			
~~U.S. GOVT. OBLIGATIONS~~				~~TAXES~~			
~~STOCKS, BONDS, AND OTHER INVESTMENTS (INCLUDE FUNDS IN BUILDING OR SAVINGS AND LOAN COMPANIES) (ITEMIZE PAGE 2)~~				~~MORTGAGES OR LIENS ON REAL ESTATE (ITEMIZE BELOW)~~			
~~CASH VALUE – LIFE INSURANCE~~				~~ANY OTHER INDEBTEDNESS – DUE WITHIN ONE YEAR~~			
~~REAL ESTATE (ITEMIZE BELOW)~~							
~~ANY OTHER ASSETS-ITEMIZE~~				~~ANY OTHER INDEBTEDNESS – DUE BEYOND ONE YEAR~~			
				~~TOTAL LIABILITIES~~			

				~~NET WORTH~~			
~~TOTAL~~				~~TOTAL~~			

~~SCHEDULE OF REAL ESTATE OWNED~~

~~DESCRIPTION AND LOCATION~~	~~TITLE IN WHOSE NAME~~	~~IMPROVED OR UNIMPROVED~~	~~APPRAISED VALUE~~	~~MORTGAGES~~	~~TAX VALUE~~	~~INSURANCE~~
			~~$~~	~~$~~	~~$~~	~~$~~

~~CONTINGENT LIABILITY OF ANY KIND (IF NONE, SO INDICATE)~~	~~DOLLARS~~	~~CENTS~~
~~UPON NOTES OR ACCOUNTS RECEIVABLE DISCOUNTED SOLD, OR ASSIGNED~~		
~~AS GUARANTOR FOR OTHERS ON NOTES, BONDS, CONTRACTS, ETC.~~		
~~ANY OTHER CONTINGENT LIABILITY-ITEMIZE~~		
~~TOTAL CONTINGENT LIABILITIES~~		

~~SEE OTHER SIDE~~

~~(b) The following is an illustration of the reverse side of Department Form 2:~~

~~STOCKS, BONDS, AND OTHER INVESTMENTS~~

~~DESCRIPTION~~	~~AMOUNT~~	~~DESCRIPTION~~	~~AMOUNT~~

~~SCHEDULE OF LIABILITIES SECURED BY ASSETS OTHER THAN REAL ESTATE~~

~~NAME OF CREDITOR~~	~~AMOUNT~~	~~TYPE OF OBLIGATION~~	~~DESCRIPTION OF SECURITY~~	~~AMOUNT OF SECURITY~~

	$			$

STATEMENT OF NET WORTH AND INCOME AND EXPENSES FILL IN DATES FOR THE PERIOD BEGINNING _____ 20 _____ AND ENDING _____ 20 _____						
NET WORTH AT CLOSE OF PREVIOUS YEAR ……				$		
ADD INCOME FOR PERIOD AS ABOVE FROM FOLLOWING SOURCES:						
SALARIES, WAGES, COMMISSIONS, FEES, ETC. ……	$					
INCOME (OR LOSS) FROM BUSINESS OR PROFESSION ……						
INCOME (OR LOSS) FORM PARTNERSHIPS, SYNDICATES, POOLS, ETC.						
RENTS AND ROYALTIES ……						
PROFIT (OR LOSS) ON INVESTMENTS ……						
INCOME FROM INVESTMENTS……						
OTHER INCOME-ITEMIZE ……						
TOTAL INCOME FOR PERIOD ……						
TOTAL ……				$		
DEDUCT-EXPENSES PAID ……	$					
TAXES PAID-FEDERAL INCOME $_____ OTHER $_____						
INTEREST PAID ……						
OTHER DEDUCTIONS-ITEMIZE ……						
TOTAL DEDUCTIONS FOR PERIOD ……						
NET WORTH AT CLOSE OF PERIOD (MUST AGREE WITH NET WORTH ON PAGE 1) ……				$		

ALL QUESTIONS SHOULD BE ANSWERED

LIST ASSETS, PLEDGED OR HYPOTHECATED OTHER THAN AS STATED ABOVE _____

ARE THERE ANY JUDGMENTS UNSATISFIED OR SUITS PENDING AGAINST YOU? _____ AMOUNT $_____

~~LIFE INSURANCE CARRIED $ _____ CASH VALUE $ _____~~

~~NAME OF BENEFICIARY _____~~

~~STATE MAXIMUM AMOUNT BORROWED FROM ALL SOURCES AT ANY ONE TIME DURING YEAR~~

~~_____ $ _____ DATE _____~~

~~STATE MINIMUM AMOUNT BORROWED FROM ALL SOURCES AT ANY ONE TIME DURING YEAR~~

~~_____ $ _____ DATE _____~~

~~The undersigned hereby certifies that the foregoing statement has been carefully read by the undersigned, that it is a true and correct statement of the undersigned's financial condition. This statement may be retained by the Commissioner of Financial Institutions, State of California, for confidential official use.~~

~~The foregoing is a statement of my financial condition on _____, 19_____~~

~~Date signed _____ Sign here _____~~

~~Note: Authority cited: Section 215, Financial Code.~~

115. Section 95.3 is repealed to read:

~~§ 95.3. Confidential Resume.~~

~~The following is an illustration of Department Form 3:~~

~~Form 3~~

~~California Department of Financial Institutions~~

~~CONFIDENTIAL RESUME SUBMITTED TO THE~~

~~COMMISSIONER OF FINANCIAL INSTITUTIONS, STATE OF CALIFORNIA~~

~~(If space provided is not sufficient, insert supplemental page with appropriate references thereto.)~~

~~1. Full name~~ _____

~~Have you ever used (or been known under) any other name or names?~~ _____

~~2. California Driver's License Number~~ _____

~~3. Residence address~~ _____

~~(If you have lived at this address for less than ten years, please list former residence addresses and dates occupied for the past ten years.)~~

~~4. Business address~~ _____ ~~Business phone~~ _____

~~5. Date of birth~~ _____ ~~Place of birth~~ _____

~~6. Years resident of community~~ _____ ~~Marital status~~ _____

~~7. What is your present occupation or business affiliation? (in detail)~~ _____

_____

~~8. What were your former occupations or business affiliations? (in detail)~~ _____

~~9. Have you ever been arrested for other than minor traffic violations? _____ (If the answer to question 9 is affirmative, attach a statement giving the full details including final disposition of each case.)~~

~~10. Has any corporation in which you have been a director, officer, or substantial stockholder, or has any other form of business organization (including, but not limited to, partnerships, joint ventures and sole proprietorships) with which you have been associated or employed in any management capacity, ever been subject to criminal prosecution? (If so, attach a statement giving the full details and final disposition thereof.)~~

~~11. Have you, or has any corporation in which you have been a director, officer or substantial stockholder, or has any other form of business organization (including, but not limited to, partnerships, joint ventures and sole proprietorships) with which you have been associated or employed in any management capacity ever been:~~

~~(a) licensed to engage in any business or profession by any government agency?~~

~~(b) refused a license to engage in any business or profession by any government agency, or has any such license ever been suspended or revoked?~~

~~(c) bankrupt, forced into liquidation, placed in receivership, or subject to similar proceedings?~~

~~(d) named in any order, judgment or decree of any court, government agency or administrator, temporarily or permanently restrained or enjoined from engaging in or continuing any conduct, practice or employment?~~

~~(e) refused a bond or had a bond revoked or canceled?~~

~~(If the answer to any part of question 11 is affirmative, attach a statement giving full details.)~~

~~12. Are you, or is any corporation in which you have been a director, officer or substantial stockholder, or is any other form of business organization (including, but not limited to, partnerships, joint ventures and sole proprietorships) with which you have been associated or employed in any management capacity, a party to any civil action now pending? (If so, attach statement giving full details.)~~

~~The above information is certified to be complete and correct to the best of my knowledge.~~

~~Dated: , 19 Signature:~~

~~Note: Authority cited: Section 215, Financial Code.~~

116. Section 95.600 is adopted to read:

§ 95.600 Notice of Fingerprint Processing Requirements.

The following is an illustration of Department Form DBO – 600:

STATE OF CALIFORNIA – BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

NOTICE OF FINGERPRINT PROCESSING REQUIREMENTS

UNDER THE CALIFORNIA MONEY TRANSMISSION ACT

DBO - 600

NOTICE OF FINGERPRINT PROCESSING REQUIREMENTS

UNDER THE CALIFORNIA MONEY TRANSMISSION ACT

The Applicant Live Scan program is a system for the electronic submission of fingerprints and the subsequent automated background check and response. The response time from the Department of Justice when using the Applicant Live Scan program is faster with fewer rejections.

The applicant should complete Department of Justice Form BCIA 8016, Request for Live Scan Service. The applicant should indicate Money Transmitter License under "Type of Application." The applicant must take the three-part form to a Live Scan location to have their fingerprints taken by the operator. The applicant's fingerprints will be transmitted electronically to the Department of Justice for processing. The applicant will be required to pay the fees charged by the Department of Justice for processing the fingerprints directly to the Live Scan operator.

Please go to the Attorney General's website at: http://caag.state.ca.us/fingerprints/publications/contact.html for current information concerning the location of live scan terminals. You may also call the Department's Call center at (866) 275-2677 for information on a Live Scan location.

1. Please submit the following when applying for a license under the California Money Transmission Act, in order to comply with the fingerprint processing requirements of Financial Code Sections 379 and 2032.

a. Processing fee at the current rate charged by the California Department of Justice for each form submitted.

b. D.O.J. Form BCIA 8016, "Requesting Agency Copy" as proof of Live Scan completion.

2. Fingerprint information by Live Scan and the cost of fingerprint processing are to be submitted for the following persons:

a. The applicant;

b. Executive Officers and directors of the applicant;

c. Control persons of the applicant;

d. Executive Officers and directors of each control person of the applicant;

e. The general partners, officers, directors and person owning or controlling, directly or indirectly, 10% or more of the outstanding interests or equity securities of the applicant; and

f. Other key persons involved, such as managers/members, trustees, any other officers with direct responsibility for the conduct of applicant's money transmission activities, and the persons who will be in charge of the place of business.

3. NO LICENSE WILL BE ISSUED UNTIL CLEARANCE IS RECEIVED FOR ALL PERSONS REQUIRED TO SUBMIT FINGERPRINT INFORMATION UNDER THE CALIFORNIA MONEY TRANSMISSION ACT.

4. All application and fingerprint information is to be submitted to the Department's San Francisco office at:

Department of Business Oversight

45 Fremont Street, Suite 1700

San Francisco, CA 94105-2219

For any questions, contact the Department at:

1-866-275-2677

Note: Authority Cited: Sections 321 and 334, Financial Code. Reference: Sections 379, 1250 and 2032, Financial Code.

117. Section 95.5010 is repealed to read:

~~§ 95.5010 Application for License Under the Payment Instruments Law.~~

~~The following is an illustration of Department Form 5010:~~

~~Form 5010 (7-1-97)~~

~~California Department of Financial Institutions~~

~~APPLICATION FOR LICENSE UNDER PAYMENT INSTRUMENTS LAW (Facing Page)~~

~~To: Commissioner of Financial Institutions Date: _____~~

~~_____~~

~~(Name of Applicant)~~

~~which is corporation organized under the laws of _____~~

~~(State or Nation)~~

~~and which maintains its principal place of business at~~

~~_____~~

~~(Street Address)~~

~~_____, _____, _____~~

~~(City) (State or Nation) (Zip Code)~~

~~hereby applies for a license under the California Payment Instruments Law. The documents attached hereto are hereby referred to and by this reference incorporated herein.~~

_____

~~(Name of Applicant)~~

~~By~~ _____

~~(Signature)~~

_____

~~(Name and Title)~~

_____

~~(Telephone No.)~~

~~(This is a facing page only. For instructions on completing and signing this application, refer to the Regulations of the Commissioner of Financial Institutions. The signature of the Applicant must be acknowledged.)~~

~~Note: Authority cited: Section 33202, Financial Code. Reference: Section 33220 and Chapter 4, Division 16, Financial Code.~~

118. Section 95.5025 is amended to read:

§ 95.5025. Appointment of Commissioner of ~~Financial Institutions~~ Business Oversight as Agent for Service of Process.

The following is an illustration of Department Form 5025:

Form 5025 (~~7-1-97~~) (8-12-15)

California Department of ~~Financial Institutions~~ Business Oversight

APPOINTMENT OF COMMISSIONER OF ~~FINANCIAL INSTITUTIONS~~ BUSINESS OVERSIGHT AS AGENT FOR SERVICE OF PROCESS

(Name of Applicant)

(hereinafter referred to as the "Applicant"), which is applying for a licensed under the California ~~Travelers Checks Act (Chapter 14A (commencing with Section 1851)~~ Money Transmission Act (commencing with Section 2000 of the California Financial Code), in accordance with California Financial Code Section ~~1859~~ 2034, hereby irrevocably appoints the Commissioner of ~~Financial Institutions~~ Business Oversight of the State of California and his or her successor from time in office be the Applicant's agent to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the Applicant, or any successor, executor, or administrator of the Applicant, which arises under the California ~~Travelers Checks Act~~ Money Transmission Act or under any regulation or order issued under the California ~~Travelers Checks Act~~ Money Transmission Act, with the same force and validity as if served personally on the Applicant.

Dated: _____ _____

(Name of Applicant)

By _____

(Signature)

_____

(Name and Title)

(The signature of the Applicant must be acknowledged.)

Note: Authority cited: Sections ~~33202~~ 321, 334 and 2034, Financial Code. Reference: ~~Sections 33202 and 33261, and Chapter 4, Division 16~~ Section 2034, Financial Code.

119. Section 95.5030 is amended to read:

§ 95.5030. Authorization for Release of Information.

The following is an illustration of Department Form DBO 5030:

Form 5030 ~~(7-1-97)~~ (8-12-15)

~~California State Banking Department~~

STATE OF CALIFORNIA – DEPARTMENT OF BUSINESS OVERSIGHT

AUTHORIZATION FOR RELEASE OF INFORMATION (MONEY TRANSMITTERS)

DBO 5030

AUTHORIZATION FOR RELEASE OF INFORMATION

_____

(Name of Applicant)

(hereinafter referred to as the "Applicant"), which is applying for a license under the ~~California Travelers Checks Act (Chapter 14A (commencing with Section 1851), Division 1 of the California Financial Code),~~ Money Transmission Act (California Financial Code, Division 1.2, commencing with Section 2000), hereby irrevocably authorizes any bank or other financial institution with which the Applicant may at any time transact business and any governmental agency which licenses or regulates ~~issuers of payment instruments, issuers of travelers checks,~~ money transmitters or other financial institutions and which at any time has information or records regarding the Applicant, to furnish to the Commissioner of ~~Financial Institutions~~ Business Oversight of the State of California such information, and to permit her/him to inspect and copy such records, as she/he may request from time to time.

Dated: _____ _____

(Name of Applicant)

By _____

(Signature)

_____

(Name and Title)

(Note: The signature of the Applicant must be acknowledged.)

Note: Authority cited: Sections ~~33202~~ 321 and 334, Financial Code. Reference: Section 33203 2032, Chapter 4 3, Division 16 1.2, and Section 33903, Financial Code.