

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 479

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE MONEY TRANSMISSION MODERNIZATION ACT; REPEALING CHAPTER  
2 29, TITLE 26, IDAHO CODE, RELATING TO THE IDAHO MONEY TRANSMITTERS ACT;  
3 AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 29, TITLE  
4 26, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT,  
5 TO DEFINE TERMS, TO PROVIDE EXEMPTIONS, TO PROVIDE FOR AUTHORITY TO  
6 REQUIRE DEMONSTRATION OF EXEMPTION, TO ESTABLISH PROVISIONS REGARDING  
7 IMPLEMENTATION, TO ESTABLISH PROVISIONS REGARDING CONFIDENTIALITY,  
8 TO PROVIDE FOR SUPERVISION, TO PROVIDE FOR NETWORK SUPERVISION, TO ES-  
9 TABLISH PROVISIONS REGARDING RELATIONSHIP TO FEDERAL LAW, TO REQUIRE  
10 CERTAIN LICENSURE, TO ESTABLISH PROVISIONS REGARDING AN APPLICATION  
11 FOR LICENSURE, TO PROVIDE FOR THE ISSUANCE OF A CERTAIN LICENSE, TO  
12 PROVIDE FOR THE RENEWAL OF A LICENSE, TO PROVIDE FOR THE MAINTENANCE OF  
13 A LICENSE, TO PROVIDE FOR THE ACQUISITION OF CONTROL, TO PROVIDE FOR  
14 NOTICE AND INFORMATION REQUIREMENTS FOR A CHANGE OF KEY INDIVIDUALS,  
15 TO REQUIRE A REPORT OF CONDITION, TO PROVIDE FOR AUDITED FINANCIALS,  
16 TO PROVIDE FOR AUTHORIZED DELEGATE REPORTING, TO REQUIRE REPORTS FOR  
17 CERTAIN EVENTS, TO REQUIRE BANK SECRECY ACT REPORTS, TO REQUIRE THE  
18 MAINTENANCE OF CERTAIN RECORDS, TO ESTABLISH PROVISIONS REGARDING THE  
19 RELATIONSHIP BETWEEN A LICENSEE AND AN AUTHORIZED DELEGATE, TO PROVIDE  
20 FOR CERTAIN UNAUTHORIZED ACTIVITIES, TO PROVIDE FOR TIMELY TRANSMIS-  
21 SION, TO PROVIDE FOR REFUNDS, TO PROVIDE FOR RECEIPTS, TO PROVIDE FOR  
22 DISCLOSURES FOR PAYROLL PROCESSING SERVICES, TO ESTABLISH PROVISIONS  
23 REGARDING NET WORTH, TO PROVIDE FOR SURETY BONDS OR OTHER SECURITY DE-  
24 VICES, TO PROVIDE FOR THE MAINTENANCE OF PERMISSIBLE INVESTMENTS, TO  
25 PROVIDE FOR CERTAIN TYPES OF PERMISSIBLE INVESTMENTS, TO PROVIDE FOR  
26 SUSPENSION AND REVOCATION OF A LICENSE, TO PROVIDE FOR REMEDIES AVAIL-  
27 ABLE TO THE DEPARTMENT, TO PROVIDE FOR CRIMINAL PENALTIES, TO PROVIDE  
28 SEVERABILITY, AND TO PROVIDE FOR A TRANSITION PERIOD; AND DECLARING AN  
29 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
30

31 Be It Enacted by the Legislature of the State of Idaho:

32 SECTION 1. That Chapter 29, Title 26, Idaho Code, be, and the same is  
33 hereby repealed.

34 SECTION 2. That Title 26, Idaho Code, be, and the same is hereby amended  
35 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
36 ter 29, Title 26, Idaho Code, and to read as follows:

37 CHAPTER 29

38 Idaho Money Transmission Modernization Act

39 26-2901. SHORT TITLE. This chapter shall be known and may be cited as  
40 the "Idaho Money Transmission Modernization Act."

1           26-2902. PURPOSE -- LEGISLATIVE INTENT. It is the intent of the legis-  
2 lature that the provisions of this chapter:

3           (1) Ensure states can coordinate in all areas of regulation, licensing,  
4 and supervision to eliminate unnecessary regulatory burden and more effec-  
5 tively utilize regulator resources;

6           (2) Protect the public from financial crime;

7           (3) Standardize what types of activities are subject to licensing or  
8 are otherwise exempt from licensing; and

9           (4) Modernize safety and soundness requirements to ensure customer  
10 funds are protected in an environment that supports innovative and competi-  
11 tive business practices.

12           26-2903. DEFINITIONS. For purposes of this chapter, the following  
13 definitions shall apply:

14           (1) "Acting in concert" means persons knowingly acting together with a  
15 common goal of jointly acquiring control of a licensee, whether or not pur-  
16 suant to an express agreement;

17           (2) "Authorized delegate" means a person a licensee designates to en-  
18 gage in money transmission on behalf of the licensee;

19           (3) "Average daily money transmission liability" means the amount of  
20 the licensee's outstanding money transmission obligations, in this state,  
21 at the end of each day in a given period of time, added together and divided  
22 by the total number of days in the given period of time. For purposes of cal-  
23 culating average daily money transmission liability pursuant to this chap-  
24 ter for any licensee required to do so, the given period of time shall be the  
25 quarters ending March 31, June 30, September 30, and December 31;

26           (4) "Bank secrecy act" means the bank secrecy act, 31 U.S.C. 5311 et  
27 seq., and its implementing regulations, as amended;

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

32           (6) (a) "Control" means:

33           (i) The power to vote, directly or indirectly, at least twenty-  
34 five percent (25%) of the outstanding voting shares or voting in-  
35 terests of a license or person in control of a licensee;

36           (ii) The power to elect or appoint a majority of key individuals or  
37 executive officers, managers, directors, trustees, or other per-  
38 sons exercising managerial authority of a person in control of a  
39 licensee; or

40           (iii) The power to exercise, directly or indirectly, a controlling  
41 influence over the management or policies of a licensee or person  
42 in control of a licensee.

43           (b) Rebuttable presumption of control:

44           (i) A person is presumed to exercise a controlling influence when  
45 the person holds the power to vote, directly or indirectly, at  
46 least ten percent (10%) of the outstanding voting shares or voting  
47 interests of a licensee or person in control of a licensee; and

1 (ii) A person presumed to exercise a controlling influence as de-  
2 scribed by this subsection can rebut the presumption of control if  
3 the person is a passive investor.

4 (c) For purposes of determining the percentage of a person controlled  
5 by any other person, the person's interest shall be aggregated with the  
6 interest of any other immediate family member, including the person's  
7 spouse, parents, children, siblings, and in-laws, and any other person  
8 who shares such person's home;

9 (7) "Department" means the Idaho department of finance;

10 (8) "Director" means the director of the Idaho department of finance;

11 (9) "Eligible rating" means a credit rating of any of the three (3)  
12 highest rating categories provided by an eligible rating service, including  
13 any rating category modifiers utilized by the eligible rating service. If  
14 ratings differ among eligible rating services, the highest rating shall ap-  
15 ply when determining whether a security bears an eligible rating;

16 (10) "Eligible rating service" means any nationally recognized statis-  
17 tical rating organization (NRSRO) as defined by the United States securities  
18 and exchange commission;

19 (11) "Federally insured depository financial institution" means a  
20 bank, credit union, savings and loan association, trust company, savings  
21 association, savings bank, industrial bank, or industrial loan company or-  
22 ganized under the laws of the United States or any state of the United States  
23 that has federally insured deposits;

24 (12) "In this state" means a physical location within this state for a  
25 transaction requested in person. For a transaction requested electroni-  
26 cally or by phone, the provider of money transmission may determine if the  
27 person requesting the transaction is in this state by relying on information  
28 provided by the person regarding the location of the individual's residen-  
29 tial address or a business entity's principal place of business or other  
30 physical address location and any records associated with the person that  
31 the provider of money transmission may have that indicate such location,  
32 including but not limited to an address associated with an account;

33 (13) "Individual" means a natural person;

34 (14) "Key individual" means any individual ultimately responsible for  
35 establishing or directing policies and procedures of the licensee, such as  
36 an executive officer, manager, director, or trustee;

37 (15) "Licensee" means a person licensed pursuant to this chapter;

38 (16) "Material litigation" means litigation that, according to United  
39 States generally accepted accounting principles, is significant to a per-  
40 son's financial health and would be required to be disclosed in the person's  
41 annual audited financial statements, reports to shareholders, or similar  
42 records;

43 (17) "Money" means a medium of exchange that is authorized or adopted by  
44 the United States or a foreign government. The term includes a monetary unit  
45 of account established by an intergovernmental organization or by agreement  
46 between two (2) or more governments;

47 (18) "Monetary value" means a medium of exchange, whether or not re-  
48 deemable in money;

49 (19) (a) "Money transmission" includes the following:

- 1 (i) Selling or issuing payment instruments to a person located in  
2 this state;
- 3 (ii) Selling or issuing stored value to a person located in this  
4 state;
- 5 (iii) Receiving money for transmission from a person located in  
6 this state; and
- 7 (iv) Payroll processing services.
- 8 (b) Money transmission does not include the provision solely of online  
9 or telecommunications services or network access;
- 10 (20) "MSB accredited state" means a state agency that is accredited by  
11 both the conference of state bank supervisors and the money transmitter reg-  
12 ulators association for money transmission licensing and supervision;
- 13 (21) "Multistate licensing process" means any agreement entered into by  
14 and among state regulators relating to coordinated processing of applica-  
15 tions for money transmission licenses, applications for the acquisition of  
16 control of a licensee, control determinations, or notice and information re-  
17 quirements for a change of key individuals;
- 18 (22) "NMLS" means the nationwide multistate licensing system and reg-  
19 istry developed by the conference of state bank supervisors and the American  
20 association of residential mortgage regulators and owned and operated by the  
21 state regulatory registry or any successor or affiliated entity for the li-  
22 censing and registration of persons in financial services industries;
- 23 (23) "Outstanding money transmission obligations" means:
- 24 (a) Any payment instrument or stored value issued or sold by the li-  
25 censee to a person located in the United States or reported as sold by an  
26 authorized delegate of the licensee to a person situated in the United  
27 States that has not yet been paid or refunded by or for the licensee or  
28 escheated in accordance with applicable abandoned property laws; or
- 29 (b) Any money received for transmission by the licensee or an autho-  
30 rized delegate in the United States from a person located in the United  
31 States that has not been received by the payee or refunded to the sender  
32 or escheated in accordance with applicable abandoned property laws;
- 33 (24) "Passive investor" means a person that:
- 34 (a) Does not have the power to elect a majority of key individuals or ex-  
35 ecutive officers, managers, directors, trustees, or other persons ex-  
36 ercising managerial authority of a person in control of a licensee;
- 37 (b) Is not employed by and does not have any managerial duties of a li-  
38 censee or person in control of a licensee;
- 39 (c) Does not have the power to exercise, directly or indirectly, a con-  
40 trolling influence over the management or policies of a licensee or per-  
41 son in control of a licensee; and
- 42 (d) Either:
- 43 (i) Attests to meeting the passivity characteristics of para-  
44 graphs (a), (b), and (c) of this subsection in a form prescribed by  
45 the director; or
- 46 (ii) Commits to the passivity characteristics of paragraphs (a),  
47 (b), and (c) of this subsection in a written document.
- 48 (25) "Payment instrument" means a written or electronic check, draft,  
49 money order, traveler's check, or other instrument for the transmission or

1 payment of money or monetary value, whether or not negotiable. The term does  
2 not include stored value or any instrument that is:

3 (a) Redeemable by the issuer only for goods or services provided by the  
4 issuer or its affiliate or franchisees of the issuer or its affiliate,  
5 except to the extent required by applicable law to be redeemable in cash  
6 for its cash value; or

7 (b) Not sold to the public but issued and distributed as part of a loy-  
8 alty, rewards, or promotional program;

9 (26) "Payroll processing services" means services for receiving money  
10 for transmission pursuant to a contract with a person to deliver wages or  
11 salaries, make payment of payroll taxes to state or federal agencies, make  
12 payments relating to employee benefit plans, or make distribution of other  
13 authorized deductions from wages or salaries. The term payroll process-  
14 ing services does not include an employer performing payroll processing  
15 services on its own behalf or on behalf of its affiliate or a professional  
16 employment organization subject to regulation pursuant to other applicable  
17 state law.

18 (27) "Person" means any individual, general partnership, limited  
19 partnership, limited liability company, corporation, trust, association,  
20 joint-stock corporation, or other corporate entity identified by the direc-  
21 tor;

22 (28) "Receiving money for transmission" or "money received for trans-  
23 mission" means receiving money or monetary value in the United States for  
24 transmission within or outside the United States by electronic or other  
25 means;

26 (29) "Stored value" means monetary value representing a claim against  
27 the issuer evidenced by an electronic or digital record that is intended and  
28 accepted for use as a means of redemption for money or monetary value or pay-  
29 ment for goods or services. The term includes but is not limited to prepaid  
30 access, as defined in 31 CFR 1010.100, as amended; provided, however, the  
31 term stored value does not include a payment instrument, closed loop stored  
32 value, or stored value not sold to the public but issued and distributed as  
33 part of a loyalty, rewards, or promotional program;

34 (30) "Tangible net worth" means the aggregate assets of a licensee  
35 excluding all intangible assets, less liabilities, as determined in accor-  
36 dance with United States generally accepted accounting principles; and

37 (31) "United States" includes any state, territory, or possession of  
38 the United States, the District of Columbia, the commonwealth of Puerto  
39 Rico, or a United States military installation that is located in a foreign  
40 country.

41 26-2904. EXEMPTIONS. This chapter does not apply to:

42 (1) An operator of a payment system, to the extent that it provides pro-  
43 cessing, clearing, or settlement services between or among persons exempted  
44 by this section or licensees in connection with wire transfers, credit card  
45 transactions, debit card transactions, stored-value transactions, auto-  
46 mated clearinghouse transfers, or similar fund transfers;

47 (2) A person appointed as an agent of a payee to collect and process a  
48 payment from a payor to the payee for goods or services, other than the money  
49 transmission itself, provided that:

1 (a) There is a written agreement between the payee and the agent that  
2 directs the agent to collect and process payments from payors on the  
3 payee's behalf;

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

6 (c) Payment for the goods or services is treated as received by the  
7 payee upon receipt by the agent so that the payor's obligation is extin-  
8 guished and there is no risk of loss to the payor if the agent fails to  
9 remit the funds to the payee;

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

14 (a) Is properly licensed or exempt from licensing requirements pur-  
15 suant to this chapter;

16 (b) Provides a receipt, electronic record, or other written confir-  
17 mation to the sender identifying the entity as the provider of money  
18 transmission in the transaction; and

19 (c) Bears sole responsibility to satisfy the outstanding money trans-  
20 mission obligation to the sender, including the obligation to make the  
21 sender whole in connection with any failure to transmit the funds to the  
22 sender's designated recipient;

23 (4) The United States or a department, agency, or instrumentality  
24 thereof or its agent;

25 (5) The United States postal service performing money transmission;

26 (6) A state, county, city, or any other governmental agency or govern-  
27 mental subdivision or instrumentality of a state or its agent;

28 (7) Any person licensed or chartered under the laws of any state or of the  
29 United States as a bank, savings and loan association, credit union, trust  
30 company, or industrial loan company;

31 (8) A contractor performing an electronic funds transfer of governmen-  
32 tal benefits for a federal, state, county, or governmental agency on behalf  
33 of the United States or a department, agency, or instrumentality thereof or  
34 on behalf of a state or governmental subdivision, agency, or instrumentality  
35 thereof;

36 (9) A board of trade designated as a contract market under the federal  
37 commodity exchange act, 7 U.S.C. 1 et seq., as amended, or a person that, in  
38 the ordinary course of business, provides clearance and settlement services  
39 for a board of trade, to the extent of its operation as or for such a board;

40 (10) A registered futures commission merchant under the federal com-  
41 modities law, to the extent of its operation as such a merchant;

42 (11) A person registered as a securities broker-dealer under federal or  
43 state securities laws, to the extent of the person's operation as such a bro-  
44 ker-dealer;

45 (12) An individual employed by a licensee, authorized delegate, or any  
46 person exempted from the licensing requirements of this chapter when acting  
47 within the scope of employment and under the supervision of the licensee, au-  
48 thorized delegate, or exempted person as an employee and not as an indepen-  
49 dent contractor;

1 (13) A person expressly appointed as a third-party service provider to  
2 or an agent of an entity exempt pursuant to this section, solely to the extent  
3 that:

4 (a) Such service provider or agent is engaging in money transmission  
5 on behalf of and pursuant to a written agreement with the exempt entity  
6 that sets forth the specific functions that the service provider or  
7 agent is to perform; and

8 (b) The exempt entity assumes all risk of loss and all legal responsi-  
9 bility for satisfying the outstanding money transmission obligations  
10 owed to purchasers and holders of the outstanding money transmission  
11 obligations upon receipt of the purchasers' or holders' money or mone-  
12 tary value by the service provider or agent; and

13 (14) A person exempt by regulation or order, if the director finds that  
14 such exemption is in the public interest and that the regulation of such per-  
15 son is not necessary for the purposes of this chapter.

16 26-2905. AUTHORITY TO REQUIRE DEMONSTRATION OF EXEMPTION. The direc-  
17 tor may require that any person claiming to be exempt from licensing pursuant  
18 to this chapter provide information and documentation to the director demon-  
19 strating that it qualifies for any claimed exemption.

20 26-2906. IMPLEMENTATION. (1) In order to carry out the purposes  
21 of this chapter, the director may, subject to the provisions of section  
22 26-2907, Idaho Code:

23 (a) Enter into agreements or relationships with other government offi-  
24 cials or federal and state regulatory agencies and regulatory associa-  
25 tions in order to improve efficiencies and reduce regulatory burden by  
26 standardizing methods or procedures and to share resources, records, or  
27 related information obtained pursuant to this chapter;

28 (b) Use, hire, contract, or employ analytical systems, methods, or  
29 software to examine or investigate any person subject to the provisions  
30 of this chapter;

31 (c) Accept licensing, examination, or investigation reports made by  
32 other state or federal government agencies or officials; and

33 (d) Accept audit reports made by an independent certified public ac-  
34 countant or other qualified third-party auditor for an applicant or li-  
35 censee and incorporate the audit report in any report of examination or  
36 investigation.

37 (2) The director shall have the authority to administer, interpret,  
38 and enforce the provisions of this chapter, to promulgate rules or regula-  
39 tions implementing the provisions of this chapter, and to recover the cost  
40 of administering and enforcing the provisions of this chapter by imposing  
41 and collecting proportionate and equitable fees and costs associated with  
42 applications, examinations, investigations, and other actions required to  
43 achieve the purpose of this chapter.

44 26-2907. CONFIDENTIALITY. (1) Except as otherwise provided in this  
45 section, all information and reports obtained by the director from an ap-  
46 plicant, licensee, or authorized delegate, all information contained in or  
47 related to an examination, investigation, operating report, or condition

1 report prepared by, on behalf of, or for the use of the director, and all fi-  
2 nancial statements, balance sheets, or authorized delegate information are  
3 confidential and are not subject to disclosure pursuant to chapter 1, title  
4 74, Idaho Code.

5 (2) The director may disclose information not otherwise subject to  
6 disclosure pursuant to this section to representatives of state or federal  
7 agencies who agree in writing that disclosed information will remain confi-  
8 dential, to the extent that is reasonably necessary for the protection and  
9 interest of the public in accordance with chapter 1, title 74, Idaho Code.

10 (3) This section does not prohibit the director from disclosing to the  
11 public a list of all licensees or the aggregated financial or transactional  
12 data concerning such licensees.

13 26-2908. SUPERVISION. (1) The director may conduct an examination or  
14 investigation of a licensee or authorized delegate or otherwise take inde-  
15 pendent action authorized by this chapter or by a rule adopted or order is-  
16 sued pursuant to this chapter as reasonably necessary or appropriate to ad-  
17 minister and enforce the provisions of this chapter, regulations implement-  
18 ing this chapter, and other applicable law, including the bank secrecy act  
19 and P.L. 107-56. The director may:

20 (a) Conduct an examination either on-site or off-site as the director  
21 may reasonably require;

22 (b) Conduct an examination in conjunction with other agencies of this  
23 state, of another state, or of the federal government;

24 (c) Accept the examination report of another agency of this state, of  
25 another state, or of the federal government or a report prepared by an  
26 independent accounting firm that, on being accepted, is considered for  
27 all purposes an official report of the director; and

28 (d) Summon and examine under oath a key individual or employee of a  
29 licensee or authorized delegate and require such person to produce  
30 records regarding any matter related to the condition and business of  
31 the licensee or authorized delegate.

32 (2) A licensee or authorized delegate shall provide and the director  
33 shall have full and complete access to all records the director may reason-  
34 ably require to conduct a complete examination. The records shall be pro-  
35 vided at the location and in a format specified by the director. The direc-  
36 tor may utilize multistate record production standards and examination pro-  
37 cedures when such standards will reasonably achieve the requirements of this  
38 section.

39 26-2909. NETWORK SUPERVISION. (1) To efficiently and effectively ad-  
40 minister and enforce the provisions of this chapter and to minimize regula-  
41 tory burden, the director is authorized to participate in multistate super-  
42 visory processes coordinated between states for the supervision of persons  
43 who are licensed or are required to be licensed in this state. As a partici-  
44 pant in multistate supervision, the director may:

45 (a) Cooperate, coordinate, and share information with other state and  
46 federal regulators in accordance with section 26-2907, Idaho Code;



1 (b) Enter into written cooperation, coordination, or informa-  
2 tion-sharing contracts or agreements with organizations, the member-  
3 ship of which is made up of state or federal governmental agencies; and

4 (c) Cooperate, coordinate, and share information with organizations,  
5 the membership of which is made up of state or federal governmental  
6 agencies, provided that the organizations agree in writing to maintain  
7 the confidentiality and security of the shared information in accor-  
8 dance with the provisions of this chapter.

9 (2) Nothing in this section constitutes a waiver of the director's au-  
10 thority to conduct an examination or investigation or otherwise to take in-  
11 dependent action authorized by this chapter or a rule adopted or order issued  
12 pursuant to this chapter to enforce compliance with applicable state or fed-  
13 eral law.

14 (3) A joint examination or investigation, or acceptance of an examina-  
15 tion or investigation report, does not waive an examination assessment pro-  
16 vided for in this chapter.

17 26-2910. RELATIONSHIP TO FEDERAL LAW. (1) In the event state money  
18 transmission jurisdiction is conditioned on a federal law, any inconsisten-  
19 cies between a provision of this chapter and the federal law governing money  
20 transmission shall be governed by the applicable federal law to the extent  
21 of the inconsistency.

22 (2) In the event of any inconsistencies between this chapter and a fed-  
23 eral law that governs pursuant to subsection (1) of this section, the direc-  
24 tor may provide interpretive guidance that identifies the inconsistency and  
25 identifies the appropriate means of compliance with federal law.

26 26-2911. LICENSE REQUIRED. (1) A person may not engage in the business  
27 of money transmission or advertise, solicit, or hold itself out as providing  
28 money transmission unless the person is licensed pursuant to the provisions  
29 of this chapter.

30 (2) This section does not apply to:

31 (a) A person that is an authorized delegate of a person licensed pur-  
32 suant to this chapter acting within the scope of authority conferred by  
33 a written contract with the licensee; or

34 (b) A person that is exempt pursuant to section 26-2904, Idaho Code, and  
35 does not engage in money transmission outside the scope of such exemp-  
36 tion.

37 (3) A license issued pursuant to this chapter is not transferable or as-  
38 signable.

39 (4) To establish consistent licensing between this state and other  
40 states, the director is authorized to:

41 (a) Implement all licensing provisions of this chapter in a manner that  
42 is consistent with other states that have adopted similar legislation  
43 or multistate licensing processes; and

44 (b) Participate in nationwide protocols for licensing cooperation and  
45 coordination among state regulators, provided that such protocols are  
46 consistent with the provisions of this chapter.

47 (5) To fulfill the purposes of this chapter, the director is authorized  
48 to establish relationships or contracts to:

- 1 (a) Collect and maintain records pursuant to the provisions of this  
2 chapter;
- 3 (b) Coordinate multistate licensing processes and supervision pro-  
4 cesses;
- 5 (c) Process fees collected pursuant to the provisions of this chapter;  
6 and
- 7 (d) Facilitate communication between this state and licensees or other  
8 persons subject to the provisions of this chapter.
- 9 (6) The director is authorized to utilize NMLS for licensing in accor-  
10 dance with the provisions of this chapter, including but not limited to li-  
11 cense applications, applications for acquisitions of control, surety bonds,  
12 reporting, criminal history background checks, credit checks, fee process-  
13 ing, and examinations.

14 26-2912. APPLICATION FOR LICENSE. (1) The director shall receive  
15 and act on all applications for licenses to engage in the business of money  
16 transmission. Applications shall be filed through the NMLS or as otherwise  
17 prescribed by the director, shall contain such information as the director  
18 may reasonably require, shall be updated through the NMLS or as otherwise  
19 prescribed by the director as necessary to keep the information current,  
20 and shall be accompanied by a nonrefundable application fee of one hundred  
21 dollars (\$100).

22 (2) Any individual in control of a licensee or applicant, any indi-  
23 vidual that seeks to acquire control of a licensee, and each key individual  
24 shall furnish to the director through NMLS the individual's fingerprints  
25 for submission to the federal bureau of investigation and the director for  
26 purposes of a national criminal history background check, unless the person  
27 currently resides outside of the United States and has resided outside of  
28 the United States for the last ten (10) years. If the individual has resided  
29 outside of the United States at any time in the last ten (10) years, the in-  
30 dividual shall also provide an investigative background report containing  
31 information required by the director and prepared by an independent search  
32 firm that can demonstrate:

- 33 (a) That it has sufficient knowledge and resources and employs accepted  
34 and reasonable methodologies to conduct the research of the background  
35 report; and  
36 (b) That it is not affiliated with the individual it is researching.

37 26-2913. ISSUANCE OF LICENSE. (1) When an application for an original  
38 license pursuant to the provisions of this chapter includes all items re-  
39 quired by the director, the application is complete and the director shall  
40 promptly notify the applicant in a record of the date on which the applica-  
41 tion is determined to be complete.

42 (a) Upon written request to the director, an applicant is entitled to a  
43 hearing on the question of the applicant's qualifications for a license  
44 if:

- 45 (i) The director has notified the applicant in writing that his  
46 application has been denied; or

1 (ii) The director has not issued a license within one hundred  
2 twenty (120) days after receipt of a complete license application  
3 from an applicant.

4 (b) A request for hearing pursuant to paragraph (a) of this subsection  
5 may not be made more than thirty (30) days after the director has mailed  
6 notice to the applicant stating that the application has been denied and  
7 stating in substance the director's finding supporting denial of the  
8 application.

9 (c) A license application shall be deemed withdrawn and void if an ap-  
10 plicant submits an incomplete license application and, after receipt  
11 of a written notice of the application deficiency, fails to provide the  
12 director with information necessary to complete the application within  
13 sixty (60) days of receipt of the deficiency notice.

14 (2) When an application is filed and considered complete pursuant to  
15 this section, the director shall investigate the applicant's financial con-  
16 dition and responsibility, financial and business experience, character,  
17 and general fitness. The director may conduct an on-site investigation of  
18 the applicant, the reasonable cost of which the applicant must pay. The di-  
19 rector shall issue a license to an applicant pursuant to this section if the  
20 director finds that:

21 (a) The applicant has complied with the provisions of section 26-2912,  
22 Idaho Code; and

23 (b) The financial condition and responsibility; financial and business  
24 experience; and competence, experience, character, and general fitness  
25 of the applicant, and the competence, experience, character, and gen-  
26 eral fitness of the key individuals and persons in control of the appli-  
27 cant, indicate that it is in the interest of the public to permit the ap-  
28 plicant to engage in money transmission.

29 (3) If an applicant avails itself or is otherwise subject to a multi-  
30 state licensing process:

31 (a) The director is authorized to accept the investigation results of a  
32 lead investigative state for the purpose of subsection (2) of this sec-  
33 tion, if the lead investigative state has sufficient staffing, exper-  
34 tise, and minimum standards; or

35 (b) The director is authorized to investigate the applicant pursuant to  
36 subsection (2) of this section, if the department represents the lead  
37 investigative state.

38 (4) The initial license term shall begin on the day the application is  
39 approved. The license shall expire on December 31 of the year in which the  
40 license term began, unless the initial license date is between November 1 and  
41 December 31, in which instance the initial license term shall run through De-  
42 cember 31 of the following year.

43 26-2914. RENEWAL OF LICENSE. (1) On or before December 31 of each year,  
44 every licensee under this chapter shall file with the director through the  
45 NMLS, or as otherwise prescribed by the director, a renewal application con-  
46 taining such information as the director may require. Notwithstanding the  
47 provisions of section 67-5254, Idaho Code, a license issued pursuant to this  
48 chapter automatically expires if it is not timely renewed according to the  
49 requirements of this section.

1 (2) The director may reinstate an expired license from January 1  
2 through February 28, immediately following license expiration, if the  
3 director finds that the applicant meets the requirements for licensure pur-  
4 suant to this chapter after submission to the director of:

5 (a) A complete application for renewal;

6 (b) The fees required to apply for license renewal, unless previously  
7 paid for the period for which the license renewal applies; and

8 (c) A reinstatement fee of two hundred dollars (\$200).

9 26-2915. MAINTENANCE OF LICENSE. (1) If a licensee does not continue  
10 to meet the qualifications or satisfy the requirements that apply to an ap-  
11 plicant for a new money transmission license, the director may suspend or  
12 revoke the licensee's license pursuant to this chapter or other applicable  
13 state law for such suspension or revocation.

14 (2) An applicant for a money transmission license must demonstrate that  
15 it meets or will meet, and a money transmission licensee must at all times  
16 meet, the requirements in sections 26-2931, 26-2932, and 26-2933, Idaho  
17 Code.

18 26-2916. ACQUISITION OF CONTROL. (1) Any person or group of persons  
19 acting in concert seeking to acquire control of a licensee shall obtain the  
20 written approval of the director prior to acquiring control. An individual  
21 is not deemed to acquire control of a licensee and is not subject to the pro-  
22 visions of this section when such individual becomes a key individual in the  
23 ordinary course of business.

24 (2) A person or group of persons acting in concert seeking to acquire  
25 control of a licensee shall, in cooperation with the licensee, submit an ap-  
26 plication in a form prescribed by the director.

27 (3) Upon written request, the director may permit a licensee or the per-  
28 son or group of persons acting in concert to submit some or all information  
29 required by the director pursuant to subsection (2) of this section without  
30 using NMLS.

31 (4) The application required by subsection (2) of this section shall  
32 include information required by section 26-2912, Idaho Code, for any new key  
33 individuals that have not previously completed such requirements.

34 (5) When an application for acquisition of control submitted pursuant  
35 to this section includes all required items, the application shall be con-  
36 sidered complete and the director shall promptly notify the applicant in a  
37 record of the date on which the application was determined to be complete.  
38 The director shall approve or deny the application within sixty (60) days af-  
39 ter the completion date.

40 (a) If the application is not approved or denied within sixty (60) days  
41 after the completion date:

42 (i) The application is deemed approved; and

43 (ii) The person or group of persons acting in concert are not pro-  
44 hibited from acquiring control.

45 (b) The director may for good cause extend the application period.

46 (6) When an application is filed and considered complete, the direc-  
47 tor shall investigate the financial condition and responsibility; financial  
48 and business experience; and competence, experience, character, and gen-

1 eral fitness of the person or group of persons acting in concert seeking to  
2 acquire control. The director shall approve an acquisition of control pur-  
3 suant to this section if the director finds that:

4 (a) The requirements of subsections (2) and (4) of this section have  
5 been met; and

6 (b) The financial condition and responsibility; financial and business  
7 experience; and competence, experience, character, and general fitness  
8 of the person or group of persons acting in concert seeking to acquire  
9 control, and the competence, experience, character, and general fit-  
10 ness of the key individuals and persons that would be in control of the  
11 licensee after the acquisition of control, indicate that it is in the  
12 interest of the public to permit the person or group of persons acting in  
13 concert to control the licensee.

14 (7) If an applicant avails itself or is otherwise subject to a multi-  
15 state licensing process:

16 (a) The director is authorized to accept the investigation results of a  
17 lead investigative state for the purpose of subsection (6) of this sec-  
18 tion, if the lead investigative state has sufficient staffing, exper-  
19 tise, and minimum standards; or

20 (b) The director is authorized to investigate the applicant pursuant to  
21 subsection (6) of this section, if the department represents the lead  
22 investigative state.

23 (8) The director shall issue a formal written notice of the denial of  
24 an application to acquire control within thirty (30) days of the decision to  
25 deny the application. The director shall set forth in the notice of denial  
26 the specific reasons for the denial of the application. An applicant whose  
27 application is denied by the director pursuant to this section may appeal  
28 within thirty (30) days after receipt of the written notice of the denial.

29 (9) The requirements of subsections (1) and (2) of this section do not  
30 apply to any of the following:

31 (a) A person that acts as a proxy for the sole purpose of voting at a des-  
32 ignated meeting of the shareholders or holders of voting shares or vot-  
33 ing interests of a licensee or a person in control of a licensee;

34 (b) A person that acquires control of a licensee by devise or descent;

35 (c) A person that acquires control of a licensee as a personal represen-  
36 tative, custodian, guardian, conservator, or trustee; as an officer ap-  
37 pointed by a court of competent jurisdiction; or by operation of law;

38 (d) A person that is exempt pursuant to section 26-2904(7), Idaho Code;

39 (e) A person that the director determines is not subject to the provi-  
40 sions of subsection (1) of this section based on the public interest;

41 (f) A public offering of securities of a licensee or a person in control  
42 of a licensee; or

43 (g) An internal reorganization of a person in control of the licensee  
44 where the ultimate person in control of the licensee remains the same.

45 (10) Persons identified in subsection (9) (b), (c), (d), (f), and (g) of  
46 this section, in cooperation with the licensee, shall notify the director  
47 within fifteen (15) days after the acquisition of control.

48 (11) Before filing an application for approval to acquire control of a  
49 licensee, a person may request in writing a determination from the direc-  
50 tor as to whether the person would be considered a person in control of a li-

1 censee upon consummation of a proposed transaction. If the director deter-  
2 mines that the person would not be a person in control of a licensee, the pro-  
3 posed person and transaction is not subject to the requirements of subsec-  
4 tions (1) and (2) of this section.

5 (12) If a multistate licensing process includes a determination pur-  
6 suant to subsection (11) of this section and an applicant avails itself or is  
7 otherwise subject to the multistate licensing process:

8 (a) The director is authorized to accept the control determination of a  
9 lead investigative state with sufficient staffing, expertise, and min-  
10 imum standards for the purpose of subsection (11) of this section; or

11 (b) The director is authorized to investigate the applicant pursuant to  
12 subsection (11) of this section, if the department represents the lead  
13 investigative state.

14 26-2917. NOTICE AND INFORMATION REQUIREMENTS FOR A CHANGE OF KEY INDI-  
15 VIDUALS. (1) A licensee adding or replacing any key individual shall:

16 (a) Provide notice in a manner prescribed by the director within fif-  
17 teen (15) days after the effective date of the key individual's appoint-  
18 ment; and

19 (b) Provide information as required by section 26-2912 (2), Idaho Code,  
20 within forty-five (45) days of the effective date.

21 (2) Within ninety (90) days of the date on which the notice provided  
22 pursuant to subsection (1) of this section was determined to be complete, the  
23 director may issue a notice of disapproval of a key individual if the compe-  
24 tence, experience, character, or integrity of the individual would not be in  
25 the best interests of the public or the customers of the licensee.

26 (3) A notice of disapproval shall contain a statement of the basis for  
27 disapproval and shall be sent to the licensee and the disapproved individ-  
28 ual. A licensee may appeal a notice of disapproval within thirty (30) days  
29 after receipt of such notice of disapproval.

30 (4) If the notice provided pursuant to subsection (1) of this section  
31 is not disapproved within ninety (90) days after the date on which the notice  
32 was determined to be complete, the key individual is deemed approved.

33 (5) If a multistate licensing process includes a key individual notice  
34 review and disapproval process pursuant to this section and the licensee  
35 avails itself or is otherwise subject to the multistate licensing process:

36 (a) The director is authorized to accept the determination of another  
37 state, if the investigating state has sufficient staffing, expertise,  
38 and minimum standards for the purpose of this section; or

39 (b) The director is authorized to investigate the applicant pursuant  
40 to this section, if the department represents the lead investigative  
41 state.

42 26-2918. REPORT OF CONDITION. (1) Each licensee shall submit a report  
43 of condition within forty-five (45) days of the end of each calendar quarter  
44 or within any extended time as the director may prescribe.

45 (2) The report of condition shall include:

46 (a) Financial information at the licensee level;

1 (b) Nationwide and state-specific money transmission transaction in-  
2 formation in every jurisdiction in the United States where the licensee  
3 is licensed to engage in money transmission;

4 (c) A permissible investments report;

5 (d) Transaction destination country reporting for money received for  
6 transmission, if applicable; and

7 (e) Any other information the director reasonably requires with re-  
8 spect to the licensee.

9 (3) The director is authorized to utilize NMLS for submission of the re-  
10 port required by subsection (1) of this section.

11 (4) The information required by subsection (2) (d) of this section shall  
12 be included in a report of condition submitted within forty-five (45) days of  
13 the end of only the fourth calendar quarter.

14 26-2919. AUDITED FINANCIALS. (1) Each licensee shall, within ninety  
15 (90) days after the end of each fiscal year, or within any extended time as  
16 the director may prescribe, file with the director:

17 (a) An audited financial statement of the licensee for the fiscal year  
18 prepared in accordance with United States generally accepted account-  
19 ing principles; and

20 (b) Any other information as the director may reasonably require.

21 (2) The audited financial statements shall be prepared by an indepen-  
22 dent certified public accountant or independent public accountant who is  
23 satisfactory to the director.

24 (3) The audited financial statements shall include, in form and con-  
25 tent satisfactory to the director, a certificate of opinion of the indepen-  
26 dent certified public accountant or independent public accountant. If the  
27 certificate of opinion is qualified, the director may order the licensee to  
28 take any action as the director may find necessary to enable the independent  
29 certified public accountant or independent public accountant to remove the  
30 qualification.

31 26-2920. AUTHORIZED DELEGATE REPORTING. Each licensee shall submit a  
32 report of authorized delegates within forty-five (45) days of the end of each  
33 calendar quarter. The director is authorized to utilize NMLS for the submis-  
34 sion of the report required by this section, and the report shall be submit-  
35 ted in a manner prescribed by the director.

36 26-2921. REPORTS OF CERTAIN EVENTS. A licensee shall file a report  
37 with the director within ten (10) business days after the licensee should  
38 reasonably know of the occurrence of any of the following events:

39 (1) The filing of a petition by or against the licensee under the United  
40 States bankruptcy code, 11 U.S.C. 101 et seq., as amended, for bankruptcy or  
41 reorganization;

42 (2) The filing of a petition by or against the licensee for receiver-  
43 ship, the commencement of any other judicial or administrative proceeding  
44 for its dissolution or reorganization, or the making of a general assignment  
45 for the benefit of its creditors;

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

4 (4) A felony conviction of the licensee, of a key individual or person  
5 in control of the licensee, or of an authorized delegate.

6 26-2922. BANK SECRECY ACT REPORTS. A licensee and any authorized del-  
7 egate shall file all reports required by federal currency reporting, record  
8 keeping, and suspicious activity reporting requirements as set forth in the  
9 bank secrecy act and other federal and state laws pertaining to money laun-  
10 dering. The timely filing of a complete and accurate report with the appro-  
11 priate federal agency is deemed compliant with the requirements of this sec-  
12 tion.

13 26-2923. RECORDS. (1) Licensees shall maintain the following records  
14 for at least three (3) years for the purpose of determining compliance with  
15 this chapter:

- 16 (a) A record of each outstanding money transmission obligation sold;  
17 (b) A general ledger posted at least monthly containing all asset, lia-  
18 bility, capital, income, and expense accounts;  
19 (c) Bank statements and bank reconciliation records;  
20 (d) A record of each outstanding money transmission obligation;  
21 (e) A record of each outstanding money transmission obligation paid  
22 within the three (3) year period;  
23 (f) A list of the last known names and addresses of all of the licensee's  
24 authorized delegates; and  
25 (g) Any other records the director reasonably requires by rule.

26 (2) Records required to be retained pursuant to this chapter may be  
27 maintained outside this state if they are made accessible to the director  
28 within thirty (30) business days following the director's written request  
29 for the records.

30 (3) All records maintained by the licensee as required in this section  
31 are open to inspection by the director pursuant to section 26-2908, Idaho  
32 Code.

33 26-2924. RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE. (1)  
34 In this section, "remit" means to make direct payments of money to a licensee  
35 or its representative authorized to receive money or to deposit money in a  
36 bank account specified by the licensee.

37 (2) Before a licensee is authorized to conduct business through an au-  
38 thorized delegate or allows a person to act as the licensee's authorized del-  
39 egate, the licensee must:

- 40 (a) Adopt and update as necessary written policies and procedures rea-  
41 sonably designed to ensure that the licensee's authorized delegates  
42 comply with applicable state and federal law;  
43 (b) Enter into a written contract that complies with the provisions of  
44 subsection (4) of this section; and  
45 (c) Conduct a reasonable risk-based background investigation suffi-  
46 cient for the licensee to determine whether the authorized delegate has



1           complied with and will likely comply with applicable state and federal  
2           law.

3           (3) An authorized delegate must operate in full compliance with this  
4 chapter.

5           (4) The written contract required by subsection (2) of this section  
6 must be signed by the licensee and the authorized delegate and, at a minimum,  
7 must:

8           (a) Appoint the person signing the contract as the licensee's autho-  
9 rized delegate with the authority to conduct money transmission on be-  
10 half of the licensee;

11           (b) Set forth the nature and scope of the relationship between the  
12 licensee and the authorized delegate and the respective rights and re-  
13 sponsibilities of the parties;

14           (c) Require the authorized delegate to fully comply with all applica-  
15 ble state and federal laws, rules, and regulations pertaining to money  
16 transmission, including this chapter and rules implemented pursuant to  
17 this chapter, relevant provisions of the bank secrecy act, and P.L. 107-  
18 56;

19           (d) Require the authorized delegate to remit and handle money and mone-  
20 tary value in accordance with the terms of the contract between the li-  
21 censee and the authorized delegate;

22           (e) Impose a trust on money and monetary value net of fees received for  
23 money transmission for the benefit of the licensee;

24           (f) Require the authorized delegate to prepare and maintain records as  
25 required by this chapter or rules implementing the provisions of this  
26 chapter or as reasonably requested by the director;

27           (g) Acknowledge that the authorized delegate consents to examination  
28 or investigation by the director;

29           (h) State that the licensee is subject to regulation by the director and  
30 that, as part of that regulation, the director may suspend or revoke an  
31 authorized delegate designation or require the licensee to terminate an  
32 authorized delegate designation; and

33           (i) Acknowledge receipt of the written policies and procedures re-  
34 quired under subsection (2) (a) of this section.

35           (5) If the licensee's license is suspended, revoked, surrendered, or  
36 expired, the licensee must, within ten (10) business days, provide doc-  
37 umentation to the director that the licensee has notified all applicable  
38 authorized delegates of the licensee of the suspension, revocation, surren-  
39 der, or expiration of the license. Upon suspension, revocation, surrender,  
40 or expiration of a license, applicable authorized delegates shall immedi-  
41 ately cease to provide money transmission as an authorized delegate of the  
42 licensee.

43           (6) An authorized delegate of a licensee holds in trust for the benefit  
44 of the licensee all money net of fees received from money transmission. If  
45 any authorized delegate commingles any funds received from money transmis-  
46 sion with any other funds or property owned or controlled by the authorized  
47 delegate, all commingled funds and other property shall be considered held  
48 in trust in favor of the licensee in an amount equal to the amount of money net  
49 of fees received from money transmission.

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

3 26-2925. UNAUTHORIZED ACTIVITIES. A person shall not engage in the  
4 business of money transmission on behalf of a person not licensed pursuant to  
5 this chapter or not exempt pursuant to this chapter. A person that engages in  
6 such activity provides money transmission to the same extent as if the person  
7 were a licensee and shall be jointly and severally liable with the unlicensed  
8 or nonexempt person.

9 26-2926. TIMELY TRANSMISSION. (1) Every licensee shall forward all  
10 money received for transmission in accordance with the terms of the agree-  
11 ment between the licensee and the sender, unless the licensee has a reason-  
12 able belief that the sender may be a victim of fraud or that a crime or viola-  
13 tion of law, rule, or regulation has occurred, is occurring, or may occur.

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

18 26-2927. REFUNDS. (1) This section does not apply to:

19 (a) Money received for transmission subject to the federal remittance  
20 rule, 12 CFR 1005, subpart B, as amended; or

21 (b) Money received for transmission pursuant to a written agreement be-  
22 tween the licensee and payee to process payments for goods or services  
23 provided by the payee.

24 (2) Every licensee shall refund to the sender, within ten (10) days of  
25 receipt of the sender's written request for a refund, any and all moneys re-  
26 ceived for transmission, unless any of the following occurs:

27 (a) The money has been forwarded within ten (10) days of the date on  
28 which the money was received for transmission;

29 (b) Instructions have been given committing an equivalent amount of  
30 money to the person designated by the sender within ten (10) days of the  
31 date on which the money was received for transmission;

32 (c) The agreement between the licensee and the sender instructs the li-  
33 censee to forward the money at a time that is beyond ten (10) days of the  
34 date on which the money was received for transmission. If funds have not  
35 yet been forwarded in accordance with the terms of the agreement between  
36 the licensee and the sender, the licensee shall issue a refund in accor-  
37 dance with the provisions of this section; or

38 (d) The refund is requested for a transaction that the licensee has not  
39 completed based on a reasonable belief that a crime or violation of law,  
40 rule, or regulation has occurred, is occurring, or may occur.

41 (3) The refund request does not enable the licensee to:

42 (a) Identify the sender's name and address or telephone number; or

43 (b) Identify the particular transaction to be refunded in the event the  
44 sender has multiple transactions outstanding.

45 26-2928. RECEIPTS. (1) This section does not apply to:

1 (a) Money received for transmission subject to the federal remittance  
2 rule, 12 CFR 1005, subpart B, as amended;

3 (b) Money received for transmission that is not primarily for personal,  
4 family, or household purposes;

5 (c) Money received for transmission pursuant to a written agreement be-  
6 tween the licensee and payee to process payments for goods or services  
7 provided by the payee; or

8 (d) Payroll processing services.

9 (2) For purposes of this section, "receipt" means a paper receipt,  
10 electronic record, or other written confirmation. For a transaction con-  
11 ducted in person, the receipt may be provided electronically if the sender  
12 requests or agrees to receive an electronic receipt. For a transaction con-  
13 ducted electronically or by phone, a receipt may be provided electronically.  
14 All electronic receipts shall be provided in a retainable form.

15 (3) Every licensee or its authorized delegate shall provide the sender  
16 a receipt for money received for transmission.

17 (a) The receipt shall contain the following information, as applica-  
18 ble:

19 (i) The name of the sender;

20 (ii) The name of the designated recipient;

21 (iii) The date of the transaction;

22 (iv) The unique transaction or identification number;

23 (v) The name of the licensee, NMLS unique ID, the licensee's busi-  
24 ness address, and the licensee's customer service telephone num-  
25 ber;

26 (vi) The amount of the transaction in United States dollars;

27 (vii) Any fee charged by the licensee to the sender for the trans-  
28 action; and

29 (viii) Any taxes collected by the licensee from the sender for the  
30 transaction.

31 (b) The receipt required by this subsection shall be in English and in  
32 the language principally used by the licensee or authorized delegate to  
33 advertise, solicit, or negotiate, either orally or in writing, for a  
34 transaction conducted in person, electronically, or by phone, if other  
35 than English.

36 26-2929. DISCLOSURES FOR PAYROLL PROCESSING SERVICES. (1) A licensee  
37 that provides payroll processing services shall:

38 (a) Issue reports to clients detailing client payroll obligations in  
39 advance of the payroll funds being deducted from an account; and

40 (b) Make available worker paystubs or an equivalent statement to work-  
41 ers.

42 (2) This section does not apply to a licensee providing payroll pro-  
43 cessing services where the licensee's client designates the intended recip-  
44 ients to the licensee and is responsible for providing the disclosures re-  
45 quired by subsection (1) (b) of this section.

46 26-2930. NET WORTH. (1) A licensee pursuant to this chapter shall  
47 maintain at all times a tangible net worth of the greater of: one hundred  
48 thousand dollars (\$100,000); or three percent (3%) of total assets for the

1 first one hundred million dollars (\$100,000,000), two percent (2%) of addi-  
2 tional assets for one hundred million dollars (\$100,000,000) to one billion  
3 dollars (\$1,000,000,000), and one-half of one percent (0.5%) of additional  
4 assets for over one billion dollars (\$1,000,000,000).

5 (2) Tangible net worth must be demonstrated at initial application by  
6 the applicant's most recent audited or unaudited financial statements sub-  
7 mitted pursuant to this chapter.

8 (3) Notwithstanding the provisions of subsections (1) and (2) of this  
9 section, the director shall have the authority, for good cause shown, to ex-  
10 empt, in part or in whole, any applicant or licensee from the requirements of  
11 this section.

12 26-2931. SURETY BONDS OR OTHER SECURITY DEVICES. (1) An applicant for  
13 a money transmission license must provide, and a licensee at all times must  
14 maintain, security consisting of a surety bond in a form satisfactory to the  
15 director or, with the director's approval, a deposit in lieu of the bond re-  
16 quired by this section.

17 (2) The amount of the required security shall be:

18 (a) The greater of one hundred thousand dollars (\$100,000) or an amount  
19 equal to one hundred percent (100%) of the licensee's average daily  
20 money transmission liability in this state calculated for the most re-  
21 cently completed three (3) month period, up to a maximum of five hundred  
22 thousand dollars (\$500,000); or

23 (b) In the event that the licensee's tangible net worth exceeds ten per-  
24 cent (10%) of total assets, one hundred thousand dollars (\$100,000).

25 (3) A licensee that maintains a surety bond in the maximum amount pro-  
26 vided for in subsection (2) of this section shall not be required to calcu-  
27 late its average daily money transmission liability in this state for pur-  
28 poses of this section.

29 (4) The surety bond shall remain in effect until cancellation, which  
30 may occur only after thirty (30) days' written notice to the director. Can-  
31 cellation shall not affect any liability incurred or accrued during said pe-  
32 riod.

33 (5) In lieu of a surety bond or of any portion of the principal thereof,  
34 as required in this section, the licensee may deposit with the director, or  
35 with such banks in this state as the licensee may designate and the director  
36 may approve, cash, interest-bearing stocks and bonds, notes, debentures,  
37 or other obligations of the United States or any agency or instrumentality  
38 thereof, or guaranteed by the United States, or of this state, or of a city,  
39 county, town, school district or instrumentality of this state, or guaran-  
40 teed by this state, to an aggregate amount, based on principal amount or mar-  
41 ket value, whichever is lower, of not less than the amount of the security de-  
42 vice or portion thereof. The securities or cash, or both, shall be deposited  
43 pursuant to this subsection and held to secure the same obligations as would  
44 the security device, but the depositor shall be entitled to receive all in-  
45 terest and dividends thereon, shall have the right, with the approval of the  
46 director, to substitute other securities for those deposited, and shall be  
47 required to do so on written order of the director made for good cause shown.

48 (6) The surety bond or deposit in lieu thereof shall remain in place for  
49 a period of two (2) years from the date the licensee ceases money transmis-

1 sion operations in this state; however, the director shall permit the secu-  
2 rity device or deposit in lieu thereof to be reduced or eliminated prior to  
3 the expiration of the two (2) year post-cessation period to the extent that  
4 the amount of the licensee's payment instruments outstanding in this state  
5 are reduced. The director shall also permit a licensee to substitute a let-  
6 ter of credit or such other form of security device acceptable to the direc-  
7 tor for the security device, or deposit in lieu thereof, that is in place at  
8 the time the licensee ceases money transmission operations in this state.

9 (7) Two (2) years following the cessation of money transmission opera-  
10 tions in this state, a former licensee has the option to transfer any funds  
11 held to pay outstanding payment instruments to the state tax commission,  
12 which shall administer said funds in accordance with chapter 5, title 14,  
13 Idaho Code.

14 26-2932. MAINTENANCE OF PERMISSIBLE INVESTMENTS. (1) A licensee shall  
15 maintain at all times permissible investments that have a market value com-  
16 puted in accordance with United States generally accepted accounting prin-  
17 ciples of not less than the aggregate amount of all of its outstanding money  
18 transmission obligations.

19 (2) Except for permissible investments provided in section 26-2933(1),  
20 Idaho Code, the director, with respect to any licensee, may limit the ex-  
21 tent to which a specific investment maintained by a licensee within a class  
22 of permissible investments may be considered a permissible investment if the  
23 specific investment represents undue risk to customers not reflected in the  
24 market value of investments.

25 (3) Permissible investments, even if commingled with other assets of  
26 the licensee, are held in trust for the benefit of the purchasers and holders  
27 of the licensee's outstanding money transmission obligations in the event  
28 of insolvency, the filing of a petition by or against the licensee under the  
29 United States bankruptcy code, 11 U.S.C. 101 et seq., as amended, for bank-  
30 ruptcy or reorganization, the filing of a petition by or against the licensee  
31 for receivership, the commencement of any other judicial or administrative  
32 proceeding for its dissolution or reorganization, or in the event of an  
33 action by a creditor against the licensee who is not a beneficiary of this  
34 statutory trust. No permissible investments impressed with a trust pursuant  
35 to this section shall be subject to attachment, levy of execution, or seques-  
36 tration by order of any court, except for a beneficiary of such statutory  
37 trust.

38 (4) Upon the establishment of a statutory trust in accordance with sub-  
39 section (3) of this section or when any funds are drawn on a letter of credit  
40 pursuant to section 26-2933(1) (d), Idaho Code, the director shall notify the  
41 applicable regulator of each state in which the licensee is licensed to en-  
42 gage in money transmission, if any, of the establishment of the trust or the  
43 funds drawn on the letter of credit, as applicable. Notice shall be deemed  
44 satisfied if performed pursuant to a multistate agreement or through NMLS.  
45 Funds drawn on a letter of credit, and any other permissible investments held  
46 in trust for the benefit of the purchasers and holders of the licensee's out-  
47 standing money transmission obligations, are deemed held in trust for the  
48 benefit of such purchasers and holders on a pro rata and equitable basis in  
49 accordance with statutes pursuant to which permissible investments are re-

1 required to be held in this state, and other states, as applicable. Any statu-  
2 tory trust established pursuant to this section shall be terminated upon ex-  
3 tinguishment of all of the licensee's outstanding money transmission obli-  
4 gations.

5 (5) The director, by rule or by order, may allow other types of invest-  
6 ments that the director determines are of sufficient liquidity and quality  
7 to be a permissible investment. The director is authorized to participate in  
8 efforts with other state regulators to determine that other types of invest-  
9 ments are of sufficient liquidity and quality to be a permissible invest-  
10 ment.

11 26-2933. TYPES OF PERMISSIBLE INVESTMENTS. (1) The following invest-  
12 ments are permissible pursuant to section 26-2932, Idaho Code:

13 (a) Cash, including demand deposits, savings deposits, and funds in  
14 such accounts held for the benefit of the licensee's customers in a fed-  
15 erally insured depository financial institution, and cash equivalents,  
16 including automated clearinghouse items in transit to the licensee and  
17 automated clearinghouse items or international wires in transit to a  
18 payee, cash in transit via armored car, cash in smart safes, cash in li-  
19 censee-owned locations, debit card-funded or credit card-funded trans-  
20 mission receivables owed by any bank, and money market mutual funds  
21 rated AAA by S&P or the equivalent from any eligible rating service;

22 (b) Certificates of deposit or senior debt obligations of an insured  
23 depository institution, as defined in the federal deposit insurance  
24 act, 12 U.S.C. 1813, as amended, or pursuant to the federal credit union  
25 act, 12 U.S.C. 1781, as amended;

26 (c) An obligation of the United States or a commission, agency, or  
27 instrumentality thereof; an obligation that is guaranteed fully as to  
28 principal and interest by the United States; or an obligation of a state  
29 or a governmental subdivision, agency, or instrumentality thereof;

30 (d) The full drawable amount of an irrevocable standby letter of credit  
31 for which the stated beneficiary is the director, which letter stipu-  
32 lates that the beneficiary need only draw a sight draft under the let-  
33 ter of credit and present it to obtain funds up to the letter of credit  
34 amount within seven (7) days of presentation of the items required by  
35 subparagraph (iii) of this subsection.

36 (i) The letter of credit must:

37 1. Be issued by a federally insured depository financial  
38 institution, a foreign bank authorized under federal law to  
39 maintain a federal agency or federal branch office in a state  
40 or states, or a foreign bank that is authorized under state  
41 law to maintain a branch in a state that bears an eligible  
42 rating or whose parent company bears an eligible rating,  
43 provided that such institution is regulated, supervised,  
44 and examined by United States federal or state authorities  
45 having regulatory authority over banks, credit unions, and  
46 trust companies;

47 2. Be irrevocable, be unconditional, and indicate that it  
48 is not subject to any condition or qualifications outside of  
49 the letter of credit;

1           3. Not contain reference to any other agreements, docu-  
2           ments, or entities or otherwise provide for any security  
3           interest in the licensee; and

4           4. Contain an issue date and expiration date and expressly  
5           provide for automatic extension without a written amendment  
6           for an additional period of one (1) year from the present or  
7           each future expiration date, unless the issuer of the let-  
8           ter of credit notifies the director in writing by certified  
9           mail, registered mail, or courier mail, or other receipted  
10          means, at least sixty (60) days prior to any expiration date,  
11          that the irrevocable letter of credit will not be extended.

12          (ii) In the event of any notice of expiration or non-extension  
13          of a letter of credit issued pursuant to subparagraph (i) of this  
14          paragraph, the licensee shall be required to demonstrate to the  
15          satisfaction of the director, at least fifteen (15) days prior to  
16          expiration, that the licensee maintains and will maintain permis-  
17          sible investments in accordance with section 26-2932, Idaho Code,  
18          upon the expiration of the letter of credit. If the licensee is  
19          not able to do so, the director may draw on the letter of credit  
20          up to the amount necessary to meet the licensee's requirements  
21          to maintain permissible investments in accordance with section  
22          26-2932, Idaho Code. Any such draw shall be offset against the  
23          licensee's outstanding money transmission obligations. The drawn  
24          funds shall be held in trust by the director or the director's des-  
25          ignated agent, to the extent authorized by law, for the benefit  
26          of the purchasers and holders of the licensee's outstanding money  
27          transmission obligations.

28          (iii) The letter of credit shall provide that the issuer of the  
29          letter of credit will honor, at sight, a presentation made by the  
30          beneficiary to the issuer of the following documents on or prior to  
31          the expiration date of the letter of credit:

32           1. The original letter of credit including any amendments;  
33           and

34           2. A written statement from the beneficiary stating that any  
35           of the following events have occurred:

36           (A) A petition has been filed by or against the li-  
37           censee under the United States bankruptcy code, 11  
38           U.S.C. 101 et seq., as amended, for bankruptcy or reor-  
39           ganization;

40           (B) A petition has been filed by or against the li-  
41           censee for receivership or the commencement of any  
42           other judicial or administrative proceeding for its  
43           dissolution or reorganization;

44           (C) Assets of a licensee have been seized by the direc-  
45           tor pursuant to an emergency order issued in accordance  
46           with applicable law on the basis of an action, viola-  
47           tion, or condition that has caused or is likely to cause  
48           the insolvency of the licensee; or

49           (D) The beneficiary has received notice of expiration  
50           or non-extension of a letter of credit and the licensee

1 failed to demonstrate to the satisfaction of the ben-  
2 eficiary that the licensee will maintain permissible  
3 investments in accordance with section 26-2932, Idaho  
4 Code, upon the expiration or non-extension of the let-  
5 ter of credit.

6 (iv) The director may designate an agent to serve on the direc-  
7 tor's behalf as beneficiary to a letter of credit as long as the  
8 agent and letter of credit meet requirements established by the  
9 director. The director's agent may serve as agent for multiple li-  
10 censing authorities for a single irrevocable letter of credit if  
11 the proceeds of the drawable amount for the purposes of this para-  
12 graph are assigned to the director.

13 (v) The director is authorized to participate in multistate pro-  
14 cesses designed to facilitate the issuance and administration of  
15 letters of credit; and

16 (e) One hundred percent (100%) of the surety bond or deposit provided  
17 for pursuant to section 26-2931, Idaho Code, that exceeds the average  
18 daily money transmission liability in this state.

19 (2) The following investments are permissible pursuant to this section  
20 only to the extent specified, unless the director, by rule or order, permits  
21 the limit to be exceeded:

22 (a) Receivables that are payable to a licensee from its authorized del-  
23 egates in the ordinary course of business that are less than seven (7)  
24 days old, up to fifty percent (50%) of the aggregate value of the li-  
25 censee's total permissible investments;

26 (b) Of the receivables permissible under paragraph (a) of this sub-  
27 section, receivables that are payable to a licensee from a single  
28 authorized delegate in the ordinary course of business may not exceed  
29 ten percent (10%) of the aggregate value of the licensee's total permis-  
30 sible investments;

31 (c) The following investments are permissible up to twenty percent  
32 (20%) per category and combined up to fifty percent (50%) of the aggre-  
33 gate value of the licensee's total permissible investments:

34 (i) A short-term, up to six (6) months, investment bearing an eli-  
35 gible rating;

36 (ii) Commercial paper bearing an eligible rating;

37 (iii) A bill, note, bond, or debenture bearing an eligible rating;

38 (iv) United States tri-party repurchase agreements collateral-  
39 ized at one hundred percent (100%) or more with United States gov-  
40 ernment or agency securities, municipal bonds, or other securi-  
41 ties bearing an eligible rating;

42 (v) Money market mutual funds rated less than AAA and equal to  
43 or higher than A- by S&P or the equivalent from any other eligible  
44 rating service; and

45 (vi) A mutual fund or other investment fund composed solely and  
46 exclusively of one (1) or more permissible investments listed in  
47 paragraph (a) of this subsection; and

48 (d) Cash, including demand deposits, savings deposits, and funds in  
49 such accounts held for the benefit of the licensee's customers at for-  
50 eign depository institutions, is permissible up to ten percent (10%) of



1 the aggregate value of the licensee's total permissible investments if  
2 the licensee has received a satisfactory rating in its most recent exam-  
3 ination and the foreign depository institution:

- 4 (i) Has an eligible rating;  
5 (ii) Is registered under the foreign account tax compliance act;  
6 (iii) Is not located in any country subject to sanctions from the  
7 office of foreign assets control; and  
8 (iv) Is not located in a high-risk or noncooperative jurisdiction  
9 as designated by the financial action task force.

10 26-2934. SUSPENSION AND REVOCATION. (1) The director may suspend or  
11 revoke a license or order a licensee to revoke the designation of an autho-  
12 rized delegate if:

- 13 (a) The licensee violates the provisions of this chapter or a rule  
14 adopted or an order issued pursuant to this chapter;  
15 (b) The licensee does not cooperate with an examination or investiga-  
16 tion by the director;  
17 (c) The licensee engages in fraud, intentional misrepresentation, or  
18 gross negligence;  
19 (d) An authorized delegate is convicted of a violation of a state or  
20 federal anti-money laundering statute or violates a rule adopted or an  
21 order issued pursuant to this chapter as a result of the licensee's mis-  
22 conduct;  
23 (e) The competence, experience, character, or general fitness of the  
24 licensee, authorized delegate, person in control of a licensee, key in-  
25 dividual, or responsible person of the authorized delegate indicates  
26 that it is not in the public interest to permit the person to provide  
27 money transmission;  
28 (f) The licensee engages in an unsafe or unsound practice;  
29 (g) The licensee is insolvent, suspends payment of its obligations, or  
30 makes a general assignment for the benefit of its creditors; or  
31 (h) The licensee does not remove an authorized delegate after the  
32 director issues and serves upon the licensee a final order stating a  
33 finding that the authorized delegate has violated the provisions of  
34 this chapter.

35 (2) In determining whether a licensee is engaging in an unsafe or un-  
36 sound practice, the director may consider the size and condition of the li-  
37 censee's money transmission, the magnitude of the loss, the gravity of the  
38 violation of the provisions of this chapter, and the previous conduct of the  
39 person involved.

40 26-2935. REMEDIES AVAILABLE TO THE DEPARTMENT. (1) Whenever it ap-  
41 pears to the director that any person subject to the provisions of this  
42 chapter has engaged in or is engaging in any act or practice constituting a  
43 violation of the provisions of this chapter or any rule promulgated or order  
44 issued pursuant to the provisions of this chapter, he may in his discretion  
45 bring an action in any court of competent jurisdiction. Upon a showing of any  
46 violation, a court may grant any or all of the following:

- 47 (a) A writ or order restraining or enjoining, temporarily or perma-  
48 nently, any act or practice violating any provision of this chapter or

1 any rule promulgated or order issued pursuant to this chapter and en-  
2 forcing compliance with this chapter or any rule promulgated or order  
3 issued pursuant to this chapter;

4 (b) An order that the person violating any provision of this chapter, or  
5 a rule promulgated or order issued pursuant to this chapter, pay a civil  
6 penalty to the department in an amount not to exceed twenty-five thou-  
7 sand dollars (\$25,000) for each violation;

8 (c) An order allowing the director to recover costs, which may include  
9 investigative expenses and attorney's fees;

10 (d) An order granting a declaratory judgment that a particular act,  
11 practice, or method is a violation of the provisions of this chapter;  
12 and

13 (e) An order granting other appropriate remedies, including restitu-  
14 tion to borrowers for excess charges or actual damages.

15 (2) If the director finds that a person subject to the provisions of  
16 this chapter has violated or is violating any of the provisions of this chap-  
17 ter, or any rule promulgated or order issued pursuant to this chapter, the  
18 director may, in his discretion, order the person to cease and desist from  
19 the violations.

20 26-2936. CRIMINAL PENALTIES. (1) A person that intentionally makes  
21 a false statement, misrepresentation, or false certification in a record  
22 filed or required to be maintained pursuant to this chapter or that inten-  
23 tionally makes a false entry or omits a material entry in such a record is  
24 guilty of a felony.

25 (2) A person that knowingly engages in an activity for which a license  
26 is required pursuant to this chapter without being licensed pursuant to this  
27 chapter and who receives one thousand dollars (\$1,000) or more in compensa-  
28 tion within a thirty (30) day period from this activity is guilty of a felony.

29 (3) A person that knowingly engages in an activity for which a license  
30 is required pursuant to this chapter without being licensed pursuant to this  
31 chapter and who receives less than one thousand dollars (\$1,000) in compen-  
32 sation within a thirty (30) day period from this activity is guilty of a mis-  
33 demeanor.

34 26-2937. SEVERABILITY CLAUSE -- UNIFORMITY OF APPLICATION AND CON-  
35 STRUCTION. (1) If any provision of this chapter or its application to any  
36 person or circumstance is deemed invalid, the invalidity does not affect  
37 other provisions or applications of this chapter that can be given effect  
38 without the invalid provision or application, and to this end, the provi-  
39 sions of this chapter are severable.

40 (2) In applying and construing this chapter, consideration must be  
41 given to the need to promote uniformity of the law with respect to its subject  
42 matter among states that enact it.

43 26-2938. TRANSITION PERIOD. (1) A person licensed in this state to en-  
44 gage in the business of money transmission shall not be subject to the provi-  
45 sions of this chapter, to the extent that such provisions conflict with cur-  
46 rent law or establish new requirements not imposed under current law, until

1 such time as the licensee renews its current license or for six (6) months af-  
2 ter the effective date of this chapter, whichever is later.

3 (2) Notwithstanding the provisions of subsection (1) of this section,  
4 a licensee shall be required to amend its authorized delegate contracts only  
5 for contracts entered into or amended after the effective date of this chap-  
6 ter or after the completion of any transition period contemplated pursuant  
7 to this chapter. Nothing in this chapter shall be construed as limiting an  
8 authorized delegate's obligations to operate in full compliance with this  
9 chapter.

10 SECTION 3. An emergency existing therefor, which emergency is hereby  
11 declared to exist, this act shall be in full force and effect on and after  
12 July 1, 2024.