

Agenda

CEFLI Compliance & Ethics Committee Meeting
Thursday, March 28, 2019
2 PM EST/1 PM CST/12 Noon MST/11 AM PST
Dial In: (800) 239-9838
Passcode: 3646069

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|------|---|-------------------|
| I. | Welcome and Introduction. | Donald J. Walters |
| | A. Antitrust Statement. | |
| II. | Approval of Minutes – February 13, 2019 Meeting. | The Committee |
| III. | Issues for Review. | The Committee |
| | A. Compliance Testing - Organizational Structure. | |

As part of a comprehensive enterprise risk management strategy, companies test compliance systems to ensure that they are operating appropriately within their businesses.

Under a “three lines of defense” risk management structure, this type of testing activity is often considered to be part of the “second line of defense.”

Companies employ a variety of different strategies and organizational structures to address these compliance testing requirements. In some cases, “compliance testing” may be conducted by members of the compliance department. In other cases, “compliance testing” may be conducted by members of the internal audit department.

Given the variety of organizational structures that may be used to provide appropriate “compliance testing,” a series of questions has been presented concerning this issue including:

- *Where does “compliance testing” reside within your company?*
- *How many employees are involved in the “compliance testing” process?*
- *What types of issues are included within “compliance testing?”*
- *How are subject areas that may warrant “compliance testing” identified?*

The Committee will be asked to discuss their compliance strategies and organizational structures associated with “compliance testing.”

B. Illinois Law - Sexual Harassment Training.

Illinois recently passed a new law (20 ILCS 2105/2105/-15.5 new) (See copy attached.) that requires sexual harassment prevention training for any profession that has continuing education requirements.

Since producers are subject to continuing education requirements in various states and many companies have employee producers (either in the field or in staff service positions), questions have been presented concerning possible steps companies may be taking to comply with this new Illinois law requiring sexual harassment prevention training.

Specifically, these questions include the following:

- *Are life insurance companies taking steps to comply with the requirements of the new Illinois law regarding sexual harassment prevention training?*
- *If so, are you conducting the sexual harassment prevention training in-house or are there vendors who can provide producers with certifications to confirm they have completed this sexual harassment prevention training (similar to the types of certifications they may receive for continuing education credit)?*

The Committee will be asked to discuss the implications of the new Illinois law regarding sexual harassment prevention training and whether they plan to implement appropriate training for their employee producers.

C. Single Premium Immediate Annuities and Buyer's Guides.

Insurance regulations require insurers to provide a copy of a Buyer's Guide for annuity transactions. More often than not these annuity transactions involve various types of deferred annuity products.

However, life insurers also distribute single premium immediate annuity ("SPIA") products.

Questions have been presented concerning company practices with respect to providing a Buyer's Guide in the case of a SPIA transaction.

- *Does your company provide applicants for SPIA contracts a Buyer's Guide and Disclosure at or before the time of application?*
- *If not, does your company rely on the fact that most state requirements exclude "immediate and deferred annuities that contain no non-guaranteed elements?"*

- *If your company's SPIA product contain commutation benefits (which in many instances are not entirely guaranteed at issue), does your company, nonetheless, rely upon the exclusion that would not require use of a Buyer's Guide?*
- *If you do provide Buyer's Guides, which version do you use with SPIAs?*

The Committee will be asked to discuss their company's practices concerning the use of Buyer's Guide in sales of single premium immediate annuities.

D. NAIC Privacy of Consumer Financial and Health Information Model Regulation.

In 2017, the NAIC adopted amendments to its Privacy of Consumer Financial and Health Information Model Regulation. See copy attached.) This Model Regulation implements the privacy requirements of the Graham Leach Bliley Act ("GLBA") for insurers.

The amendments to the Model Regulation included a Model Privacy Form developed by federal regulators as a template for GLBA privacy notices for federally regulated financial institutions.

The amendments to the Model Regulation also included a compliance "safe harbor" for use of the federal Model Privacy Form. (The federal Model Privacy Form is reportedly not well-suited to insurance company practices.) The compliance "safe harbor" for the use of privacy notice sample clauses found in the original Model Regulation is due to expire on July 1, 2019.

Presently, many insurers' privacy notices include the sample clauses found in the original Model Regulation. Accordingly, it has been suggested that insurers may want to consider modifications to their current GLBA privacy notices to ensure they are compliant with the amendments to the Model Regulation as it is adopted by more states.

Therefore, questions have been presented concerning whether companies plan to modify their current GLBA privacy notices to incorporate the federal Model Privacy Form in order to be eligible to take advantage of the compliance "safe harbor" under the 2017 amendments to the Model Regulation.

The Committee will be asked to discuss their compliance strategies concerning whether they plan to modify their existing GLBA privacy notices to incorporate the federal Model Privacy Form that is eligible for the compliance "safe harbor" under the 2017 amendments to the Model Regulation.

E. New York's Cybersecurity Regulation - Third Party Service Providers.

New York's Cybersecurity Regulation (23 NYCRR 500) (See copy attached.) requires covered entities, such as life insurers, to implement written policies and procedures designed to ensure the security of information systems that are accessible by Third-Party Service Providers.

Under this requirement, independent producers who distribute products on behalf of life insurers are considered to be Third-Party Service Providers.

Therefore, life insurance companies are exploring various compliance strategies to meet this requirement.

Although there have been industry efforts to develop a standardized questionnaire for this purpose, it is our understanding that discussions have not been able to arrive at a consensus position among industry members.

The Committee will be asked to discuss their strategies to address the requirements of New York's Cybersecurity Regulation as it relates to Third-Party Service Providers including independent producers.

F. Market Conduct Inquiry - Missouri - Life Insurance Policies with "Health" Riders.

It has been reported that the Missouri Department of Insurance has been asking insurers to provide copies of life insurance policies with "health" riders (such as critical illness, accident, specified disease, hospital expense and disability).

The Committee will be asked to discuss whether any companies have received a similar request from the Missouri Department of Insurance and whether there may be any explanation as to why the request is being made.

G. Vendor Recommendations.

1. Employee Conflict of Interest Compliance Statements.

Most life insurance companies ask their employees to sign conflict of interest statements to indicate that the employee does not maintain any financial or pecuniary interests that would conflict with the company's business.

A member company is interested in determining whether any other companies may utilize a software vendor that could administer an annual

employee conflict of interest compliance statement, including the capability of capturing electronic signatures.

2. Fraud Training.

Life insurance companies conduct fraud training for their employees consistent with the requirements of state law and regulations.

A member company interested in determining whether there may be vendors that would offer a brief (less than 30 minutes) yet effective course of fraud training specifically tailored to the life insurance industry which would also include training on elder abuse.

The Committee will be asked to discuss whether they may have vendor recommendations to address administering employee conflict of interest compliance statements or providing fraud training.

H. March - Ethics Awareness Month.

March is Ethics Awareness Month. In anticipation of Ethics Awareness Month, CEFLI recently conducted a webinar to explore strategies to promote ethics within life insurance companies.

Given that we are now at the conclusion of the month of March, we are interested in determining the extent to which companies have taken steps to promote ethics within their respective companies as part of Ethics Awareness Month.

The Committee will be asked to discuss any activities their company may have utilized to promote ethics within their organizations in light of Ethics Awareness Month.

IV. Reporting Items.

CEFLI Staff.

A. OR Senate Bill 769 - Redacting of Social Security Numbers in Consumer Correspondence and Document Destruction Policies.

John Mangan of the ACLI (ACLI's Oregon state representative) will be meeting with representatives of the Oregon Insurance Administration this week to discuss the operational challenges associated with Oregon Senate Bill 769.

CEFLI staff will provide a brief report on any further developments.

B. Maryland Introduces Fiduciary Standard Legislation.

Maryland recently introduced legislation that would require both registered representatives with broker-dealers and life insurance producers to act as fiduciaries with “a duty to act in the best interest of the customer without regard to the financial or other interest of the person or firm providing the advice.” (See copy attached.)

The Maryland legislation follows similar initiatives that have been introduced in Nevada, New Jersey and Washington.

Financial services industry advocates have been encouraging states to refrain from imposing a fiduciary standard until the SEC proposes a final version of its Regulation Best Interest in order to provide a uniform, national standard.

C. NYDFS Consumer Alert on Universal Life Insurance.

The New York Department of financial services recently issued a Consumer Alert on Universal Life Insurance. (See copy attached.)

The Consumer Alert explains universal life insurance products and alerts consumers that their premium amounts may increase.

D. FINRA Disciplinary Actions Decline While Average Fines Rise.

FINRA initiated fewer disciplinary actions in 2018 (as compared to 2017) but the average fines rose to \$107,000 from \$65,000. The most fines assessed were for money-laundering violations.

E. FINRA Plans to Provide Self-Reporting Guidance.

FINRA is drafting guidance to explain what types of cooperation may entitle broker-dealers to reduce sanctions when they self-report a violation.

The new guidance will update Regulatory Notice 08 – 70 which was issued in 2008.

V. CEFLI Activities.

A. Replacements Webinar - Wednesday, March 27.

CEFLI will be conducting a webinar on Replacements on Wednesday, March 27 at 1 PM EST/12 Noon CST/11 AM MST/10 AM PST.

CEFLI staff will provide a brief report concerning the highlights of the Replacements webinar.

B. Compliance Fundamentals Training Conference - May 8-10 - Austin, Texas.

On May 8-10, CEFLI will be conducting its Compliance Fundamentals Training Conference at The Driskell Hotel in Austin, Texas.

CEFLI's Compliance Fundamentals Training Conference is available free of charge as part of your company's membership benefits. The Conference is designed to provide education and training for those who may be new to the life insurance industry or those who may be new to the compliance function within a life insurance company.

Registration for the Conference is available online via CEFLI's website. A copy of the preliminary program for the Conference is attached.

If you may be interested in serving as a faculty member at the Conference, please let us know. We are still completing the lineup of faculty members who will be presenting information at the Conference.

We hope to see you in Austin on May 8-10!

VI. Next Meeting.

The next meeting of the Committee is scheduled to take place:

April 17, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

The Committee will hold its remaining 2018 meetings as follows:

May 15, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

June 11, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

July 24, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

August 14, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

September 25, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

October 16, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

November 13, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

December 18, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

Please mark your calendar and plan to join us!

VII. Other Business.

The Committee will be asked to identify and discuss any other business to be brought before the Committee.

DRAFT

**Minutes
Meeting of the
CEFLI Compliance & Ethics Committee
February 13, 2019
2 PM EDT/1 PM CDT/11 AM PDT**

A meeting of the CEFLI Compliance & Ethics Committee (the "Committee") was held via conference call on Wednesday, February 13, 2019 at 2 PM EDT/1 PM CDT/11 AM PDT.

The following CEFLI member company representatives participated in the meeting:

Marcie Allen, Texas Life Insurance
Renee Ambrosy, CNO Financial
Shannon Aussieker, Country Financial
Jenna Austin, Guggenheim Life & Annuity
Brendon Bakala, Catholic Order of Foresters
Chad Batterson, Athene
Meagan Bellin, Securian Financial
Tom Bilello, Pacific Life
Ann Binzer, Cincinnati Life
Michael Brennan, Riversource
Bryan Brewster, Wilson Re
Andrea Christensen, Sagicor
Allison Corrado, Lombard International
Jacquie Crader, Cuna Mutual Group
John Cunningham, Fidelity Investments
Bruce Eschbach, Texas Life Insurance
Anne Farina, Delaware Life Insurance Company
Rita Fenani, Pacific Life Insurance Company
Jill Fiddler, Assurity
Barbara Fitch, National Life Group
Gary Frank, Global Atlantic Financial Group
Csaba Gabor, Global Atlantic Financial Group
Patrick Garcy, Sagicor Life Insurance Company
Paula Gentry, Cincinnati Life
Jim Golembiewski, Sagicor Life Insurance
Rachel Gomez, State Farm
Ken Gould, Protective Life

Minutes – Meeting of the CEFLI Compliance & Ethics Committee
February 13, 2019

Joel Hansen, Riversource
Teresa Harvey, Fidelity and Guaranty Life
Lisa Holland, State Farm
Michelle Holmes, Voya Financial
Belinda Howard, Principal Financial
Nathan Huss, Sammons Financial
Beth Jalbert, Delaware Life
Martin Karp, Oxford Life Insurance
De Keimach, Delaware Life
Samantha Knackmuhs, State Farm
Michelle Kulish-Danielson, American Enterprise
Marla Lacey, Homesteaders Life
Daniel Leblanc, SBLI
Jennifer Lee Pacific Life
Khristie Lee, Riversource
Laurie Lewis, Amica
Kathy Mangum, Southern Farm Bureau Life Insurance Comp
Jean McKinnon, Assurity Life Insurance Company
Ryan Meehan, Ameriprise Financial
Genevieve Messina, Global Atlantic Financial Group
Dave Milligan, American Equity
Morgan Milner, Modern Woodmen
Karoll Moran, Amica Life Insurance
Maureen Mulville, Illinois Mutual
Leigh Mumford, TIAA
Sabrina Olender, Foresters
Jerie Olson, National Guardian Life
Monique Pascual, Pacific Guardian Life
Liza Perry, USAA
Kathy Pettit, John Hancock
Megan Phillips, Principal Group Financial
Tony Pool, AAA Life
Peggy Robinson, Athene
Darcy Robson, Pacific Life Insurance Company
Sally Roudebush, Lincoln Heritage Life Insurance Company
Marie Ryan, Athene
Rania Sarkis, Pacific Life
Angie Schneider, Cincinnati Life Insurance
Wayne Smiley, TIAA
Devin Smith, Securian
Leslie Smith, Southern Farm Bureau Life
Cara St. Martin, Allianz
Carla Strauch, Thrivent
Nancy Sweet, CNO Financial Group
Bill Turner, American Fidelity
Laura Van Laningham, Illionis Mutual

Natalie Wagner, Global Atlantic
Rochelle Walk, Wilton Re
Michelle Ward, Erie Insurance
Larry Welch, Citizens Inc
Eric Westman, Athene
Tracy Whitaker, Homesteaders
Stacey White, American National Insurance Company
Emily Wilburn, Illinois Mutual
Karen Yeo, Primerica

Mallory Bennett and Donald Walters of CEFLI also participated in the meeting.

I. Welcome and Introduction.

The meeting began with a recitation of CEFLI's anti-trust statement.

II. Approval of Minutes – January 23, 2019 Meeting.

On motion, duly made and seconded and unanimously carried, the Committee:
RESOLVED, that, the Minutes of the January 23, 2019 meeting are hereby approved.

III. Issues for Review.

A. New York Department of Financial Services Circular Letter No. 1 (2019).

The NYDFS recently issued Circular Letter No. 1 regarding insurers use of external consumer data and information sources in underwriting for life insurance.

Circular Letter No. 1 identifies two main areas of concern:

- The use of external data sources, algorithms and predictive models has a significant potential negative impact on the availability and affordability of life insurance for protected classes of consumers; and
- The use of external data sources is often accompanied by a lack of transparency for consumers.

The Committee was asked to discuss the issues identified within NYDFS Circular Letter No. 1 which also have been identified by the NAIC Big Data Working Group as potential areas of concern for other state insurance regulators.

A Committee member offered that their interpretation of the Circular Letter is that New York is concerned with cases that go through accelerated or automated underwriting that are approved or declined based on information pulled from an external source (e.g., MIB).

Another Committee member indicated that they believe New York may also be taking the position that the insurer's decision to not allow a case to go through accelerated underwriting is an adverse decision in and of itself. New York may also be taking the position that not having access to accelerated underwriting could also be considered an adverse decision.

A Committee member raised concerns with this interpretation because there are usually limits on face amount and age that will determine if a case is eligible for accelerated underwriting.

Several Committee members indicated that they are unsure if this will come up during ongoing exams by New York, and, if so, additional clarity from the NYDFS may be needed.

B. Discussion of Contestable Claims Practices.

The New York Department of Financial Services ("NYDFS") recently issued a consent order against an insurer with respect to its practices concerning contestable claims (i.e., a life insurance claim made within the two-year contestable period of a life insurance policy.)

Considering the consent order, the Committee was asked to discuss their company's practices with respect to the submission of claims within a life insurance policy's contestable period.

A Committee member reported that they will request medical records for deaths within the contestability period, but they do not require the beneficiary to obtain them. If Underwriting would have issued the policy differently or not issued the policy based on what is in the medical records, the insurer will rescind the policy and refund premiums.

A Committee member indicated that the consent order suggested that the company in question was requesting that the beneficiary produce medical records in every contestable case and, if they could not, then the company would deny the claim.

Another Committee member interpreted the consent order as disallowing a company from requesting medical records in a contestable death unless there is a medical reason/suspicion arising out of the cause.

A Committee member raised the issue of not being able to get medical records in some cases (e.g., if the family of the deceased is uncooperative)). A Committee

member offered that, in such cases, the company may decide to deny the claim, but only if they feel they have a strong case on the balance of information.

C. Disability Insurance Coverage - Massachusetts.

Massachusetts Governor Charlie Baker recently signed into law Massachusetts House Bill 482 by adding a new Section 108N which reads (in pertinent part):

An insurer...authorized to issue policies against disability from injury or disease ...shall not ...discriminate...for reasons based solely upon an applicant's or insured's race, color, religious creed, national origin, sex, pregnancy, gender identity, sexual orientation or marital status.

The new law becomes effective on January 1, 2020.

Some have read the new law to prohibit unisex rates as well as possibly prohibiting exclusions related to pregnancy.

The Committee was asked to discuss what steps, if any, insurers may be taking to address the compliance requirements of this new Massachusetts law pertaining to disability income policies.

There were no comments offered at this time.

D. Retention and Destruction Practices Nonpublic Information – NAIC Insurance Data Security Model Law.

The Committee was asked to discuss their company's practices with respect to retention and destruction of Nonpublic Information as identified within the NAIC's Insurance Data Security Model Law.

A Committee member reported that they are anticipating this becoming law in several states and, while their current record retention schedule does not address non-public information outside of a record, the company is looking at their document destruction practices from the standpoint of trying to make sure that all systems that contain this type of data have an automatic destruction capability associated with them.

CEFLI will continue to monitor this issue and raise it for discussion as more states adopt the Model.

E. New Hampshire Annuity Disclosures.

The New Hampshire Department of Insurance adopted an annuity disclosure rule that follows many of the elements of the NAIC Annuity Disclosure Model

Regulation, but New Hampshire added the following as required elements of the disclosure document:

- Name,
- Age, and
- Sex of the Proposed Annuitant.

The Committee was asked to discuss their awareness of this variation in New Hampshire's annuity disclosure rule and discussed possible strategies to comply with its requirements.

A Committee member indicated that their disclosure form already included the name and it has been updated to include age and sex of the proposed annuitant as well.

Another Committee member reported that they use a generic form in all states and have inserted an additional sheet to include this added information in New Hampshire only.

IV. Reporting Items.

A. OR Senate Bill 769 - Redacting of Social Security Numbers in Consumer Correspondence and Document Destruction Policies.

Over the past several months, the Committee has been discussing issues associated with the enactment of Oregon Senate Bill 769 which would require insurers to redact Social Security numbers in consumer correspondence.

In consultation with John Mangan of the ACLI (ACLI's Oregon state representative), Mr. Mangan indicates that the ACLI intends to conduct a meeting with the Oregon Insurance Administration to discuss the operational challenges associated with Oregon Senate Bill 769.

CEFLI will continue to monitor activities associated with this issue.

B. California DOI Notice - Sales of Annuities and Other Products to Veterans.

CEFLI staff reported that the California Department of Insurance recently issued a Notice to inform all life insurers (and life agents) of recent changes in Department of Veterans Affairs regulations designed to "... discourage those who are financially secure from transferring assets to qualify for VA pensions." (The Notice references concerns regarding transfers of covered assets to an annuity as a means to enhance a claimant's eligibility for VA pension benefits.)

The Notice provides several references to California Insurance Law requirements that may impact sales of annuity products to veterans including:

- Agents and brokers should have no financial incentive to refer seniors to veterans benefit programs;
- Limitations on advertisements directed at veterans; and
- Required disclosures for events, presentations, seminars, workshops or other public gatherings regarding veterans benefits or entitlements.

C. State-Fiduciary Laws - Maryland.

CEFLI staff reported that the Maryland State Senate recently introduced a bill which would apply a fiduciary standard to registered representatives of broker-dealers. Currently, Maryland law applies a fiduciary standard solely to investment advisers.

The bill is encountering resistance from industry groups that are requesting that the Maryland Legislature allow the SEC to develop its best interest standard rather than enacting a fiduciary standard.

Last year, Nevada enacted a fiduciary standard law, and New Jersey is considering introducing similar legislation this year.

D. Banks Report a 12% Increase in Elder Financial Abuse.

CEFLI staff reported that a recent report indicated that US banks reported a record 24,454 suspected cases of elder financial abuse last year which represents a 12% increase from 2017 and a fivefold increase over the past five years.

As a result, banks are focusing on training programs for employees on how to detect, stop and report possible elder financial abuse without violating a customer's privacy.

E. FINRA to Examine for Compliance with Elder Financial Abuse Rules.

CEFLI staff reported that at a recent industry conference, James Wrona, Vice President and Associate General Counsel at FINRA, indicated that FINRA will be focusing on firms' compliance with its elder abuse rule as part of their next round of examination activities.

A focus of the review will be "to check on the systems and processes firms have in place, to check that issues are properly elevated and that there's an identified team to handle relevant decisions."

According to Mr. Wrona, FINRA does not plan to penalize firms but rather will use the examinations to learn more about current firm practices designed to

detect and deter elder financial abuse.

F. NAIC Insurance Data Security Model Law.

CEFLI staff reported that several states plan to introduce legislation to enact the NAIC's Insurance Data Security Model Law over the coming months.

The Model Law has been enacted in Ohio, Michigan and South Carolina and has been introduced in Mississippi, Nevada and New Hampshire.

G. Massachusetts Charges Scottrade, Inc. with Violating Impartial Conduct Standards of the DOL Fiduciary Rule.

CEFLI staff reported that the Massachusetts Secretary of the Commonwealth, William Galvin, has charged Scottrade, Inc. with violating state law and internal policies and procedures by conducting sales contests that do not comply with the impartial conduct standards under the DOL Fiduciary Rule.

Industry participants will be watching whether the case will be allowed to proceed given that Massachusetts is relying upon the DOL Fiduciary Rule as the basis for alleging violation of state securities laws.

H. Florida Commissioner David Altmeier Elected NAIC Vice President.

The NAIC recently announced the election of Florida Commissioner, David Altmeier, as NAIC Vice President.

Commissioner Altmeier replaces former Hawaii Commissioner Gordon Ito as NAIC Vice President.

V. CEFLI Activities.

A. Mark Your Calendar - CEFLI Webinar – Ethics: Doing a Lot with a Little - Tuesday, February 26.

CEFLI will be conducting a webinar on Promoting Ethics Awareness on Tuesday, February 26 at 1 PM EST/12 Noon CST/11 AM MST/10 AM PST in anticipation of National Ethics Awareness Month in March.

Andrew Bucknam, Chief Compliance and Privacy Officer with The Knights of Columbus will be joined by Maureen Mulville, Secretary & Vice President, Compliance & General Council of Illinois Mutual to share their insights concerning how they promote ethics within their respective organizations.

Please mark your calendar and plan to join us!

VI. Next Meeting.

The Committee will hold its next meeting on March 28, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST.

The Committee will hold further 2019 meetings as follows:

April 17, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST
May 15, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST
June 11, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST
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December 18, 2019 - 2 PM EST/1 PM CST/12 Noon MST/11 AM PST

Please mark your calendar and plan to join us!

VII. Other Business.

There being no further business to discuss, the meeting was adjourned.

New Illinois Law on Sexual Harassment Prevention Training

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Department of Professional Regulation Law of the Civil Administrative Code of Illinois is amended by adding Section 2105-15.5 as follows:

(20 ILCS 2105/2105-15.5 new)

Sec. 2105-15.5. Continuing education; sexual harassment prevention training.

(a) As used in this Section, "sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. For the purpose of this definition, "working environment" is not limited to a physical location that an employee is assigned to perform his or her duties and does not require an employment relationship.

(b) For license renewals occurring on or after January 1, 2020 for a profession that has continuing education requirements, the required continuing education hours shall include at least one hour of sexual harassment prevention training.

(c) The Department may adopt rules for the implementation of this Section.

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
23 NYCRR 500**

CYBERSECURITY REQUIREMENTS FOR FINANCIAL SERVICES COMPANIES

I, Maria T. Vullo, Superintendent of Financial Services, pursuant to the authority granted by sections 102, 201, 202, 301, 302 and 408 of the Financial Services Law, do hereby promulgate Part 500 of Title 23 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to take effect March 1, 2017, to read as follows:

(ALL MATTER IS NEW)

Section 500.00 Introduction.

The New York State Department of Financial Services (“DFS”) has been closely monitoring the ever-growing threat posed to information and financial systems by nation-states, terrorist organizations and independent criminal actors. Recently, cybercriminals have sought to exploit technological vulnerabilities to gain access to sensitive electronic data. Cybercriminals can cause significant financial losses for DFS regulated entities as well as for New York consumers whose private information may be revealed and/or stolen for illicit purposes. The financial services industry is a significant target of cybersecurity threats. DFS appreciates that many firms have proactively increased their cybersecurity programs with great success.

Given the seriousness of the issue and the risk to all regulated entities, certain regulatory minimum standards are warranted, while not being overly prescriptive so that cybersecurity programs can match the relevant risks and keep pace with technological advances. Accordingly, this regulation is designed to promote the protection of customer information as well as the information technology systems of regulated entities. This regulation requires each company to assess its specific risk profile and design a program that addresses its risks in a robust fashion. Senior management must take this issue seriously and be responsible for the organization’s cybersecurity program and file an annual certification confirming compliance with these regulations. A regulated entity’s cybersecurity program must ensure the safety and soundness of the institution and protect its customers.

It is critical for all regulated institutions that have not yet done so to move swiftly and urgently to adopt a cybersecurity program and for all regulated entities to be subject to minimum standards with respect to their programs. The number of cyber events has been steadily increasing and estimates of potential risk to our financial services industry are stark. Adoption of the program outlined in these regulations is a priority for New York State.

Section 500.01 Definitions.

For purposes of this Part only, the following definitions shall apply:

(a) *Affiliate* means any Person that controls, is controlled by or is under common control with another Person. For purposes of this subsection, control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of stock of such Person or otherwise.

(b) *Authorized User* means any employee, contractor, agent or other Person that participates in the business operations of a Covered Entity and is authorized to access and use any Information Systems and data of the Covered Entity.

(c) *Covered Entity* means any Person operating under or required to operate under a license, registration, charter, certificate, permit, accreditation or similar authorization under the Banking Law, the Insurance Law or the Financial Services Law.

(d) *Cybersecurity Event* means any act or attempt, successful or unsuccessful, to gain unauthorized access to, disrupt or misuse an Information System or information stored on such Information System.

(e) *Information System* means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination or disposition of electronic information, as well as any specialized system such as industrial/process controls systems, telephone switching and private branch exchange systems, and environmental control systems.

(f) *Multi-Factor Authentication* means authentication through verification of at least two of the following types of authentication factors:

- (1) Knowledge factors, such as a password; or
- (2) Possession factors, such as a token or text message on a mobile phone; or
- (3) Inherence factors, such as a biometric characteristic.

(g) *Nonpublic Information* shall mean all electronic information that is not Publicly Available Information and is:

(1) Business related information of a Covered Entity the tampering with which, or unauthorized disclosure, access or use of which, would cause a material adverse impact to the business, operations or security of the Covered Entity;

(2) Any information concerning an individual which because of name, number, personal mark, or other identifier can be used to identify such individual, in combination with any one or more of the following data elements: (i) social security number, (ii) drivers' license number or non-driver identification card number, (iii) account number, credit or debit card number, (iv) any security code, access code or password that would permit access to an individual's financial account, or (v) biometric records;

(3) Any information or data, except age or gender, in any form or medium created by or derived from a health care provider or an individual and that relates to (i) the past, present or future physical, mental or behavioral health or condition of any individual or a member of the individual's family, (ii) the provision of health care to any individual, or (iii) payment for the provision of health care to any individual.

(h) *Penetration Testing* means a test methodology in which assessors attempt to circumvent or defeat the security features of an Information System by attempting penetration of databases or controls from outside or inside the Covered Entity's Information Systems.

(i) *Person* means any individual or any non-governmental entity, including but not limited to any non-governmental partnership, corporation, branch, agency or association.

(j) *Publicly Available Information* means any information that a Covered Entity has a reasonable basis to believe is lawfully made available to the general public from: federal, state or local government records; widely distributed media; or disclosures to the general public that are required to be made by federal, state or local law.

(1) For the purposes of this subsection, a Covered Entity has a reasonable basis to believe that information is lawfully made available to the general public if the Covered Entity has taken steps to determine:

(i) That the information is of the type that is available to the general public; and

(ii) Whether an individual can direct that the information not be made available to the general public and, if so, that such individual has not done so.

(k) *Risk Assessment* means the risk assessment that each Covered Entity is required to conduct under section 500.09 of this Part.

(l) *Risk-Based Authentication* means any risk-based system of authentication that detects anomalies or changes in the normal use patterns of a Person and requires additional verification of the Person's identity when such deviations or changes are detected, such as through the use of challenge questions.

(m) *Senior Officer(s)* means the senior individual or individuals (acting collectively or as a committee) responsible for the management, operations, security, information systems, compliance and/or risk of a Covered Entity, including a branch or agency of a foreign banking organization subject to this Part.

(n) *Third Party Service Provider(s)* means a Person that (i) is not an Affiliate of the Covered Entity, (ii) provides services to the Covered Entity, and (iii) maintains, processes or otherwise is permitted access to Nonpublic Information through its provision of services to the Covered Entity.

Section 500.02 Cybersecurity Program.

(a) *Cybersecurity Program*. Each Covered Entity shall maintain a cybersecurity program designed to protect the confidentiality, integrity and availability of the Covered Entity's Information Systems.

(b) The cybersecurity program shall be based on the Covered Entity's Risk Assessment and designed to perform the following core cybersecurity functions:

(1) identify and assess internal and external cybersecurity risks that may threaten the security or integrity of Nonpublic Information stored on the Covered Entity's Information Systems;

(2) use defensive infrastructure and the implementation of policies and procedures to protect the Covered Entity's Information Systems, and the Nonpublic Information stored on those Information Systems, from unauthorized access, use or other malicious acts;

(3) detect Cybersecurity Events;

(4) respond to identified or detected Cybersecurity Events to mitigate any negative effects;

(5) recover from Cybersecurity Events and restore normal operations and services; and

(6) fulfill applicable regulatory reporting obligations.

(c) A Covered Entity may meet the requirement(s) of this Part by adopting the relevant and applicable provisions of a cybersecurity program maintained by an Affiliate, provided that such provisions satisfy the requirements of this Part, as applicable to the Covered Entity.

(d) All documentation and information relevant to the Covered Entity's cybersecurity program shall be made available to the superintendent upon request.

Section 500.03 Cybersecurity Policy.

Cybersecurity Policy. Each Covered Entity shall implement and maintain a written policy or policies, approved by a Senior Officer or the Covered Entity's board of directors (or an appropriate committee thereof) or equivalent governing body, setting forth the Covered Entity's policies and procedures for the protection of its Information Systems and Nonpublic Information stored on those Information Systems. The cybersecurity policy shall be based on the Covered Entity's Risk Assessment and address the following areas to the extent applicable to the Covered Entity's operations:

(a) information security;

(b) data governance and classification;

(c) asset inventory and device management;

(d) access controls and identity management;

(e) business continuity and disaster recovery planning and resources;

(f) systems operations and availability concerns;

(g) systems and network security;

(h) systems and network monitoring;

(i) systems and application development and quality assurance;

- (j) physical security and environmental controls;
- (k) customer data privacy;
- (l) vendor and Third Party Service Provider management;
- (m) risk assessment; and
- (n) incident response.

Section 500.04 Chief Information Security Officer.

(a) Chief Information Security Officer. Each Covered Entity shall designate a qualified individual responsible for overseeing and implementing the Covered Entity's cybersecurity program and enforcing its cybersecurity policy (for purposes of this Part, "Chief Information Security Officer" or "CISO"). The CISO may be employed by the Covered Entity, one of its Affiliates or a Third Party Service Provider. To the extent this requirement is met using a Third Party Service Provider or an Affiliate, the Covered Entity shall:

- (1) retain responsibility for compliance with this Part;
- (2) designate a senior member of the Covered Entity's personnel responsible for direction and oversight of the Third Party Service Provider; and
- (3) require the Third Party Service Provider to maintain a cybersecurity program that protects the Covered Entity in accordance with the requirements of this Part.

(b) Report. The CISO of each Covered Entity shall report in writing at least annually to the Covered Entity's board of directors or equivalent governing body. If no such board of directors or equivalent governing body exists, such report shall be timely presented to a Senior Officer of the Covered Entity responsible for the Covered Entity's cybersecurity program. The CISO shall report on the Covered Entity's cybersecurity program and material cybersecurity risks. The CISO shall consider to the extent applicable:

- (1) the confidentiality of Nonpublic Information and the integrity and security of the Covered Entity's Information Systems;
- (2) the Covered Entity's cybersecurity policies and procedures;
- (3) material cybersecurity risks to the Covered Entity;
- (4) overall effectiveness of the Covered Entity's cybersecurity program; and
- (5) material Cybersecurity Events involving the Covered Entity during the time period addressed by the report.

Section 500.05 Penetration Testing and Vulnerability Assessments.

The cybersecurity program for each Covered Entity shall include monitoring and testing, developed in accordance with the Covered Entity's Risk Assessment, designed to assess the effectiveness of the Covered Entity's cybersecurity program. The monitoring and testing shall include continuous monitoring or periodic Penetration Testing and vulnerability assessments. Absent effective continuous monitoring, or other systems to detect, on an ongoing basis, changes in Information Systems that may create or indicate vulnerabilities, Covered Entities shall conduct:

(a) annual Penetration Testing of the Covered Entity's Information Systems determined each given year based on relevant identified risks in accordance with the Risk Assessment; and

(b) bi-annual vulnerability assessments, including any systematic scans or reviews of Information Systems reasonably designed to identify publicly known cybersecurity vulnerabilities in the Covered Entity's Information Systems based on the Risk Assessment.

Section 500.06 Audit Trail.

(a) Each Covered Entity shall securely maintain systems that, to the extent applicable and based on its Risk Assessment:

(1) are designed to reconstruct material financial transactions sufficient to support normal operations and obligations of the Covered Entity; and

(2) include audit trails designed to detect and respond to Cybersecurity Events that have a reasonable likelihood of materially harming any material part of the normal operations of the Covered Entity.

(b) Each Covered Entity shall maintain records required by section 500.06(a)(1) of this Part for not fewer than five years and shall maintain records required by section 500.06(a)(2) of this Part for not fewer than three years.

Section 500.07 Access Privileges.

As part of its cybersecurity program, based on the Covered Entity's Risk Assessment each Covered Entity shall limit user access privileges to Information Systems that provide access to Nonpublic Information and shall periodically review such access privileges.

Section 500.08 Application Security.

(a) Each Covered Entity's cybersecurity program shall include written procedures, guidelines and standards designed to ensure the use of secure development practices for in-house developed applications utilized by the Covered Entity, and procedures for evaluating, assessing or testing the security of externally developed applications utilized by the Covered Entity within the context of the Covered Entity's technology environment.

(b) All such procedures, guidelines and standards shall be periodically reviewed, assessed and updated as necessary by the CISO (or a qualified designee) of the Covered Entity.

Section 500.09 Risk Assessment.

(a) Each Covered Entity shall conduct a periodic Risk Assessment of the Covered Entity's Information Systems sufficient to inform the design of the cybersecurity program as required by this Part. Such Risk Assessment shall be updated as reasonably necessary to address changes to the Covered Entity's Information Systems, Nonpublic Information or business operations. The Covered Entity's Risk Assessment shall allow for revision of controls to respond to technological developments and evolving threats and shall consider the particular risks of the Covered Entity's business operations related to cybersecurity, Nonpublic Information collected or stored, Information Systems utilized and the availability and effectiveness of controls to protect Nonpublic Information and Information Systems.

(b) The Risk Assessment shall be carried out in accordance with written policies and procedures and shall be documented. Such policies and procedures shall include:

(1) criteria for the evaluation and categorization of identified cybersecurity risks or threats facing the Covered Entity;

(2) criteria for the assessment of the confidentiality, integrity, security and availability of the Covered Entity's Information Systems and Nonpublic Information, including the adequacy of existing controls in the context of identified risks; and

(3) requirements describing how identified risks will be mitigated or accepted based on the Risk Assessment and how the cybersecurity program will address the risks.

Section 500.10 Cybersecurity Personnel and Intelligence.

(a) Cybersecurity Personnel and Intelligence. In addition to the requirements set forth in section 500.04(a) of this Part, each Covered Entity shall:

(1) utilize qualified cybersecurity personnel of the Covered Entity, an Affiliate or a Third Party Service Provider sufficient to manage the Covered Entity's cybersecurity risks and to perform or oversee the performance of the core cybersecurity functions specified in section 500.02(b)(1)-(6) of this Part;

(2) provide cybersecurity personnel with cybersecurity updates and training sufficient to address relevant cybersecurity risks; and

(3) verify that key cybersecurity personnel take steps to maintain current knowledge of changing cybersecurity threats and countermeasures.

(b) A Covered Entity may choose to utilize an Affiliate or qualified Third Party Service Provider to assist in complying with the requirements set forth in this Part, subject to the requirements set forth in section 500.11 of this Part.

Section 500.11 Third Party Service Provider Security Policy.

(a) Third Party Service Provider Policy. Each Covered Entity shall implement written policies and procedures designed to ensure the security of Information Systems and Nonpublic Information that are accessible

to, or held by, Third Party Service Providers. Such policies and procedures shall be based on the Risk Assessment of the Covered Entity and shall address to the extent applicable:

(1) the identification and risk assessment of Third Party Service Providers;

(2) minimum cybersecurity practices required to be met by such Third Party Service Providers in order for them to do business with the Covered Entity;

(3) due diligence processes used to evaluate the adequacy of cybersecurity practices of such Third Party Service Providers; and

(4) periodic assessment of such Third Party Service Providers based on the risk they present and the continued adequacy of their cybersecurity practices.

(b) Such policies and procedures shall include relevant guidelines for due diligence and/or contractual protections relating to Third Party Service Providers including to the extent applicable guidelines addressing:

(1) the Third Party Service Provider's policies and procedures for access controls, including its use of Multi-Factor Authentication as required by section 500.12 of this Part, to limit access to relevant Information Systems and Nonpublic Information;

(2) the Third Party Service Provider's policies and procedures for use of encryption as required by section 500.15 of this Part to protect Nonpublic Information in transit and at rest;

(3) notice to be provided to the Covered Entity in the event of a Cybersecurity Event directly impacting the Covered Entity's Information Systems or the Covered Entity's Nonpublic Information being held by the Third Party Service Provider; and

(4) representations and warranties addressing the Third Party Service Provider's cybersecurity policies and procedures that relate to the security of the Covered Entity's Information Systems or Nonpublic Information.

(c) Limited Exception. An agent, employee, representative or designee of a Covered Entity who is itself a Covered Entity need not develop its own Third Party Information Security Policy pursuant to this section if the agent, employee, representative or designee follows the policy of the Covered Entity that is required to comply with this Part.

Section 500.12 Multi-Factor Authentication.

(a) Multi-Factor Authentication. Based on its Risk Assessment, each Covered Entity shall use effective controls, which may include Multi-Factor Authentication or Risk-Based Authentication, to protect against unauthorized access to Nonpublic Information or Information Systems.

(b) Multi-Factor Authentication shall be utilized for any individual accessing the Covered Entity's internal networks from an external network, unless the Covered Entity's CISO has approved in writing the use of reasonably equivalent or more secure access controls.

Section 500.13 Limitations on Data Retention.

As part of its cybersecurity program, each Covered Entity shall include policies and procedures for the secure disposal on a periodic basis of any Nonpublic Information identified in section 500.01(g)(2)-(3) of this Part that is no longer necessary for business operations or for other legitimate business purposes of the Covered Entity, except where such information is otherwise required to be retained by law or regulation, or where targeted disposal is not reasonably feasible due to the manner in which the information is maintained.

Section 500.14 Training and Monitoring.

As part of its cybersecurity program, each Covered Entity shall:

(a) implement risk-based policies, procedures and controls designed to monitor the activity of Authorized Users and detect unauthorized access or use of, or tampering with, Nonpublic Information by such Authorized Users; and

(b) provide regular cybersecurity awareness training for all personnel that is updated to reflect risks identified by the Covered Entity in its Risk Assessment.

Section 500.15 Encryption of Nonpublic Information.

(a) As part of its cybersecurity program, based on its Risk Assessment, each Covered Entity shall implement controls, including encryption, to protect Nonpublic Information held or transmitted by the Covered Entity both in transit over external networks and at rest.

(1) To the extent a Covered Entity determines that encryption of Nonpublic Information in transit over external networks is infeasible, the Covered Entity may instead secure such Nonpublic Information using effective alternative compensating controls reviewed and approved by the Covered Entity's CISO.

(2) To the extent a Covered Entity determines that encryption of Nonpublic Information at rest is infeasible, the Covered Entity may instead secure such Nonpublic Information using effective alternative compensating controls reviewed and approved by the Covered Entity's CISO.

(b) To the extent that a Covered Entity is utilizing compensating controls under (a) above, the feasibility of encryption and effectiveness of the compensating controls shall be reviewed by the CISO at least annually.

Section 500.16 Incident Response Plan.

(a) As part of its cybersecurity program, each Covered Entity shall establish a written incident response plan designed to promptly respond to, and recover from, any Cybersecurity Event materially affecting the confidentiality, integrity or availability of the Covered Entity's Information Systems or the continuing functionality of any aspect of the Covered Entity's business or operations.

(b) Such incident response plan shall address the following areas:

(1) the internal processes for responding to a Cybersecurity Event;

- (2) the goals of the incident response plan;
- (3) the definition of clear roles, responsibilities and levels of decision-making authority;
- (4) external and internal communications and information sharing;
- (5) identification of requirements for the remediation of any identified weaknesses in Information Systems and associated controls;
- (6) documentation and reporting regarding Cybersecurity Events and related incident response activities; and
- (7) the evaluation and revision as necessary of the incident response plan following a Cybersecurity Event.

Section 500.17 Notices to Superintendent.

(a) Notice of Cybersecurity Event. Each Covered Entity shall notify the superintendent as promptly as possible but in no event later than 72 hours from a determination that a Cybersecurity Event has occurred that is either of the following:

- (1) Cybersecurity Events impacting the Covered Entity of which notice is required to be provided to any government body, self-regulatory agency or any other supervisory body; or
- (2) Cybersecurity Events that have a reasonable likelihood of materially harming any material part of the normal operation(s) of the Covered Entity.

(b) Annually each Covered Entity shall submit to the superintendent a written statement covering the prior calendar year. This statement shall be submitted by February 15 in such form set forth as Appendix A, certifying that the Covered Entity is in compliance with the requirements set forth in this Part. Each Covered Entity shall maintain for examination by the Department all records, schedules and data supporting this certificate for a period of five years. To the extent a Covered Entity has identified areas, systems or processes that require material improvement, updating or redesign, the Covered Entity shall document the identification and the remedial efforts planned and underway to address such areas, systems or processes. Such documentation must be available for inspection by the superintendent.

Section 500.18 Confidentiality.

Information provided by a Covered Entity pursuant to this Part is subject to exemptions from disclosure under the Banking Law, Insurance Law, Financial Services Law, Public Officers Law or any other applicable state or federal law.

Section 500.19 Exemptions.

- (a) Limited Exemption. Each Covered Entity with:

(1) fewer than 10 employees, including any independent contractors, of the Covered Entity or its Affiliates located in New York or responsible for business of the Covered Entity, or

(2) less than \$5,000,000 in gross annual revenue in each of the last three fiscal years from New York business operations of the Covered Entity and its Affiliates, or

(3) less than \$10,000,000 in year-end total assets, calculated in accordance with generally accepted accounting principles, including assets of all Affiliates,

shall be exempt from the requirements of sections 500.04, 500.05, 500.06, 500.08, 500.10, 500.12, 500.14, 500.15, and 500.16 of this Part.

(b) An employee, agent, representative or designee of a Covered Entity, who is itself a Covered Entity, is exempt from this Part and need not develop its own cybersecurity program to the extent that the employee, agent, representative or designee is covered by the cybersecurity program of the Covered Entity.

(c) A Covered Entity that does not directly or indirectly operate, maintain, utilize or control any Information Systems, and that does not, and is not required to, directly or indirectly control, own, access, generate, receive or possess Nonpublic Information shall be exempt from the requirements of sections 500.02, 500.03, 500.04, 500.05, 500.06, 500.07, 500.08, 500.10, 500.12, 500.14, 500.15, and 500.16 of this Part.

(d) A Covered Entity under Article 70 of the Insurance Law that does not and is not required to directly or indirectly control, own, access, generate, receive or possess Nonpublic Information other than information relating to its corporate parent company (or Affiliates) shall be exempt from the requirements of sections 500.02, 500.03, 500.04, 500.05, 500.06, 500.07, 500.08, 500.10, 500.12, 500.14, 500.15, and 500.16 of this Part.

(e) A Covered Entity that qualifies for any of the above exemptions pursuant to this section shall file a Notice of Exemption in the form set forth as Appendix B within 30 days of the determination that the Covered Entity is exempt.

(f) The following Persons are exempt from the requirements of this Part, provided such Persons do not otherwise qualify as a Covered Entity for purposes of this Part: Persons subject to Insurance Law section 1110; Persons subject to Insurance Law section 5904; and any accredited reinsurer or certified reinsurer that has been accredited or certified pursuant to 11 NYCRR 125.

(g) In the event that a Covered Entity, as of its most recent fiscal year end, ceases to qualify for an exemption, such Covered Entity shall have 180 days from such fiscal year end to comply with all applicable requirements of this Part.

Section 500.20 Enforcement.

This regulation will be enforced by the superintendent pursuant to, and is not intended to limit, the superintendent's authority under any applicable laws.

Section 500.21 Effective Date.

This Part will be effective March 1, 2017. Covered Entities will be required to annually prepare and submit to the superintendent a Certification of Compliance with New York State Department of Financial Services Cybersecurity Regulations under section 500.17(b) of this Part commencing February 15, 2018.

Section 500.22 Transitional Periods.

(a) Transitional Period. Covered Entities shall have 180 days from the effective date of this Part to comply with the requirements set forth in this Part, except as otherwise specified.

(b) The following provisions shall include additional transitional periods. Covered Entities shall have:

(1) One year from the effective date of this Part to comply with the requirements of sections 500.04(b), 500.05, 500.09, 500.12, and 500.14(b) of this Part.

(2) Eighteen months from the effective date of this Part to comply with the requirements of sections 500.06, 500.08, 500.13, 500.14 (a) and 500.15 of this Part.

(3) Two years from the effective date of this Part to comply with the requirements of section 500.11 of this Part.

Section 500.23 Severability.

If any provision of this Part or the application thereof to any Person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other Persons or circumstances.

(Covered Entity Name)

February 15, 20____

Certification of Compliance with New York State Department of Financial Services Cybersecurity Regulations

The Board of Directors or a Senior Officer(s) of the Covered Entity certifies:

(1) The Board of Directors (or name of Senior Officer(s)) has reviewed documents, reports, certifications and opinions of such officers, employees, representatives, outside vendors and other individuals or entities as necessary;

(2) To the best of the (Board of Directors) or (name of Senior Officer(s)) knowledge, the Cybersecurity Program of (name of Covered Entity) as of_____(date of the Board Resolution or Senior Officer(s) Compliance Finding) for the year ended____(year for which Board Resolution or Compliance Finding is provided) complies with Part ____.

Signed by the Chairperson of the Board of Directors or Senior Officer(s)

(Name)_____

Date: _____

[DFS Portal Filing Instructions]

APPENDIX B (Part 500)

(Covered Entity Name)

(Date)_____

Notice of Exemption

In accordance with 23 NYCRR § 500.19(e), (Covered Entity Name) hereby provides notice that (Covered Entity Name) qualifies for the following Exemption(s) under 23 NYCRR § 500.19 (check all that apply):

- ☐ Section 500.19(a)(1)
- ☐ Section 500.19(a)(2)
- ☐ Section 500.19(a)(3)
- ☐ Section 500.19(b)
- ☐ Section 500.19(c)
- ☐ Section 500.19(d)

If you have any question or concerns regarding this notice, please contact:

(Insert name, title, and full contact information)

(Name)_____

Date: _____

(Title)

(Covered Entity Name)

[DFS Portal Filing Instructions]

SENATE BILL 786

I1, I3, N1

9lr1049
CF 9lr2428

By: **Senators Rosapepe, Lee, Ferguson, and Washington**

Introduced and read first time: February 4, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Consumer Protection Act of 2019**

3 FOR the purpose of establishing and strengthening consumer protections in certain areas
4 of financial transactions, including mobile home purchases, security breaches,
5 vehicle purchases, money transmission, and other areas; applying certain existing
6 financial consumer protections to new forms of financial transactions; establishing
7 that a mobile home retailer has a certain duty of good faith and fair dealing;
8 prohibiting a mobile home retailer from steering a consumer borrower to certain
9 products; requiring a mobile home retailer to provide a certain written statement to
10 a consumer borrower in a certain manner; requiring a certain written statement to
11 be on a certain form prescribed by the Commissioner of Financial Regulation by
12 regulation; establishing that the failure to comply with certain laws does not impact
13 the validity of a certain transaction; authorizing the Commissioner to enforce certain
14 laws in a certain manner; requiring a lender to serve a certain notice on a consumer
15 borrower a certain number of days before the lender repossesses a certain mobile
16 home under certain circumstances; requiring a credit grantor to serve a certain
17 notice on a consumer borrower a certain number of days before the credit grantor
18 repossesses a certain mobile home under certain circumstances; requiring certain
19 notices that are given less than a certain number of days before a certain
20 repossession to include a certain certification; authorizing the Commissioner to set
21 certain fees based on certain activity; requiring a certain business that maintains
22 certain personal information to implement and maintain certain security procedures
23 and practices to protect the information; requiring a business to notify a certain
24 individual of a certain breach of a security system unless the business makes a
25 certain determination; requiring a certain notification to a certain individual within
26 a certain number of days after a business discovers or is notified of a certain breach;
27 requiring a certain notification to a certain owner or licensee within a certain
28 number of days after a business discovers or is notified of a certain breach; requiring
29 a certain notification after a certain delay within a certain number of days after a
30 certain determination; requiring a certain notification to be given in a certain
31 manner under certain circumstances; requiring certain supplemental notifications

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 to be provided in a certain manner; requiring the notice of a certain breach provided
2 to the Office of the Attorney General to include certain information; requiring a
3 certain entity to implement and maintain certain security procedures and practices
4 to protect certain information; prohibiting a certain entity from retaining certain
5 information for a certain period of time; making a certain entity liable to a certain
6 financial institution for the reimbursement of certain costs under certain
7 circumstances; making a certain vendor liable to a certain financial institution for
8 the reimbursement of certain costs under certain circumstances; establishing that a
9 certain entity or vendor is not liable for certain reimbursement under certain
10 circumstances; authorizing a certain financial institution to bring an action to
11 recover certain costs; requiring a certain dealer to disclose certain information to a
12 certain buyer in a certain manner before executing a certain agreement for the sale
13 of a vehicle; requiring a certain dealer to obtain a certain buyer's signature on certain
14 disclosures before executing a certain agreement for the sale of a vehicle; prohibiting
15 a certain dealer from participating in certain finance charges that would result in a
16 certain difference in certain rates; establishing that certain persons are fiduciaries
17 and have certain duties to customers; authorizing the Commissioner of Financial
18 Regulation to adopt certain regulations; providing that certain provisions of law do
19 not impose certain requirements on a certain broker-dealer that are not imposed
20 under federal law; adding certain sources of revenue to the Nondepository Special
21 Fund; requiring the Commissioner to pay certain fines and penalties into the
22 General Fund of the State; adding as a purpose of the Nondepository Special Fund
23 the coverage of costs of certain statutory and regulatory duties of the Commissioner
24 related to certain provisions of law; requiring a certain money transmission license
25 applicant to provide information that satisfies the Commissioner that the applicant
26 has created in a record policies and procedures for certain programs; requiring
27 money transmitters to maintain certain amounts of virtual currency under certain
28 circumstances; prohibiting a money transmitter from providing money transmission
29 services to a customer unless the transmitter fully complies with certain federal
30 laws; prohibiting a certain person from engaging in certain practices in the conduct
31 of money transmission; requiring a certain licensee to maintain in a record policies
32 and procedures for certain compliance programs; requiring certain licensing revenue
33 to be credited and used in a certain manner; prohibiting a certain person from
34 providing currency exchange services unless the person has a certain license;
35 requiring a separate license for certain business locations; requiring a certain license
36 applicant or licensee to provide certain information to NMLS; establishing certain
37 eligibility qualifications for a certain license; requiring a certain license applicant or
38 licensee to provide certain fingerprints to NMLS under certain circumstances and
39 for a certain purpose; requiring a certain license applicant or licensee to pay a certain
40 fee; providing for the application of certain provisions of law; extending certain
41 privacy and confidentiality requirements to certain information provided to NMLS
42 under certain circumstances; extending certain privileges to certain information
43 provided to NMLS; authorizing the sharing of certain information or material
44 provided to NMLS with certain entities; superseding certain provisions of law
45 relating to the disclosure of certain information or material; requiring an applicant
46 for a certain license to apply in a certain manner and include certain information in
47 an application; requiring an applicant for a certain license to pay certain fees to the

1 Commissioner and NMLS; requiring separate license applications and fees for
2 certain business locations; subjecting a person who makes a certain false statement
3 on a certain application to certain penalties of perjury; establishing the date on which
4 certain license applications must be submitted through NMLS; requiring the
5 Commissioner to determine the fitness of an applicant to receive a license in a certain
6 manner; requiring, under certain circumstances, the Commissioner to approve or
7 deny an application on or before a certain date; requiring the Commissioner to issue
8 a certain license to any applicant who meets certain requirements; requiring the
9 Commissioner to take certain actions if a license applicant does not meet certain
10 requirements; requiring the Commissioner to provide a certain notice to a certain
11 applicant of a denied application within a certain number of days in a certain
12 manner; requiring the Commissioner to include certain information on a certain
13 license; establishing that a certain license authorizes the licensee to provide currency
14 exchange services in a certain manner; authorizing the Commissioner to issue more
15 than one license under certain circumstances; authorizing a certain licensee to
16 surrender a license by sending a certain statement to the Commissioner in a certain
17 manner; prohibiting the Commissioner from refunding any part of a certain license
18 fee if a license is surrendered under certain circumstances; establishing that
19 surrender of a certain license does not affect certain liability for certain acts;
20 establishing the initial term of a certain license; authorizing the renewal of a certain
21 license under certain circumstances; establishing the renewal term of a certain
22 license; prohibiting the transfer of a certain license; requiring a licensee to display a
23 certain license in a certain manner; prohibiting a licensee from changing the location
24 for which a license is issued unless the licensee provides certain notice to and
25 receives certain consent from the Commissioner; requiring the Commissioner to send
26 a certain licensee an amended license under certain circumstances; requiring a
27 licensee to keep certain books and records for a certain period of time and in a certain
28 manner; authorizing a certain licensee to retain certain records at any location under
29 certain circumstances; requiring a certain licensee to retain a certain register of
30 certain currency exchange services; authorizing the Commissioner to investigate and
31 access certain records and business operations in a certain manner; authorizing the
32 Commissioner to examine a certain person under oath; requiring a certain licensee
33 to comply with certain laws concerning money laundering; requiring a licensee to
34 post a notice of exchange rates and fees for currency exchange services at certain
35 places of business and on a certain website in a certain manner; requiring a certain
36 licensee to provide a customer with a certain receipt; requiring a certain licensee to
37 maintain certain amounts of virtual currency under certain circumstances;
38 prohibiting a licensee from providing currency exchange services to a customer
39 unless the licensee is in full compliance with certain laws and the customer presents
40 certain identification; prohibiting a licensee or person from engaging in certain
41 activities while conducting virtual exchange services; authorizing the Commissioner
42 to enforce certain provisions of law by issuing certain orders; authorizing the
43 Commissioner to suspend or revoke certain licenses under certain circumstances;
44 establishing certain criteria for the Commissioner to consider in determining
45 whether to suspend or revoke a certain license; requiring the Commissioner to
46 provide a certain licensee certain notice and an opportunity for a certain hearing
47 before the Commissioner takes certain action; requiring the Commissioner to report

1 certain alleged criminal violations to certain entities; establishing that a certain
2 penalty applies to a violation of certain provisions of law; authorizing the
3 Commissioner to impose a certain civil penalty against a person who violates certain
4 provisions of law; requiring the Commissioner to consider certain factors in
5 determining a certain civil penalty; authorizing a person who is injured by a violation
6 of certain provisions of law to bring certain actions; authorizing a court to award
7 certain damages, fees, and costs to a certain plaintiff; providing that certain
8 provisions of law may not be construed to affect a certain jurisdiction of the Securities
9 Commissioner; requiring the Maryland Office of the Attorney General and the Office
10 of the Commissioner of Financial Regulation to review certain model legislation and
11 report to certain committees of the General Assembly on certain findings on or before
12 a certain date; extending the effectiveness of the Maryland Financial Consumer
13 Protection Commission until a certain date; requiring the Maryland Financial
14 Consumer Protection Commission to assess the impact of certain financial services
15 issues; requiring the Maryland Financial Consumer Protection Commission to report
16 certain findings and recommendations to the General Assembly on or before a certain
17 date; providing for the application of certain provisions of law; defining certain
18 terms; providing for the effective dates of this Act; and generally relating to financial
19 consumer protection.

20 BY repealing and reenacting, without amendments,
21 Article – Financial Institutions
22 Section 2–105.1(a)(1), 11–501(a), 11–601(a), and 12–401(a)
23 Annotated Code of Maryland
24 (2011 Replacement Volume and 2018 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Financial Institutions
27 Section 2–105.1(a)(5) through (10) and (c)(1)(x) and (xi) and (2)(ii), 11–501(c),
28 11–503.1, 11–601(q), 11–610(a)(10) through (13), (b)(1), and (c)(11) through
29 (15), 12–401(m), and 12–407(b)(6) and (7)
30 Annotated Code of Maryland
31 (2011 Replacement Volume and 2018 Supplement)

32 BY adding to
33 Article – Financial Institutions
34 Section 2–105.1(a)(5) and (c)(1)(xii), 11–501(h–1), 11–601(m–1), 11–610(a)(10) and
35 (c)(11), 12–401(f–1), (g–1), and (u), 12–407(b)(7), 12–414.1 through 12–414.3,
36 and 12–425(d); and 12–1101 through 12–1129 to be under the new subtitle
37 “Subtitle 11. Currency Exchanges”
38 Annotated Code of Maryland
39 (2011 Replacement Volume and 2018 Supplement)

40 BY adding to
41 Article – Real Property
42 Section 7–601 through 7–605 to be under the new subtitle “Subtitle 6. Mobile Home
43 Retail Sales”

Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 12–101(a), 12–901(a), 12–1001(a), and 14–1901(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Commercial Law
Section 12–101(h–1), 12–901(h–1), 12–1001(k–1), 14–1906.1, and 14–3504.1
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–115(c) and (d), 12–921(c)(1), 12–1021(c)(1), 14–1901(e)(2), 14–3501,
14–3503(a), and 14–3504
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Transportation
Section 15–311.4
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY adding to
Article – Corporations and Associations
Section 11–803
Annotated Code of Maryland
(2014 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Chapter 18 of the Acts of the General Assembly of 2017
Section 1(f) and (h) and 2

BY repealing and reenacting, with amendments,
Chapter 781 of the Acts of the General Assembly of 2017
Section 1(f) and (h) and 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Financial Institutions

11-501.

(a) In this subtitle the following words have the meanings indicated.

(c) (1) “Dwelling” [has the meaning stated in 15 U.S.C. § 1602(w)] **MEANS A RESIDENTIAL STRUCTURE OR MOBILE HOME THAT CONTAINS ONE TO FOUR FAMILY HOUSING UNITS, OR INDIVIDUAL UNITS OF CONDOMINIUMS OR COOPERATIVES.**

(2) “Dwelling” does not include a residential structure or mobile home unless the residential structure or mobile home, or at least one unit contained in the residential structure or mobile home, is owner-occupied.

(H-1) “MOBILE HOME” MEANS A TRAILER, HOUSE TRAILER, TRAILER COACH, OR ANY OTHER DWELLING THAT IS TRANSPORTABLE IN ONE OR MORE SECTIONS THAT IS:

(1) USED OR CAN BE USED FOR RESIDENTIAL PURPOSES; AND

(2) PERMANENTLY ATTACHED TO LAND OR CONNECTED TO UTILITY, WATER, OR SEWAGE FACILITIES.

11-601.

(a) In this subtitle the following words have the meanings indicated.

(M-1) “MOBILE HOME” HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

(q) (1) “Mortgage loan originator” means an individual who for compensation or gain, or in the expectation of compensation or gain:

(i) Takes a loan application; or

(ii) Offers or negotiates terms of a mortgage loan.

(2) “Mortgage loan originator” does not include an individual who:

(i) Acts solely as a mortgage loan processor or underwriter;

(ii) Performs only real estate brokerage activities and is licensed in accordance with Title 17 of the Business Occupations and Professions Article, unless the individual is compensated by a mortgage lender, mortgage broker, or other mortgage loan originator or by any agent of a mortgage lender, mortgage broker, or other mortgage loan originator; [or]

(iii) Is involved solely in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53d); **OR**

(IV) IS A RETAILER OF MOBILE HOMES OR AN EMPLOYEE OF THE RETAILER IF THE RETAILER OR EMPLOYEE, AS APPLICABLE, DOES NOT RECEIVE, DIRECTLY OR INDIRECTLY, COMPENSATION OR GAIN FOR ENGAGING IN ACTIVITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

Article – Real Property

SUBTITLE 6. MOBILE HOME RETAIL SALES.

7-601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(C) “MOBILE HOME” HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(D) “MOBILE HOME RETAILER” MEANS A PERSON THAT:

(1) SELLS MOBILE HOMES AT RETAIL;

(2) PROVIDES INFORMATION REGARDING FINANCING PRODUCTS TO A CONSUMER BORROWER FOR THE PURCHASE OF A MOBILE HOME; AND

(3) IS NOT:

(I) A MORTGAGE LENDER AS DEFINED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR

(II) A MORTGAGE ORIGINATOR AS DEFINED IN § 11-601 OF THE FINANCIAL INSTITUTIONS ARTICLE.

7-602.

A MOBILE HOME RETAILER:

(1) HAS A DUTY OF GOOD FAITH AND FAIR DEALING IN PROVIDING FINANCIAL INFORMATION TO A PROSPECTIVE CONSUMER BORROWER, INCLUDING PROVIDING FINANCIAL INFORMATION IN A MANNER THAT IS NOT MISLEADING OR DECEPTIVE AND THAT DISCLOSES ALL MATERIAL FACTS;

(2) MAY NOT STEER A CONSUMER BORROWER TO FINANCING PRODUCTS THAT OFFER LESS FAVORABLE TERMS; AND

(3) SHALL PROVIDE A WRITTEN STATEMENT TO A CONSUMER BORROWER IN ACCORDANCE WITH § 7-603 OF THIS SUBTITLE.

7-603.

(A) (1) THE STATEMENT REQUIRED UNDER § 7-602(3) OF THIS SUBTITLE SHALL BE ON A FORM PRESCRIBED BY THE COMMISSIONER BY REGULATION.

(2) IF THE FORM PRESCRIBED BY THE COMMISSIONER IS INCLUDED IN OTHER DOCUMENTS PROVIDED BY THE MOBILE HOME RETAILER TO A CONSUMER BORROWER, THE FORM SHALL BE CONSPICUOUS, SUCH AS THROUGH THE USE OF A DIFFERENT FONT OR SEPARATED WITH A BOX AROUND IT.

(B) THE STATEMENT REQUIRED UNDER § 7-602(3) OF THIS SUBTITLE SHALL INCLUDE:

(1) A DISCLOSURE THAT DESCRIBES ANY CORPORATE AFFILIATION BETWEEN THE MOBILE HOME RETAILER AND A FINANCING SOURCE ABOUT WHICH THE MOBILE HOME RETAILER PROVIDES INFORMATION TO THE CONSUMER BORROWER;

(2) A DISCLOSURE THAT THE CONSUMER BORROWER MAY OBTAIN FINANCING FROM ANY LENDER AND IS NOT REQUIRED TO OBTAIN FINANCING FROM A LENDER SUGGESTED BY THE MOBILE HOME RETAILER; AND

(3) INFORMATION REGARDING THE RIGHTS OF A CONSUMER BORROWER AND THE PROCEDURE FOR FILING A COMPLAINT WITH THE COMMISSIONER.

(C) THE MOBILE HOME RETAILER SHALL PROVIDE THE STATEMENT REQUIRED UNDER § 7-602(3) OF THIS SUBTITLE:

(1) TO A CONSUMER BORROWER AT THE TIME THE MOBILE HOME RETAILER PROVIDES INFORMATION TO THE CONSUMER BORROWER REGARDING FINANCING OR POTENTIALLY AVAILABLE LENDERS; AND

(2) BY POSTING THE STATEMENT IN A PROMINENT LOCATION OF THE MOBILE HOME RETAILER'S PLACE OF BUSINESS AND WEBSITE, IF ANY.

1 **7-604.**

2 **FAILURE OF A MOBILE HOME RETAILER TO COMPLY WITH THIS SUBTITLE**
3 **DOES NOT AFFECT THE VALIDITY OF AN OTHERWISE VALID FINANCING**
4 **TRANSACTION.**

5 **7-605.**

6 **THE COMMISSIONER MAY ENFORCE THIS SUBTITLE BY EXERCISING ANY OF**
7 **THE POWERS AUTHORIZED UNDER §§ 2-113 THROUGH 2-116 OF THE FINANCIAL**
8 **INSTITUTIONS ARTICLE.**

9 **Article – Commercial Law**

10 12-101.

11 (a) In this subtitle the following words have the meanings indicated.

12 **(H-1) “MOBILE HOME” HAS THE MEANING STATED IN § 11-501 OF THE**
13 **FINANCIAL INSTITUTIONS ARTICLE.**

14 12-115.

15 (c) (1) **(I) [At] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
16 **PARAGRAPH, AT** least 10 days before [he] **A LENDER** repossesses any goods, a lender may
17 serve a written notice on the **CONSUMER** borrower of [his] **THE LENDER’S** intention to
18 repossess the goods.

19 **(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, AT**
20 **LEAST 45 DAYS BEFORE A LENDER REPOSSESSES A MOBILE HOME THAT IS**
21 **PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, THE LENDER SHALL**
22 **SERVE A WRITTEN NOTICE ON THE CONSUMER BORROWER OF THE LENDER’S**
23 **INTENTION TO REPOSSESS THE MOBILE HOME.**

24 **(III) THE NOTICE REQUIRED BY SUBPARAGRAPH (II) OF THIS**
25 **PARAGRAPH IS NOT REQUIRED IF THE MOBILE HOME IS ABANDONED OR IF THE**
26 **CONSUMER BORROWER VOLUNTARILY SURRENDERS THE MOBILE HOME TO THE**
27 **LENDER.**

28 **(IV) ANY NOTICE GIVEN LESS THAN 45 DAYS BEFORE**
29 **REPOSSESSION SHALL BE ACCOMPANIED BY A CERTIFICATION FROM THE LENDER**
30 **IDENTIFYING THE CIRCUMSTANCES DEMONSTRATING THAT THE MOBILE HOME IS**
31 **VACANT AS SET FORTH IN § 7-105(D) OF THE REAL PROPERTY ARTICLE OR THAT**
32 **THE MOBILE HOME HAS BEEN SURRENDERED.**

(2) The notice shall:

(i) State the default and any period at the end of which the goods will be repossessed; and

(ii) Briefly state the rights of the borrower in case the goods are repossessed.

(d) The notice may be delivered to the borrower personally or sent to [him] **THE BORROWER** at [his] **THE BORROWER'S** last known address by registered or certified mail. 12-901.

(a) In this subtitle the following words have the meanings indicated.

(H-1) "MOBILE HOME" HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

12-921.

(c) (1) **(I) [At] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT least 10 days before a credit grantor repossesses any tangible personal property, the credit grantor may serve a written notice on the consumer borrower of the intention OF THE CREDIT GRANTOR to repossess the tangible personal property.**

(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, AT LEAST 45 DAYS BEFORE A CREDIT GRANTOR REPOSSESSES A MOBILE HOME THAT IS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, THE CREDIT GRANTOR SHALL SERVE A WRITTEN NOTICE ON THE CONSUMER BORROWER OF THE CREDIT GRANTOR'S INTENTION TO REPOSSESS THE MOBILE HOME.

(III) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NOT REQUIRED IF THE MOBILE HOME IS ABANDONED OR IF THE CONSUMER BORROWER VOLUNTARILY SURRENDERS THE MOBILE HOME TO THE CREDIT GRANTOR.

(IV) ANY NOTICE GIVEN LESS THAN 45 DAYS BEFORE REPOSSESSION SHALL BE ACCOMPANIED BY A CERTIFICATION FROM THE CREDIT GRANTOR IDENTIFYING THE CIRCUMSTANCES DEMONSTRATING THAT THE MOBILE HOME IS VACANT AS SET FORTH IN § 7-105(D) OF THE REAL PROPERTY ARTICLE OR THAT THE MOBILE HOME HAS BEEN SURRENDERED.

12-1001.

(a) In this subtitle the following words have the meanings indicated.

(K-1) “MOBILE HOME” HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

12-1021.

(c) (1) **(I) [At] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT least 10 days before a credit grantor repossesses any tangible personal property, the credit grantor may serve a written notice on the consumer borrower of the intention to repossess the tangible personal property.**

(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, AT LEAST 45 DAYS BEFORE A CREDIT GRANTOR REPOSSESSES A MOBILE HOME THAT IS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, THE CREDIT GRANTOR SHALL SERVE A WRITTEN NOTICE ON THE CONSUMER BORROWER OF THE CREDIT GRANTOR’S INTENTION TO REPOSSESS THE MOBILE HOME.

(III) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NOT REQUIRED IF THE MOBILE HOME IS ABANDONED OR IF THE CONSUMER BORROWER VOLUNTARILY SURRENDERS THE MOBILE HOME TO THE CREDIT GRANTOR.

(IV) ANY NOTICE GIVEN LESS THAN 45 DAYS BEFORE REPOSSESSION SHALL BE ACCOMPANIED BY A CERTIFICATION FROM THE CREDIT GRANTOR IDENTIFYING THE CIRCUMSTANCES DEMONSTRATING THAT THE MOBILE HOME IS VACANT AS SET FORTH IN § 7-105(D) OF THE REAL PROPERTY ARTICLE OR THAT THE MOBILE HOME HAS BEEN SURRENDERED.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Financial Institutions

11-503.1.

(a) The Commissioner shall set by regulation the fees provided for in this subtitle.

(b) The fees established by the Commissioner under this section shall be reasonable and set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating licensees in accordance with the provisions of this subtitle.

(C) THE COMMISSIONER MAY SET APPLICATION AND LICENSE FEES AND INVESTIGATION FEES FOR A MORTGAGE LENDER BASED ON THE TYPE AND VOLUME OF ACTIVITY CONDUCTED BY THE MORTGAGE LENDER.

1 3. An account number, a credit card number, or a debit card
2 number, in combination with any required security code, access code, or password, that
3 permits access to an individual's financial account;

4 4. Health information, including information about an
5 individual's mental health;

6 5. A health insurance policy or certificate number or health
7 insurance subscriber identification number, in combination with a unique identifier used
8 by an insurer or an employer that is self-insured, that permits access to an individual's
9 health information; [or]

10 6. Biometric data of an individual generated by automatic
11 measurements of an individual's biological characteristics such as a fingerprint, voice print,
12 genetic print, retina or iris image, or other unique biological characteristic, that can be used
13 to uniquely authenticate the individual's identity when the individual accesses a system or
14 account; or

15 **7. ACTIVITY-TRACKING DATA, INCLUDING:**

16 **A. ALL DATA COLLECTED THROUGH AN APPLICATION OR**
17 **ELECTRONIC DEVICE CAPABLE OF TRACKING INDIVIDUAL ACTIVITY, BEHAVIOR, OR**
18 **LOCATION; AND**

19 **B. ANY INFORMATION OR DATA DERIVED FROM DATA**
20 **COLLECTED UNDER ITEM A OF THIS ITEM; OR**

21 (ii) A user name or e-mail address in combination with a password
22 or security question and answer that permits access to an individual's e-mail account; **OR**

23 **(III) GENETIC INFORMATION WITH RESPECT TO AN INDIVIDUAL,**
24 **INCLUDING:**

25 **1. THE GENETIC SAMPLE OF AN INDIVIDUAL;**

26 **2. A GENETIC TEST OF AN INDIVIDUAL;**

27 **3. A GENETIC TEST OF A FAMILY MEMBER OF AN**
28 **INDIVIDUAL;**

29 **4. THE MANIFESTATION OF A DISEASE OR DISORDER IN**
30 **A FAMILY MEMBER OF AN INDIVIDUAL;**

31 **5. ANY REQUEST FOR, OR RECEIPT OF, A GENETIC TEST,**
32 **GENETIC COUNSELING, OR GENETIC EDUCATION; AND**

1 **6. ANY INFORMATION DERIVED FROM GENETIC**
2 **INFORMATION WITH RESPECT TO AN INDIVIDUAL; OR**

3 **(IV) NONPUBLIC SOCIAL MEDIA INFORMATION ABOUT AN**
4 **INDIVIDUAL, INCLUDING COMMUNICATIONS, POSTINGS, PICTURES, VIDEOS,**
5 **CONNECTIONS BETWEEN INDIVIDUALS, CONNECTIONS BETWEEN ACCOUNTS, AND**
6 **ACTIONS.**

7 (2) “Personal information” does not include:

8 (i) Publicly available information that is lawfully made available to
9 the general public from federal, State, or local government records;

10 (ii) Information that an individual has consented to have publicly
11 disseminated or listed; or

12 (iii) Information that is disseminated or listed in accordance with the
13 federal Health Insurance Portability and Accountability Act.

14 **[(f)] (G)** “Records” means information that is inscribed on a tangible medium or
15 that is stored in an electronic or other medium and is retrievable in perceivable form.

16 14–3503.

17 (a) To protect personal information from unauthorized access, use, modification,
18 or disclosure, a business that owns, **MAINTAINS**, or licenses personal information of an
19 individual residing in the State shall implement and maintain reasonable security
20 procedures and practices that are appropriate to the nature of the personal information
21 owned, **MAINTAINED**, or licensed and the nature and size of the business and its
22 operations.

23 14–3504.

24 (a) In this section:

25 (1) “Breach of the security of a system” means the unauthorized acquisition
26 of **[computerized]** data that compromises the security, confidentiality, or integrity of the
27 personal information maintained by a business; and

28 (2) “Breach of the security of a system” does not include the good faith
29 acquisition of personal information by an employee or agent of a business for the purposes
30 of the business, provided that the personal information is not used or subject to further
31 unauthorized disclosure.

(b) (1) A business that owns or licenses computerized data that includes personal information of an individual residing in the State, when it discovers or is notified of a breach of the security of a system, shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information of the individual has been or will be misused as a result of the breach.

(2) [If, after the investigation is concluded,] **UNLESS** the business **REASONABLY** determines that the breach of the security of the system [creates] **DOES NOT CREATE** a likelihood that personal information has been or will be misused, the business shall notify the individual of the breach.

(3) Except as provided in subsection (d) of this section, the notification required under paragraph (2) of this subsection shall be given as soon as reasonably practicable, but not later than [45] **10** days after the business [concludes the investigation required under paragraph (1) of this subsection] **DISCOVERS OR IS NOTIFIED OF THE BREACH OF THE SECURITY OF A SYSTEM.**

(4) If after the investigation required under paragraph (1) of this subsection is concluded, the business determines that notification under paragraph (2) of this subsection is not required, the business shall maintain records that reflect its determination for 3 years after the determination is made.

(c) (1) A business that maintains computerized data that includes personal information of an individual residing in the State that the business does not own or license, when it discovers or is notified of a breach of the security of a system, shall notify, as soon as practicable, the owner or licensee of the personal information of the breach of the security of a system.

(2) Except as provided in subsection (d) of this section, the notification required under paragraph (1) of this subsection shall be given as soon as reasonably practicable, but not later than [45] **3** days after the business discovers or is notified of the breach of the security of a system.

(3) A business that is required to notify an owner or licensee of personal information of a breach of the security of a system under paragraph (1) of this subsection shall share with the owner or licensee information relative to the breach.

(d) (1) The notification required under subsections (b) and (c) of this section may be delayed:

(i) If a law enforcement agency determines that the notification will impede a criminal investigation or jeopardize homeland or national security; or

(ii) To determine the scope of the breach of the security of a system, identify the individuals affected, or restore the integrity of the system.

(2) If notification is delayed under paragraph (1)(i) of this subsection, notification shall be given as soon as reasonably practicable, but not later than [30 days] 1 DAY after the law enforcement agency determines that it will not impede a criminal investigation and will not jeopardize homeland or national security.

(e) The notification required under subsection (b) of this section [may] **SHALL** be given:

(1) By written notice sent to the most recent address of the individual in the records of the business;

(2) By electronic mail to the most recent electronic mail address of the individual in the records of the business, if:

(i) The individual has expressly consented to receive electronic notice; or

(ii) The business conducts its business primarily through Internet account transactions or the Internet; **OR**

(3) By telephonic notice, to the most recent telephone number of the individual in the records of the business[; or

(4) By substitute notice as provided in subsection (f) of this section, if:

(i) The business demonstrates that the cost of providing notice would exceed \$100,000 or that the affected class of individuals to be notified exceeds 175,000; or

(ii) The business does not have sufficient contact information to give notice in accordance with item (1), (2), or (3) of this subsection].

(f) [Substitute notice under subsection (e)(4) of this section shall consist of] **THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL ALSO BE GIVEN BY:**

(1) Electronically mailing the notice to an individual entitled to notification under subsection (b) of this section, if the business has an electronic mail address for the individual to be notified;

(2) Conspicuous posting of the notice on the Web site of the business, if the business maintains a Web site; and

(3) Notification to statewide media.

(g) Except as provided in subsection (i) of this section, the notification required under subsection (b) of this section shall include:

(1) To the extent possible, a description of the categories of information that were, or are reasonably believed to have been, acquired by an unauthorized person, including which of the elements of personal information were, or are reasonably believed to have been, acquired;

(2) Contact information for the business making the notification, including the business' address, telephone number, and toll-free telephone number if one is maintained;

(3) The toll-free telephone numbers and addresses for the major consumer reporting agencies; and

(4) (i) The toll-free telephone numbers, addresses, and Web site addresses for:

1. The Federal Trade Commission; and

2. The Office of the Attorney General; and

(ii) A statement that an individual can obtain information from these sources about steps the individual can take to avoid identity theft.

(h) (1) Prior to giving the notification required under subsection (b) of this section and subject to subsection (d) of this section, a business shall provide notice of a breach of the security of a system to the Office of the Attorney General.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE, AT A MINIMUM:

(I) THE NUMBER OF AFFECTED INDIVIDUALS RESIDING IN THE STATE;

(II) A DESCRIPTION OF THE BREACH OF THE SECURITY OF A SYSTEM, INCLUDING HOW IT OCCURRED AND ANY VULNERABILITIES THAT WERE EXPLOITED;

(III) ANY STEPS THE BUSINESS HAS TAKEN OR PLANS TO TAKE RELATING TO THE BREACH OF THE SECURITY OF A SYSTEM; AND

(IV) A SAMPLE OF EACH FORM OF NOTICE THAT WILL BE SENT TO CONSUMERS UNDER SUBSECTIONS (E) AND (F) OF THIS SECTION.

(i) (1) In the case of a breach of the security of a system involving personal information that permits access to an individual's e-mail account under § 14-3501(e)(1)(ii) of this subtitle and no other personal information under § 14-3501(e)(1)(i) of this subtitle, the business may comply with the notification requirement under subsection (b) of this section by providing the notification in electronic or other form that directs the individual whose personal information has been breached promptly to:

(i) Change the individual's password and security question or answer, as applicable; or

(ii) Take other steps appropriate to protect the e-mail account with the business and all other online accounts for which the individual uses the same user name or e-mail and password or security question or answer.

(2) Subject to paragraph (3) of this subsection, the notification provided under paragraph (1) of this subsection may be given to the individual by any method described in this section.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the notification provided under paragraph (1) of this subsection may not be given to the individual by sending notification by e-mail to the e-mail account affected by the breach.

(ii) The notification provided under paragraph (1) of this subsection may be given by a clear and conspicuous notice delivered to the individual online while the individual is connected to the affected e-mail account from an Internet Protocol address or online location from which the business knows the individual customarily accesses the account.

(j) A waiver of any provision of this section is contrary to public policy and is void and unenforceable.

(k) Compliance with this section does not relieve a business from a duty to comply with any other requirements of federal law relating to the protection and privacy of personal information.

14-3504.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ACCOUNT INFORMATION" MEANS ANY OF THE FOLLOWING UNENCRYPTED PERSONAL INFORMATION CONNECTED TO A PAYMENT CARD:

(I) THE FULL DATA CONTAINED IN THE MAGNETIC STRIPE OF A PAYMENT CARD;

1 (II) THE PRIMARY ACCOUNT NUMBER ASSOCIATED WITH THE
2 PAYMENT CARD;

3 (III) THE PERSONAL IDENTIFICATION NUMBER OF A
4 CARDHOLDER;

5 (IV) THE NAME OF A CARDHOLDER;

6 (V) THE EXPIRATION DATE OF A PAYMENT CARD; AND

7 (VI) THE 3- OR 4-DIGIT NUMBER CONTAINED IN THE MAGNETIC
8 STRIPE OF A PAYMENT CARD OR PRINTED ON A PAYMENT CARD THAT IS USED TO:

9 1. SPECIFY ACCEPTANCE REQUIREMENTS; OR

10 2. VALIDATE THE PAYMENT CARD.

11 (3) "BREACH" MEANS THE BREACH OF THE SECURITY OF A SYSTEM,
12 AS DEFINED IN § 14-3504 OF THIS SUBTITLE.

13 (4) "CARDHOLDER" MEANS A RESIDENT OF THE STATE WHO HOLDS A
14 PAYMENT CARD ISSUED BY A FINANCIAL INSTITUTION.

15 (5) "ENTITY" MEANS:

16 (I) A FINANCIAL INSTITUTION;

17 (II) A BUSINESS THAT:

18 1. PROVIDES, OFFERS, OR SELLS GOODS OR SERVICES
19 IN THE STATE; AND

20 2. PROCESSES MORE THAN 20,000 PAYMENT CARD
21 TRANSACTIONS EACH YEAR; OR

22 (III) A BUSINESS THAT DIRECTLY PROCESSES OR TRANSMITS
23 ACCOUNT INFORMATION FOR OR ON BEHALF OF ANOTHER PERSON AS PART OF A
24 PAYMENT PROCESSING SERVICE.

25 (6) "FINANCIAL INSTITUTION" HAS THE MEANING STATED IN § 1-101
26 OF THE FINANCIAL INSTITUTIONS ARTICLE.

1 **(7) "PAYMENT CARD" MEANS A CREDIT CARD, DEBIT CARD, OR**
2 **STORED VALUE CARD.**

3 **(8) "VENDOR" MEANS A BUSINESS THAT:**

4 **(I) MANUFACTURES AND SELLS SOFTWARE OR EQUIPMENT**
5 **THAT IS DESIGNED TO PROCESS, TRANSMIT, OR STORE ACCOUNT INFORMATION; OR**

6 **(II) MAINTAINS ACCOUNT INFORMATION THAT THE BUSINESS**
7 **DOES NOT OWN.**

8 **(B) (1) TO PROTECT ACCOUNT INFORMATION FROM UNAUTHORIZED**
9 **ACCESS, USE, MODIFICATION, OR DISCLOSURE, AN ENTITY UNDER THIS SECTION**
10 **SHALL IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND**
11 **PRACTICES THAT ARE APPROPRIATE TO:**

12 **(I) THE NATURE OF THE ACCOUNT INFORMATION THAT IS IN**
13 **THE POSSESSION OR UNDER THE CONTROL OF THE ENTITY; AND**

14 **(II) THE SIZE OF THE BUSINESS AND OPERATIONS.**

15 **(2) AN ENTITY UNDER THIS SECTION MAY NOT RETAIN ACCOUNT**
16 **INFORMATION MORE THAN 48 HOURS AFTER AUTHORIZATION OF A PAYMENT CARD**
17 **TRANSACTION.**

18 **(C) (1) THIS SUBSECTION APPLIES TO THE REIMBURSEMENT OF**
19 **REASONABLE ACTUAL COSTS INCURRED BY A FINANCIAL INSTITUTION TO MITIGATE**
20 **CURRENT OR FUTURE DAMAGES RESULTING FROM A BREACH.**

21 **(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A**
22 **BREACHED ENTITY OTHER THAN A VENDOR IS LIABLE TO A FINANCIAL INSTITUTION**
23 **FOR REIMBURSEMENT IF:**

24 **(I) THE BREACHED ENTITY OTHER THAN A VENDOR VIOLATED**
25 **SUBSECTION (B) OF THIS SECTION; AND**

26 **(II) THE VIOLATION WAS THE PROXIMATE CAUSE OF THE**
27 **BREACH.**

28 **(3) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A**
29 **VENDOR IS LIABLE TO A FINANCIAL INSTITUTION FOR REIMBURSEMENT IF:**

1 **(I) THE NEGLIGENCE OF THE VENDOR WAS THE PROXIMATE**
2 **CAUSE OF THE BREACH; AND**

3 **(II) THE CLAIM OF THE FINANCIAL INSTITUTION IS NOT**
4 **LIMITED BY:**

5 1. **ANOTHER PROVISION OF LAW; OR**

6 2. **A CONTRACT TO WHICH THE FINANCIAL INSTITUTION**
7 **IS A PARTY.**

8 **(4) COSTS FOR WHICH A FINANCIAL INSTITUTION IS ENTITLED FOR**
9 **REIMBURSEMENT UNDER THIS SUBSECTION INCLUDE REASONABLE ACTUAL COSTS**
10 **INCURRED BY THE FINANCIAL INSTITUTION TO:**

11 **(I) NOTIFY CARDHOLDERS AFFECTED BY THE BREACH;**

12 **(II) CANCEL OR REISSUE PAYMENT CARDS AFFECTED BY THE**
13 **BREACH; AND**

14 **(III) CLOSE OR REOPEN ACCOUNTS AFFECTED BY THE BREACH.**

15 **(D) (1) AN ENTITY OR VENDOR IS NOT LIABLE UNDER THIS SECTION IF:**

16 **(I) THE ACCOUNT INFORMATION IN THE POSSESSION OR**
17 **UNDER THE CONTROL OF AN ENTITY OR VENDOR WAS ENCRYPTED AT THE TIME OF**
18 **THE BREACH; OR**

19 **(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
20 **ENTITY OR VENDOR:**

21 1. **WAS CERTIFIED COMPLIANT WITH THE PAYMENT**
22 **CARD INDUSTRY DATA STANDARDS ADOPTED BY THE PAYMENT CARD INDUSTRY**
23 **SECURITY STANDARDS COUNCIL; OR**

24 2. **HAD IMPLEMENTED AND WAS STILL MAINTAINING**
25 **THE PAYMENT CARD INDUSTRY DATA STANDARDS OR SUBSTANTIALLY SIMILAR**
26 **DATA SECURITY STANDARDS AT THE TIME OF THE BREACH.**

27 **(2) (I) AN ENTITY OR VENDOR SHALL BE CONSIDERED COMPLIANT**
28 **WITH PARAGRAPH (1)(II) OF THIS SUBSECTION IF THE SECURITY SYSTEM OF THE**
29 **ENTITY OR VENDOR WAS VALIDATED BY AN ANNUAL SECURITY ASSESSMENT THAT**
30 **OCCURRED WITHIN 1 YEAR BEFORE THE BREACH.**

(II) THE RESULTS OF AN ANNUAL SECURITY ASSESSMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE IRREVOCABLE FOR THE PURPOSE OF DETERMINING LIABILITY OF AN ENTITY OR A VENDOR UNDER THIS SECTION.

(E) A FINANCIAL INSTITUTION MAY BRING AN ACTION TO RECOVER ANY COSTS, INCLUDING ATTORNEY'S FEES, FOR WHICH AN ENTITY OR A VENDOR IS LIABLE UNDER THIS SECTION.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Commercial Law

14–1901.

(a) In this subtitle the following words have the meanings indicated.

(e) (2) “Credit services business” includes [a]:

(I) A person who sells or attempts to sell written materials containing information that the person represents will enable a consumer to establish a new credit file or record; AND

(II) A DEALER, AS DEFINED IN § 15–101 OF THE TRANSPORTATION ARTICLE, WHO PARTICIPATES IN FINANCE CHARGES ASSOCIATED WITH A CONTRACT FOR THE SALE OF A VEHICLE BY THE DEALER.

14–1906.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BUY RATE” MEANS THE LOWEST ANNUAL PERCENTAGE RATE THAT AN INDIRECT LENDER INDICATES TO A DEALER WOULD NEED TO BE A FEATURE OF A PARTICULAR CONTRACT FOR THE SALE OF A VEHICLE IN ORDER FOR THE INDIRECT LENDER TO PURCHASE THE CONTRACT FROM THE DEALER.

(3) “CONTRACT RATE” MEANS THE ANNUAL PERCENTAGE RATE IN A:

(I) CONTRACT OFFERED FOR THE SALE OF A VEHICLE; OR

(II) FINAL CONTRACT FOR THE SALE OF A VEHICLE.

1 **(B) THIS SECTION APPLIES TO A DEALER WHO PARTICIPATES IN FINANCE**
2 **CHARGES ASSOCIATED WITH A CONTRACT FOR THE SALE OF A VEHICLE BY THE**
3 **DEALER.**

4 **(C) (1) BEFORE EXECUTING A FINANCING AGREEMENT ON A CONTRACT**
5 **FOR THE SALE OF A VEHICLE TO A BUYER, A DEALER SHALL:**

6 **(I) IN WRITING ON A DOCUMENT THAT IS SEPARATE FROM THE**
7 **FINANCING AGREEMENT, DISCLOSE TO THE BUYER ALL FINANCING OFFERS FOR**
8 **WHICH THE BUYER WAS APPROVED, INCLUDING THE BUY RATE AND THE TERM IN**
9 **MONTHS FOR EACH OFFER; AND**

10 **(II) IN WRITING ON A DOCUMENT THAT IS SEPARATE FROM THE**
11 **FINANCING AGREEMENT AND SEPARATE FROM THE DISCLOSURE REQUIRED UNDER**
12 **ITEM (1)(I) OF THIS PARAGRAPH, DISCLOSE TO THE BUYER WHETHER OR NOT THE**
13 **DEALER IS BEING COMPENSATED FOR INCREASING THE CONTRACT RATE TO A**
14 **HIGHER RATE THAN THE BUY RATE.**

15 **(2) THE DISCLOSURE UNDER PARAGRAPH (1)(II) OF THIS**
16 **SUBSECTION SHALL STATE IN AT LEAST 12 POINT TYPE:**

17 **(I) THE BUY RATE;**

18 **(II) THE CONTRACT RATE THAT THE DEALER IS OFFERING THE**
19 **CONSUMER;**

20 **(III) THE TOTAL AMOUNT OF DEALER COMPENSATION;**

21 **(IV) THE AMOUNT OF DEALER COMPENSATION ATTRIBUTABLE**
22 **TO THE DIFFERENCE BETWEEN THE BUY RATE AND THE CONTRACT RATE; AND**

23 **(V) THE TOTAL AMOUNT THAT THE CONSUMER WILL OWE**
24 **DURING THE TERM OF THE FINANCING AGREEMENT ATTRIBUTABLE TO:**

25 **1. THE TOTAL AMOUNT OF DEALER COMPENSATION;**
26 **AND**

27 **2. THE AMOUNT OF DEALER COMPENSATION**
28 **ATTRIBUTABLE TO THE DIFFERENCE BETWEEN THE BUY RATE AND THE CONTRACT**
29 **RATE.**

(3) PRIOR TO THE EXECUTION OF A FINANCING AGREEMENT ON A CONTRACT FOR THE SALE OF A VEHICLE TO A BUYER, THE DEALER SHALL OBTAIN THE BUYER'S SIGNATURE ON THE DISCLOSURES REQUIRED UNDER THIS SUBSECTION.

(D) A DEALER MAY NOT PARTICIPATE IN FINANCE CHARGES THAT WOULD RESULT IN A DIFFERENCE BETWEEN THE BUY RATE AND THE CONTRACT RATE OF MORE THAN:

(1) 2 ANNUAL PERCENTAGE RATE POINTS FOR A CONTRACT THAT HAS AN ORIGINAL SCHEDULED TERM OF UP TO 60 MONTHLY PAYMENTS; OR

(2) 1.5 ANNUAL PERCENTAGE RATE POINTS FOR A CONTRACT THAT HAS AN ORIGINAL SCHEDULED TERM OF MORE THAN 60 MONTHLY PAYMENTS.

Article – Transportation

15-311.4.

A DEALER WHO PARTICIPATES IN FINANCE CHARGES ASSOCIATED WITH A CONTRACT FOR THE SALE OF A VEHICLE BY THE DEALER IS A CREDIT SERVICE BUSINESS AS DEFINED IN § 14-901 OF THE COMMERCIAL LAW ARTICLE.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Corporations and Associations

11-803.

(A) THIS SECTION APPLIES TO:

(1) A BROKER-DEALER;

(2) A BROKER-DEALER AGENT;

(3) AN INSURANCE PRODUCER, AS DEFINED IN § 1-101 OF THE INSURANCE ARTICLE;

(4) AN INVESTMENT ADVISER;

(5) A FEDERAL COVERED ADVISER; AND

(6) AN INVESTMENT ADVISER REPRESENTATIVE.

(B) A PERSON SUBJECT TO THIS SECTION IS A FIDUCIARY AND HAS A DUTY TO ACT IN THE BEST INTEREST OF THE CUSTOMER WITHOUT REGARD TO THE FINANCIAL OR OTHER INTEREST OF THE PERSON OR FIRM PROVIDING THE ADVICE.

(C) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE FIDUCIARY DUTY REQUIRED UNDER THIS SECTION, INCLUDING REGULATIONS:

(1) DEFINING, REQUIRING, PROHIBITING, OR EXCLUDING AN ACT, PRACTICE, OR COURSE OF BUSINESS OF A PERSON SUBJECT TO THIS SECTION; OR

(2) DESIGNED TO PREVENT A PERSON FROM ENGAGING IN ACTS, PRACTICES, AND COURSES OF BUSINESS IN VIOLATION OF THIS SECTION.

(D) NOTHING IN THIS SECTION IMPOSES ON A BROKER-DEALER ANY BOOKS AND RECORDS REQUIREMENT THAT IS NOT IMPOSED UNDER FEDERAL LAW.

SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Financial Institutions

2–105.1.

(a) (1) In this section the following words have the meanings indicated.

(5) “CURRENCY EXCHANGE SERVICES” HAS THE MEANING STATED IN § 12–1101 OF THIS ARTICLE.

[(5)] (6) “Debt management services provider” has the meaning stated in § 12–901 of this article.

[(6)] (7) “Money transmission” has the meaning stated in § 12–401 of this article.

[(7)] (8) “Mortgage lender” has the meaning stated in § 11–501 of this article.

[(8)] (9) “Mortgage originator” has the meaning stated in § 11–601 of this article.

[(9)] (10) “Provide check cashing services” has the meaning stated in § 12–101 of this article.

[(10)] (11) “Sales finance company” has the meaning stated in § 11–401 of this article.

(c) (1) The Commissioner may participate in NMLS for:

(x) Sales finance companies; [and]

(xi) Consumer reporting agencies; **AND**

**(XII) PERSONS WHO ARE REQUIRED TO BE LICENSED UNDER
TITLE 12, SUBTITLE 11 OF THIS ARTICLE.**

(2) To facilitate participation in NMLS, the Commissioner may adopt regulations that waive or modify the requirements of:

(ii) Title 12, Subtitles 1, 4, [and] 9, **AND 11** of this article with respect to providers of check cashing services, persons who engage in money transmission, [and] providers of debt management services, **AND PERSONS THAT PROVIDE CURRENCY EXCHANGE SERVICES;**

11–610.

(a) There is a Nondepository Special Fund that consists of:

**(10) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER
TITLE 12, SUBTITLE 11 OF THIS ARTICLE;**

[(10)] (11) Revenue received for the licensing of persons under Title 7 of the Business Regulation Article;

[(11)] (12) Revenue received for the licensing of persons under Title 14, Subtitle 19 of the Commercial Law Article;

[(12)] (13) Income from the investments that the State Treasurer makes for the Fund; and

[(13)] (14) (i) Any other fee, examination or investigation fee or assessment, or revenue received by the Commissioner under this subtitle, Subtitles 2, 3, 4, and 5 of this title, Title 12, Subtitles 1, 4, 9, [and] 10, **AND 11** of this article, and Title 14, Subtitles 12 and 19 of the Commercial Law Article; and

(ii) Any other fee or revenue received by the State Collection Agency Licensing Board under Title 7 of the Business Regulation Article.

(b) Notwithstanding subsection (a) of this section:

(1) The Commissioner shall pay all fines and penalties collected by the Commissioner under Title 2, Subtitle 1 of this article, this subtitle, Subtitles 2, 3, 4, and 5

of this title, Title 12, Subtitles 1, 4, 9, [and] 10, **AND 11** of this article, and Title 14, Subtitles 12 and 19 of the Commercial Law Article into the General Fund of the State; and

(c) The purpose of the Fund is to cover the direct and indirect costs of fulfilling the statutory and regulatory duties of the Commissioner and the State Collection Agency Licensing Board related to:

(11) TITLE 12, SUBTITLE 11 OF THIS ARTICLE;

[(11)] (12) Title 7 of the Business Regulation Article;

[(12)] (13) Title 12, Subtitles 5, 6, 9, and 10 of the Commercial Law Article;

[(13)] (14) Title 14, Subtitles 12 and 19 of the Commercial Law Article;

[(14)] (15) Title 7, Subtitles 1, 3, 4, [and] 5, **AND 6** of the Real Property Article; and

[(15)] (16) Any other expense authorized in the State budget.

12–401.

(a) In this subtitle the following words have the meanings indicated.

(F–1) “CONTROL OF VIRTUAL CURRENCY” MEANS:

(1) WHEN USED IN REFERENCE TO A TRANSACTION OR RELATIONSHIP INVOLVING VIRTUAL CURRENCY, POWER TO EXECUTE UNILATERALLY OR PREVENT INDEFINITELY A VIRTUAL CURRENCY TRANSACTION; AND

(2) WHEN USED IN REFERENCE TO A PERSON, THE DIRECT OR INDIRECT POWER TO DIRECT THE MANAGEMENT, OPERATIONS, OR POLICIES OF THE PERSON THROUGH LEGAL OR BENEFICIAL OWNERSHIP OF VOTING POWER IN THE PERSON OR UNDER A CONTRACT, AN ARRANGEMENT, OR AN UNDERSTANDING.

(G–1) “CURRENCY” HAS THE MEANING STATED IN 31 C.F.R. § 1010.100(M).

(m) (1) “Money transmission” means the business of selling or issuing payment instruments or stored value devices, or receiving money or monetary value, for transmission to a location within or outside the United States by any means, including electronically or through the Internet.

(2) “Money transmission” includes:

(i) A bill payer service;

(ii) An accelerated mortgage payment service; [and]

(iii) Any informal money transfer system engaged in as a business for, or network of persons who engage as a business in, facilitating the transfer of money, **INCLUDING VIRTUAL CURRENCY**, outside the conventional financial institutions system to a location within or outside the United States; **AND**

(IV) AN ASSUMED CONTROL OF VIRTUAL CURRENCY FROM OR ON BEHALF OF A PERSON AND TO:

1. CREDIT THE VIRTUAL CURRENCY TO THE ACCOUNT OF ANOTHER PERSON;

2. MOVE THE VIRTUAL CURRENCY FROM ONE ACCOUNT OF THE PERSON TO ANOTHER ACCOUNT OF THE SAME PERSON; OR

3. RELINQUISH CONTROL OF VIRTUAL CURRENCY TO ANOTHER PERSON.

(U) (1) "VIRTUAL CURRENCY" MEANS A DIGITAL REPRESENTATION OF VALUE THAT:

(I) MAY BE USED AS A MEDIUM OF EXCHANGE, A UNIT OF ACCOUNT, OR A STORE OF VALUE; AND

(II) IS NOT CURRENCY, WHETHER OR NOT DENOMINATED IN CURRENCY.

(2) "VIRTUAL CURRENCY" DOES NOT INCLUDE:

(I) A TRANSACTION IN WHICH A MERCHANT GRANTS, AS PART OF AN AFFINITY OR REWARDS PROGRAM, VALUE THAT CANNOT BE TAKEN FROM OR EXCHANGED WITH THE MERCHANT OR OTHERS FOR CURRENCY, BANK CREDIT, OR VIRTUAL CURRENCY; OR

(II) A DIGITAL REPRESENTATION OF VALUE ISSUED BY OR ON BEHALF OF A PUBLISHER AND USED SOLELY WITHIN AN ONLINE GAME, GAME PLATFORM, OR FAMILY OF GAMES SOLD BY THE SAME PUBLISHER OR OFFERED ON THE SAME GAME PLATFORM THAT CANNOT BE TAKEN FROM OR EXCHANGED WITH THE PUBLISHER OR OTHERS FOR CURRENCY, BANK CREDIT, OR VIRTUAL CURRENCY.

1 12-407.

2 (b) An applicant shall provide:

3 (6) A history of material litigation against the applicant, if any, for the past
4 3 years; [and]

5 (7) INFORMATION THAT SATISFIES THE COMMISSIONER THAT THE
6 APPLICANT HAS CREATED IN A RECORD POLICIES AND PROCEDURES FOR THE
7 COMPLIANCE PROGRAMS REQUIRED UNDER § 12-425(D) OF THIS SUBTITLE; AND

8 [(7)] (8) Any other information that the Commissioner reasonably
9 requires.

10 12-414.1.

11 AS PART OF A MONEY TRANSMISSION, INCLUDING BEFORE OR AFTER THE
12 TRANSMISSION, IF A LICENSEE HAS CONTROL OF VIRTUAL CURRENCY FOR ONE OR
13 MORE CUSTOMERS, THE LICENSEE SHALL MAINTAIN IN ITS CONTROL AN AMOUNT OF
14 EACH TYPE OF VIRTUAL CURRENCY SUFFICIENT TO SATISFY THE AGGREGATE
15 ENTITLEMENTS OF THE CUSTOMERS TO THE TYPE OF VIRTUAL CURRENCY.

16 12-414.2.

17 A LICENSEE MAY NOT PROVIDE MONEY TRANSMISSION SERVICES TO A
18 CUSTOMER UNLESS THE LICENSEE IS IN FULL COMPLIANCE WITH:

19 (1) FEDERAL ANTI-MONEY-LAUNDERING LAWS, INCLUDING 31
20 C.F.R. PART 1010; AND

21 (2) FEDERAL CUSTOMER DUE DILIGENCE REQUIREMENTS,
22 INCLUDING 31 C.F.R. PART 1010.

23 12-414.3.

24 A LICENSEE OR PERSON, IN THE CONDUCT OF MONEY TRANSMISSION, MAY
25 NOT ENGAGE IN:

26 (1) AN UNSAFE OR UNSOUND ACT OR PRACTICE;

27 (2) AN UNFAIR OR DECEPTIVE ACT OR PRACTICE;

28 (3) FRAUD OR INTENTIONAL MISREPRESENTATION;

(4) ANOTHER DISHONEST ACT; OR

(5) MISAPPROPRIATION OF CURRENCY, VIRTUAL CURRENCY, OR
OTHER VALUE HELD BY A FIDUCIARY.

12-425.

(D) A LICENSEE SHALL MAINTAIN IN A RECORD POLICIES AND PROCEDURES
FOR THE FOLLOWING COMPLIANCE PROGRAMS:

(1) AN INFORMATION SECURITY AND OPERATIONAL SECURITY
PROGRAM;

(2) A BUSINESS CONTINUITY PROGRAM;

(3) A DISASTER RECOVERY PROGRAM;

(4) AN ANTIFRAUD PROGRAM;

(5) AN ANTI-MONEY-LAUNDERING PROGRAM;

(6) A PROGRAM TO PREVENT FUNDING OF TERRORIST ACTIVITY; AND

(7) A PROGRAM DESIGNED TO:

(I) ENSURE COMPLIANCE WITH THIS SUBTITLE, OTHER STATE
LAW, AND FEDERAL LAW THAT IS RELEVANT TO THE VIRTUAL CURRENCY BUSINESS
ACTIVITY CONTEMPLATED BY THE LICENSEE WITH OR ON BEHALF OF RESIDENTS OF
THE STATE; AND

(II) ASSIST THE LICENSEE IN ACHIEVING THE PURPOSES OF
THIS SUBTITLE, OTHER STATE LAW, AND FEDERAL LAW.

SUBTITLE 11. CURRENCY EXCHANGES.

12-1101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) "BRANCH LOCATION" MEANS ANY LOCATION OTHER THAN THE
PRINCIPAL EXECUTIVE OFFICE OF A LICENSEE OR LICENSE APPLICANT AT WHICH
THE LICENSEE CONDUCTS, OR THE LICENSE APPLICANT, ON LICENSURE, WILL
CONDUCT, ACTIVITIES REQUIRED TO BE LICENSED UNDER THIS SUBTITLE.

(C) "CONTROL" HAS THE MEANING STATED IN § 12-401 OF THIS TITLE.

(D) "CONTROL OF VIRTUAL CURRENCY" HAS THE MEANING STATED IN § 12-401 OF THIS TITLE.

(E) (1) "CONTROL PERSON" MEANS A PERSON THAT HAS THE POWER, DIRECTLY OR INDIRECTLY, TO DIRECT THE MANAGEMENT OR POLICIES OF A LICENSEE OR LICENSE APPLICANT, WHETHER THROUGH OWNERSHIP OF SECURITIES, BY CONTRACT, OR OTHERWISE.

(2) "CONTROL PERSON" INCLUDES A PERSON THAT:

(I) IS A GENERAL PARTNER, AN OFFICER, A DIRECTOR, OR A MEMBER, OR OCCUPIES A SIMILAR POSITION OR PERFORMS A SIMILAR FUNCTION;

(II) DIRECTLY OR INDIRECTLY HAS THE RIGHT TO VOTE 5% OR MORE OF A CLASS OF VOTING SECURITIES, OR HAS THE POWER TO SELL OR DIRECT THE SALE OF 5% OR MORE OF A CLASS OF VOTING SECURITIES, OF A LICENSEE OR LICENSE APPLICANT; OR

(III) IN THE CASE OF A PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY PARTNERSHIP, A LIMITED LIABILITY COMPANY, OR ANY OTHER BUSINESS ENTITY:

1. HAS THE RIGHT TO RECEIVE ON LIQUIDATION OR DISSOLUTION OF A LICENSEE OR LICENSE APPLICANT 5% OR MORE OF THE CAPITAL OF THE LICENSEE OR LICENSE APPLICANT; OR

2. HAS CONTRIBUTED 5% OR MORE OF THE CAPITAL OF A LICENSEE OR LICENSE APPLICANT.

(F) "CURRENCY" HAS THE MEANING STATED IN 31 C.F.R. § 1010.100(M).

(G) "CURRENCY EXCHANGE SERVICES" MEANS:

(1) RECEIPT OF REVENUES FROM THE EXCHANGE OF CURRENCY OF ONE GOVERNMENT FOR CURRENCY OF ANOTHER GOVERNMENT; OR

(2) THE ASSUMED CONTROL OF VIRTUAL CURRENCY FROM OR ON BEHALF OF A PERSON, AT LEAST MOMENTARILY, TO SELL, TRADE, OR CONVERT:

(I) VIRTUAL CURRENCY FOR CURRENCY, BANK CREDIT, OR ONE OR MORE FORMS OF VIRTUAL CURRENCY; OR

(II) CURRENCY OR BANK CREDIT FOR ONE OR MORE FORMS OF VIRTUAL CURRENCY.

(H) "EXEMPT ENTITY" MEANS AN ENTITY THAT IS EXEMPT FROM ALL REQUIREMENTS OF LICENSING UNDER § 12-1102(B) AND (C) OF THIS SUBTITLE.

(I) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE COMMISSIONER TO PROVIDE CURRENCY EXCHANGE SERVICES.

(J) "LICENSEE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A PERSON THAT IS LICENSED BY THE COMMISSIONER TO PROVIDE CURRENCY EXCHANGE SERVICES.

(K) "UNIQUE IDENTIFIER" MEANS A NUMBER OR ANOTHER IDENTIFIER ASSIGNED BY NMLS.

(L) "VIRTUAL CURRENCY" HAS THE MEANING STATED IN § 12-401 OF THIS TITLE.
12-1102.

(A) THIS SUBTITLE DOES NOT APPLY TO:

(1) A BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE LAWS OF THE STATE OR THE UNITED STATES THAT MAINTAINS ITS PRINCIPAL OFFICE IN THE STATE;

(2) AN OUT-OF-STATE BANK, AS DEFINED IN § 5-1001 OF THIS ARTICLE, HAVING A BRANCH THAT ACCEPTS DEPOSITS IN THE STATE; OR

(3) AN INSTITUTION INCORPORATED UNDER FEDERAL LAW AS A SAVINGS ASSOCIATION OR SAVINGS BANK THAT DOES NOT MAINTAIN ITS PRINCIPAL OFFICE IN THE STATE BUT HAS A BRANCH THAT ACCEPTS DEPOSITS IN THE STATE.

(B) A SUBSIDIARY OR AN AFFILIATE OF AN INSTITUTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS EXEMPT FROM ALL REQUIREMENTS OF LICENSING UNDER THIS SUBTITLE PROVIDED THE SUBSIDIARY OR AFFILIATE:

1 **(1) IS SUBJECT TO AUDIT OR EXAMINATION BY A REGULATORY BODY**
2 **OR AGENCY OF THE STATE, THE UNITED STATES, OR THE STATE IN WHICH THE**
3 **SUBSIDIARY OR AFFILIATE MAINTAINS ITS PRINCIPAL OFFICE; AND**

4 **(2) SUBMITS TO THE COMMISSIONER IN WRITING AND PRIOR TO**
5 **PROVIDING CURRENCY EXCHANGE SERVICES THE FOLLOWING INFORMATION:**

6 **(I) THE SUBSIDIARY'S OR AFFILIATE'S NAME AND ADDRESS,**
7 **AND THE NAMES AND ADDRESSES OF EACH:**

8 **1. OWNER WHO OWNS 5% OR MORE OF THE SUBSIDIARY**
9 **OR AFFILIATE; AND**

10 **2. OFFICER, DIRECTOR, OR PRINCIPAL OF THE**
11 **SUBSIDIARY OR AFFILIATE;**

12 **(II) EACH ADDRESS AT WHICH CURRENCY EXCHANGE SERVICES**
13 **WILL BE PROVIDED; AND**

14 **(IV) ANY OTHER INFORMATION THAT THE COMMISSIONER**
15 **REQUESTS.**

16 **(C) (1) AN EXEMPT ENTITY IS NOT SUBJECT TO §§ 12-1107 THROUGH**
17 **12-1115, INCLUSIVE, AND 12-1123 OF THIS SUBTITLE.**

18 **(2) AN EXEMPT ENTITY IS SUBJECT TO:**

19 **(I) §§ 12-1116 THROUGH 12-1122, INCLUSIVE, AND 12-1124**
20 **THROUGH 12-1128, INCLUSIVE, OF THIS SUBTITLE; AND**

21 **(III) ANY REGULATION, EXCEPT TO THE EXTENT THE**
22 **REGULATION CONCERNS LICENSING, ADOPTED UNDER THIS SUBTITLE.**

23 **12-1103.**

24 **THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS**
25 **SUBTITLE.**

26 **12-1104.**

27 **(A) ALL REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER THIS**
28 **SUBTITLE AND ANY OTHER FEE OR REVENUE RECEIVED BY THE COMMISSIONER**
29 **UNDER THIS SUBTITLE SHALL BE:**

(1) CREDITED TO THE NONDEPOSITORY SPECIAL FUND UNDER § 11-610 OF THIS ARTICLE; AND

(2) USED IN ACCORDANCE WITH § 11-610(C) OF THIS ARTICLE.

(B) THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.

12-1105.

(A) A PERSON MAY NOT PROVIDE CURRENCY EXCHANGE SERVICES UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE OR IS AN EXEMPT ENTITY.

(B) A SEPARATE LICENSE IS REQUIRED:

(1) FOR THE PRINCIPAL EXECUTIVE OFFICE OF THE APPLICANT OR LICENSEE; AND

(2) AT EACH BRANCH LOCATION AT WHICH A PERSON PROVIDES EXCHANGE SERVICES.

12-1106.

IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE, AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE SHALL PROVIDE TO NMLS INFORMATION CONCERNING THE APPLICANT OR LICENSEE'S IDENTITY, AS WELL AS OTHER INFORMATION THAT NMLS REQUIRES.

12-1107.

TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE COMMISSIONER THAT:

(1) THE APPLICANT'S BUSINESS WILL PROMOTE THE CONVENIENCE AND ADVANTAGE OF THE COMMUNITY IN WHICH THE APPLICANT'S PLACE OF BUSINESS WILL BE LOCATED; AND

(2) THE APPLICANT OR, IF THE APPLICANT IS NOT AN INDIVIDUAL, EACH OF THE OWNERS, OFFICERS, DIRECTORS, OR PRINCIPALS OF THE ENTITY:

1 **(I) HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL**
2 **RESPONSIBILITY, AND GENERAL FITNESS TO:**

3 1. **COMMAND THE CONFIDENCE OF THE PUBLIC; AND**

4 2. **WARRANT THE BELIEF THAT THE BUSINESS WILL BE**
5 **OPERATED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND**

6 **(II) HAS NOT COMMITTED ANY ACT AT THAT WOULD BE A**
7 **GROUND FOR SUSPENSION OR REVOCATION OF A LICENSE.**

8 **12-1108.**

9 **(A) IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE UNDER**
10 **THIS SUBTITLE, AND AT ANY OTHER TIME THE COMMISSIONER REQUIRES, AN**
11 **APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS, AS DIRECTED BY THE**
12 **COMMISSIONER, TO NMLS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION**
13 **TO CONDUCT A CRIMINAL HISTORY RECORDS CHECK.**

14 **(B) AN APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO**
15 **PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.**

16 **(C) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE**
17 **FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL**
18 **APPLY TO THE PRESIDENT, AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR**
19 **OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.**

20 **12-1109.**

21 **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:**

22 **(I) THE REQUIREMENTS OF FEDERAL LAW AND TITLE 4,**
23 **SUBTITLES 1 THROUGH 5 OF THE GENERAL PROVISIONS ARTICLE REGARDING THE**
24 **PRIVACY OR CONFIDENTIALITY OF INFORMATION OR MATERIAL CONTINUES TO**
25 **APPLY TO THE INFORMATION OR MATERIAL AFTER THE INFORMATION OR MATERIAL**
26 **IS PROVIDED TO NMLS UNDER THIS SUBTITLE; AND**

27 **(II) ANY PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW,**
28 **INCLUDING THE RULES OF ANY FEDERAL OR STATE COURT WITH RESPECT TO**
29 **INFORMATION OR MATERIAL, CONTINUES TO APPLY TO THE INFORMATION OR**
30 **MATERIAL AFTER THE INFORMATION OR MATERIAL IS PROVIDED TO NMLS UNDER**
31 **THIS SUBTITLE.**

(2) (I) INFORMATION OR MATERIAL PROVIDED TO NMLS UNDER THIS SUBTITLE MAY BE SHARED WITH ANY STATE OR FEDERAL REGULATORY OFFICIAL THAT HAS OVERSIGHT AUTHORITY OVER PERSONS REQUIRED TO BE LICENSED UNDER THIS SUBTITLE, INCLUDING THE FINANCIAL CRIMES ENFORCEMENT NETWORK AND THE OFFICE OF FOREIGN ASSETS CONTROL, AND ANY SUCCESSOR TO THOSE AGENCIES.

(II) INFORMATION OR MATERIAL SHARED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT LOSE ANY CONFIDENTIALITY OR PRIVILEGE THAT APPLIES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(B) INFORMATION OR MATERIAL OR MATERIAL THAT IS CONFIDENTIAL OR PRIVILEGED UNDER SUBSECTION (A) IS NOT SUBJECT TO:

(1) DISCLOSURE UNDER ANY FEDERAL OR STATE LAW GOVERNING THE DISCLOSURE TO THE PUBLIC OF INFORMATION HELD BY AN OFFICER OR AGENCY OF THE FEDERAL GOVERNMENT OR A STATE THAT HAS RECEIVED THE INFORMATION OR MATERIAL; OR

(2) UNLESS THE PERSON TO WHOM THE INFORMATION OR MATERIAL PERTAINS WAIVES A PRIVILEGE HELD BY NMLS, SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE IN ANY PRIVATE CIVIL LITIGATION OR ADMINISTRATIVE PROCESS.

(C) THIS SECTION SUPERSEDES THE PROVISIONS OF TITLE 4, SUBTITLES 1 THROUGH 5 OF THE GENERAL PROVISIONS ARTICLE RELATING TO THE DISCLOSURE OF ANY INFORMATION OR MATERIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT ARE INCONSISTENT WITH SUBSECTION (A) OF THIS SECTION.

(D) THIS SECTION DOES NOT APPLY TO INFORMATION OR MATERIAL RELATING TO PUBLICLY ADJUDICATED DISCIPLINARY AND ENFORCEMENT ACTIONS AGAINST A PERSON REQUIRED TO BE LICENSED THAT IS INCLUDED IN NMLS AND DESIGNATED FOR ACCESS BY THE PUBLIC.

12-1110.

(A) (1) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

(I) COMPLETE, SIGN, AND SUBMIT TO THE COMMISSIONER AN APPLICATION MADE UNDER OATH IN THE FORM, AND IN ACCORDANCE WITH THE PROCESS, THAT THE COMMISSIONER REQUIRES THROUGH NMLS; AND

(II) PROVIDE ALL INFORMATION THAT THE COMMISSIONER REQUESTS.

(2) THE APPLICATION SHALL INCLUDE:

(I) THE APPLICANT'S NAME, THE APPLICANT'S PRINCIPAL EXECUTIVE OFFICE ADDRESS, AND, IF THE APPLICANT IS NOT AN INDIVIDUAL, THE NAME AND RESIDENCE ADDRESS OF EACH CONTROL PERSON;

(II) THE ADDRESS OF EACH BRANCH LOCATION, IF ANY;

(III) ANY OTHER INFORMATION THAT THE COMMISSIONER REQUIRES FOR AN INVESTIGATION AND FINDINGS UNDER § 12-111 OF THIS SUBTITLE; AND

(IV) INFORMATION THAT SATISFIES THE COMMISSIONER THAT THE APPLICANT HAS CREATED IN A RECORD POLICIES AND PROCEDURES FOR THE COMPLIANCE PROGRAMS REQUIRED UNDER § 12-425(D) OF THIS SUBTITLE.

(B) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE COMMISSIONER:

(1) A NONREFUNDABLE INVESTIGATION FEE OF \$1,000; AND

(2) A NONREFUNDABLE LICENSE FEE OF \$1,000.

(C) IN ADDITION TO THE FEES REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, A LICENSEE SHALL PAY TO NMLS ANY FEES THAT NMLS IMPOSES IN CONNECTION WITH AN INITIAL LICENSE.

(D) FOR THE PRINCIPAL EXECUTIVE OFFICE AND EACH BRANCH LOCATION FOR WHICH AN APPLICANT APPLIES, THE APPLICANT SHALL:

(1) SUBMIT A SEPARATE APPLICATION; AND

(2) PAY A SEPARATE INVESTIGATION FEE AND LICENSE FEE.

(E) A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT UNDER OATH ON AN APPLICATION FILED WITH THE COMMISSIONER UNDER THIS SECTION IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTIES OF § 9-101 OF THE CRIMINAL LAW ARTICLE.

(F) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE OR A LICENSE RENEWAL SHALL APPLY THROUGH NMLS:

(1) ON OR AFTER JULY 1, 2019; OR

(2) IF THE COMMISSIONER HAS NOT JOINED NMLS WITH RESPECT TO PERSONS REQUIRED TO BE LICENSED UNDER THIS SUBTITLE AS OF JULY 1, 2019, ON OR AFTER THE DATE THAT THE COMMISSIONER JOINS, AS SPECIFIED BY THE COMMISSIONER BY PUBLIC NOTICE.

12-1111.

(A) WHEN AN APPLICANT FOR A LICENSE FILES THE APPLICATION AND PAYS THE FEES REQUIRED BY § 12-1110 OF THIS SUBTITLE, THE COMMISSIONER SHALL INVESTIGATE THE FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(B) UNLESS THE COMMISSIONER AND AN APPLICANT AGREE IN WRITING TO EXTEND THE TIME, THE COMMISSIONER SHALL APPROVE OR DENY EACH APPLICATION FOR A LICENSE WITHIN 60 DAYS AFTER THE DATE ON WHICH THE COMPLETE APPLICATION IS FILED AND THE FEES ARE PAID.

(C) THE COMMISSIONER SHALL ISSUE A LICENSE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(D) (1) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER SHALL:

(I) DENY THE APPLICATION;

(II) NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

(III) REFUND THE LICENSE FEE; AND

(IV) RETAIN THE INVESTIGATION FEE.

(2) (I) WITHIN 10 DAYS AFTER THE COMMISSIONER DENIES AN APPLICATION, THE COMMISSIONER SHALL SEND A WRITTEN NOTICE TO THE APPLICANT STATING THE REASONS FOR THE DENIAL.

(II) THE NOTICE SHALL BE SENT BY UNITED STATES MAIL, ELECTRONIC MAIL, OR ANY MEANS PROVIDED THROUGH NMLS TO THE ADDRESS LISTED IN THE APPLICATION.

1 12-1112.

2 (A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

3 (1) THE NAME OF THE LICENSEE;

4 (2) ANY TRADE NAME OR ALIAS APPROVED BY THE COMMISSIONER;

5 (3) THE ADDRESS OF THE LOCATION AT WHICH CURRENCY
6 EXCHANGE SERVICES WILL BE PROVIDED; AND

7 (4) THE LICENSE NUMBER OR UNIQUE IDENTIFIER OF THE LICENSEE.

8 (B) (1) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE CURRENCY
9 EXCHANGE SERVICES UNDER ANY NAME STATED ON THE LICENSE AND AT THE
10 LOCATION AT WHICH CURRENCY EXCHANGE SERVICES WILL BE PROVIDED.

11 (2) ONLY ONE LOCATION MAY BE MAINTAINED UNDER ANY ONE
12 LICENSE.

13 (C) SUBJECT TO § 12-1105(B) OF THIS SUBTITLE, THE COMMISSIONER MAY
14 ISSUE MORE THAN ONE LICENSE TO AN APPLICANT WHO:

15 (1) CONDUCTS ACTIVITIES FOR WHICH A LICENSE IS REQUIRED AT
16 MORE THAN ONE LOCATION;

17 (2) COMPLIES WITH § 12-1110 OF THIS SUBTITLE; AND

18 (3) OTHERWISE MEETS THE REQUIREMENTS OF THIS SUBTITLE.

19 12-1113.

20 (A) A LICENSEE MAY SURRENDER A LICENSE BY SENDING TO THE
21 COMMISSIONER, IN THE FORM AND IN ACCORDANCE WITH THE PROCESS THAT THE
22 COMMISSIONER REQUIRES, A STATEMENT THAT THE LICENSE IS SURRENDERED.

23 (B) IF A LICENSE IS SURRENDERED VOLUNTARILY, OR IS SUSPENDED OR
24 REVOKED, THE COMMISSIONER MAY NOT REFUND ANY PART OF THE LICENSE FEE
25 REGARDLESS OF THE TIME REMAINING IN THE LICENSE TERM.

(C) THE SURRENDER OF A LICENSE DOES NOT AFFECT ANY CIVIL OR CRIMINAL LIABILITY OF THE LICENSEE FOR ACTS COMMITTED BEFORE THE LICENSE WAS SURRENDERED.

12-1114.

(A) AN INITIAL LICENSE TERM SHALL:

(1) BEGIN ON THE DATE THE LICENSE IS ISSUED; AND

(2) EXPIRE ON DECEMBER 31 OF THE YEAR:

(I) IN WHICH THE LICENSE IS ISSUED, IF THE LICENSE IS ISSUED BEFORE NOVEMBER 1; OR

(II) IMMEDIATELY FOLLOWING THE YEAR IN WHICH THE LICENSE IS ISSUED, IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.

(B) ON OR AFTER NOVEMBER 1 OF THE YEAR A LICENSE EXPIRES, THE LICENSE MAY BE RENEWED FOR AN ADDITIONAL 1-YEAR TERM, IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE LICENSED;

(2) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$1,000;

(3) SUBMITS TO THE COMMISSIONER A RENEWAL REGISTRATION ON THE FORM THAT THE COMMISSIONER REQUIRES THROUGH NMLS; AND

(4) PAYS TO NMLS ANY FEES THAT NMLS IMPOSES IN CONNECTION WITH THE REGISTRATION.

(C) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH NMLS, A RENEWAL TERM SHALL:

(1) BE FOR A PERIOD OF 1 YEAR;

(2) BEGIN ON JANUARY 1 EACH YEAR AFTER THE INITIAL TERM; AND

(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM BEGINS.

12-1115.

1 (A) A LICENSE IS NOT TRANSFERABLE.

2 (B) A LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY AT THE
3 LICENSEE'S LICENSED LOCATION.

4 12-1116.

5 (A) A LICENSEE MAY NOT CHANGE THE LOCATION FOR WHICH A LICENSE IS
6 ISSUED UNLESS THE LICENSEE:

7 (1) PROVIDES TO THE COMMISSIONER, IN THE FORM AND IN
8 ACCORDANCE WITH THE PROCESS THAT THE COMMISSIONER REQUIRES, NOTICE OF
9 THE PROPOSED CHANGE; AND

10 (2) RECEIVES THE WRITTEN CONSENT OF THE COMMISSIONER BY
11 UNITED STATES MAIL, E-MAIL, OR ANY MEANS PROVIDED THROUGH NMLS PRIOR
12 TO THE CHANGE.

13 (B) IF THE COMMISSIONER CONSENTS TO A PROPOSED CHANGE OF
14 LOCATION, THE COMMISSIONER SHALL SEND THE LICENSEE AN AMENDED LICENSE.

15 12-1117.

16 (A) A LICENSEE SHALL KEEP THE BOOKS AND RECORDS THAT THE
17 COMMISSIONER REQUIRES TO DETERMINE COMPLIANCE WITH THIS SUBTITLE.

18 (B) UNLESS A LONGER PERIOD IS EXPRESSLY REQUIRED BY STATE OR
19 FEDERAL LAW, A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS
20 SUBTITLE FOR A PERIOD OF AT LEAST 2 YEARS.

21 (C) A LICENSEE MAY RETAIN THE RECORDS REQUIRED UNDER THIS
22 SUBTITLE AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

23 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF
24 THE RECORDS; AND

25 (2) MAKES THE RECORDS AVAILABLE AT A PLACE OF BUSINESS FOR
26 WHICH A LICENSE HAS BEEN ISSUED OR AT THE LICENSEE'S PRINCIPAL PLACE OF
27 BUSINESS, AS AGREED BY THE COMMISSIONER AND THE LICENSEE, WITHIN 7 DAYS
28 AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE COMMISSIONER.

29 (D) IN ADDITION TO ANY OTHER BOOKS AND RECORDS THAT THE
30 COMMISSIONER MAY REQUIRE, A LICENSEE SHALL RETAIN A CHRONOLOGICAL

1 REGISTER OF ALL CURRENCY EXCHANGE SERVICES PROVIDED BY THE LICENSEE
2 SHOWING:

3 (1) THE NAME OF THE CUSTOMER;

4 (2) THE TRANSACTION DATE;

5 (3) THE RATE OF EXCHANGE;

6 (4) THE TYPES AND AMOUNT OF CURRENCY OR VIRTUAL CURRENCY
7 EXCHANGED;

8 (5) THE AMOUNT OF FEES CHARGED; AND

9 (6) A COMPLETE DESCRIPTION OF THE IDENTIFICATION PRESENTED
10 BY THE CUSTOMER.

11 (E) A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS
12 SECTION IN ONE OF THE FOLLOWING WAYS:

13 (1) THE ORIGINAL FORM;

14 (2) AN ELECTRONIC EQUIVALENT APPROVED BY THE
15 COMMISSIONER; OR

16 (3) A MICROPHOTOGRAPHIC COPY APPROVED BY THE
17 COMMISSIONER.

18 (F) A LICENSEE SHALL MAINTAIN IN A RECORD POLICIES AND PROCEDURES
19 FOR THE FOLLOWING COMPLIANCE PROGRAMS:

20 (1) AN INFORMATION SECURITY AND OPERATIONAL SECURITY
21 PROGRAM;

22 (2) A BUSINESS CONTINUITY PROGRAM;

23 (3) A DISASTER RECOVERY PROGRAM;

24 (4) AN ANTIFRAUD PROGRAM;

25 (5) AN ANTI-MONEY-LAUNDERING PROGRAM;

26 (6) A PROGRAM TO PREVENT FUNDING OF TERRORIST ACTIVITY; AND

(7) A PROGRAM DESIGNED TO:

(I) ENSURE COMPLIANCE WITH THIS SUBTITLE, OTHER STATE LAWS, AND FEDERAL LAWS THAT ARE RELEVANT TO THE VIRTUAL CURRENCY BUSINESS ACTIVITY CONTEMPLATED BY THE LICENSEE WITH OR ON BEHALF OF RESIDENTS OF THE STATE; AND

(II) ASSIST THE LICENSEE IN ACHIEVING THE PURPOSES OF THIS SUBTITLE, OTHER STATE LAW, AND FEDERAL LAW.

12-1118.

(A) AT ANY TIME AND AS OFTEN AS THE COMMISSIONER CONSIDERS APPROPRIATE, THE COMMISSIONER MAY INVESTIGATE THE RECORDS AND BUSINESS OPERATIONS OF A LICENSEE OR A PERSON WHO ACTS ON BEHALF OF A LICENSEE.

(B) FOR THE PURPOSES OF THIS SECTION, THE COMMISSIONER:

(1) SHALL HAVE ACCESS TO ANY BOOKS, PAPERS, RECORDS, SAFES, OR VAULTS OF THE PERSON UNDER INVESTIGATION; AND

(2) MAY EXAMINE UNDER OATH A PERSON WHOSE TESTIMONY THE COMMISSIONER REQUIRES.

12-1119.

A LICENSEE SHALL COMPLY WITH ALL FEDERAL AND STATE LAWS CONCERNING MONEY LAUNDERING.

12-1120.

(A) (1) A LICENSEE SHALL CONSPICUOUSLY POST, IN 48-POINT OR LARGER TYPE, AT EACH PLACE OF BUSINESS AT WHICH THE LICENSEE PROVIDES CURRENCY EXCHANGE SERVICES, A NOTICE OF THE RATE OF EXCHANGE AND FEES FOR PROVIDING CURRENCY EXCHANGE SERVICES.

(2) IF A LICENSEE PROVIDES CURRENCY EXCHANGE SERVICES ON THE LICENSEE'S WEBSITE, THE WEBSITE SHALL CONSPICUOUSLY SHOW A NOTICE OF THE RATE OF EXCHANGE AND FEES FOR PROVIDING CURRENCY EXCHANGE SERVICES.

(B) A LICENSEE SHALL PROVIDE EACH CUSTOMER WITH A WRITTEN RECEIPT SUFFICIENT TO IDENTIFY:

(1) THE TRANSACTION;

(2) THE LICENSEE;

(3) THE RATE OF EXCHANGE;

(4) THE AMOUNT AND TYPE OF CURRENCY OR VIRTUAL CURRENCY EXCHANGED; AND

(5) THE FEES CHARGED.

12-1121.

(A) AS PART OF A CURRENCY EXCHANGE SERVICE TRANSACTION, INCLUDING BEFORE OR AFTER THE TRANSACTION, IF A LICENSEE HAS CONTROL OF VIRTUAL CURRENCY FOR ONE OR MORE CUSTOMERS, THE LICENSEE SHALL MAINTAIN IN ITS CONTROL AN AMOUNT OF EACH TYPE OF VIRTUAL CURRENCY SUFFICIENT TO SATISFY THE AGGREGATE ENTITLEMENTS OF THE CUSTOMERS TO THE TYPE OF VIRTUAL CURRENCY.

(B) A LICENSEE MAY NOT PROVIDE CURRENCY EXCHANGE SERVICES TO A CUSTOMER UNLESS:

(1) THE LICENSEE IS IN FULL COMPLIANCE WITH:

(I) FEDERAL ANTI-MONEY-LAUNDERING LAWS, INCLUDING 31 C.F.R. PART 1010; AND

(II) FEDERAL CUSTOMER DUE DILIGENCE REQUIREMENTS, INCLUDING 31 C.F.R. PART 1010; AND

(2) THE CUSTOMER PRESENTS A FORM OF CUSTOMARILY ACCEPTABLE IDENTIFICATION, INCLUDING:

(I) A VALID DRIVER'S LICENSE WITH PHOTOGRAPH ISSUED BY A STATE GOVERNMENT;

(II) A VALID IDENTITY CARD WITH PHOTOGRAPH ISSUED BY A STATE GOVERNMENT;

(III) A VALID UNITED STATES PASSPORT OR ALIEN
REGISTRATION CARD; AND

(IV) A VALID MILITARY IDENTIFICATION CARD.

(C) A LICENSEE OR PERSON, IN THE CONDUCT OF VIRTUAL CURRENCY
EXCHANGE SERVICES, MAY NOT ENGAGE IN:

(1) AN UNSAFE OR UNSOUND ACT OR PRACTICE;

(2) AN UNFAIR OR DECEPTIVE ACT OR PRACTICE;

(3) FRAUD OR INTENTIONAL MISREPRESENTATION;

(4) ANOTHER DISHONEST ACT; OR

(5) MISAPPROPRIATION OF CURRENCY, VIRTUAL CURRENCY, OR
OTHER VALUE HELD BY A FIDUCIARY.

12-1122.

THE COMMISSIONER MAY ENFORCE THIS SUBTITLE BY ISSUING AN ORDER:

(1) TO CEASE AND DESIST AND TO TAKE AFFIRMATIVE ACTION FROM
THE VIOLATION AND ANY FURTHER SIMILAR VIOLATIONS; AND

(2) REQUIRING THE VIOLATOR TO TAKE AFFIRMATIVE ACTION TO
CORRECT THE VIOLATION INCLUDING THE RESTITUTION OF MONEY OR PROPERTY
TO ANY PERSON AGGRIEVED BY THE VIOLATION.

12-1123.

(A) SUBJECT TO THE HEARING PROVISIONS OF § 12-1124 OF THIS
SUBTITLE, THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY
LICENSEE IF THE LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER,
PARTNER, STOCKHOLDER, EMPLOYEE, OR AGENT OF THE LICENSEE:

(1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A
LICENSE;

(2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF
ANY OTHER STATE OF:

1 (I) A FELONY; OR

2 (II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
3 FITNESS AND QUALIFICATION OF THE PERSON TO PROVIDE CURRENCY EXCHANGE
4 SERVICES;

5 (3) IN CONNECTION WITH ANY CURRENCY EXCHANGE SERVICE:

6 (I) COMMITS ANY FRAUD;

7 (II) ENGAGES IN ANY ILLEGAL OR DISHONEST ACTIVITIES; OR

8 (III) MISREPRESENTS OR FAILS TO DISCLOSE ANY MATERIAL
9 FACTS TO ANYONE ENTITLED TO THAT INFORMATION;

10 (4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY RULE OR
11 REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW REGULATING
12 CURRENCY EXCHANGE SERVICES IN THE STATE; OR

13 (5) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,
14 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE
15 LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY,
16 EQUITABLY, AND EFFICIENTLY.

17 (B) IN DETERMINING WHETHER THE LICENSE OF THE LICENSEE SHOULD BE
18 SUSPENDED OR REVOKED FOR A REASON LISTED IN SUBSECTION (A)(2) OF THIS
19 SECTION, THE COMMISSIONER SHALL CONSIDER:

20 (1) THE NATURE OF THE CRIME;

21 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES
22 AUTHORIZED BY THE LICENSE;

23 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE
24 CONVICTION TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO PROVIDE
25 CHECK CASHING SERVICES;

26 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

27 (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE
28 CONVICTION.

29 12-1124.

1 **(A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 12-1122, §**
2 **12-1123, OR § 12-1127 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE**
3 **LICENSEE AN OPPORTUNITY FOR A HEARING BEFORE THE COMMISSIONER.**

4 **(B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE**
5 **HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT**
6 **ARTICLE.**

7 **12-1125.**

8 **THE COMMISSIONER SHALL REPORT TO THE APPROPRIATE STATE'S**
9 **ATTORNEY OR THE ATTORNEY GENERAL ANY ALLEGED CRIMINAL VIOLATION OF**
10 **THIS SUBTITLE.**

11 **12-1126.**

12 **A PERSON WHO KNOWINGLY VIOLATES THIS SUBTITLE IS GUILTY OF A**
13 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
14 **EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

15 **12-1127.**

16 **(A) THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY AGAINST A PERSON**
17 **WHO VIOLATES THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING:**

18 **(1) \$10,000 FOR A FIRST OFFENSE; AND**

19 **(2) \$25,000 FOR EACH SUBSEQUENT OFFENSE.**

20 **(B) IN DETERMINING THE AMOUNT OF CIVIL PENALTY TO BE IMPOSED**
21 **UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER**
22 **THE FOLLOWING:**

23 **(1) THE SERIOUSNESS OF THE VIOLATION;**

24 **(2) THE GOOD FAITH OF THE VIOLATOR;**

25 **(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;**

26 **(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;**

27 **(5) THE ASSETS OF THE VIOLATOR; AND**

(6) ANY OTHER FACTOR RELEVANT TO THE DETERMINATION OF THE CIVIL PENALTY.

12-1128.

(A) A PERSON WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE MAY FILE AN ACTION TO RECOVER DAMAGES OR FOR INJUNCTIVE RELIEF.

(B) A COURT MAY AWARD A PREVAILING PLAINTIFF UNDER THIS SECTION:

(1) UP TO 3 TIMES THE AMOUNT OF ACTUAL DAMAGES; AND

(2) AN AMOUNT AT LEAST EQUAL TO THE AMOUNT PAID BY THE PLAINTIFF TO THE DEFENDANT, REASONABLE ATTORNEY'S FEES, AND COSTS.

12-1129.

THIS SUBTITLE MAY NOT BE CONSTRUED TO AFFECT THE JURISDICTION OF THE SECURITIES COMMISSIONER UNDER TITLE 11 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

SECTION 7. AND BE IT FURTHER ENACTED, That the Maryland Office of the Attorney General and the Office of the Commissioner of Financial Regulation shall:

(1) review Title I of the National Consumer Law Center's "The Model State Consumer and Employee Justice Enforcement Act", developed in November 2015; and

(2) on or before October 1, 2019, report to the Senate Finance Committee and the House Economic Matters Committee on the potential impact on consumers and businesses of the General Assembly's adoption of Title I in legislation.

SECTION 8. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 18 of the Acts of 2017

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That:

(f) The Commission shall:

(1) assess the impact of potential changes to federal financial industry laws and regulations, budgets, and policies, including changes to:

1 (i) the Dodd–Frank Wall Street Reform and Consumer Protection
2 Act;

3 (ii) the Consumer Financial Protection Bureau;

4 (iii) the Securities and Exchange Commission;

5 (iv) the Commodity Futures Trading Commission;

6 (v) the Pension Benefit Guaranty Corporation;

7 (vi) the Department of Labor;

8 (vii) the Federal Reserve Board; and

9 (viii) any other federal financial regulators; [and]

10 **(2) ASSESS THE IMPACT OF NEW DEVELOPMENTS IN FINANCIAL**
11 **SERVICES THAT HAVE REVEALED NEW RISKS TO CONSUMERS; AND**

12 **[(2)] (3)** provide recommendations for federal and State actions that will
13 protect residents of the State in financial transactions and when receiving financial
14 services.

15 (h) On or before December 31, 2017, [and] on or before December 31, 2018, **ON**
16 **OR BEFORE DECEMBER 31, 2019, AND ON OR BEFORE DECEMBER 31, 2020**, the
17 Commission shall submit a report on its findings and recommendations, including any
18 legislative proposals, to the Governor and, in accordance with § 2–1246 of the State
19 Government Article, the General Assembly.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
21 1, 2017. It shall remain effective for a period of **[2] 4** years and 1 month and, at the end of
22 **[June 30, 2019] JUNE 30, 2021**, with no further action required by the General Assembly,
23 this Act shall be abrogated and of no further force and effect.

24 **Chapter 781 of the Acts of 2017**

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That:

27 (f) The Commission shall:

28 (1) assess the impact of potential changes to federal financial industry
29 laws and regulations, budgets, and policies, including changes to:

1 (i) the Dodd–Frank Wall Street Reform and Consumer Protection
2 Act;

3 (ii) the Consumer Financial Protection Bureau;

4 (iii) the Securities and Exchange Commission;

5 (iv) the Commodity Futures Trading Commission;

6 (v) the Pension Benefit Guaranty Corporation;

7 (vi) the Department of Labor;

8 (vii) the Federal Reserve Board; and

9 (viii) any other federal financial regulators; [and]

10 **(2) ASSESS THE IMPACT OF NEW DEVELOPMENTS IN FINANCIAL**
11 **SERVICES THAT HAVE REVEALED NEW RISKS TO CONSUMERS; AND**

12 **[(2)] (3)** provide recommendations for federal and State actions that will
13 protect residents of the State in financial transactions and when receiving financial
14 services.

15 (h) On or before December 31, 2017, [and] on or before December 31, 2018, **ON**
16 **OR BEFORE DECEMBER 31, 2019, AND ON OR BEFORE DECEMBER 31, 2020**, the
17 Commission shall submit a report on its findings and recommendations, including any
18 legislative proposals, to the Governor and, in accordance with § 2–1246 of the State
19 Government Article, the General Assembly.

20 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect June
21 1, 2017. It shall remain effective for a period of **[2] 4** years and 1 month and, at the end of
22 **[June 30, 2019] JUNE 30, 2021**, with no further action required by the General Assembly,
23 this Act shall be abrogated and of no further force and effect.

24 **SECTION 9. AND BE IT FURTHER ENACTED**, That Section 8 of this Act shall take
25 effect July 1, 2019.

26 **SECTION 10. AND BE IT FURTHER ENACTED**, That, except as provided in
27 Section 9 of this Act, this Act shall take effect October 1, 2019.

NYDFS Consumer Alert on Universal Life insurance.

Acting Superintendent Linda Lacewell is alerting consumers who own or are thinking about buying universal life insurance policies to carefully review their policies, the sales illustrations describing how the policy works and all required information disclosures.

Over the last five years, the New York State Department of Financial Services has received almost 1,400 complaints from New York consumers about universal life insurance policies. Many consumer groups and media organizations have also reported consumer issues with universal life insurance.

What is Universal Life Insurance?

Universal life insurance is a type of “permanent” life insurance coverage, meaning that it will provide coverage for the policyholder’s entire life. This is unlike term life insurance, which provides coverage for only a limited amount of time (for example, 20 years).

Universal life insurance comes in many varieties, including fixed universal life insurance, variable universal life insurance, indexed universal life insurance or guaranteed universal life insurance.

Permanent life insurance policies like universal life often build a modest cash value that could be returned to the policyowner if the policy is cancelled. The policyowner can also take a loan from the insurance company against the policy’s cash value, which accrues interest.

Beware of Increasing Charges

The internal charges of universal life policies can increase every year. Ongoing premium payments, the policy’s existing cash value and ongoing interest credits (or, investment performance in the case of variable universal life insurance) are all used to cover the policy’s internal charges, which increase each year as the insured gets older and can be very high in later years.

The Department has seen many cases of consumers who purchased universal life insurance and who made payments for years, thinking their premium payment would not change or that their coverage would remain in effect. But many found that their

policies had lapsed (were no longer in effect) with little to no value due to declines in interest rates, market volatility and other factors, or they were required to pay large additional premium payments to keep their coverage in effect.

Recommendations for Consumers:

- **YOUR PREMIUM PAYMENT AMOUNT IS PROBABLY NOT GUARANTEED AND MAY INCREASE** - Most universal life insurance policies do not provide long-term guarantees of premium payments, cash value or benefits. Any payments plus any existing cash value in the policy must be enough to cover ongoing policy expenses or the policy will lapse and you will no longer be covered.
- **UNDERSTAND HOW YOUR CURRENT OR POTENTIAL PREMIUM PAYMENT WAS DETERMINED** – Universal life insurance offers consumers flexibility on the amount and timing of premium payments. These payments are often set based on assumptions about future interest rates or market performance. If the actual earnings of the policy are lower than originally assumed, you may have to make additional payments to keep your policy in effect.
- **ASK YOUR AGENT WHAT HAPPENS UNDER GUARANTEED PROVISIONS OR ADVERSE SCENARIOS** – All sales illustrations are required to show what happens under the guaranteed, or “worst case” scenarios. This provides an understanding of when a policy would lapse or require large additional payments if things do not go as expected. Consumers should be extra cautious with universal life insurance policies whose premiums and cash value projections are based on assumptions of future stock market performance, such as variable universal life insurance and indexed universal life insurance, as these policies will be more volatile.
- **YOU ARE ENTITLED UNDER NEW YORK LAW TO RECEIVE FREE POLICY UPDATES** - Owners of universal life insurance policies must check their policies often because changes in interest rates, policy expenses and the timing of premium payments will impact how long your policy will remain effective, or in-force. New York law allows the policyowner to receive one free *in-force illustration* per year, which provides a snapshot of the policy’s current status and a projection of future performance based on current conditions. You should ask your insurer or agent every year what

premium level, based on current conditions, would allow your coverage to continue to your desired date.

- **IF YOU BUY UNIVERSAL LIFE INSURANCE, YOU CAN CANCEL WITHIN 10 DAYS UNDER NEW YORK’S “FREE LOOK” PROVISION** – New York law requires that every life insurance policy contain a “free look” provision. This means that you can cancel the policy for a full refund if you are not satisfied with the policy for any reason. The “free look” provision begins when the policy is delivered and is available, depending on the policy language, for a period of not less than 10 days after the consumer receives the policy.

Learn More

Every insurer must provide a Life Insurance Buyer’s Guide to consumers before or when you apply for insurance. For more information, see the guide you should have received from your insurer, or contact your insurer.



PRELIMINARY PROGRAM AGENDA

Wednesday, May 8, 2019

5:00 – 6:30 PM Welcome Reception

Come meet fellow attendees and faculty at a casual cocktail reception.

Thursday, May 9, 2019

7:30 – 8:30 AM Networking Breakfast

8:30 – 8:50 AM Welcome and Introduction

8:50 – 9:40 AM Insurance Company Products and Industry Innovation

As life insurance carriers strive to innovate and their products become increasingly complex, it's important for compliance to expand their knowledge of the different products their organization sells. From filing to distribution to claims, understanding and interpreting the unique aspects of life insurance contracts is a fundamental skill. This session will provide an informative overview of new innovations in the life insurance industry and characteristics of the different types of life insurance and annuity offerings in the marketplace today.

9:40 – 10:40 AM The State Insurance Regulatory Examination Process and its Impact Upon Compliance

Life insurance companies and their distribution partners are subject to examinations by various state insurance departments. Listen as seasoned state insurance department examiners are interviewed about what is reviewed during an examination, the types of "red flags" that may cause concern and the expectations regulators have for companies during the examination process.

10:40 – 11:00 AM Break

11:00 – 12 Noon The State Insurance Regulatory Examination Process and its Impact Upon Compliance – The Company Perspective

As life insurance companies undergo the regulatory examination process, there are many steps that compliance professionals must consider to be prepared for these examination activities. Listen to a panel of leading compliance professionals who share their insights on recommended practices that all compliance professionals should consider to allow their regulatory exams to be conducted in a time and cost efficient manner.

12 Noon – 1:10 PM Networking Luncheon

1:10 – 2:00 PM Form Filing

Life insurers are required to conform their policy forms to a myriad of laws and regulations that address the state-specific needs of America's insurance consumers. Insurers seek timely review of form filings for speed to market for their products. A panel of form filing specialists will discuss balancing these objectives and the state-of-the art form submittal, document management and review methods intended to add uniformity and consistency of regulatory processes and accelerate the pace of market entry.

2:00 – 2:50 PM Replacements

Compliance professionals are often asked to review replacement activity as part of their responsibilities. Hear from a panel of leading compliance professionals about strategies to address operational issues associated with current replacement requirements and what you need to know to identify, review and process replacement sales.

2:50 – 3:20 PM Dessert Break

3:20 – 4:10 PM Complaint Handling

Complaint handling is a regulated business process that is routinely examined at life insurance companies. Hear from a panel of experienced compliance practitioners as they review the key elements of complaint handling and strategies companies may wish to consider to be leaders in complaint handling and processing.

4:10 – 5:00 PM Legislative and Regulatory Monitoring

Insurance compliance professionals know that staying on top of legislative and regulatory activity is a challenge and the magnitude of this challenge is constantly increasing. Compliance in this dynamic environment demands current and accurate information. Hear from a panel of industry experts who will discuss strategies for effectively managing legislative and regulatory monitoring.

5:00 – 6:30 PM Social Reception

Relax with colleagues, discuss the day's events and get your questions answered by faculty.

Friday, May 10, 2019**7:30 – 8:30 AM Networking Breakfast****8:30 – 9:20 AM Suitability – New Developments in Federal and State Sales Practice Standards**

Suitability is back in the regulatory spotlight. Insurers that distribute annuity products must comply with NAIC and FINRA requirements for the review of annuity transactions to determine their suitability. The DOL and the SEC are now on the scene as well as they try to develop additional sales standards for annuities and other types of life insurance. Hear from a panel of subject matter experts who will discuss the suitability landscape and the various strategies companies utilize to meet their compliance objectives.

9:20 – 10:10 AM Working with Business Partners – Sales/Marketing and Producers

Compliance professionals must be able to work effectively with fellow professionals in sales and marketing and among producers who are involved with distributing the company's products. It is important to achieve overall company goals for compliance professionals to maintain strong relationships with sales and marketing professionals and producers who distribute the company's products. This session will explore how compliance, sales and marketing and producers utilize a coordinated team approach toward achieving compliance objectives.

10:10 – 10:40 AM Break**10:40 – 11:30 AM AML, Antifraud & Senior Exploitation**

Anti-money laundering and antifraud practices are designed to detect inappropriate transactions that often target seniors and allow fraudulent enterprises to continue to operate. Hear from a panel of industry AML and antifraud leaders who will discuss recent trends and the steps they have taken to allow their organizations to detect and deter potential fraudulent schemes and protect vulnerable adults.

11:30 – 11:50 PM CFTC Quiz

Remember what you learned here? Here's your chance to prove it as we review highlights and reinforce your knowledge while teams compete to win "valuable" prizes and the admiration of their compliance professional peers playing CEFLI's popular CFTC Quiz!

11:50 – Noon Final Thoughts and Closing Remarks