COMMENTS OF THE

COALITION FOR THE REFORM OF MONEY TRANSMISSION LAWS

BEFORE THE BANKING & FINANCE COMMITTEE HEARING FOR ASSEMBLY BILL 786

The Coalition for the Reform of Money Transmission Laws ("CRMTL") welcomes the opportunity to provide the Committee with its comments as it reconsiders the California Money Transmission Act of 2010 (the "MTA"). CRMTL consists of a group of technology entrepreneurs, investors, and private citizens who share a common concern regarding the innovation stifling effects of the MTA and similar state laws nationwide. CRMTL applauds the Committee's decision to revisit the MTA in light of the unintended negative consequences of the law that the experience of the past several years has made apparent. We urge the Committee, and the Assembly, to act expeditiously to meaningfully reform the MTA.

CRMTL firmly believes that the MTA inhibits innovation and consumer choice in financial services without affording any offsetting benefits. In fact, as we explore below, consumers are actually harmed by the MTA and similar laws due to the substantial barriers to entry they impose which services to impede the development of competition in the industry. We are hopeful that we may provide the Committee with a perspective on the practical consequences of the MTA and assist the Committee as it considers ways to position California as a champion of innovation in the money transmission industry.

This comment letter is structured in four parts. First, we will discuss why California is ideally positioned, both from a market and regulatory perspective, to unleash a wave of innovation in the money transmission and payments industry. Second, we will discuss the harmful impacts that the MTA's licensing requirements have had upon aspiring payments startups within California, which ultimately harms competition and consumers. Third, based upon this discussion we provide a rationale for repeal as well as two approaches to amending the MTA that would address many of the objections to the existing law. Finally, in the Appendix, we present model amendments that could be quickly introduced and adopted by the Committee. While there are many approaches available to reform the MTA, we believe that the three options presented here provide the optimal avenue to unleashing a wave of innovative payments firms in California, which will spur competition and benefit consumers.

I. Why California Matters: Demographics, Innovation Hub & Regulatory Leadership

California is uniquely positioned to be the home of the Nation's most innovative money transmission firms for three reasons: its size and demographic diversity; its recognized culture of innovation; and its status as a bellwether state for regulation. California is poised to lead on this issue if it is willing to consider how its laws can either enable – or hinder – innovation.

If demographics are destiny, California has natural advantages that would make it the natural launching pad for innovative payments providers. Beyond the multitude of daily payments exchanged among the State's 37 million residents, California is also the point of departure for billions of dollars in annual remittances from California residents to family and friends living abroad. California's size alone provides sufficient scale with which to launch and prove out an innovative business model. But beyond the mass-market, California boasts a number of sizeable niche markets, each of which could form the customer base for a sustainable business. Conversely, if a money transmitter is unable to do business in California, they will be hard pressed to build a sustainable national business. Without access to the nation's largest and most diverse market, with its economies of scale, it will be unlikely to succeed nationally. Simply put, the ability to operate in California can make or break a payments firm.

Compounding California's demographic advantages are its culture of innovation and its history of funding disruptive startups. California is by far the nation's leader in attracting venture investment, luring billions of dollars into the state annually. Half of the total venture capital invested nationally flows to California firms, a figure nearly five times that of the next most invested-in state.[1] The net result: over 1,200 California-based companies each year receive the funding with which to build large and sustainable businesses.[2] A virtuous cycle of innovation begetting investment has transformed California into the undisputed leader in technological innovation in addition to its claim as the birthplace of today's technology giants: Apple, eBay, Intel, Facebook, and Google, each of which were mere startups in the not-so-distant past. These companies and many others have a significant impact on the California economy, creating new industries and thousands of high paying, local jobs. Considering these home grown advantages, California is positioned as the ideal home base for an emerging money transmission startup.

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1 *See* National Venture Capital Association, *Yearbook 2012* at 13, *available at*: http://www.nvca.org/index.php?option=com_docman&task=doc_download&gid=876.

2 *Id.* at 26.

In terms of regulation, California has a reputation for embracing innovative approaches to complex regulatory problems. As the old saying goes: "As California goes, so goes the country." On a range of topics from greenhouse gas regulation, immigration, and consumer protection measures, California acts a bellwether state for regulation. When California takes a leadership position on an issue, other states take notice and often gravitate towards California's model. Thus, California's consideration of money transmission reform will likely influence the development of similar laws across the country. It is not unrealistic to believe that a carefully considered money transmission law in California could become the standard elsewhere, lowering the barriers to entry for startups and lowering the costs of payments to consumers.

While some payments startups have had success in launching in spite of the MTA, or were lucky enough to get to scale before the MTA went into effect, it may never be known how many groundbreaking companies were never formed due to a regulatory regime that stood in the way.[3] California's structural advantages make it the natural launching point for an innovative payments firm. The question the Committee should be asking itself as it reconsiders the MTA is how to make it more likely that these advantages materialize into actual disruptive companies.

II. The Harmful Impacts of the MTA Upon Startups, Investment, and Consumers

The MTA, and similar laws around the country, erect significant barriers to competition for new entrants by imposing substantial up-front compliance costs that have little, if any, offsetting benefits. Simply to open one's doors as a money transmitter in California alone is an extremely expensive proposition. In contrast to the modest startup costs that would apply to any other technology industry, say in software or social media, a startup money transmitter hoping to operate nationally must satisfy the balkanized regulatory requirements of nearly fifty states. The collective compliance costs associated with the licensing effort, a multi-million proposition, is often prohibitive and works to chill potential market entry.

But perhaps a savvy startup, aware of the costs and the associated risks of national licensing roll-out, wishes to start small and obtain a license in a major state like California to serve as a test market and scale up once its business model has been tested and ultimately proven out. As discussed, California is one of the few states in which this assumption is realistic due to

[3] Business Insider, *This Innovation-Killing California Law Could Get a Host of Startups in Money Trouble* (June 11, 2012), available at: http://www.businessinsider.com/california-money-transmitter-act-startups-2012-7 ("*Business Insider MTA Article*").

its natural advantages. Unfortunately, even if one were to initially adopt a one-State strategy, the costs to obtain a MTA license in California alone are significant enough to deter market entry.

To obtain a California MTA license involves the following conservative cost estimates:

- An net equity requirement of at least $1,000,000 and up to $2,000,000, permanently held in reserve.
- Annual surety bond premiums of at least $30,000 dollars per year, assuming a 3% premium rate on a $1,000,000 bond.
- Bond collateral of at least $100,000 to the extent required by bond issuers.
- An initial application fee of $5,000, exclusive of renewal fees.
- Legal fees estimated at $50,000 to $100,000 to draft and file the California application and respond to multiple rounds of regulatory correspondence.
- Accounting fees estimated at $25,000 per year on average to prepare audited financial reports required to apply.

Under these assumptions, the cost of doing business as a money transmitter in California alone is well over a million dollars – and this before a business case can even be tested. To put this in perspective, simply to earn back the simple compliance costs of obtaining a California MTA license, a money transmitter must realistically expect to process over 250,000 transactions at an estimated $5 in profit per transfer.[4] For business models premised upon low, or perhaps non-existent, per-transaction fees this figure would be far higher. In a market where transaction fees a primary basis of customer choice it is difficult to see how an entrant could pass along the compliance costs of the licensing regime and still remain cost-competitive.

As a corollary to the expense associated with obtaining an MTA license, these costs deter investment in the industry by creating a chicken-and-egg problem for potential investors and money transmission startups. A startup cannot obtain the required MTA license without obtaining well over a million dollars in up-front investment, but the startup cannot realistically obtain such a sizable investment without establishing a viable business case that is predicated upon licensure. Unfortunately, as has been documented in the financial press, the costs and uncertainties associated with money transmission licensure make the prospect of investing in a money transmission business a highly risky proposition, even for investors with high risk

[4] This figure is based upon the fees associated with Western Union's transfer fees. *See* https://wumt.westernunion.com/WUCOMWEB/priceShopperRedirectAction.do?method=load&countryCode=US&languageCode=en&pid=usMenuPriceShopper.

tolerance.[5] In the competition for scarce venture capital it is easy to see why money transmitter businesses, with their millions of dollars in compliance-related startup costs, are at an automatic disadvantage to, say, a largely unregulated software startup. Would a rational investor choose to place a substantial investment in a money transmission company with the understanding that much of the investment must be parked in cash merely to comply with legal requirements when that money does nothing else to advance the company's business and marketing objectives? This barrier to investment only exacerbates the anti-competitive effects of these laws by limiting the available pool of competition to a fraction of the potential universe of entrants.

The expense and regulatory uncertainty that accompany the widespread adoption of inconsistent and burdensome money transmission laws makes the substantial fundraising needed to pursue licensure in the first instance highly improbable and thereby further reduce the pool of potential competitors. Viewed in this light, the net effect of these laws is straightforward: less competition from innovative startups, the entrenchment of established incumbents, and, ultimately, higher prices, borne by consumers, especially those low-income consumers and immigrant populations who depend upon money transmission services.

Ultimately, the MTA works as a silent tax paid by California consumers, especially low-income consumers and immigrants, who have little choice but to patronize entrenched industry incumbents when they send or receive money from foreign countries. Most obviously, the high costs of compliance are passed through to consumers by existing licensees. Additionally, the prices of funds transfers and currency conversion are considerably higher than they would otherwise be in the presence of competition, an outcome that is due, in large part, to the anti-competitive effect of the MTA. This need not be the case. Fortunately, alternatives exist.

III. Three Options for Relief: Repeal, an Online Carve-out, a Startup License

Outright repeal of the MTA would be the preferable solution and the arguments supporting that route are well founded.[6] We want to be absolutely clear: our unequivocal position is that the MTA is harmful to innovation and consumers without offering any offsetting benefits and should be repealed. However, we are also mindful of the difficulties associated with repeal, so in the interests of constructive engagement CRMTL propose two alternatives that would

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5 See *Business Insider MTA Article, supra note 3*.

6 *See* A. Greenspan, *Held Hostage: How the Banking Sector Has Distorted Financial Regulation and. Destroyed Technological Progress* (2011).

ameliorate the worst harms of the current MTA.[7] In tandem, CRMTL recommends that should the Committee find net worth requirements to be absolutely necessary, those requirements under the full license MTA be aligned with a money transmitters outstanding instruments, starting at zero or a nominal amount and scaling in proportion to actual transactions.[8] This would reduce the net worth requirement for many, and provide full licensees with the absolute certainty regarding the amount of equity required *before* a full MTA license is applied for.

A. Option A: Repeal the California Money Transmission Act of 2010

Where consumers are being harmed in a manner that can be effectively addressed by government intervention, legislative action is both justifiable and desirable. However, in the zeal to protect a state's consumers, it is possible that the unforeseen consequences of legislating in a field may outweigh the desired benefits. Money transmission licensing statutes are one such example where the actual costs of regulation outweigh the benefits.

The overarching purpose of money transmitting licensing statutes is to ensure that consumers do not entrust their money with an operation that may become insolvent, or worse, fraudulently disappear with their money. However, the bonding and net worth requirements that form the core of the MTA are not well equipped to combat these risks and should in no instance be grossly out of proportion to the actual dollar values at risk, as is presently the case.

In terms of identifying and disqualifying ill-equipped or potentially fraudulent applicants, it is naïve to think that companies formed for the exclusive purpose of defrauding the public would register with California authorities. By acting under the radar of state regulators, their actions evade review and the dishonest parties that were originally intended to be regulated run little risk of being disciplined. In this fashion, the costs of regulation are borne only by the honest parties, while the less scrupulous operate in the shadows. Once within a licensing scheme, bonding and net worth requirements do little to ensure ongoing compliance. Witness the recent case of MoneyGram, a licensed money transmitter, that was recently found to be implicated in a massive fraud lasting over five years.[9] Similarly, several Bitcoin exchanges have operated, and

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7 In the interest of brevity we do not discuss any other amendments to the MTA. CRMTL supports the effort to significantly lower the MTA's net worth and bonding requirements.

8 Washington State takes such an approach. *See* Wash. Admin. Code § 280-690-060.

9 Reuters, *MoneyGram to forfeit $100 million to settle U.S. fraud case* (Nov. 9, 2012), *available at*: http://www.reuters.com/article/2012/11/09/us-moneygram-fraud-idUSBRE8A80WO20121109. *Accord* U.S. Treasury Press Release, *Treasury*

continue to operate, using the funds of California consumers and have lost funds in the process. For all its good intentions, the MTA does not and cannot prevent fraud.

It should be noted that the federal regulations on point, such as the Electronic Fund Transfer Act, Regulation E, and registration schemes contain no net worth or bonding requirements to act as a money transmitter. . Nor do other countries, such as Canada, require money transmitters to post bonds or meet net worth requirements. This is because setting a fixed net worth or bonding requirement that is not aligned with actual transactions does very little, if anything, to actually protect consumers. Given that the purported protections afforded under the MTA are duplicative of consumer protections already offered by state and federal statutes (especially the Bank Secrecy Act, which requires money transmitters to register with FinCEN and prepare Anti-Money Laundering plans; various criminal statutes outlawing theft, fraud, wire fraud, money laundering, transactions structured to evade reporting requirements, etc.), repealing the MTA would not adversely harm consumers. Repeal would also free up state resources to investigate fraudulent activity, rather than engage in lengthy examinations of license applicants. Regulation aside, banks and payments networks also have strong regulatory requirements and market incentives that provide assurance that any non-bank entities, such as money transmitters, that the underlying bank may contract with complies with state and federal law and does not otherwise engage in activity that may put the bank's charter at risk.

Repeal would greatly reduce the startup costs associated with launching an innovative payments company. This would finally enable widespread competition in the money transmission industry that would ultimately benefit consumers, lowering prices for payment services and making payments more convenient as mobile devices proliferate in today's society.

B. Option B: A Carve-out for Online Only Money Transmitters

An alternative to the MTA is to exempt on-line only businesses in recognition that that money transmitters are already subject to substantial regulation by both federal, state, and private actors and the MTA's restrictions are costly duplications of these existing protections.

Department Reaches Landmark Settlement with HSBC, available at: http://www.treasury.gov/press-center/press-releases/Pages/tg1799.aspx (detailing more than $1.9 billion in penalties assessed by federal agencies for HSBC's conduct in violation of the Bank Secrecy Act and U.S. sanctions).

At the federal level, money transmitters are subject to the Electronic Fund Transfer Act, Regulations E and Z, Treasury Department Financial Crimes Enforcement Network ("FinCen") money service business ("MSB") registration and reporting requirements, Office of Foreign Assets Control ("OFAC") mandates, the Bank Secrecy Act and potentially many more, depending on the exact nature of the business. At the state level, even assuming that the MTA did not apply, they are subject to California's strong unfair and deceptive practices laws and the civil liability and available remedies that accompany it, as well as the threat of criminal prosecution for outright theft, conversion, check fraud, or the general fraud prohibitions ingrained in the California penal code. On a private level, money transmission businesses cannot operate unless they are enabled by a bank, regardless of whether they are doing VISA/MC or ACH transactions. Since the money transmitters' banking partners are in turn are regulated, by the state of federal banking authorities, they in turn ask for collateral, business practice assurances, and other verification requirements in order to meet their own regulatory obligations prior to agreeing to operate as a money transmitter's transactional partner.

Given the unique characteristics of internet-based money transmitters and the many federal, state, and private mechanisms by which they are already regulated, a carve-out would enable substantial competition in this area without sacrificing consumer protections. Just to take one example, money transmitters engaged in cross-border remittances would still have to comply with the substantial consumer protection requirements afforded by the Consumer Financial Protection Bureau under Regulation E,[10] register with FinCEN and report suspicious transactions, institute and monitor an anti-money laundering policy, comply with state unfair and deceptive practices law, and comply with banking partners' terms and conditions. To the extent that the Committee sees fit to exclude online-only money transmitters, the modification to the MTA is straightforward: exclude online-only money transmitters under Section 2010.

C. Option B: A Right-sized Licensing Regime for Startup Money Transmitters

As an alternative to the above, a streamlined licensing scheme would be applied to startups with low transactional value or credit risk. In short, the law would operate as follows: for firms operating below a defined transaction volume the licensing regime would be substantially streamlined. A license would still be required, but startups would no longer shoulder the exact

[10] *See* 12 CFR Part 1005, *as amended* Feb. 7, 2012. 77 Fed. Reg. 6194.

same regulatory burdens as the industry's largest players. Consumer protections and law enforcement mechanisms would remain available as needed, but for the vast majority of startups who wish to operate within the law, a lighter regulatory touch would be employed.

The contours of the proposed legislation are as follows. A startup money transmitter would file a short form application with the California Department of Financial Institutions ("DFI"), or alternative agency, and submit a basic application that includes the business' name, address, as well as those of its owners of over 25% of the business. Those parties would still be required to submit basic biographical information, fingerprints, and agree to a background check. A modest, capped filing fee would be imposed to account for the basic administrative function of verifying the veracity of the application. Provided that the owners pass a background check and submit a verified copy of the firm's Treasury Department FinCen MSB registration, a "startup" MTA license would be granted automatically, unless acted upon by the DFI within one month.

Since civil and criminal penalties may be imposed for violation of the FinCen MSB registration requirement, California would leverage the MSB application process to assure itself of compliance with applicable law and as a check on the veracity of the submitted information. A startup applicant would also agree to comply with applicable law and submit to California's jurisdiction (*i.e*. – the Electronic Fund Transfer Act, Reg E, state criminal law, *etc*.). To counter money laundering concerns, licensee would also be required to submit their anti-money laundering policy, a statement that the applicant has reviewed and will comply with federal OFAC requirements, and a requirement that suspicious activity reports filed with FinCen be concurrently filed with California. In this fashion, California can leverage the existing federal regime, while protecting its own consumers, in a manner that is not unnecessarily duplicative.

Unlike the full license, a startup licensee would not have to demonstrate a minimum net worth nor post a bond. In its place would be a required disclosure that the customer's funds are not deposits or obligation, are not insured by the FDIC or any other government agency, and are subject to possible loss. Backstopping the customer's funds would be the retention of requirement that licensees maintain cash or eligible securities, as defined under Sections 2081 and 2082 of the MTA, commensurate to the value of their average daily outstanding obligations.[11] Rather than a fixed amount, as it is now, this would be scalable to the size of the

[11] *See* Cal. Fin. Code. § 2081.

business but still serve the purpose of ensuring that a licensee will be able to make payment on any outstanding obligations it might have. This properly separates the act of transmitting money from that of holding customer funds. The current law assumes that a certain amount of funding is necessary to engage in the act of money transmission, when it is only the holding of consumer funds that requires security and in an amount that can be known with some certainty. Simply put, if no consumer money is held, there is no credit risk that needs to be safeguarded against. Streamlining these requirements disposes with the need for a one-size-fits-all mandate that imposes three duplicative (and costly) forms of security: net worth, bonds, and eligible securities. Moreover, as recent events have made abundantly clear, bonds and net worth requirements are no substitute for customer trust and do not guarantee legal compliance or even good business judgment.[12] Rationalizing these two requirements of the MTA would strike a better balance between the goals of safety and soundness and providing open access to businesses that wish to enter the money transmission market.[13]

The DFI, or an alternative agency such as the Department of Corporations, would retain supervisory and enforcement authority. For example, DFI would be empowered to conduct audits of startup licensees to ensure compliance with applicable requirements. Licensees would still be required to file reports with the DFI, but only annually as opposed to quarterly.

When a money transmitter exceeds a given threshold of outstanding daily transactions the licensee would require a full money transmitter license. However, at this point they will have:

- proven their business model out or made necessary modifications based upon market feedback;
- be better able to demonstrate to the DFI that their business model is effective upon application based upon actual operating results;
- a superior probability of being able to secure access to financing (if necessary); and
- a track record demonstrating that the firm is a trustworthy steward of consumer funds.

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12 *See* Reuters MoneyGram Article, *supra note 9.*.

13 To the extent that a minimum net worth or security requirement is retained, only a minimal dollar amount should be required and, then, only to the extent necessary to ensure that that licensees have adequate resources to remain solvent. This was the original intent behind the Uniform Money Services Act when it was passed in 2001. *See* www.uniformlaws.org/shared/docs/money %20services/umsa_final04.pdf ("Only a minimal net worth requirement has been suggested because net worth is used as an additional requirement to make sure that license applicants and licensees have some resources for commencing and operating a money transmission business.").

In this fashion a startup license would allow for a range of money transmission startups to launch within California at a low cost to allow for testing of concepts and prototypes. In the process, the Google of payments, launched in California, may be created.

CONCLUSION

The CRMTL urges the Committee to repeal or amend the MTA consistent with these comments to make it easier for innovative startups to do business in California. Even though uniform financial regulation of money transmitters is encouraged at a federal level, a lighter regulatory touch in California (and eventually in other states) will enable widespread competition in the money transmission industry that will ultimately benefit consumers. California has a unique opportunity to lead on this issue and much to gain if it does. We urge the Committee, and the Assembly at large, to seize this opportunity to rationalize its money transmission licensing regime and pave the way for innovation in the payments industry.

Respectfully submitted,

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APPENDIX

Proposed Amendment to the California Money Transmission Act

OPTION B – CARVEOUT FOR ONLINE-ONLY MONEY TRANSMITTERS

1. Amend Section 2010 of the Financial Code by adding paragraph (j) to read as follows.

Section 2010:

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(j) A money transmitter who offers or provides their services exclusively through an online website, mobile application, or telecommunications service.

2. Amend Section 2040 of the Financial Code by replacing paragraph (a) with the following.

Section 2040:

(a) An applicant for a money transmission license must possess, and a money transmission license holder must maintain at all times, a minimum net worth computed in accordance with generally accepted accounting principles, in an amount not less than the aggregate amount of all of its outstanding payment instruments and stored value obligations issued or sold in the United States and all outstanding money received for transmission in the United States but not yet delivered. The amount of securities held by the licensee or a bond of a surety company required to be maintained by this division shall not be cumulative.

OPTION C – RATIONALIZED LICENSING REGIME FOR STARTUPS

1. Amend Section 2010 of the Financial Code by adding paragraph (j) to read as follows.

Section 2010:

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(j) A startup money transmitter, as defined in Section 2000-1, provided they comply with all requirements of that subchapter.

2. Amend Section 2040 of the Financial Code by replacing paragraph (a) with the following.

Section 2040:

(a) An applicant for a money transmission license must possess, and a money transmission license holder must maintain at all times, a minimum net worth computed in accordance with generally accepted accounting principles, in an amount not less than the aggregate amount of all of its outstanding payment instruments and stored value obligations issued or sold in the United States and all outstanding money received for transmission in the United

States but not yet delivered. The amount of securities held by the licensee or a bond of a surety company required to be maintained by this division shall not be cumulative.

3. Add Section 2000-1 of the Financial Code as follows.

Section 2000-1-0. This division shall be known and may be cited as the Startup Money Transmitter Act of 2013.

Section 2001-1-1. License Required

A person who engages in the business of money transmission in this state in an amount less than [one hundred thousand dollars ($100,000)] average daily outstanding, as defined in Section 2003, as measured over a thirty day period and who is not otherwise exempt from licensure shall require licensure as a startup licensee under this division.

Section 2001-1-2. Startup License Application

(a) An applicant for a license under this subdivision shall do so in a form and in a medium prescribed by the commissioner by order or regulation. An applicant for licensure under this division shall pay to the commissioner a nonrefundable fee of not more than one thousand dollars ($1,000). The license fee must be refunded if the application is denied.

(b) The application shall state or contain all of the following:

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

(2) The legal name, any fictitious or trade name, all business and residential addresses, and the employment, in the 5-year period next preceding the submission of the application, of each executive officer, manager, director, or person that has control of over 25% of the applicant, and the education background for each such person.

(3) A list of any criminal convictions and material litigation in which any executive officer, manager, director, or person that has control of over 25% of the applicant, that involved in the 10-year period next preceding the submission of the application.

(4) The name and address of the applicant's registered agent in this state.

(5) A verified copy of the applicant’s registration as a money service business with the United Stated Department of the Treasury Financial Crimes Enforcement Network .

(6) If applicable, a list of other states in which the applicant is licensed to engage in money transmission and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state.

(7) The name and address of any bank through which the applicant's payment instruments and stored value will be paid.

(8) A written copy of the applicant's Anti-Money Laundering Policy that complies with the above mentioned federal statutes.

(9) A statement, signed by an officer of the applicant, that the applicant has reviewed and will comply with all applicable federal laws and regulations (31 CFR 103) regarding the Bank Secrecy Act (BSA), Office of Foreign Asset Control (OFAC) and the USA PATRIOT Act.

(c) The commissioner may waive one or more requirements of subsections (b) and permit an applicant to submit other information in lieu of the required information.

Section 2001-1-3. Approval to Engage In Money Transmission as a Startup Licensee.

(a) When an application for approval under this section is complete, the commissioner shall promptly notify the applicant, in a record, of the date on which the request was determined to be complete and:

(1) the commissioner shall approve or deny the request within 30 days after that date; or

(2) if the request is not approved or denied within 30 days after that date the application is approved.

Section 2001-1-4. Approval to Engage In Money Transmission as a Startup Licensee.

(a) When an application for approval under this section is complete, the commissioner shall promptly notify the applicant, in a record, of the date on which the request was determined to be complete and:

(1) the commissioner shall approve or deny the request within 30 days after that date; or

(2) if the request is not approved or denied within 30 days after that date the application is approved.

Section 2001-1-5. Startup Licensee Security.

A startup licensee that engages in receiving money for transmission shall, at its election, maintain eligible securities on deposit in financial institution acceptable to the commissioner or a bond of a surety company in an amount not less than the aggregate amount of all of its outstanding payment instruments and stored value obligations issued or sold in the United States and all outstanding money received for transmission in the United

States but not yet delivered. The amount of securities held by the licensee or a bond of a surety company required to be maintained by this subdivisions shall not be cumulative.

Section 2001-1-6. Startup Licensee Annual Reports

(a) Each licensee shall, not more than 45 days after the end of each calendar year, or within a longer period as the commissioner may by regulation or order specify, file with the commissioner a report containing all of the following:

> **(1) Financial statements, including balance sheet, income statement, statement of changes in shareholders' equity, and statement of cashflows, for, or as of the end of, that calendar year, verified by two of the licensee's principal officers. The verification shall state that each of the officers making the verification has a personal knowledge of the matters in the report and that each of them believes that each statement on the report is true.**
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> **(2) For issuers and sellers of payment instruments and stored value, a schedule of eligible securities owned by the licensee pursuant to Section 2081.**
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> **(3) Other information as the commissioner may by regulation or order require.**

(b) Each licensee, not more than 45 days after the end of each calendar year, shall file with the commissioner a report containing all of the following:

> **(1) The total volume of activities, number of transactions conducted, and outstanding money transmission obligations in California under this division and in the United States in the calendar year quarter categorized by type of money transmission.**
> **(2) For money received for transmission, a report of the average daily outstanding transmission liabilities in California. For payment instruments and stored value, a report of the average daily outstanding payment instruments and stored value liabilities in California in that calendar year quarter.**

(c) Other information as the commissioner may by regulation or order require.

(d) Each licensee shall file with the commissioner other reports as and when the commissioner may by regulation or order require.

Section 2001-1-7. Startup Licensee Disclosures

Each startup licensee or its agent shall make available a notice clearly stating that payment instruments are not insured by the federal government, the state government, or any other public or private entity. This notice shall be printed in English and in the same language principally used by the licensee or any agent of the licensee to advertise, solicit, or negotiate the purchase of payment instruments. The information required in this notice shall be clear and conspicuous and may be posted in an electronic format.

Section 2001-1-8. Audit and Enforcement Authority

(a) The commissioner may at any time and from time to time examine the business and any office, within or outside this state, of any licensee or any agent of a licensee in order to ascertain whether that business is being conducted in a lawful manner and whether all money transmission is properly accounted for.

(b) The directors, officers, and employees of any licensee or agent of a licensee being examined by the commissioner shall exhibit to the commissioner, on request, any or all of the licensee's accounts, books, correspondence, memoranda, papers, and other records and shall otherwise facilitate the examination so far as it may be in their power to do so.

(c) The commissioner shall make all reasonable efforts to minimize the cost and intrusion of the examination.

(d) If the commissioner finds that any of the factors set forth in Section 2149 is true with respect to any startup licensee and that it is necessary for the protection of the public interest, the commissioner may issue an order immediately suspending or revoking the startup licensee's license.

(e) The enforcement provisions of this division are in addition to any other enforcement powers that the commissioner may have under law.

Section 2001-1-9. Standard License Requirement

At any point in which the startup licensee exceeds more than [one hundred thousand dollars ($100,000)] in average daily outstanding, as measured over a thirty day period, a startup licensee shall be required to obtain a license pursuant to Sections 2000 to 2172. A startup license shall remain valid and effective during the application and review period.

CRMTL MEMBERS AND ADDITIONAL SIGNATORIES

[TO BE ADDED]