

1 **SENATE FLOOR VERSION**

2 February 24, 2016

3 **AS AMENDED**

4 SENATE BILL NO. 1296

5 By: Dahm

6 **[Oklahoma Bullion Depository - State Treasurer -**
7 **administrator and deputy administrator - General**
8 **Revenue Fund - depository accounts - fees and**
9 **penalties - codification - effective date]**

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2401 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

14 As used in this act:

15 1. "Administrator" means the bullion depository administrator
16 appointed under Section 3 of this act;

17 2. "Bullion" means precious metals that are formed into uniform
18 shapes and quantities such as ingots, bars, or plates, with uniform
19 content and purity, as are suitable for or customarily used in the
20 purchase, sale, storage, transfer, and delivery of bulk or wholesale
21 transactions in precious metals;

22 3. "Business day" means a day other than a Saturday, Sunday, or
23 banking holiday for a bank chartered under the laws of this state;

1 4. "Deposit" means the establishment of an executory obligation
2 of the depository to deliver to the order of the person establishing
3 with the depository the obligation, on demand, a quantity of a
4 specified precious metal, in bullion, specie, or a combination of
5 bullion and specie, equal to the quantity of the same precious metal
6 delivered by or on behalf of the depositor into the custody of:

- 7 a. the depository, or
- 8 b. a depository agent;

9 5. "Depositor" means a person who makes a deposit;

10 6. "Depository" means the Oklahoma Bullion Depository created
11 by this act;

12 7. "Depository account" means the rights, interests, and
13 entitlements established in favor of a depositor with respect to a
14 deposit in accordance with this act and rules promulgated under this
15 act;

16 8. "Depository account holder", regarding a depository account,
17 means the original depositor or a successor or assignee of the
18 depositor respecting the depository account;

19 9. "Depository agent" means a person licensed in accordance
20 with this act to serve as an intermediary between the depository and
21 a retail customer in making a transaction in precious metals bullion
22 or specie;

23 10. "Depository agent services" means services rendered to the
24 general public for or on behalf of the Oklahoma Bullion Depository

1 in the nature of purchasing, selling, transferring, accepting,
2 transporting, delivering, or otherwise dealing in precious metals
3 bullion or specie in connection with the creation, transfer,
4 clearing, settlement, or liquidation of the rights and interests of
5 a depository account holder and a direct or indirect transferee of a
6 depository account holder. The term "depository agent services"
7 does not include:

8 a. participation as a party or counterparty to a
9 transaction, including an agreement with respect to a
10 transaction, in or in connection with a contract for
11 the purchase or sale of a person's rights and
12 interests as a depository account holder, as a cash
13 contract for present delivery, a cash contract for
14 deferred shipment or delivery, or a contract for
15 future delivery, where the underlying deliverable
16 consists of the depository account holder's interest
17 in the depository account, rather than the underlying
18 precious metal represented by the depository account
19 balance,

20 b. the opening, transfer, settlement, or liquidation of
21 any derivative of a contract described by subparagraph
22 a of this paragraph, including a forward transaction,
23 swap transaction, currency transaction, future
24 transaction, index transaction, or option on or other

1 derivative of a transaction of any of those types, in
2 the nature of a cap transaction, floor transaction,
3 collar transaction, repurchase transaction, reverse
4 repurchase transaction, buy-and-sell-back transaction,
5 securities lending transaction, or other financial
6 instrument or interest, including an option with
7 respect to a transaction, or any combination of these
8 transactions, or

- 9 c. the rendition of services exclusively in support of
10 the opening, transfer, settlement, or liquidation of
11 transaction derivatives described by subparagraph b of
12 this paragraph through a central counterparty, such as
13 those customarily rendered by a clearinghouse,
14 clearing association, or clearing corporation, or
15 through an interbank payment system, physical or
16 electronic trading facility, broker or brokerage firm,
17 or similar entity, facility, system, or organization;

18 11. "Precious metal" means a metal, including gold, silver,
19 platinum, palladium, and rhodium, that:

- 20 a. bears a high value-to-weight ratio relative to common
21 industrial metals, and
22 b. customarily is formed into bullion or specie; and
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1 12. "Specie" means a precious metal stamped into coins of
2 uniform shape, size, design, content, and purity, suitable for or
3 customarily used as currency, as a medium of exchange, or as
4 the medium for purchase, sale, storage, transfer, or delivery of
5 precious metals in retail or wholesale transactions.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2402 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The Oklahoma Bullion Depository is established as a division
10 in the Office of the State Treasurer.

11 B. The depository is established to serve as the custodian,
12 guardian, and administrator of certain bullion and specie that may
13 be transferred to or otherwise acquired by this state or an agency,
14 a political subdivision, or another instrumentality of this state.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2403 of Title 62, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The depository shall be under the direction and supervision
19 of a bullion depository administrator jointly appointed by the
20 Governor and the State Treasurer with the advice and consent of the
21 Senate.

22 B. The administrator shall:

23 1. Administer, supervise, and direct the operations and affairs
24 of the depository and depository agents; and

1 2. Liaise with the State Treasurer and other divisions of the
2 Office of the State Treasurer to ensure that each transaction with
3 the depository that involves state money, that involves an agency, a
4 political subdivision, or another instrumentality of this state, or
5 that involves a private person is planned, administered, and
6 executed in a manner to achieve the purposes of this act.

7 C. The administrator may appoint, subject to the approval of
8 the State Treasurer, a deputy administrator or other subordinate
9 officer as necessary and appropriate to the efficient administration
10 of the depository.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2404 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

14 No deposits made to the depository shall be considered part of
15 the General Revenue Fund or shall be certified by the State
16 Equalization Board as available for appropriation; provided, revenue
17 the depository realizes from fees, charges, or other payments
18 received in the course of depository operations shall be deposited
19 to the credit of the General Revenue Fund.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2405 of Title 62, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The depository may receive a deposit of bullion or specie
24 from or on behalf of a person acting in the person's own right, as

1 trustee, or in another fiduciary capacity, in accordance with rules
2 promulgated by the State Treasurer as appropriate to:

- 3 1. Ensure compliance with law; and
- 4 2. Protect the interests of:
 - 5 a. the depository,
 - 6 b. depository account holders,
 - 7 c. this state and the agencies, political subdivisions,
8 and instrumentalities of this state, and
 - 9 d. the public at large.

10 B. The depository shall record the amount of precious metals a
11 person deposits, regardless of form, in units of troy ounces pure,
12 and the records must also specify the type and quantity of each
13 precious metal deposited.

14 C. The State Treasurer by rule shall adopt standards by which
15 the quantities of precious metals deposited are credited to a
16 depositor's depository account by reference to the particular form
17 in which the metals were deposited, classified by mint,
18 denomination, weight, assay mark, or other indicator, as applicable.
19 The standards must conform to applicable national and international
20 standards of weights and measures.

21 D. The State Treasurer by rule may, if the State Treasurer
22 determines that to do so is in the public interest, restrict the
23 forms in which deposits of precious metals may be made to those
24 forms that conveniently lend themselves to measurement and

1 accounting in units of troy ounces and standardized fractions of
2 troy ounces.

3 E. The depository shall adjust each depository account balance
4 to reflect additions to or withdrawals or deliveries from the
5 account.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2406 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The depository shall deliver any precious metal held by or
10 on behalf of the depository in bullion, specie, or a combination of
11 bullion and specie, on the order of a depository account holder in a
12 quantity of that precious metal as is available in the depository
13 account holder's depository account.

14 B. The depository shall make a delivery described by Subsection
15 A of this section on demand by the presentment of a suitable check,
16 draft, or digital electronic instruction to the depository or a
17 depository agent. The State Treasurer by rule shall adopt the
18 forms, standards, and processes through which an order for delivery
19 on demand may be made, presented, and honored.

20 C. The depository shall make a delivery at the depository's
21 settlement facility designated by the State Treasurer, shipping to
22 an address specified by the account holder or, at the depository's
23 discretion, at a facility of a depository agent at which presentment
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1 is made, not later than five (5) business days after the date of
2 presentment.

3 SECTION 7. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2407 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 A. In accordance with rules promulgated under this act, a
7 depository account holder may transfer any portion of the balance of
8 the holder's depository account by check, draft, or digital
9 electronic instruction to another depository account holder or to a
10 person who at the time the transfer is initiated is not a depository
11 account holder.

12 B. The depository shall adjust the depository account balances
13 of the depository accounts to reflect a transfer transaction between
14 depository account holders on presentment of the check, draft, or
15 other instruction by reducing the payor's depository account balance
16 and increasing the depository account balance of the payee
17 accordingly.

18 C. If a depository account holder transfers to a payee who is
19 not a depository account holder any portion of the balance of the
20 holder's depository account, the depository shall allow the payee to
21 establish a depository account by presentment of the payor's check,
22 draft, or instruction to the depository or to a depository agent.
23 The depository shall credit a newly established account on behalf of
24 the payee and shall debit the payor's account accordingly.

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2408 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. To establish a depository account, a depositor must contract
5 with the depository for a depository account. The contract must
6 specify:

7 1. The terms applicable to the account, including any special
8 terms; and

9 2. The conditions on which withdrawals or deliveries with
10 respect to the account may be made.

11 B. The execution of a contract for a depository account
12 described by this section may be made, as prescribed by rules
13 promulgated under this act, by electronic or digital transmission.

14 C. The depository or a depository agent shall hold the contract
15 for a depository account in the records pertaining to the account.

16 D. A contract for a depository account executed by a depositor
17 and the depository is considered a contract in writing for all
18 purposes and may be evidenced by one or more agreements, deposit
19 receipts, signature cards, amendment notices, or other documentation
20 as provided by law.

21 E. The depository and the depository account holder may amend a
22 contract for a depository account by agreement, or the depository
23 may amend the deposit contract by mailing a written notice of the
24 amendment to the account holder, separately or as an enclosure with

1 or part of the account holder's statement of account or passbook.
2 In the case of amendment by notice from the depository, the notice
3 must include the text and effective date of the amendment. The
4 effective date may not be earlier than the thirtieth day after the
5 date the notice is mailed, unless otherwise provided by rules
6 promulgated under this act.

7 SECTION 9. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2409 of Title 62, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A cause of action for denial of deposit liability on a
11 depository account contract without a maturity date does not accrue
12 until the depository has denied liability and given notice of the
13 denial to the depository account holder.

14 B. The depository's act of furnishing an account statement or
15 passbook, whether in physical, digital, or electronic form,
16 constitutes a denial of liability and the giving of such notice as
17 to any amount not shown on the statement or passbook.

18 SECTION 10. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2410 of Title 62, unless there
20 is created a duplication in numbering, reads as follows:

21 The State Treasurer by rule may establish fees, service charges,
22 and penalties to be charged a depository account holder for a
23 service or activity regarding a depository account, including a fee
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1 for an overdraft, an insufficient fund check or draft, or a stop
2 payment order.

3 SECTION 11. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2411 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 Unless the depository acknowledges in writing a pledge of a
7 depository account, the depository may treat the holder of record of
8 the account as the owner of the account for all purposes and without
9 regard to a notice to the contrary.

10 SECTION 12. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2412 of Title 62, unless there
12 is created a duplication in numbering, reads as follows:

13 A. A depository account may be transferred on the books of the
14 depository only on presentation to the depository of:

15 1. Evidence of transfer satisfactory to the depository; and

16 2. An application for the transfer submitted by the person to
17 whom the depository account is to be transferred.

18 B. A person to whom a depository account is to be transferred
19 must accept the transferred account subject to the terms of the
20 deposit contract, this act, and rules promulgated under this act.

21 SECTION 13. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2413 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

24 The depository may not pay on a depository account:

1 1. Interest;

2 2. An amount in the nature of interest; or

3 3. A fee or other payment for the use or forbearance of use of
4 money, bullion, specie, or precious metals deposited to a depository
5 account.

6 SECTION 14. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2414 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Without the need of any further agreement or pledge, the
10 depository has a lien on each depository account owned by a
11 depository account holder to secure any fees, charges, or other
12 obligations owed or that may become owed to the depository in
13 connection with any of the depository account holder's depository
14 accounts as provided by the terms of the depository account holder's
15 applicable depository account contract.

16 B. On default in the payment or in the satisfaction of a
17 depository account holder's obligation, the depository, without
18 notice to or consent of the depository account holder, may transfer
19 on the depository's books all or part of the balance of a depository
20 account holder's depository account to the extent necessary to pay
21 or satisfy the obligation, as determined by reference to the
22 exchange rates applicable at the time of the transfer.

23 C. The depository by written instrument may waive wholly or
24 partly the depository's lien on a depository account.

1 D. Subject to a lien created as provided by this section, the
2 depository shall recognize the lawful pledge to a third party by a
3 depository account holder of the depository account holder's rights,
4 interests, and entitlements in and to a depository account as an
5 intangible asset. On the satisfaction of other requirements of law
6 in respect of the perfection and enforcement of a pledge of that
7 type, the depository shall take all steps reasonably necessary and
8 appropriate to effectuate on the depository's books any transfer of
9 a depository account or of all or part of a depository account
10 balance to the account of the secured party on the successful
11 enforcement of the pledge.

12 SECTION 15. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2415 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The following persons may invest the person's money in a
16 depository account by purchasing precious metals and depositing the
17 precious metals with the depository or a depository agent:

18 1. A fiduciary, including an administrator, executor,
19 custodian, guardian, or trustee;

20 2. A political subdivision of this state or an instrumentality
21 of this state;

22 3. A business or nonprofit corporation;

23 4. A charitable or educational corporation or association; or
24

1 5. A financial institution, including a bank, savings and loan
2 association, or credit union.

3 B. An investment by an insurance company in a depository
4 account is eligible to be applied as a credit against taxes payable
5 under Section 624 of Title 36 of the Oklahoma Statutes, in
6 accordance with rules promulgated by the State Treasurer after
7 consultation with the Insurance Commissioner.

8 C. An investment by a school district in a depository account
9 may be made instead of an investment as provided by the Security for
10 Local Public Deposits Act, and the depository may be used by a
11 district instead of a depository bank for the purposes of the
12 Security for Local Public Deposits Act.

13 SECTION 16. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2416 of Title 62, unless there
15 is created a duplication in numbering, reads as follows:

16 The applicable provisions of Title 58 of the Oklahoma Statutes
17 and Section 801 et seq. of Title 68 of the Oklahoma Statutes, govern
18 a depository account.

19 SECTION 17. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2417 of Title 62, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Unless a term of the depository account provides otherwise,
23 a person on whose signature precious metals may be withdrawn from a
24 depository account that is jointly held in the names of two or more

1 persons may, by a signed pledge, pledge and transfer to the
2 depository or to a third party all or part of the account.

3 B. A pledge made as described by subsection A of this section
4 does not sever or terminate the joint and survivorship ownership of
5 the account, to the extent applicable to the account before the
6 pledge.

7 SECTION 18. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2418 of Title 62, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The depository or a depository agent may accept a depository
11 account in the name of a fiduciary, including an administrator,
12 executor, custodian, guardian, or trustee, for a named beneficiary.

13 B. A fiduciary may open, add to, or withdraw precious metals
14 from an account described by subsection A of this section.

15 C. Except as otherwise provided by law, a payment or delivery
16 to a fiduciary or an acquaintance signed by the fiduciary to whom a
17 payment or delivery is made is a discharge of the depository for the
18 payment or delivery.

19 D. After a person who holds a depository account in a fiduciary
20 capacity dies, the depository may pay or deliver to the beneficiary
21 of the account the quantity of precious metals represented by the
22 balance in the depository account, plus other rights relating to the
23 depository account, wholly or partly, if the depository has no
24 written notice or order of the probate court of:

1 1. A revocation or termination of the fiduciary relationship;
2 or

3 2. Any other disposition of the beneficial estate.

4 E. The depository has no further liability for a payment made
5 or right delivered under subsection D of this section.

6 SECTION 19. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2419 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 A. If the depository opens a depository account for a person
10 claiming to be the trustee for another person and the depository has
11 no other notice of the existence or terms of the trust other than a
12 written claim against the account:

13 1. The person claiming to be the trustee, on the person's
14 signature, may withdraw precious metals from the account; and

15 2. If the person claiming to be the trustee dies, the
16 depository may pay or deliver the quantity of precious metals
17 represented by the balance in the account to the person for whom the
18 account was opened.

19 B. The depository has no further liability for a payment or
20 delivery made as provided by subsection A of this section.

21 SECTION 20. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2420 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. The depository shall recognize the authority of an attorney-
2 in-fact authorized in writing by a depository account holder to
3 manage or withdraw precious metals from the depository account
4 holder's depository account until the depository receives written or
5 actual notice of the revocation of that authority.

6 B. For purposes of this section, written notice of the death or
7 adjudication of incompetency of a depository account holder is
8 considered to be written notice of revocation of the authority of
9 the account holder's attorney-in-fact.

10 SECTION 21. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2421 of Title 62, unless there
12 is created a duplication in numbering, reads as follows:

13 The depository shall enter into transactions and relationships
14 with bullion banks, depositories, dealers, central banks, sovereign
15 wealth funds, financial institutions, international nongovernmental
16 organizations, and other persons, located inside or outside of this
17 state or inside or outside of the United States, as the State
18 Treasurer determines to be prudent and suitable to facilitate the
19 operations of the depository and to further the purposes of this
20 act.

21 SECTION 22. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2422 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

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1 The depository may not take any of the following actions, and
2 any attempt by the depository to take any of the following actions
3 is void ab initio and of no force or effect:

4 1. Entering into a precious metals leasing, sale-leaseback,
5 forward transaction, swap transaction, future transaction, index
6 transaction, or option on or other derivative of any of those,
7 whether in the nature of a cap transaction, floor transaction,
8 collar transaction, repurchase transaction, reverse repurchase
9 transaction, buy-and-sell-back transaction, securities lending
10 transaction, or other financial instrument or interest intended to
11 or having the effect of hedging or leveraging the depository's
12 holdings of precious metals, including any option with respect to
13 any of these transactions, or any combination of these transactions,
14 except that the limitation provided by this paragraph does not apply
15 to a transaction entered into to limit the depository's exposure to
16 post-signature price risks associated with executory agreements to
17 purchase or sell precious metals in the ordinary course of
18 depository operations and does not apply to policies of insurance
19 purchased to insure against ordinary casualty risks such as theft,
20 damage or destruction, loss during shipment, or similar risks;

21 2. Accrediting the depository account balances of a depository
22 account holder, or disposing of any precious metals, if to do so
23 would cause the aggregate depository account balances with respect
24 to any precious metal represented by all depository accounts to

1 exceed the aggregate quantities of such precious metal held by or
2 for the benefit of the depository and the depository's depository
3 agents;

4 3. Entering into or maintaining a deposit, trust, or similar
5 relationship for the custody of precious metals by a third party
6 outside this state, directly or indirectly, for the account or
7 benefit of the depository if the State Treasurer by rule establishes
8 that:

- 9 a. the custody or intermediary arrangements in question
10 do not meet the State Treasurer's standards of safety,
11 security, and liquidity, or
12 b. except in those cases where such relationship may be
13 incidental to the performance of or preparation for
14 purchase and sale transactions with counterparties
15 located outside of this state, suitable alternate
16 arrangements for physical custody of the precious
17 metals inside this state have been established and are
18 available;

19 4. Extending credit to a person, including credit secured by a
20 depository account or other assets, except an extension of credit
21 incidental to the performance of the functions and responsibilities
22 otherwise provided by this act; or
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1 5. Engaging in a business or activity that, if conducted by a
2 private person, would be subject to regulation in this state as a
3 banking or savings and loan function.

4 SECTION 23. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2423 of Title 62, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A purported confiscation, requisition, seizure, or other
8 attempt to control the ownership, disposition, or proceeds of a
9 withdrawal, transfer, liquidation, or settlement of a depository
10 account, including the precious metals represented by the balance of
11 a depository account, if effected by a governmental or quasi-
12 governmental authority other than an authority of this state or by a
13 financial institution or other person acting on behalf of or
14 pursuant to a directive or authorization issued by a governmental or
15 quasi-governmental authority other than an authority of this state,
16 in the course of a generalized declaration of illegality or
17 emergency relating to the ownership, possession, or disposition of
18 one or more precious metals, contracts, or other rights to the
19 precious metals or contracts or derivatives of the ownership,
20 possession, disposition, contracts, or other rights, is void ab
21 initio and of no force or effect.

22 B. The depository in the case of receiving notice of a
23 purported confiscation, requisition, seizure, or other attempt to
24 control the ownership, disposition, or proceeds of a withdrawal,

1 transfer, liquidation, or settlement of a depository account,
2 including the precious metals represented by the balance of a
3 depository account, effected by a governmental or quasi-governmental
4 authority other than an authority of this state or by a financial
5 institution or other person acting on behalf of or pursuant to a
6 directive or authorization issued by a governmental or quasi-
7 governmental authority other than an authority of this state, in the
8 course of a generalized declaration of illegality or emergency
9 relating to the ownership, possession, or disposition of one or more
10 precious metals, contracts, or other rights to the precious metals
11 or contracts or derivatives of the ownership, possession,
12 disposition, contracts, or other rights, may not recognize the
13 governmental or quasi-governmental authority, financial institution,
14 or other person acting as the lawful successor of the registered
15 holder of a depository account in question.

16 C. On receipt of notice of any transaction described by
17 subsection A of this section, with respect to all or any portion of
18 the balance of a depository account, the depository shall suspend
19 withdrawal privileges associated with the balances of the depository
20 account until suitable substitute arrangements may be effected in
21 accordance with rules of the State Treasurer to enable the
22 registered account holder to take delivery of the precious metals
23 represented by the account balances in question. A voluntary
24 transfer of a depository account balance or of a depository account

1 among depository account holders may continue to take place
2 unaffected by the suspension, and the depository shall recognize to
3 the full extent authorized by this act and rules promulgated under
4 this act.

5 SECTION 24. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2424 of Title 62, unless there
7 is created a duplication in numbering, reads as follows:

8 The State Treasurer by rule shall establish the references by
9 which the official exchange rate for pricing precious metals
10 transactions in terms of United States dollars or other currency
11 must be established at the time of a depository transaction. The
12 State Treasurer shall establish procedures and facilities through
13 which the rates are made discoverable at all reasonable times by
14 system participants, both on a real-time basis and retrospectively.

15 SECTION 25. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2425 of Title 62, unless there
17 is created a duplication in numbering, reads as follows:

18 The State Treasurer by rule shall establish procedures and
19 requirements for the depository and depository agents designed to
20 minimize the burden to system participants of accounting for and
21 reporting taxable gains and losses arising out of depository
22 transactions as denominated in United States dollars or another
23 currency.

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1 SECTION 26. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2426 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 The State Treasurer shall submit to the Governor, the President
5 Pro Tempore of the Senate and the Speaker of the House of
6 Representatives a report on the status, condition, operations, and
7 prospects for the depository and depository participation each year
8 not later than September 30.

9 SECTION 27. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2427 of Title 62, unless there
11 is created a duplication in numbering, reads as follows:

12 The depository shall use private, independently managed firms
13 and institutions licensed as depository agents as intermediaries to
14 conduct retail transactions in bullion and specie on behalf of the
15 depository with current and prospective depository account holders.
16 A depository agent used by the depository under this section must
17 have a minimum of five (5) years of depository operational
18 experience or ownership, including three years of direct retail
19 transaction experience with public and private entities or
20 individuals. The State Treasurer by rule may impose additional
21 requirements as to capitalization, net worth, liquidity, or other
22 financial prerequisites to qualify a depository agent to conduct
23 transactions or take other action on behalf of the depository.

24

1 SECTION 28. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2428 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 The State Treasurer by rule shall require a depository agent to
5 maintain suitable systems and processes for electronic information
6 sharing and communication with the State Treasurer and the
7 depository to ensure that all transactions effected on behalf of the
8 depository are reported to and integrated into the depository's
9 records not later than 11:59:59 p.m. on the date of each
10 transaction.

11 SECTION 29. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2429 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

14 A depository agent shall submit monthly, quarterly, and annual
15 reports of all depository transactions not later than the fifteenth
16 day of the month following the expiration of the period with respect
17 to which such report is submitted. The report must contain
18 information and be in a form and format as rules of the State
19 Treasurer require.

20 SECTION 30. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2430 of Title 62, unless there
22 is created a duplication in numbering, reads as follows:

23 A. A depository agent license holder shall prepare written
24 reports and statements as follows:

1 1. An audited unconsolidated financial statement that is dated
2 as of the last day of the license holder's fiscal year that ended in
3 the immediately preceding calendar year;

4 2. A quarterly interim financial statement and report regarding
5 the permissible investments required to be maintained under
6 applicable rules that reflect the license holder's financial
7 condition and permissible investments as of the last day of the
8 calendar quarter to which the statement and report relate and that
9 are prepared not later than the forty-fifth day after the last day
10 of the calendar quarter; and

11 3. Any other report required by rules of the State Treasurer or
12 reasonably requested by the State Treasurer to determine compliance
13 with this act.

14 SECTION 31. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2431 of Title 62, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Notwithstanding any other provision of this act, a money
18 service that constitutes both a depository agent service and a money
19 transmission service, or both a depository agent service and a
20 currency exchange service, for purposes of this act constitutes a
21 depository agent service only.

22 B. A depository agent service described by subsection A of this
23 section is not subject to a provision of this act applicable
24

1 uniquely to money transmission services or currency exchange
2 services.

3 C. A person who renders a service that constitutes a depository
4 agent service, including a depository agent service described by
5 subsection A of this section, and renders another service that
6 constitutes money transmission or currency exchange service only, is
7 subject to the requirements of this act applicable to each type of
8 service rendered.

9 SECTION 32. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2432 of Title 62, unless there
11 is created a duplication in numbering, reads as follows:

12 A. A person may not engage in the business of rendering
13 depository agent services or advertise, solicit, or hold itself out
14 as a person that engages in the business of depository agent
15 services unless the person:

16 1. Is licensed under this act and has received the requisite
17 certifications from the State Treasurer of its facilities, systems,
18 processes, and procedures as required by this act or rule
19 promulgated pursuant to this act; or

20 2. Is exempted from licensing requirements as provided by law.

21 B. Notwithstanding any other provision of this act, the
22 following persons and entities are not eligible for a license under
23 this act:

24

- 1 1. The United States or an instrumentality of the United
2 States, including the United States Post Office or a contractor
3 acting on behalf of the United States Post Office;
- 4 2. A person that, on behalf of the United States or a
5 department, agency, or instrumentality of the United States, or a
6 state or county, city, or any other governmental agency or political
7 subdivision of a state, provides electronic funds transfer services
8 of governmental benefits for a federal, state, county, or local
9 governmental agency;
- 10 3. A person that acts as an intermediary on behalf of and at
11 the direction of a license holder in the process by which the
12 license holder, after receiving money or monetary value from a
13 purchaser, either directly or through an authorized delegate,
14 transmits the money or monetary value to the purchaser's designated
15 recipient, provided that the license holder is liable for satisfying
16 the obligation owed to the purchaser;
- 17 4. An attorney or title company that in connection with a real
18 property transaction receives and disburses domestic currency or
19 issues an escrow or trust fund check only on behalf of a party to
20 the transaction; and
- 21 5. A person engaged in the business of currency transportation
22 who is both a registered motor carrier and a licensed armored car
23 company or courier company, provided that the person does not engage
24

1 in the money transmission or currency exchange business without a
2 license issued under this act.

3 C. For purposes of this act:

4 1. A person engages in the business of depository agent
5 services if the person renders a depository agent service,
6 regardless of whether:

7 a. compensation is sought or received for the service,
8 directly or indirectly, and

9 b. the service is incidental to any other business in
10 which the person is primarily engaged; and

11 2. A person solicits, advertises, or holds the person out as a
12 person that engages in the business of depository agent services if
13 the person represents that the person will conduct depository agent
14 services.

15 D. Notwithstanding the provisions of subsection C of this
16 section, a person does not engage in the business of depository
17 agent services by engaging in a transaction for the person's own
18 depository account or for the account of another person acting as a
19 fiduciary that would constitute depository agent services if
20 conducted for another person.

21 E. A depository agent license holder may engage in depository
22 agent services business at one or more locations in this state owned
23 directly or indirectly by the license holder under a single license.

24

1 SECTION 33. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2433 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 In addition to the general qualifications for licensure set
5 forth in Section 32 of this act, an applicant for a depository agent
6 license must demonstrate to the satisfaction of the State Treasurer
7 that:

8 1. The applicant has and will maintain the capitalization,
9 minimum net worth, and other applicable financial requirements
10 established by rules of the State Treasurer;

11 2. The applicant's financial condition will enable the
12 applicant to safely and soundly engage in the business of depository
13 agent services; and

14 3. The applicant does not engage in any activity or practice
15 that adversely affects the applicant's safety and soundness.

16 SECTION 34. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2434 of Title 62, unless there
18 is created a duplication in numbering, reads as follows:

19 A. An applicant for a depository agent license must submit an
20 application to the State Treasurer.

21 B. At the time an application for a depository agent license is
22 submitted, an applicant must file with the State Treasurer:

23 1. An application fee in the amount established by rule of the
24 State Treasurer;

1 2. Audited financial statements that are satisfactory to the
2 State Treasurer for purposes of determining whether the applicant
3 has the minimum net worth required under applicable rules and is
4 likely to maintain the required minimum net worth if a license is
5 issued; and

6 3. Security in the amount of Five Hundred Thousand Dollars
7 (\$500,000.00) that meets the requirements of applicable rules and an
8 undertaking or agreement that the applicant will increase or
9 supplement the security to equal the aggregate security required by
10 the State Treasurer before the issuance of the license and the start
11 of operations.

12 SECTION 35. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2435 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 The State Treasurer shall investigate the applicant and act on
16 the application.

17 SECTION 36. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2436 of Title 62, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The State Treasurer may issue a temporary depository agent
21 license to a person that is engaging in depository agent services,
22 but has not obtained a license under this act, if the person:

23 1. Certifies in writing that the person qualifies for the
24 license and will submit a completed license application not later

1 than the sixtieth day after the date the temporary license is
2 issued;

3 2. Submits a recent financial statement acceptable to the State
4 Treasurer that reflects the minimum net worth required under
5 applicable regulations;

6 3. Provides security that meets the requirements specified by
7 the State Treasurer, but not less than Five Hundred Thousand Dollars
8 (\$500,000.00);

9 4. Agrees in writing that, until a permanent license is issued,
10 the person will engage only in activities being conducted at
11 existing locations; and

12 5. Pays the application fee and a nonrefundable temporary
13 license fee in the amount established by rules promulgated by the
14 State Treasurer.

15 B. The effective period for a temporary depository agent
16 license may not exceed ninety (90) days after the date the license
17 is issued. The State Treasurer may extend the effective period for
18 not more than thirty (30) days if necessary to complete the
19 processing of a timely filed application for which approval is
20 likely.

21 SECTION 37. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2437 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

24

1 A depository agent license holder is liable for the delivery to
2 or for the account of the depository or each depositor, as
3 applicable, of all bullion, specie, and money payable or deliverable
4 in connection with the transactions in which the license holder
5 engages on behalf of the depository.

6 SECTION 38. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2438 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 A. A depository agent license holder shall hold in trust all
10 cash, bullion, specie, and other assets received in the ordinary
11 course of its business until the time the delivery obligation is
12 discharged. A trust resulting from the depository agent license
13 holder's actions is in favor of the persons to whom such delivery
14 obligations are owed.

15 B. If a depository agent license holder commingles any money or
16 other property received for delivery with money or other property
17 owned or controlled by the depository agent license holder, all
18 commingled money and other property are impressed with a trust as
19 provided by this section in an amount equal to the amount of money
20 or property received for delivery, less the amount of fees paid for
21 the delivery.

22 C. If the State Treasurer revokes a depository agent license,
23 all money and other property held in trust by the depository agent
24

1 license holder is assigned to the State Treasurer for the benefit of
2 the persons to whom the related delivery obligations are owed.

3 D. Money or other property of a depository agent license holder
4 impressed with a trust under this section may not be considered an
5 asset or property of the license holder in the event of bankruptcy,
6 receivership, or a claim against the license holder unrelated to the
7 license holder's obligations under this act.

8 SECTION 39. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2439 of Title 62, unless there
10 is created a duplication in numbering, reads as follows:

11 A depository agent license holder's name and mailing address or
12 telephone number must be provided to the purchaser in connection
13 with each depository agent services transaction conducted by the
14 depository agent license holder.

15 SECTION 40. This act shall become effective November 1, 2016.

16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
17 February 24, 2016 - DO PASS AS AMENDED
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