

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1717

By: Dahm

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6 AS INTRODUCED

7 An Act relating to the Oklahoma Bullion Depository;
8 defining terms; establishing Oklahoma Bullion
9 Depository in the Office of the State Treasurer;
10 providing for appointment and duties of administrator
11 and deputy administrator; providing that deposits
12 made not be considered part of General Revenue Fund
13 or certified as available for appropriation;
14 providing for deposit of certain monies to General
15 Revenue Fund; providing for receipt of deposits;
16 specifying procedures; specifying certain duties of
17 State Treasurer; providing for delivery and shipping
18 of deposits held by or on behalf of depository;
19 providing procedures for transfer of accounts;
20 providing for accounting of depository account
21 balances; specifying procedures for establishment of
22 depository accounts; requiring contracts and
23 specifying terms; providing for contract amendments;
24 specifying when cause of action for denial of deposit
liability may accrue; authorizing State Treasurer to
establish fees and penalties; providing for pledges
and transfers of depository accounts; prohibiting
certain payments; providing for liens on depository
accounts and payments of certain obligations;
providing for investments by certain persons and
entities; providing for credit against certain tax;
providing for governance of certain laws; allowing
pledge or transfer of jointly held accounts;
providing that ownership not severed thereby;
allowing depository or depository agent to accept
accounts in name of fiduciary; providing procedures
in cases of persons claiming to be trustees;
providing that depository not have further liability;
requiring depository to recognize certain authority
upon notice; requiring depository to enter into
certain transactions and relationships; prohibiting

1 certain acts; voiding certain actions to control
2 accounts; providing procedures for depository in such
3 instance; requiring State Treasurer to establish
4 exchange rate references and accounting and reporting
5 requirements; requiring annual report; providing
6 procedures to conduct retail transactions; providing
7 for licensing and appointment of depository agents;
8 specifying requirements applicable to depository
9 agents; providing for depository agent services;
10 prohibiting certain acts by unlicensed persons;
11 prohibiting licensure of certain persons; specifying
12 circumstances under which person engages in business
13 of depository agent services; providing for
14 application for depository agent license; requiring
15 certain security; allowing temporary licensure;
16 specifying liability, duties, and prohibited acts of
17 depository agent license holder; providing for
18 revocation of licenses; prohibiting consideration of
19 deposits as assets in certain proceedings; requiring
20 furnishing of certain information in connection with
21 transactions; providing for codification; and
22 providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2501 of Title 62, unless there
is created a duplication in numbering, reads as follows:

As used in this act:

1. "Administrator" means the bullion depository administrator
appointed pursuant to Section 3 of this act;

2. "Bullion" means precious metals that are formed into uniform
shapes and quantities such as ingots, bars, or plates, with uniform
content and purity, as are suitable for or customarily used in the

1 purchase, sale, storage, transfer, and delivery of bulk or wholesale
2 transactions in precious metals;

3 3. "Business day" means a day other than a Saturday, Sunday, or
4 banking holiday for a bank chartered pursuant to the laws of this
5 state;

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

12 a. the depository, or

13 b. a depository agent;

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

15 6. "Depository" means the Oklahoma Bullion Depository created
16 by this act;

17 7. "Depository account" means the rights, interests, and
18 entitlements established in favor of a depositor with respect to a
19 deposit in accordance with this act and rules promulgated pursuant
20 to this act;

21 8. "Depository account holder", regarding a depository account,
22 means the original depositor or a successor or assignee of the
23 depositor respecting the depository account;

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

5 10. "Depository agent services" means services rendered to the
6 public for or on behalf of the Oklahoma Bullion Depository in the
7 nature of purchasing, selling, transferring, accepting,
8 transporting, delivering, or otherwise dealing in precious metals
9 bullion or specie in connection with the creation, transfer,
10 clearing, settlement, or liquidation of the rights and interests of
11 a depository account holder and a direct or indirect transferee of a
12 depository account holder. The term "depository agent services"
13 does not include:

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

3 b. the opening, transfer, settlement, or liquidation of
4 any derivative of a contract described by subparagraph
5 a of this paragraph including a forward transaction,
6 swap transaction, currency transaction, future
7 transaction, index transaction, or option on or other
8 derivative of a transaction of any of those types, in
9 the nature of a cap transaction, floor transaction,
10 collar transaction, repurchase transaction, reverse
11 repurchase transaction, buy-and-sell-back transaction,
12 securities lending transaction, or other financial
13 instrument or interest including an option with
14 respect to a transaction, or any combination of these
15 transactions, or

16 c. the rendition of services exclusively in support of
17 the opening, transfer, settlement, or liquidation of
18 transaction derivatives described by subparagraph b of
19 this paragraph through a central counterparty, such as
20 those customarily rendered by a clearinghouse,
21 clearing association, or clearing corporation, or
22 through an interbank payment system, physical or
23 electronic trading facility, broker or brokerage firm,
24 or similar entity, facility, system, or organization;

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

- 3 a. bears a high value-to-weight ratio relative to common
- 4 industrial metals, and
- 5 b. customarily is formed into bullion or specie; and

6 12. "Specie" means a precious metal stamped into coins of
7 uniform shape, size, design, content, and purity, suitable for or
8 customarily used as currency, as a medium of exchange, or as
9 the medium for purchase, sale, storage, transfer, or delivery of
10 precious metals in retail or wholesale transactions.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2502 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

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

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

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2503 of Title 62, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The depository shall be under the direction and supervision
24 of a bullion depository administrator jointly appointed by the

1 Governor and the State Treasurer with the advice and consent of the
2 Senate.

3 B. The administrator shall:

4 1. Administer, supervise, and direct the operations and affairs
5 of the depository and depository agents; and

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

12 C. The administrator may appoint, subject to the approval of
13 the State Treasurer, a deputy administrator or other subordinate
14 officer as necessary and appropriate to the efficient administration
15 of the depository.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2504 of Title 62, unless there
18 is created a duplication in numbering, reads as follows:

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

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2505 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The depository may receive a deposit of bullion or specie
5 from or on behalf of a person acting in the person's own right, as
6 trustee, or in another fiduciary capacity, in accordance with rules
7 promulgated by the State Treasurer as appropriate to:

- 8 1. Ensure compliance with law; and
- 9 2. Protect the interests of:
 - 10 a. the depository,
 - 11 b. depository account holders,
 - 12 c. this state and the agencies, political subdivisions,
13 and instrumentalities of this state, and
 - 14 d. the public at large.

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

19 C. The State Treasurer shall promulgate rules to adopt
20 standards by which the quantities of precious metals deposited are
21 credited to a depositor's depository account by reference to the
22 particular form in which the metals were deposited, classified by
23 mint, denomination, weight, assay mark, or other indicator, as
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1 applicable. The standards must conform to applicable national and
2 international standards of weights and measures.

3 D. The State Treasurer may, if the State Treasurer determines
4 that to do so is in the public interest, promulgate rules to
5 restrict the forms in which deposits of precious metals may be made
6 to those forms that conveniently lend themselves to measurement and
7 accounting in units of troy ounces and standardized fractions of
8 troy ounces.

9 E. The depository shall adjust each depository account balance
10 to reflect additions to or withdrawals or deliveries from the
11 account.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2506 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The depository shall deliver any precious metal held by or
16 on behalf of the depository in bullion, specie, or a combination of
17 bullion and specie, on the order of a depository account holder in a
18 quantity of that precious metal as is available in the depository
19 account holder's depository account.

20 B. The depository shall make a delivery as required by
21 subsection A of this section on demand by the presentment of a
22 suitable check, draft, or digital electronic instruction to the
23 depository or a depository agent. The State Treasurer shall
24 promulgate rules to adopt the forms, standards, and processes

1 through which an order for delivery on demand may be made,
2 presented, and honored.

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

9 SECTION 7. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2507 of Title 62, unless there
11 is created a duplication in numbering, reads as follows:

12 A. In accordance with rules promulgated pursuant to this act, a
13 depository account holder may transfer any portion of the balance of
14 the holder's depository account by check, draft, or digital
15 electronic instruction to another depository account holder or to a
16 person who at the time the transfer is initiated is not a depository
17 account holder.

18 B. The depository shall adjust the depository account balances
19 of the depository accounts to reflect a transfer transaction between
20 depository account holders on presentment of the check, draft, or
21 other instruction by reducing the payor's depository account balance
22 and increasing the depository account balance of the payee
23 accordingly.

1 C. If a depository account holder transfers to a payee who is
2 not a depository account holder any portion of the balance of the
3 holder's depository account, the depository shall allow the payee to
4 establish a depository account by presentment of the payor's check,
5 draft, or instruction to the depository or to a depository agent.
6 The depository shall credit a newly established account on behalf of
7 the payee and shall debit the payor's account accordingly.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2508 of Title 62, unless there
10 is created a duplication in numbering, reads as follows:

11 A. To establish a depository account, a depositor shall
12 contract with the depository for a depository account. The contract
13 shall include, but not be limited to, with specificity:

14 1. The terms applicable to the account including any special
15 terms;

16 2. The conditions on which amendments may be made to the
17 contract; and

18 3. The conditions on which withdrawals or deliveries with
19 respect to the account may be made.

20 B. The execution of a contract for a depository account
21 described by this section may be made, as prescribed by rules
22 promulgated pursuant to this act, by electronic or digital
23 transmission and signature.
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1 C. The depository or a depository agent shall hold the contract
2 for a depository account in the records pertaining to the account.

3 D. A contract for a depository account executed by a depositor
4 and the depository is considered a contract in writing for all
5 purposes and may be evidenced by one or more agreements, deposit
6 receipts, signature cards, amendment notices, or other executed
7 documents as provided by law.

8 E. The depository and the depository account holder may amend a
9 contract for a depository account by agreement, or the depository
10 may amend the deposit contract by mailing a written notice of the
11 amendment to the account holder, separately or as an enclosure with
12 or part of the account holder's statement of account or passbook.
13 In the case of amendment by notice from the depository, the notice
14 shall include the language of the amendment and the date the
15 amendment is in effect. The date the amendment is in effect shall
16 not be earlier than the thirtieth day after the date the notice is
17 mailed, unless otherwise provided by rules promulgated pursuant to
18 this act.

19 SECTION 9. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2509 of Title 62, unless there
21 is created a duplication in numbering, reads as follows:

22 A. A cause of action for denial of deposit liability on a
23 depository account contract without a maturity date does not accrue
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1 until the depository has denied liability and given notice of the
2 denial to the depository account holder.

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

7 SECTION 10. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2510 of Title 62, unless there
9 is created a duplication in numbering, reads as follows:

10 The State Treasurer may promulgate rules to establish fees,
11 service charges, and penalties to be charged to a depository account
12 holder for a service or activity regarding a depository account
13 including a fee for an overdraft, an insufficient fund check or
14 draft, or a stop payment order.

15 SECTION 11. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2511 of Title 62, unless there
17 is created a duplication in numbering, reads as follows:

18 Unless the depository acknowledges in writing a pledge of a
19 depository account, the depository may treat the holder of record of
20 the account as the owner of the account for all purposes and without
21 regard to a notice to the contrary.

22 SECTION 12. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2512 of Title 62, unless there
24 is created a duplication in numbering, reads as follows:

1 A. A depository account may be transferred on the books of the
2 depository only on presentation to the depository of:

- 3 1. Evidence of transfer satisfactory to the depository; and
- 4 2. An application for the transfer submitted by the person to
5 whom the depository account is to be transferred.

6 B. A person to whom a depository account is to be transferred
7 shall accept the transferred account subject to the terms of the
8 deposit contract, this act, and rules promulgated pursuant to this
9 act.

10 SECTION 13. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2513 of Title 62, unless there
12 is created a duplication in numbering, reads as follows:

13 The depository shall not pay on a depository account:

- 14 1. Interest;
- 15 2. An amount in the nature of interest; or
- 16 3. A fee or other payment for the use or forbearance of use of
17 money, bullion, specie, or precious metals deposited to a depository
18 account.

19 SECTION 14. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2514 of Title 62, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Without the need of any further agreement or pledge, the
23 depository has a lien on each depository account owned by a
24 depository account holder to secure any fees, charges, or other
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1 obligations owed or that may become owed to the depository in
2 connection with any of the depository account holder's depository
3 accounts as provided by the terms of the depository account holder's
4 applicable depository account contract.

5 B. On default in the payment or in the satisfaction of a
6 depository account holder's obligation, the depository, without
7 notice to or consent of the depository account holder, may transfer
8 on the depository's record all or part of the balance of a
9 depository account holder's depository account to the extent
10 necessary to pay or satisfy the obligation, as determined by
11 reference to the exchange rates applicable at the time of the
12 transfer.

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

15 D. Subject to a lien created as provided by this section, the
16 depository shall recognize the lawful pledge to a third party by a
17 depository account holder of the depository account holder's rights,
18 interests, and entitlements in and to a depository account as an
19 intangible asset. On the satisfaction of other requirements of law
20 in respect of the perfection and enforcement of a pledge of that
21 type, the depository shall take all steps reasonably necessary and
22 appropriate to effectuate on the depository's books any transfer of
23 a depository account or of all or part of a depository account
24

1 balance to the account of the secured party on the successful
2 enforcement of the pledge.

3 SECTION 15. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2515 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

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

9 1. A fiduciary including an administrator, executor, custodian,
10 guardian, or trustee;

11 2. A political subdivision of this state or an instrumentality
12 of this state;

13 3. A business or nonprofit corporation;

14 4. A charitable or educational corporation or association; or

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

17 B. An investment by an insurance company in a depository
18 account is eligible to be applied as a credit against taxes payable
19 pursuant to Section 624 of Title 36 of the Oklahoma Statutes, in
20 accordance with rules promulgated by the State Treasurer after
21 consultation with the Insurance Commissioner.

22 C. An investment by a school district in a depository account
23 may be made instead of an investment as provided by the Security for
24 Local Public Deposits Act in Section 517.1 et seq. of Title 62 of

1 the Oklahoma Statutes, and the depository may be used by a district
2 instead of a depository bank for the purposes of the Security for
3 Local Public Deposits Act.

4 SECTION 16. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2516 of Title 62, unless there
6 is created a duplication in numbering, reads as follows:

7 The applicable provisions of Title 58 of the Oklahoma Statutes
8 govern a depository account.

9 SECTION 17. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2517 of Title 62, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Unless a term of the depository account provides otherwise,
13 a person on whose signature precious metals may be withdrawn from a
14 depository account that is jointly held in the names of two or more
15 persons may, by a signed pledge, transfer to the depository or to a
16 third party all or part of the account.

17 B. A pledge made as described by subsection A of this section
18 does not sever or terminate the joint and survivorship ownership of
19 the account, to the extent applicable to the account before the
20 pledge.

21 SECTION 18. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2518 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

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

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

6 C. Except as otherwise provided by law, a payment or delivery
7 to a fiduciary or an acquaintance signed by the fiduciary to whom a
8 payment or delivery is made is a discharge of the depository for the
9 payment or delivery.

10 D. After a person who holds a depository account in a fiduciary
11 capacity dies, the depository may pay or deliver to the beneficiary
12 of the account the quantity of precious metals represented by the
13 balance in the depository account, plus other rights relating to the
14 depository account, wholly or partly, if the depository has no
15 written notice or order of the probate court of:

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

17 or

18 2. Any other disposition of the beneficial estate.

19 E. The depository has no further liability for a payment made
20 or right delivered pursuant to subsection D of this section.

21 SECTION 19. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2519 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

1 A. If the depository opens a depository account for a person
2 claiming to be the trustee for another person and the depository has
3 no other notice of the existence or terms of the trust other than a
4 written claim against the account:

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

7 2. If the person claiming to be the trustee dies, the
8 depository may pay or deliver the quantity of precious metals
9 represented by the balance in the account to the person for whom the
10 account was opened.

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

13 SECTION 20. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2520 of Title 62, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The depository shall recognize the authority of an attorney-
17 in-fact authorized in writing by a depository account holder to
18 manage or withdraw precious metals from the depository account
19 holder's depository account until the depository receives written or
20 actual notice of the revocation of that authority.

21 B. For purposes of this section, written notice of the death or
22 adjudication of incompetency of a depository account holder shall be
23 considered written notice of revocation of the authority of the
24 account holder's attorney-in-fact.

1 SECTION 21. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2521 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 The depository shall enter into transactions and relationships
5 with bullion banks, depositories, dealers, central banks, sovereign
6 wealth funds, financial institutions, international nongovernmental
7 organizations, or other persons, located inside or outside of this
8 state or inside or outside of the United States, as the State
9 Treasurer determines to be prudent and suitable to facilitate the
10 operations of the depository and to further the purposes of this
11 act.

12 SECTION 22. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2522 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 The depository shall not take any of the following actions, and
16 any attempt by the depository to take any of the following actions
17 is void ab initio and of no force or effect:

- 18 1. Entering into a precious metals leasing, sale-leaseback,
19 forward transaction, swap transaction, future transaction, index
20 transaction, or option on or other derivative of any of those,
21 whether in the nature of a cap transaction, floor transaction,
22 collar transaction, repurchase transaction, reverse repurchase
23 transaction, buy-and-sell-back transaction, securities lending
24 transaction, or other financial instrument or interest intended to

1 or having the effect of hedging or leveraging the depository's
2 holdings of precious metals including any option with respect to any
3 of these transactions, or any combination of these transactions,
4 except that the limitation provided by this paragraph does not apply
5 to a transaction entered into to limit the depository's exposure to
6 post-signature price risks associated with executory agreements to
7 purchase or sell precious metals in the ordinary course of
8 depository operations and does not apply to policies of insurance
9 purchased to insure against ordinary casualty risks such as theft,
10 damage or destruction, loss during shipment, or similar risks;

11 2. Accrediting the depository account balances of a depository
12 account holder, or disposing of any precious metals, if to do so
13 would cause the aggregate depository account balances with respect
14 to any precious metal represented by all depository accounts to
15 exceed the aggregate quantities of such precious metal held by or
16 for the benefit of the depository and the depository's depository
17 agents;

18 3. Entering into or maintaining a deposit, trust, or similar
19 relationship for the custody of precious metals by a third party
20 outside this state, directly or indirectly, for the account or
21 benefit of the depository if the State Treasurer by rule establishes
22 that:

- 1 a. the custody or intermediary arrangements in question
2 do not meet the State Treasurer's standards of safety,
3 security, and liquidity, or
4 b. except in those cases where such relationship may be
5 incidental to the performance of or preparation for
6 purchase and sale transactions with counterparties
7 located outside of this state, suitable alternate
8 arrangements for physical custody of the precious
9 metals inside this state have been established and are
10 available;

11 4. Extending credit to a person including credit secured by a
12 depository account or other assets, except an extension of credit
13 incidental to the performance of the functions and responsibilities
14 otherwise provided by this act; or

15 5. Engaging in a business or activity that, if conducted by a
16 private person, would be subject to regulation in this state as a
17 banking or savings and loan function.

18 SECTION 23. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2523 of Title 62, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A purported confiscation, requisition, seizure, or other
22 attempt to control the ownership, disposition, or proceeds of a
23 withdrawal, transfer, liquidation, or settlement of a depository
24 account including the precious metals represented by the balance of
25

1 a depository account, if effected by a governmental or quasi-
2 governmental authority other than an authority of this state or by a
3 financial institution or other person acting on behalf of or
4 pursuant to a directive or authorization issued by a governmental or
5 quasi-governmental authority other than an authority of this state,
6 in the course of a generalized declaration of illegality or
7 emergency relating to the ownership, possession, or disposition of
8 one or more precious metals, contracts, or other rights to the
9 precious metals or contracts or derivatives of the ownership,
10 possession, disposition, contracts, or other rights, is void ab
11 initio and of no force or effect.

12 B. The depository in the case of receiving notice of a
13 purported confiscation, requisition, seizure, or other attempt to
14 control the ownership, disposition, or proceeds of a withdrawal,
15 transfer, liquidation, or settlement of a depository account
16 including the precious metals represented by the balance of a
17 depository account, effected by a governmental or quasi-governmental
18 authority other than an authority of this state or by a financial
19 institution or other person acting on behalf of or pursuant to a
20 directive or authorization issued by a governmental or quasi-
21 governmental authority other than an authority of this state, in the
22 course of a generalized declaration of illegality or emergency
23 relating to the ownership, possession, or disposition of one or more
24 precious metals, contracts, or other rights to the precious metals

1 or contracts or derivatives of the ownership, possession,
2 disposition, contracts, or other rights, may not recognize the
3 governmental or quasi-governmental authority, financial institution,
4 or other person acting as the lawful successor of the registered
5 holder of a depository account in question.

6 C. On receipt of notice of any transaction described by
7 subsection A of this section, with respect to all or any portion of
8 the balance of a depository account, the depository shall suspend
9 withdrawal privileges associated with the balances of the depository
10 account until suitable substitute arrangements may be affected in
11 accordance with rules of the State Treasurer to enable the
12 registered account holder to take delivery of the precious metals
13 represented by the account balances in question. A voluntary
14 transfer of a depository account balance or of a depository account
15 among depository account holders may continue to take place
16 unaffected by the suspension, and the depository shall recognize to
17 the full extent authorized by this act and rules promulgated
18 pursuant to this act.

19 SECTION 24. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2524 of Title 62, unless there
21 is created a duplication in numbering, reads as follows:

22 The State Treasurer shall promulgate rules to establish the
23 references by which the official exchange rate for pricing precious
24 metals transactions in terms of United States dollars or other
25

1 currency must be established at the time of a depository
2 transaction. The State Treasurer shall establish procedures and
3 facilities through which the rates are made discoverable at all
4 reasonable times by system participants, both on a real-time basis
5 and retrospectively.

6 SECTION 25. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2525 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 The State Treasurer by rule shall establish procedures and
10 requirements for the depository and depository agents designed to
11 minimize the burden to system participants of accounting for and
12 reporting taxable gains and losses arising out of depository
13 transactions as denominated in United States dollars or another
14 currency.

15 SECTION 26. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2526 of Title 62, unless there
17 is created a duplication in numbering, reads as follows:

18 The State Treasurer shall submit to the Governor, the President
19 Pro Tempore of the Senate and the Speaker of the House of
20 Representatives a report on the status, condition, operations, and
21 prospects for the depository and depository participation not later
22 than September 30 of each year.

1 SECTION 27. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2527 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 The depository shall use private, independently managed firms
5 and institutions licensed as depository agents as intermediaries to
6 conduct retail transactions in bullion and specie on behalf of the
7 depository with current and prospective depository account holders.
8 A depository agent licensed by the depository pursuant to this
9 section must have a minimum of five (5) years of depository
10 operational experience or ownership including three years of direct
11 retail transaction experience with public and private entities or
12 individuals. The State Treasurer may promulgate rules to issue a
13 depository agent license and to impose additional requirements as to
14 capitalization, net worth, liquidity, or other financial
15 prerequisites to qualify as a licensed depository agent to conduct
16 transactions or take other action on behalf of the depository.

17 SECTION 28. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2528 of Title 62, unless there
19 is created a duplication in numbering, reads as follows:

20 The State Treasurer shall promulgate rules to require a
21 depository agent to maintain suitable systems and processes for
22 electronic information sharing and communication with the State
23 Treasurer and the depository to ensure that all transactions
24 affected on behalf of the depository are reported to and integrated

1 into the depository's records not later than 11:59:59 p.m. Central
2 Standard Time on the date of each transaction.

3 SECTION 29. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2529 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 A depository agent shall submit monthly, quarterly, and annual
7 reports of all depository transactions not later than the fifteenth
8 day of the month following the expiration of the period with respect
9 to which such report is submitted. The report must contain
10 information and be in a form and format as required by the State
11 Treasurer.

12 SECTION 30. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2530 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 A. A depository agent license holder shall prepare written
16 reports and statements as follows:

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

20 2. A quarterly interim financial statement and report regarding
21 the permissible investments required to be maintained pursuant to
22 applicable rules that reflect the license holder's financial
23 condition and permissible investments as of the last day of the
24 calendar quarter to which the statement and report relate and that

1 are prepared not later than the forty-fifth day after the last day
2 of the calendar quarter; and

3 3. Any other report required by the State Treasurer or
4 reasonably requested by the State Treasurer to determine compliance
5 with this act.

6 SECTION 31. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2531 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Notwithstanding any other provision of this act, a money
10 service that constitutes both a depository agent service and a money
11 transmission service, or both a depository agent service and a
12 currency exchange service, for purposes of this act constitutes a
13 depository agent service only.

14 B. A depository agent service described by subsection A of this
15 section is not subject to a provision of this act applicable
16 uniquely to money transmission services or currency exchange
17 services.

18 C. A person who renders a service that constitutes a depository
19 agent service including a depository agent service described by
20 subsection A of this section, and renders another service that
21 constitutes money transmission or currency exchange service only, is
22 subject to the requirements of this act applicable to each type of
23 service rendered.

1 SECTION 32. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2532 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A person may not engage in the business of rendering
5 depository agent services or advertise, solicit, or hold itself out
6 as a person that engages in the business of depository agent
7 services unless the person:

8 1. Is licensed pursuant to this act and has received the
9 requisite certifications from the State Treasurer of its facilities,
10 systems, processes, and procedures as required by this act or rules
11 promulgated pursuant to this act; or

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

13 B. Notwithstanding any other provision of this act, the
14 following persons and entities shall not be eligible for a
15 depository agent license issued pursuant to this act:

16 1. The United States or an instrumentality of the United States
17 including the United States Post Office or a contractor acting on
18 behalf of the United States Post Office;

19 2. A person that, on behalf of the United States or a
20 department, agency, or instrumentality of the United States, or a
21 state or county, city, or any other governmental agency or political
22 subdivision of a state, provides electronic funds transfer services
23 of governmental benefits for a federal, state, county, or local
24 governmental agency;

1 3. A person that acts as an intermediary on behalf of and at
2 the direction of a license holder in the process by which the
3 license holder, after receiving money or monetary value from a
4 purchaser, either directly or through an authorized delegate,
5 transmits the money or monetary value to the purchaser's designated
6 recipient, provided that the license holder is liable for satisfying
7 the obligation owed to the purchaser;

8 4. An attorney or title company that in connection with a real
9 property transaction receives and disburses domestic currency or
10 issues an escrow or trust fund check only on behalf of a party to
11 the transaction; or

12 5. A person engaged in the business of currency transportation
13 who is both a registered motor carrier and a licensed armored car
14 company or courier company, provided that the person does not engage
15 in the money transmission or currency exchange business without a
16 license issued pursuant to this act.

17 C. For purposes of this act:

18 1. A person engages in the business of depository agent
19 services if the person renders a depository agent service,
20 regardless of whether:

21 a. compensation is sought or received for the service,
22 directly or indirectly, and

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

1 2. A person solicits, advertises, or holds the person out as a
2 person that engages in the business of depository agent services if
3 the person represents that the person will conduct depository agent
4 services.

5 D. Notwithstanding the provisions of subsection C of this
6 section, a person does not engage in the business of depository
7 agent services by engaging in a transaction for the person's own
8 depository account or for the account of another person acting as a
9 fiduciary that would constitute depository agent services if
10 conducted for another person.

11 E. A depository agent license holder may engage in depository
12 agent services at one or more locations in this state owned directly
13 or indirectly by the license holder under a single license.

14 SECTION 33. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2533 of Title 62, unless there
16 is created a duplication in numbering, reads as follows:

17 In addition to the general qualifications for licensure set
18 forth in Section 32 of this act, an applicant for a depository agent
19 license must demonstrate to the satisfaction of the State Treasurer
20 that:

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

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

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

6 SECTION 34. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2534 of Title 62, unless there
8 is created a duplication in numbering, reads as follows:

9 A. An applicant for a depository agent license shall submit an
10 application to the State Treasurer.

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

13 1. An application fee established by the State Treasurer;

14 2. Audited financial statements that are satisfactory to the
15 State Treasurer for purposes of determining whether the applicant
16 has the minimum net worth required pursuant to rules and is likely
17 to maintain the required minimum net worth if a license is issued;
18 and

19 3. Security in the amount of Five Hundred Thousand Dollars
20 (\$500,000.00) that meets the requirements of rules and an
21 undertaking or agreement that the applicant will increase or
22 supplement the security to equal the aggregate security required by
23 the State Treasurer before the issuance of the license and the start
24 of operations.

1 C. The State Treasurer shall investigate the applicant and
2 approve or deny the application.

3 SECTION 35. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2535 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The State Treasurer may issue a temporary depository agent
7 license to a person that is engaging in depository agent services,
8 but has not obtained a license pursuant to this act, if the person:

9 1. Certifies in writing that the person qualifies for the
10 license and will submit a completed license application not later
11 than the sixtieth day after the date the temporary license is
12 issued;

13 2. Submits a recent financial statement acceptable to the State
14 Treasurer that reflects the minimum net worth required pursuant to
15 rules;

16 3. Provides security that meets the requirements specified by
17 the State Treasurer, but not less than Five Hundred Thousand Dollars
18 (\$500,000.00);

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

22 5. Pays the application fee and a nonrefundable temporary
23 license fee in the amount established by rules promulgated by the
24 State Treasurer.

1 B. The effective period for a temporary depository agent
2 license may not exceed ninety (90) days after the date the license
3 is issued. The State Treasurer may extend the effective period for
4 not more than thirty (30) days, if necessary, to complete the
5 processing of a timely filed application for which approval is
6 likely.

7 SECTION 36. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2536 of Title 62, unless there
9 is created a duplication in numbering, reads as follows:

10 A. A depository agent license holder is liable for the delivery
11 to or for the account of the depository or each depositor, as
12 applicable, of all bullion, specie, and money payable or deliverable
13 in connection with the transactions in which the license holder
14 engages on behalf of the depository.

15 B. A depository agent license holder shall hold in trust all
16 cash, bullion, specie, and other assets received in the ordinary
17 course of its business until the time the delivery obligation is
18 discharged. A trust resulting from the depository agent license
19 holder's actions is in favor of the persons to whom such delivery
20 obligations are owed.

21 C. If a depository agent license holder commingles any money or
22 other property received for delivery with money or other property
23 owned or controlled by the depository agent license holder, all
24 commingled money and other property are impressed with a trust as

1 provided by this section in an amount equal to the amount of money
2 or property received for delivery, less the amount of fees paid for
3 the delivery.

4 D. If the State Treasurer revokes a depository agent license,
5 all money and other property held in trust by the depository agent
6 license holder is assigned to the State Treasurer for the benefit of
7 the persons to whom the related delivery obligations are owed.

8 E. Money or other property of a depository agent license holder
9 impressed with a trust pursuant to this section may not be
10 considered an asset or property of the license holder in the event
11 of bankruptcy, receivership, or a claim against the license holder
12 unrelated to the license holder's obligations pursuant to this act.

13 SECTION 37. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2537 of Title 62, unless there
15 is created a duplication in numbering, reads as follows:

16 A depository agent license holder's name and mailing address or
17 telephone number must be provided to the purchaser in connection
18 with each depository agent services transaction conducted by the
19 depository agent license holder.

20 SECTION 38. This act shall become effective November 1, 2022.

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