

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 816

By: Dahm

AS INTRODUCED

An Act relating to the Oklahoma Bullion Depository; defining terms; establishing Oklahoma Bullion Depository in the Office of the State Treasurer; providing for appointment and duties of administrator and deputy administrator; providing that deposits made not be considered part of General Revenue Fund or certified as available for appropriation; providing for deposit of certain monies to General Revenue Fund; providing for receipt of deposits; specifying procedures; specifying certain duties of State Treasurer; providing for delivery and shipping of deposits held by or on behalf of depository; providing procedures for transfer of accounts; providing for accounting of depository account balances; specifying procedures for establishment of depository accounts; requiring contracts and specifying terms; providing for contract amendments; 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 be 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

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

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

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

31 As used in this act:

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

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

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

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

- 15 a. the depository, or
- 16 b. a depository agent;

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

18 6. "Depository" means the Oklahoma Bullion Depository created
19 by this act;

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

1 8. "Depository account holder", regarding a depository account,
2 means the original depositor or a successor or assignee of the
3 depositor respecting the depository account;

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

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

- 17 a. participation as a party or counterparty to a
18 transaction including an agreement with respect to a
19 transaction, in or in connection with a contract for
20 the purchase or sale of a person's rights and
21 interests as a depository account holder, as a cash
22 contract for present delivery, a cash contract for
23 deferred shipment or delivery, or a contract for
24 future delivery, where the underlying deliverable

1 consists of the depository account holder's interest
2 in the depository account, rather than the underlying
3 precious metal represented by the depository account
4 balance,

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

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

1 electronic trading facility, broker or brokerage firm,
2 or similar entity, facility, system, or organization;

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

5 a. bears a high value-to-weight ratio relative to common
6 industrial metals, and

7 b. customarily is formed into bullion or specie; and

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

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

16 A. The Oklahoma Bullion Depository shall be established as a
17 division in the Office of the State Treasurer.

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

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

4 A. The depository shall be under the direction and supervision
5 of a bullion depository administrator jointly appointed by the
6 Governor and the State Treasurer with the advice and consent of the
7 Senate.

8 B. The administrator shall:

9 1. Administer, supervise, and direct the operations and affairs
10 of the depository and depository agents; and

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

17 C. The administrator may appoint, subject to the approval of
18 the State Treasurer, a deputy administrator or other subordinate
19 officer as necessary and appropriate to execute the efficient
20 administration of the depository.

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

1 No deposits made to the depository shall be considered part of
2 the General Revenue Fund or shall be certified by the State Board of
3 Equalization as available for appropriation; provided, revenue the
4 depository realizes from fees, charges, or other payments received
5 in the course of depository operations shall be deposited to the
6 credit of the General Revenue Fund.

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

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

- 14 1. Ensure compliance with law; and
- 15 2. Protect the interests of:
 - 16 a. the depository,
 - 17 b. depository account holders,
 - 18 c. this state and the agencies, political subdivisions,
19 and instrumentalities of this state, and
 - 20 d. the public at large.

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

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

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

14 E. The depository shall adjust each depository account balance
15 to reflect additions to or withdrawals or deliveries from the
16 account.

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

20 A. The depository shall deliver any precious metal held by or
21 on behalf of the depository in bullion, specie, or a combination of
22 bullion and specie, on the order of a depository account holder in a
23 quantity of that precious metal as is available in the depository
24 account holder's depository account.

1 B. The depository shall make a delivery as required by
2 subsection A of this section on demand by the presentment of a
3 suitable check, draft, or digital electronic instruction to the
4 depository or a depository agent. The State Treasurer shall
5 promulgate rules to adopt the forms, standards, and processes
6 through which an order for delivery on demand may be made,
7 presented, and honored.

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

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

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

23 B. The depository shall adjust the depository account balances
24 of the depository accounts to reflect a transfer transaction between
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1 depository account holders on presentment of the check, draft, or
2 other instruction by reducing the payor's depository account balance
3 and increasing the depository account balance of the payee
4 accordingly.

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

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

15 A. To establish a depository account, a depositor shall
16 contract with the depository for a depository account. The contract
17 shall include, but not be limited to, with specificity:

- 18 1. The terms applicable to the account including any special
19 terms;
- 20 2. The conditions in which amendments may be made to the
21 contract; and
- 22 3. The conditions in which withdrawals or deliveries with
23 respect to the account may be made.

1 B. The execution of a contract for a depository account
2 described by this section may be made, as prescribed by rules
3 promulgated pursuant to this act, by electronic or digital
4 transmission and signature.

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

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

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

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

4 A. A cause of action for denial of deposit liability on a
5 depository account contract without a maturity date does not accrue
6 until the depository has denied liability and given notice of the
7 denial to the depository account holder.

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

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

15 The State Treasurer may promulgate rules to establish fees,
16 service charges, and penalties to be charged to a depository account
17 holder for a service or activity regarding a depository account
18 including a fee for an overdraft, an insufficient fund check or
19 draft, or a stop payment order.

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

23 Unless the depository acknowledges in writing a pledge of a
24 depository account, the depository may treat the holder of record of

1 the account as the owner of the account for all purposes and without
2 regard to a notice to the contrary.

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

6 A. A depository account may be transferred on the books of the
7 depository only on presentation to the depository of:

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

11 B. A person to whom a depository account is to be transferred
12 shall accept the transferred account subject to the terms of the
13 deposit contract, this act, and rules promulgated pursuant to this
14 act.

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

18 The depository shall not pay on a depository account:

- 19 1. Interest;
- 20 2. An amount in the nature of interest; or
- 21 3. A fee or other payment for the use or forbearance of use of
22 money, bullion, specie, or precious metals deposited to a depository
23 account.

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

4 A. Without the need of any further agreement or pledge, the
5 depository shall have a lien on each depository account owned by a
6 depository account holder to secure any fees, charges, or other
7 obligations owed or that may become owed to the depository in
8 connection with any of the depository account holder's depository
9 accounts as provided by the terms of the depository account holder's
10 applicable depository account contract.

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

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

21 D. Subject to a lien created as provided by this section, the
22 depository shall recognize the lawful pledge to a third party by a
23 depository account holder of the depository account holder's rights,
24 interests, and entitlements in and to a depository account as an

1 intangible asset. On the satisfaction of other requirements of law
2 in respect of the perfection and enforcement of a pledge of that
3 type, the depository shall take all steps reasonably necessary and
4 appropriate to effectuate on the depository's books any transfer of
5 a depository account or of all or part of a depository account
6 balance to the account of the secured party on the successful
7 enforcement of the pledge.

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

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

- 14 1. A fiduciary including an administrator, executor, custodian,
15 guardian, or trustee;
- 16 2. A political subdivision of this state or an instrumentality
17 of this state;
- 18 3. A business or nonprofit corporation;
- 19 4. A charitable or educational corporation or association; or
- 20 5. A financial institution including a bank, savings and loan
21 association, or credit union.

22 B. An investment by an insurance company in a depository
23 account is eligible to be applied as a credit against taxes payable
24 pursuant to Section 624 of Title 36 of the Oklahoma Statutes, in

1 accordance with rules promulgated by the State Treasurer after
2 consultation with the Insurance Commissioner.

3 C. An investment by a school district in a depository account
4 may be made instead of an investment as provided by the Security for
5 Local Public Deposits Act in Section 517.1 et seq. of Title 62 of
6 the Oklahoma Statutes, and the depository may be used by a district
7 instead of a depository bank for the purposes of the Security for
8 Local Public Deposits Act.

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

12 The applicable provisions of Title 58 of the Oklahoma Statutes
13 govern a depository account.

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

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

22 B. A pledge made as described by subsection A of this section
23 does not sever or terminate the joint tenants with right of
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1 survivorship of the account, to the extent applicable to the account
2 before the pledge.

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

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

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

11 C. Except as otherwise provided by law, a payment or delivery
12 to a fiduciary or an acquaintance signed by the fiduciary to whom a
13 payment or delivery is made is a discharge of the depository for the
14 payment or delivery.

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

- 21 1. A revocation or termination of the fiduciary relationship;
22 or
23 2. Any other disposition of the beneficial estate.

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

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

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

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

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

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

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

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

3 B. For purposes of this section, written notice of the death or
4 adjudication of incompetency of a depository account holder shall be
5 considered written notice of revocation of the authority of the
6 account holder's attorney-in-fact.

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

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

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

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

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

18 2. Accrediting the depository account balances of a depository
19 account holder, or disposing of any precious metals, if to do so
20 would cause the aggregate depository account balances with respect
21 to any precious metal represented by all depository accounts to
22 exceed the aggregate quantities of such precious metal held by or
23 for the benefit of the depository and the depository's depository
24 agents;

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

6 a. the custody or intermediary arrangements in question
7 do not meet the State Treasurer's standards of safety,
8 security, and liquidity, or

9 b. except in those cases where such relationship may be
10 incidental to the performance of or preparation for
11 purchase and sale transactions with counterparties
12 located outside of this state, suitable alternate
13 arrangements for physical custody of the precious
14 metals inside this state have been established and are
15 available;

16 4. Extending credit to a person including credit secured by a
17 depository account or other assets, except an extension of credit
18 incidental to the performance of the functions and responsibilities
19 otherwise provided by this act; or

20 5. Engaging in a business or activity that, if conducted by a
21 private person, would be subject to regulation in this state as a
22 banking or savings and loan function.
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1 SECTION 23. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2523 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

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

19 B. The depository in the case of receiving notice of a
20 purported confiscation, requisition, seizure, or other attempt to
21 control the ownership, disposition, or proceeds of a withdrawal,
22 transfer, liquidation, or settlement of a depository account
23 including the precious metals represented by the balance of a
24 depository account, effected by a governmental or quasi-governmental

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

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

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

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

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

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

1 SECTION 26. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2526 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 not later
8 than September 30 of each year.

9 SECTION 27. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2527 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 licensed by the depository pursuant to this
17 section must have a minimum of five (5) years of depository
18 operational experience or ownership including three years of direct
19 retail transaction experience with public and private entities or
20 individuals. The State Treasurer may promulgate rules to issue a
21 depository agent license and to impose additional requirements as to
22 capitalization, net worth, liquidity, or other financial
23 prerequisites to qualify as a licensed depository agent to conduct
24 transactions or take other action on behalf of the depository.

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

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

11 SECTION 29. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2529 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 required by the State
19 Treasurer.

20 SECTION 30. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2530 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 pursuant to
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 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 2531 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 2532 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 the person
14 out as a person that engages in the business of depository agent
15 services unless the person:

16 1. Is licensed pursuant to this act and has received the
17 requisite certifications from the State Treasurer of its facilities,
18 systems, processes, and procedures as required by this act or rules
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 shall not be eligible for a
23 depository agent license issued pursuant to this act:

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1 1. The United States or an instrumentality of the United States
2 including the United States Post Office or a contractor acting on
3 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; or

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 pursuant to 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 at one or more locations in this state owned directly
23 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 2533 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 engage in the business of depository agent services
13 safely and soundly; 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 2534 of Title 62, unless there
18 is created a duplication in numbering, reads as follows:

19 A. An applicant for a depository agent license shall 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 established by the 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 pursuant to rules and is likely
4 to maintain the required minimum net worth if a license is issued;
5 and

6 3. Security in the amount of Five Hundred Thousand Dollars
7 (\$500,000.00) that meets the requirements of 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 C. The State Treasurer shall investigate the applicant, which
13 shall include conducting a background check with the Oklahoma State
14 Bureau of Investigation, and approve or deny the application.

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

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

21 1. Certifies in writing that the person qualifies for the
22 license and will submit a completed license application not later
23 than the sixtieth day after the date the temporary license is
24 issued;

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

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

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

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

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

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

22 A. A depository agent license holder is liable for the delivery
23 to or for the account of the depository or each depositor, as
24 applicable, of all bullion, specie, and money payable or deliverable

1 in connection with the transactions in which the license holder
2 engages on behalf of the depository.

3 B. A depository agent license holder shall hold in trust all
4 cash, bullion, specie, and other assets received in the ordinary
5 course of its business until the time the delivery obligation is
6 discharged. A trust resulting from the depository agent license
7 holder's actions is in favor of the persons to whom such delivery
8 obligations are owed.

9 C. If a depository agent license holder commingles any money or
10 other property received for delivery with money or other property
11 owned or controlled by the depository agent license holder, all
12 commingled money and other property are impressed with a trust as
13 provided by this section in an amount equal to the amount of money
14 or property received for delivery, less the amount of fees paid for
15 the delivery.

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

20 E. Money or other property of a depository agent license holder
21 impressed with a trust pursuant to this section may not be
22 considered an asset or property of the license holder in the event
23 of bankruptcy, receivership, or a claim against the license holder
24 unrelated to the license holder's obligations pursuant to this act.

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

4 A depository agent license holder's name and mailing address or
5 telephone number must be provided to the purchaser in connection
6 with each depository agent services transaction conducted by the
7 depository agent license holder.

8 SECTION 38. This act shall become effective November 1, 2023.

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