

MSB Model Law Language
2nd Request for Comment
Winter 2020

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Background & Implementation Plan

In February 2019, the CSBS Fintech Industry Advisory Panel released a report identifying pain points in the state system. The report focused on four areas: Control, Activity & Exemption Definitions, Safety & Soundness, and Supervision. CSBS agreed to pursue model law language designed to eliminate inconsistencies between states in these four problem areas. The first draft of the model law language was released for public comment on September 30, 2019.

Public comments on the MSB model law language revealed several critical issues to be addressed. Most notably:

1. Industry is concerned with implementation. Several parties noted that CSBS has no authority to implement the MSB Model Law in individual states and utilizing NMLS to drive consistency can compound differences between states.¹
2. The proposed control language does not address uncertainty over identifying control persons and attempts to exclude passive investors does not achieve the intended results.²
3. Industry strongly suggested the parity language, designed to facilitate state adoption, was overly broad and would create uncertainty if used.
4. Definitions and exemptions missed the mark on several critical issues.
5. Both safety and soundness proposals had their proponents and detractors, signaling a divergence among industry as to the appropriate safeguards for customer funds.

Industry has also advocated for a second round of comments before finalizing.

Harmonized Operations: Unless meticulously maintained to ensure consistent interpretations and updates, model laws are uniform in name only. Case in point: the Uniform Money Services Act has been adopted by over a dozen states, none of which approach the licensing, regulation,

¹ See, e.g., comments of Financial Innovation Now: "In spite of CSBS' best efforts to date, money transmitters continue to face uncertainty about what may be required of them because requirements established by states through NMLS are not necessarily express legal requirements set forth in statute or regulation; such requirements can be an addition to express requirements under the existing money transmission laws, or can replace them, or can be an interpretation of them. We are concerned that there is already a tendency among states to pick and choose what is required of licensees on the vague grounds of "policy" as expressed through NMLS, and that states are able to use NMLS to paper over real differences in how they actually regulate money transmitters and what they require of them."

² See, e.g., comments of The Money Services Round Table: "We understand that the carve-out from the definition of control is intended to address passive investors but this mechanism requires clarification. As drafted, the carve-out states that the term "control" does not include a person that, inter alia, "has no power to vote, directly or indirectly, any class of voting securities or voting interests of a licensee or person in control of a licensee" and "does not participate in decisions relating the day-to-day operations of the licensee." Given that the proposed definition of control includes 10% voting interest or power to exercise a controlling interest, it is not clear how any person that met the carveout criteria would be at any risk of being deemed a control person in the first place."

and supervision of MSBs the same. A uniform law like the UMSA stays uniform only if continuous time and attention is paid to the law, such as the work performed by the Permanent Editorial Board for Uniform Commercial Code or the extensive governance structure the National Association of Insurance Commissioners deploys to ensure consistency in insurance regulation.³

In nonbank financial services, consistency is driven by harmonizing operations. Harmonized operations occur when states agree to work through one process. When states use a single process, they must identify the minimum standards applicable to all states and establish requirements that meet the standard. The most recent example of harmonized operations is the Multistate MSB Licensing Agreement:

Goal of the Harmonized Operation: Licensing companies across multiple states within 90 days.

Process: 27 states use [1 process](#).

Requirements: 27 states use [1 checklist](#) identifying the information an applicant needs to be licensed in all participating states

Standard: 27 states use 1 guidebook that establishes the standards applicable to any license review.

Laws Changed: None. Not a single MMLA state needed to change its laws to participate in the process.

The MSB model law language is best viewed as a tool to support harmonized operations between states in the problem areas identified by the Fintech Industry Advisory Panel. Operations designed to facilitate interstate licensing, regulation, and supervision can all utilize the MSB model law where needed. Though very few state law requirements prohibit a state from participating in harmonized multistate operations, some do exist. For those situations, the MSB model law language should be passed by the applicable state legislature.

Release Plan: NMLS development and other operational initiatives are nearing deadlines. Accordingly, the MSB model law language will be prioritized for release. Control and coordination language will be released first with a target date of early Q2 2020. Activities and exemptions definitions will follow with a target date of May 2020. Safety and soundness is less clear – CSBS will work with states and industry to identify where consensus can be reached, which may take several months. Ideally, safety and soundness language will be released in August 2020, but may take as long as December 2020.

³ As of February 11, 2020, the NAIC has 7 committees with several dozen working groups, task forces, and subgroups dedicated to model laws regarding specific topics. See https://www.naic.org/documents/committees_cmtelist.pdf.

Summary of Control Comments

Policy: State money service business laws prohibit individuals and companies from receiving money for transmission without first obtaining a license. The policy behind this requirement is simple: bad actors and unfit individuals should not be trusted with customer funds.

To ensure only good actors and fit individuals own and operate licensed MSBs, state licensing laws require persons “in control” of a business to be vetted. Through the decades, the identification of persons in control, the requirements for vetting, and the process for vetting have diverged significantly among the 53 licensing jurisdictions. To facilitate a networked system of MSB regulation, states must have a consistent answer for the following questions:

- Who is in control of an MSB?
- When does control change?
- What must persons in control do to prove the character and fitness necessary to garner the trust of the community?

Who is in Control of an MSB?

Individuals and companies can exercise control in two ways: owning voting shares of an MSB and/or serving as an executive manager or director.

Controlling Ownership

Most state laws, the Uniform Money Services Act, and Regulation Y set control based on “ownership of, or the power to vote,” a percentage of securities. This language leaves the possibility of control provisions applying to an individual or company that owns securities without a meaningful ability to vote. Financial Innovation Now provided an example of this scenario in their 2019 Comment Letter:

If there are 100 “Class A” and “Class B” shares, and each Class A share can be voted as equivalent to 100 Class B shares, then ownership of all of the Class B shares should not be treated as a controlling interest because the shares are tantamount to less than 1% of the total voting power.

Such a scenario is passive ownership and therefore outside the underlying control policies because the individual is unable to influence the organization. The individual would only be in a position of control if non-ownership-based criteria are met, e.g. power to exercise control over management of policies. Further, requiring investors to be subject to control requirements in such scenarios might needlessly prevent capital from entering the payments system.

Accordingly, CSBS proposes the following definition of control as it relates to ownership:

“Control” means:

(A) The power to vote, directly or indirectly, at least 25 percent of the current total voting power of a licensee or person in control of a licensee;

There are scenarios where a state would want information on passive investors. For example, passive investments as a “silent partner” are a favored method for sanctioned individuals or entities to launder money. These issues should be addressed in the supervisory process in an analysis of the sources of capital and management’s oversight of investors and personnel.

Rebuttable Presumption of Control

Most states, the Uniform Money Services Act, and the Bank Holding Company Act set a controlling ownership threshold at 25% ownership of a company. However, several states and the Federal Reserve require individuals and companies with more than 10% ownership to meet certain criteria in order to not be considered in control.

CSBS originally proposed a 10% ownership threshold to satisfy the states with a 10% threshold. However, industry commenters universally called for a 25% threshold. Some, including the Fintech Industry Advisory Panel, compromised that there should be a rebuttable presumption of control like that used by the Federal Reserve.

There are several benefits to adopting a rebuttable presumption of control. First, the states have a long history of implementing Regulation Y. As the chartering authority for the majority of U.S. banks, the states know and understand the rebuttable presumption of control. Second, there is a long history of precedent in Regulation Y, which the states can use in novel situations.

To capitalize on states’ long history with the Regulation Y, CSBS proposes a 25% control threshold and the rebuttable presumption of control utilized in Regulation Y:

A person is presumed to exercise a controlling influence when the person, directly or indirectly, holds the power to vote, or holds proxies, representing 10 percent or more of the current total voting power of a licensee or person in control of a licensee. The presumption of control can be rebutted if:

- 1) The licensee or person in control of a licensee does not have registered securities under section 12 of the Securities Exchange Act of 1934; and
- 2) No other person will own, control, or hold the power to vote a greater percentage of the total voting power immediately after the transaction.

Importantly, Regulation Y was updated between comment periods. The new Regulation Y standards allow more scenarios for control to be rebutted, but significantly complicate the analysis. CSBS seeks comments on the updates to Regulation Y and whether they would be appropriate for nonbanks.

Controlling Individual

Several commenters noted that clarifying the difference between a control person that owns the company and a control person that manages or directs the company would be helpful. The Money Services Round Table provided a good overview of the issue:

We also believe that a separate concept of a controlling individual should be included to help distinguish the types of control events triggering the preapproval process (e.g., acquisition of control) and the types of control events requiring only timely notice to state money transmission authorities (e.g., officer and director changes).

The Money Services Round Table went on to suggest that directors, CEOs, CFOs, and COOs are the appropriate individuals for vetting.

CSBS proposes adopting this policy recommendation in a manner consistent with the Key Individual Wizard Initiative's work. As a matter of practice, the individuals identified by The Money Services Round Table – CEOs, CFOs, and COOs – are vetted in the application and change of control process. Clarifying those individuals by separately identifying them as “controlling individuals” would standardize expectations for states and industry alike. However, CSBS proposes defining controlling individuals according to their role in the company, not their title.

As part of its development process, the NMLS's Key Individual Wizard Initiative (“KIWI”) made a conclusion similar to the Money Services Round Table's suggestion. However, rather than use employment titles, the group of regulators and industry developing KIWI focused on identifying individuals that are responsible for functional areas within a licensee. Titles differ by institution and change over time. For example, the Chief Information Security Officer position did not exist a decade ago, and a Chief Compliance Officer at one licensee might be a Chief Operating Officer at another.

Accordingly, CSBS proposes the following definition:

“Controlling Individual” means any natural person responsible for establishing or approving policies and procedures in functional areas of the licensee, including but not limited to, compliance, finance, information security, and operations.

Significantly, this “controlling individual” definition is wholly separate from and should not be confused with “responsible individual” requirements in some state laws.

Notice or Application

Commenters recommended that companies should only have to provide notice of a change in “controlling individuals.” It was also suggested that the notice only need be provided on the day of the change and follow up information can be submitted up to 15 days later.

CSBS proposes applying bank standards related to change of directors and executive management. Banks are required to provide advanced notice to regulators if they are not in

compliance with capital requirements, in a troubled condition, or required to provide notice in the terms of a capital restoration plan. Conversely, notice at the time of the change can be required for controlling individuals at licensees that are not troubled. In either scenario, state authority can be clarified with regards to rejecting a change in controlling individuals.

Accordingly, CSBS proposes the following addition to the MSB model law language:

- (1) Prior notice. A licensee shall give the [Commissioner] 30 days' written notice, in a form prescribed by the Nationwide Multistate Licensing System, before adding or replacing any controlling individuals or changing the responsibilities of any controlling individuals if:
 - (A) The licensee is not in compliance with capital or liquidity requirements on the basis of the licensee's most recent report of examination; or
 - (B) The licensee is in troubled condition.
- (2) When a change of controlling individuals is not subject to subsection (1)., a licensee shall provide notice no later than the effective date of any change to the controlling individuals of the licensee. The following information shall be furnished to the nationwide multistate licensing system and registry within 15 days of the notification:
 - (A) The person's fingerprints for submission to the federal bureau of investigation and the [commissioner] for purposes of a national criminal history background check;
 - (B) Personal history and experience in a form prescribed by the nationwide multistate licensing system, along with authorization for the [Commissioner] and the nationwide mortgage licensing system to obtain both of the following:
 - 1) An independent credit report from a consumer reporting agency; and
 - 2) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.
- (3) Within 90 days, the [Commissioner] or his or her designee may issue a notice of disapproval with respect to a notice submitted by the licensee if:
 - (A) The competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the customers of the licensee to permit the individual to be employed by or associated with such licensee; or
 - (B) The competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the public to permit the individual to be employed by, or associated with, the licensee.
- (4) If the notice is not disapproved within 90 days after the date on which the application was determined to be complete, the notice is deemed approved.
- (5) [Reserve for state administrative procedure to challenge notice of disapproval]

Importantly, harmonized standards for determining “troubled condition” for a nonbank must be developed. In application, an institution must know if it is in a “troubled condition,” which should occur via NMLS.

In addition to these additions to the Model Law, CSBS proposes exploring the supervisory implications of a change of controlling individual. The Interagency Notice of Change in Director or Senior Executive Officer provides some useful questions examiners might consider when reviewing management, including:

- (1) Describe the steps taken by the [insured depository institution or holding company] to investigate and satisfy itself as to the competence, experience, character, and integrity of the subject individual. Summarize the individual's qualifications for the proposed position.
- (2) Describe the duties and responsibilities of the subject position or attach a position description, if applicable.
- (3) Discuss the proposed terms of employment of the subject individual and attach a copy of all pertinent documents, including any applicable employment contract or compensation arrangement.

When does control change?

The most pertinent comment regarding control events is the addition of individuals “acting in concert.” The Fintech Industry Advisory Panel adeptly noticed the draft language did not account for instances where multiple individuals coordinate an acquisition of control. CSBS proposes to remedy this scenario by adopting language commonly used in the banking sector:

(1) Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain approval prior to acquiring control by following the application process set forth in this section. An individual is not deemed to acquire control of a licensee and is not subject to these change of control provisions when that individual becomes an officer or director of a licensee or affiliate in the ordinary course of business.

(A) A licensee and the person, or group of persons acting in concert, seeking to acquire control shall: . . .

What must persons in control do to prove the character and fitness necessary to garner the trust of the community?

The most significant recommendation related to change of control process was the recommendation that a licensee need not be vetted when purchasing another licensee. Eliminating the need for a review of an existing licensee is logical but raises systemic concerns. Financial services regulators must prevent troubled institutions from becoming larger troubled institutions. Accordingly, drawing from change of control provisions in federal banking law, CSBS proposes the following compromise as an exclusion to vetting requirements:

(4) A person that is a licensee or has previously complied with and received approval to control another licensee and is currently in control of such other licensee, provided the person can demonstrate the resulting institution or institutions have the financial and managerial resources sufficient to ensure favorable future prospects.

CSBS has also heard that instances of banks acquiring money services businesses should be exempt from the change of control process. This may be a point for further discussion.

State Criminal Background Checks

For years, the most consistent criticism of the state licensing process has been state background checks. The problem was summarized by the Money Services Round Table in their response to the Request for Information:

Currently Control Individuals of a national licensee may be required to go through multiple fingerprinting processes, both through NMLS and independent of NMLS.

Industry has universally pushed for a single fingerprinting and criminal background check process. As stated by the Electronic Transaction Association:

ETA recommends that states eliminate the requirement for a state-level background check, in favor of a single national, or incorporate this process into the NMLS fingerprinting process, so that only one set of fingerprints should be captured per control person.

CSBS recognizes state background checks can be a political issue. States typically support state background checks, but FBI background checks sufficiently identify criminal activity otherwise identified by states. Accordingly, CSBS is inclined to remove state background checks from the MSB model law language. However, due to the political nature of the issue, further discussions are necessary.

Summary of Coordination Comments

Overview & Policy: The CSBS Board has adopted a policy of Networked Licensing and Supervision, underscoring the importance of states working together on the regulation of nationally operating MSBs. The MSB model law language includes provisions designed to make it easier for states to coordinate on licensing and supervision, driving towards a fully networked system of state regulation of MSBs.

To ensure states operate consistently across state lines, each state must be able to work as part of a networked system of licensing and supervision. Several prerequisites must be met for a state to be able to truly operate as part of a networked system:

- States must be able to accept the work of other states performing licensing and supervisory reviews, investigations, or exams.
- States must be able to keep the work of other states confidential.
- States must be able to enter into agreements establishing uniform processes and requirements.

The MSB Model Law's coordination language addresses these prerequisites.

Coordination – Licensing & Supervision

Historically, interstate coordination in state statutes was limited to supervision. Many states have statutory language permitting the state to (1) enter into relationships with other states, governments, and regulatory associations to share resources and minimize burden related to examinations, and (2) accept reports of examinations from other states. In a fully networked system of regulation, this language needs to be expanded to include all areas of MSB regulation, most notably licensing.

To do so, the MSB model law language borrows existing multistate supervision language but broadens the language to apply to any area of MSB regulations. It is designed to fit into administrative sections of MSB laws, or possibly even in the statutory sections establishing the state department.

The MSB model law language also includes a parity provision designed to allow a state to adopt the standards of another state, much like a commissioner may do if a national bank is permitted to engage in activities for which a state chartered bank is prohibited. The intended effect is to provide states with an additional tool to drive consistency.

Comments focused almost exclusively on the parity provision. As originally drafted, the language allowed commissioners to execute the parity provision via less formal measures than rule, such as guidance or interpretation. Commenters were concerned that less formal measures would create uncertainty because they lack the full force of law.

To address the comments, the MSB Model Law parity language is now worded such that it can only be administered via rule. The language tracks directly from California's bank parity law, substituting national bank provisions for licensing provisions of other states.⁴ This language suffices for thousands of state chartered banks, and should be sufficient for non-banks.

Confidentiality

53 sets of open records laws and exemptions for financial services can make interstate coordination difficult. States do not want to be in the position of having to share another state's work product because the information has been shared to improve multistate licensing and supervision. To address this problem, the MSB Model Law makes it clear that all regulatory information is confidential. The law also allows for the sharing of state information, provided the receiving state or federal regulator can maintain the confidentiality of the information.

⁴ See Cal Fin Code § 332. Available at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FIN§ionNum=332.

Proposed Control Language

Definitions

(1) "Control" means:

(A) The power to vote, directly or indirectly, at least 25 percent of the current total voting power of a licensee or person in control of a licensee;

For purposes of determining the percentage of a licensee controlled by any natural person, the person's interest shall be aggregated with the interest of any other immediate family member, including the person's parents, children, siblings, mothers- and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares such person's home;

(B) The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee; or

(C) The power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

A person is presumed to exercise a controlling influence when the person, directly or indirectly, holds the power to vote, or holds proxies, representing 10 percent or more of the current total voting power of a licensee or person in control of a licensee. The presumption of control can be rebutted if:

- 1) The licensee or person in control of a licensee does not have registered securities under section 12 of the Securities Exchange Act of 1934; and
- 2) No other person will own, control, or hold the power to vote a greater percentage of the total voting power immediately after the transaction.

(2) "Controlling Individual" means any natural person responsible for establishing or approving policies and procedures in functional areas of the licensee, including but not limited to, compliance, finance, information security, and operations.

(3) "Person" means any individual, general partnership, limited partnership, LLC, association, joint-stock association, trust, or corporation.

License Application

(1) [company licensing requirements]

(2) Individual requirements. A natural person meeting the definitions of either control or controlling individual shall furnish to the nationwide multistate licensing system the following:

(A) The person's fingerprints for submission to the Federal Bureau of Investigation and the [commissioner] for purposes of a national criminal history background check;
(B) If the person has resided outside the United States in the last 10 years, the person shall provide an investigative background report prepared by an independent search firm.

1) At minimum, the search firm shall:

- a) Demonstrate that it has sufficient resources and is properly licensed to conduct the research of the background report; and
- b) Not be affiliated with or have an interest with any individuals it is researching.

2) At minimum, the investigative background report shall be written in the English language and shall contain the following:

- a) A comprehensive credit report, including a search of the court data in the countries, states, and towns where the person resided and worked in the contiguous areas;
- b) Criminal records information for the past ten years, including felonies, misdemeanors and violations, including a search of the court data in the countries, states, and towns where the individual resided and worked in the contiguous areas;
- c) Employment history;
- d) Media history, including an electronic search of national and local publications, wire services and business applications; and
- e) Regulatory history, including but not limited to securities, insurance, and mortgage-related industries.

(C) Personal history and experience in a form prescribed by the nationwide multistate licensing system, along with authorization for the commissioner and the nationwide mortgage licensing system and registry to obtain both of the following:

- 1) An independent credit report from a consumer reporting agency; and
- 2) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

Change of Control – Company

(1) Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain approval prior to acquiring control by following the application process set forth in this section. An individual is not deemed to acquire control of a licensee and is not subject to these change of control provisions when that individual becomes an officer or director of a licensee or affiliate in the ordinary course of business.

(2) A licensee and the person, or group of persons acting in concert, seeking to acquire control shall:

- (A) Submit an application in a form prescribed by the [commissioner] requesting approval of the acquisition; and
- (B) Submit a nonrefundable fee of [\$2,000] with the request for approval.

(3) The application required by subsection (1) shall include information regarding the proposed control persons that would have been required by the licensee or control persons as part of the original license or renewal application.

(4) The [commissioner] shall approve an application for change of control under subsection (2) if, after investigation, the [commissioner] determines that the person or group of persons requesting approval has met the requirements of subsections (2) and (3) and has the competence, experience, character, and general fitness to operate the licensee or person in control of the licensee in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.

(5) When an application for a change of control under this [article] is complete, the [commissioner] shall notify the licensee of the date on which the application was determined to be complete and:

(A) The [commissioner] shall approve or deny the application within [120] days after the date on which the application was determined to be complete; or

(B) If the application is not approved or denied within [120] days after the date on which the application was determined to be complete:

1) The application is deemed approved; and

2) The [commissioner] shall permit the change of control under this section, to take effect as of the first business day after expiration of the [120] day period.

(6) The requirements of subsection (1) do not apply to any of the following persons, but these persons shall notify the [commissioner] within [15] days after the change of control:

(A) A person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting interests of a licensee or a person in control of a licensee;

(B) A person that acquires control of a licensee by devise or descent;

(C) A person that acquires control as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law;

(D) A person that is a licensee or has previously complied with and received approval to control another licensee and is currently in control of such other licensee, provided the person can demonstrate the resulting institution or institutions have the financial and managerial resources sufficient to ensure favorable future prospects.

(E) A person that the [commissioner] determines is not subject to subsection (A) based on the public interest.

(7) Subsection (1) does not apply to a public offering of securities.

(8) Before filing an application for approval to acquire control of a licensee or person in control of a licensee, a person may request in writing a determination from the [commissioner] as to

whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the [commissioner] determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to the requirements of subsections (1) through (3).

Change of Control - Controlling Individuals

(1) Prior notice. A licensee shall give the [Commissioner] 30 days' written notice, in a form prescribed by the Nationwide Multistate Licensing System, before adding or replacing any controlling individuals or changing the responsibilities of any controlling individuals if:

- (A) The licensee is not in compliance with capital or liquidity requirements on the basis of the licensee's most recent report of examination; or
- (B) The licensee is in troubled condition.

(2) When a change of controlling individuals is not subject to subsection A., a licensee shall provide notice no later than the effective date of any change to the controlling individuals of the licensee. The following information shall be furnished to the nationwide multistate licensing system and registry within 15 days of the notification:

- (A) The person's fingerprints for submission to the federal bureau of investigation and the [commissioner] for purposes of a national criminal history background check;
- (B) Personal history and experience in a form prescribed by the nationwide multistate licensing system, along with authorization for the [Commissioner] and the nationwide mortgage licensing system to obtain both of the following:
 - 1) An independent credit report from a consumer reporting agency; and
 - 2) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(3) Within 90 days, the [Commissioner] or his or her designee may issue a notice of disapproval with respect to a notice submitted by the licensee if:

- (A) The competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the customers of the licensee to permit the individual to be employed by or associated with such licensee; or
- (B) The competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the public to permit the individual to be employed by, or associated with, the licensee.

(4) If the notice is not disapproved within 90 days after the date on which the application was determined to be complete, the notice is deemed approved.

(5) [Reserve for state administrative procedure to challenge notice of disapproval]

Proposed Coordination Language

Implementation. In order to carry out the purposes of this [act], the [commissioner] may:

- (A) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and records and related information obtained under this [act];
- (B) Use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to this [act];
- (C) Accept licensing, examination, or investigation reports made by other government officials, within or without this State;
- (D) Accept audit reports made by an independent certified public accountant or other qualified third-party auditor for any person subject to this [act] and may incorporate the audit report in the report of examination or investigation.
- (E) In order to support uniformity between states, notwithstanding any other provision of law, if the [commissioner] finds that any provision of other state money services laws applicable to licensees is substantively different from the provisions of this code, or would more clearly establish requirements within the [commissioner]'s discretion, the [commissioner] may by rule make such a provision of another state's money services law applicable to licensees.

Confidentiality.

- (A) Except as otherwise provided in subsection (b), all information or reports obtained by the [commissioner] from an applicant, licensee, or authorized delegate, and all information contained in or related to an examination, investigation, operating report, or condition report prepared by, on behalf of, or for the use of the [commissioner], or financial statements, balance sheets, or authorized delegate information, are confidential and are not subject to disclosure under [this State's open records law].
- (B) The [commissioner] may disclose information not otherwise subject to disclosure under subsection (A) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information; or the [commissioner] finds that the release is reasonably necessary for the protection of the public and in the interests of justice.
- (C) This section does not prohibit the [commissioner] from disclosing to the public a list of persons licensed under this [act] or the aggregated financial or transactional data concerning those licensees.