

PROPOSED REGULATIONS UNDER THE DIGITAL FINANCIAL ASSETS LAW

TITLE 10. INVESTMENT

Changes proposed during the initial 45-day comment period beginning April 4, 2025, are shown as follows: single underline for proposed changes to subchapter 80 of chapter 1, and plain text for new proposed subchapter 5 (formerly subchapter 16) of chapter 3.

Proposed changes and additions for this 15-day notice are shown in double-underline for additions and ~~double-strikethrough~~ for deletions.

Chapter 1.

Subchapter 80. Money Transmission.

Add new section Title 10, Chapter 1, Subchapter 80, Article 1, Subarticle 2, Part 2 to read as follows:

§ 80.126.40. Monetary Value.

“Monetary value,” as defined in Financial Code section 2003, subdivision (p), does not include a digital financial asset.

Note: Authority cited: Sections 334, 2011, and 3215, Financial Code. Reference: Section 2003, Financial Code.

Add new section Title 10, Chapter 1, Subchapter 80, Article 1, Subarticle 2, Part 3 to read as follows:

§ 80.156.10. Average daily outstanding money transmission liability.

“Average daily outstanding money transmission liability” has the meaning of the term “average daily outstanding” set forth in Financial Code section 2003, subdivision (d).

§ 80.159.10. Digital Financial Asset.

“Digital financial asset” has the meaning of the term “digital financial asset” set forth in Financial Code section 3102, subdivision (g).

§ 80.159.20. Digital Financial Assets Law.

“Digital Financial Assets Law” means the Digital Financial Assets Law (Financial Code section 3101, et seq.).

§ 80.159.30. Digital Financial Assets Law Persons.

“Digital Financial Asset Law Persons” means any of the following:

(a) a licensee, as that term is defined under the Digital Financial Assets Law at Financial Code section 3102, subdivision (o).

(b) an applicant, as that term is defined under the Digital Financial Assets Law at Financial Code section 3102, subdivision (a), who submits a completed application, as that term is defined under the Digital Financial Assets law at Financial Code section 3203, subdivision (g), on or before July 1, 2026, and is awaiting approval or denial of that completed application.

§ 80.165.10. Outstanding money transmission liability.

“Outstanding money transmission liability” has the meaning of the term “outstanding” set forth in Financial Code section 2003, subdivision (u).

Note: Authority cited: Sections 334, 2011, and 3215, Financial Code. Reference: Section 2003, Financial Code.

Amend section 80.3002 of chapter 1 of title 10 to read as follows:

§ 80.3002. Exemptions.

(a) The Commissioner finds that exempting the persons and transactions specified in subdivision (a) of this Section from the Money Transmission Act is in the public interest and that the regulation of such persons and transactions is not necessary for the purposes of the Money Transmission Act. Accordingly, in addition to the persons exempt pursuant to Financial Code Section 2010, the Commissioner exempts from the Money Transmission Act:

(1) The sale of a money transmission service or product of a person exempt pursuant to Financial Code Section 2010;

(2) A public benefit nonprofit which has received recognition of tax exemption under Internal Revenue Code Section 501(c)(3);

(3) An escrow agent licensed under the Escrow Law (Financial Code Section 17000 et seq.), only when acting as an escrow agent or Internet escrow agent as those terms are defined in Financial Code Sections 17004 and 17004.5, respectively; ~~and~~

(4) ~~a~~ A nonprofit community service organization that meets all of the criteria in Financial Code Section 12104 of the Check Sellers, Bill Payers and Proraters Law; ~~and~~

(5) Digital Financial Asset Law Persons when engaging in the business of money transmission in this state for the purpose of either transmitting payment for the purchase or exchange of a digital financial asset or transmitting the proceeds of a sale or exchange of a digital financial asset;

(6) Digital Financial Asset Law Persons when selling or issuing stored value in California that can be used exclusively for the purchase, sale, or exchange of digital financial assets; and

(7) Digital Financial Asset Law Persons who meet all of the following requirements:

(A) The person engages in the business of money transmission in California.

(B) The person's average daily outstanding money transmission liability amounts to fifty thousand dollars (\$50,000) or less on a monthly basis.

(C) The person complies with Chapter 5 of the Money Transmission Act with respect to outstanding money transmission liability in California as if the person was licensed under the Money Transmission Act.

~~Any money transmission of legal tender occurring in, associated with, or related to the normal, typical, or customary performance of digital financial asset business activity, as that term is defined in the Digital Financial Asset Law. For purposes of this paragraph, "legal tender" means a medium of exchange or unit of value, including the coin or paper money of the United States, issued by the United States or by another government.~~

Note: Authority cited: Section 2011, Financial Code. Reference: Section 2011, Financial Code.

Add subchapter 5 to chapter 3 of title 10 to read as follows:

Chapter 3.

Subchapter ~~46~~5. Digital Financial Assets Law.

Article 1. Definitions.

§ ~~2045~~1200. Definitions.

The terms defined in Financial Code sections 3102, 3601, and 3901, when used in this Subchapter, shall have the same meanings set forth in those sections. In addition, the following definitions shall apply to terms used in this Subchapter, unless the context indicates otherwise:

- (a) "Commissioner" means the Commissioner of Financial Protection and Innovation.
- (b) "Control" means, when used in reference to a person, the direct or indirect power to do either of the following:
 - (1) Vote 25 percent or more of any class of the voting securities issued by a person.

(2) Direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement services, or otherwise.

(A) Notwithstanding paragraph (2) of this subdivision, no individual is deemed to control a person solely on account of being a director, officer, or employee of such person.

(B) For purposes of paragraph (2) of this subdivision, there is a rebuttable presumption of control if a person ~~who~~ directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the then outstanding voting securities issued by the licensee ~~is presumed to control the licensee.~~

(c) “DFPI Form 2” means the personal financial statement form entitled “Personal Financial Statement for the Confidential Use of the Commissioner of Financial Protection and Innovation,” Version Rev. 03-25 of which is hereby incorporated by reference in its entirety.

(d) “Digital Financial Assets Law” means Financial Code section 3101 et seq.

(e) “Form MU1” means the uniform licensing form, entitled “NMLS Company Form,” developed by the Nationwide Multistate Licensing System & Registry and used to provide information on a company or sole proprietor license applicant. Version 14.0, dated March 10, 2025, is hereby incorporated by reference in its entirety.

(f) “Form MU2” means the uniform licensing form, entitled “NMLS Individual Form,” developed by the Nationwide Multistate Licensing System & Registry and used to provide information on each executive officer, responsible individual, and person who has control. Version 1, dated May 2024, is hereby incorporated by reference in its entirety.

(g) “NMLS” means the Nationwide Multistate Licensing System & Registry.

(h) “UAAR” means the Uniform Authorized Agent Reporting system developed by the Nationwide Multistate Licensing System & Registry.

Note: Authority cited: Section 3215, Financial Code. Reference: Section 3102, 3203, 3309, Financial Code.

Article 2. Application for Licensure and Related Forms.

§ ~~2046~~1210. Electronic Filings.

(a) The Commissioner designates NMLS to receive and store filings, obtain credit reports, and collect fees and assessments from applicants and licensees on behalf of the Commissioner.

(b) All applications, amendments, surety bonds, notices, related filings, supporting documents, renewals, authorizations, assessments, and fees required to be filed with the Commissioner shall be filed electronically with and transmitted to NMLS, except as

otherwise indicated in this subchapter. The following conditions relate to electronic filings:

- (1) When a signature is required by the particular instructions of any filing, including any attestation to be made through NMLS, the applicant or licensee, or a duly authorized officer of the applicant or licensee, as required, shall affix the individual's electronic signature to the filing by typing the individual's name in the appropriate field and submitting the filing to the Commissioner through NMLS. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual making the filing.
- (2) Solely for purposes of filing documents through NMLS, a document is considered filed with the Commissioner when the document is transmitted by NMLS to the Commissioner.
- (3) If an applicant maintains a surety bond pursuant to Financial Code section 3207, it shall file such surety bond through NMLS, utilizing NMLS's electronic surety bond function and form, in accordance with Section ~~2058~~1230 of these rules.
- (4) The applicant shall provide through NMLS the necessary authorizations so that NMLS may obtain credit reports.
- (5) Any document required to be filed with the Commissioner that is not permitted to be filed with or cannot be filed through NMLS shall be filed directly with the Commissioner.

Note: Authority cited: Section 3215, Financial Code. Reference: Section 3203, 3207, 3217, Financial Code.

§ ~~2047~~1211. Language.

Each document filed with the Commissioner shall be in the English language. However, whenever the Commissioner requires that a document that is not in the English language be filed with the Commissioner, such document shall, when filed with the Commissioner, be accompanied by an English translation, and there shall be attached to or endorsed on such English translation a certificate signed by the translator certifying that the translation is a true translation in the English language of the document. If the document or any document of which such document is a part is required to be verified, the certificate of the translator shall be verified.

Note: Authority Cited: Section 3203, Financial Code. Reference: Section 3203, Financial Code.

§ ~~2048~~1212. License Application.

The procedures set forth in this section are applicable to applications submitted pursuant to Financial Code sections 3203 and 3205. Each application for a license shall be filed as follows:

(a) INITIAL APPLICATION: The application for a license pursuant to Financial Code section 3203, subdivision (a), and any amendment to such application, shall be filed upon Form MU1 through NMLS for transmission to the Commissioner. All exhibits, and supporting documents related to the application or amendment, including those required pursuant to Financial Code section 3203, shall also be filed through NMLS for transmission to the Commissioner. The notices set forth in section ~~2052~~1216 of this Subchapter are part of every application. An applicant shall provide the following information, exhibits and documentation in the manner provided:

- (1) The applicant shall provide all fictitious business names it uses, plans to use, or has used in the past on Form MU1.
 - (A) For each fictitious business name it uses or plans to use, the applicant shall file through NMLS a copy of the Fictitious Business Name Statement with the “filed” stamp from the county clerk’s office.
 - (B) Every applicant and licensee shall comply with the laws governing the filing of a fictitious business name set forth in Business and Professions Code sections 17900 through 17930.
- (2) The applicant shall provide through NMLS a detailed business plan that includes, without limitation, the following:
 - (A) The information required pursuant to Financial Code section 3203, subdivision (a), paragraph (2), subparagraph (C).
 - (B) A description of the digital financial asset business activity in which it will engage, including the specific activities for which the digital financial assets license will apply.
 - (C) An explanation of the products and services applicant will offer to residents, including, without limitation, marketing plans and fee structures. Explanations shall include how each product and service is offered and the product and service flow, including decision points for the customer and any and all disclosures, if such product and service is delivered electronically. The explanation will also include whether the product and service will be offered to every customer of the applicant or only certain customers, with a description of those certain qualifying customers.
- (3) ~~If the applicant is a covered exchange that is listing or offering a digital financial asset that it can exchange on behalf of a resident, the following certification must be filed through NMLS:~~

~~DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION~~

~~COVERED EXCHANGE CERTIFICATION~~

~~Name of Applicant/Licensee:~~

=====

~~Digital financial asset(s) that the covered exchange plans to list or offer as specified by Financial Code section 3505, subdivision (a)(1). List each digital financial asset, the full name of the digital financial asset, and the ticker or other trading symbols used with each digital financial asset.~~

~~The undersigned hereby certifies that the applicant/licensee named above has done the following with respect to each and every digital financial asset listed above:~~

~~Identified the likelihood that the digital financial asset would be deemed a security by federal or California regulators.~~

~~Provided, in writing, full and fair disclosure of all material facts relating to conflicts of interest that are associated with the covered exchange and the digital financial asset.~~

~~Conducted a comprehensive risk assessment designed to ensure consumers are adequately protected from cybersecurity risk, risk of malfeasance, including theft, risks related to code or protocol defects, or market related risks, including price manipulation and fraud.~~

~~Established policies and procedures to reevaluate the appropriateness of the continued listing or offering of the digital financial asset, including an evaluation of whether material changes have occurred.~~

~~Established policies and procedures to cease listing or offering the digital financial asset, including notification to affected consumers and counterparties.~~

~~Officer's Signature:~~

~~Name:~~

~~Title:~~

~~Date:~~

~~(A)~~

~~(4)~~ (4) The applicant shall provide through NMLS a description of each type of transaction or service to be conducted under a DFAL license. For each type, describe each step starting with the first encounter with a customer and ending at the completion of the transaction.

~~(5)~~(4) The applicant shall file through NMLS a certificate of good standing and the following documents, as applicable:

(A) An unincorporated association shall file its bylaws or constitution, including all amendments.

(B) A general partnership shall file its partnership agreement, including all amendments.

(C) A limited liability partnership applicant shall file its certificate of limited liability partnership and partnership agreements, including all amendments.

(D) A limited partnership applicant shall file its certificate of limited partnership and partnership agreements, including all amendments.

(E) A limited liability limited partnership applicant shall file its certificate of limited liability limited partnership and partnership agreements, including all amendments.

(F) A limited liability company applicant shall file its articles of organization, including all amendments; operating agreement, including all amendments; IRS Form 2553 or IRS Form 8832, as applicable; and resolution providing authority to apply for a license pursuant to Financial Code section 3203, if not provided in other documents provided pursuant to this subparagraph (F).

(G) A corporate applicant shall file its articles of incorporation, including all amendments, bylaws, shareholder agreements, IRS Form 2553, if applicable, and corporate resolution providing authority to apply for a license pursuant to Financial Code section 3203, if not provided in other documents provided pursuant to this subparagraph (G).

(H) A nonprofit corporation applicant shall file documents required pursuant to subparagraph (G) of this subdivision and proof of nonprofit status.

(I) A trust applicant shall provide its certificate of trust and governing instrument, including all amendments.

~~(6)~~(5) The applicant shall file through NMLS an organization chart that identifies any parent companies, subsidiaries, and control persons.

~~(7)~~(6) The applicant shall file through NMLS the following information:

(A) The applicant's audited financial statements for the most recent fiscal year and for the two-year period preceding the submission of the application if available, prepared by a Certified Public Accountant in accordance with Generally Accepted Accounting Principles. Audited financial statements must include a balance sheet, income statement, and statement of cash flows and all relevant notes thereto.

(B) The applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application.

~~(8)~~(7) The applicant shall file through NMLS a chart identifying, by individual name and title, the applicant's ~~directors, officers, and managers~~ executive officers, as defined in Financial Code section 3102, subdivision (I).

~~(9)~~(8) The applicant shall file through NMLS the following:

(A) any consumer disclosure required pursuant to Section 3501 and, if applicable, Section 3905 of the Financial Code that the applicant will use in its digital financial asset business activity.

(B) each policy or procedure required pursuant to Financial Code section 3701 and 3702.

~~(10)~~(9)

(A) The applicant shall list all executive officers, control persons, and responsible persons on Form MU1 through NMLS in the “Direct Owners and Executive Officers,” “Indirect Owners,” or “Qualifying Individuals” section, as applicable, and provide a complete Form MU2 for each individual, including the individual’s government-issued identification number and the issuing state and country on Form MU2.

(B) The applicant shall file an investigative background report for any individual named on Form MU1 for whom a Form MU2 has been filed and who is not residing in the United States or has not resided in the United States at any time in the last ten years in accordance with Section ~~2054~~1215 of these rules. This investigative report shall be required in addition to fingerprinting.

(C) The applicant shall be responsible for paying all fees related to fingerprinting, the criminal history background check, and the investigative background report.

~~(11)~~(10) Every individual for whom a Form MU2 has been filed shall provide the following through NMLS:

(A) the necessary authorizations for NMLS to obtain a credit report for the individual and an explanation of all derogatory credit accounts in the credit report.

(B) authorization for and subsequent delivery of fingerprints to facilitate a criminal history search by the Federal Bureau of Investigation.

(C) a resume or curriculum vitae, including employment history for the 10 years before the application is submitted, if that individual is an executive officer or responsible individual.

(D) a personal financial statements ~~on DFPI Form 2~~, if that individual is a director, officer, or control person.

~~(12)~~(11) The applicant shall report a list of all locations of all digital financial asset transaction kiosks and other business locations that the applicant owns, operates, or manages in California through NMLS on the UAAR.

~~(13)~~(12) The individual attesting to the filing of the Form MU1 shall be a duly authorized individual who has submitted a Form MU2. The attestation provided pursuant to this paragraph shall constitute an agreement to comply with the requirements of the Digital Financial Assets Law.

(b) Pursuant to Financial Code section 3203, subdivision (a)(3), the applicant shall pay a non-refundable application fee of seven thousand and five hundred dollars (\$7,500).

(c) In the event of a material change to the information in the application, exhibits, or supporting documents, the applicant shall file an amendment to the Form MU1 and MU2 or through the UAAR as applicable, through NMLS in accordance with the procedures in Sections ~~2055~~1220, ~~2056~~1221, and ~~2057~~1222 of these rules. Prior to the issuance of a license, any amendment to an application shall be filed within fifteen (15) calendar days of the event requiring the amendment.

(d) Nothing contained in this section shall prohibit the Commissioner from requiring an applicant to correct a deficiency in the application. The Commissioner may consider an application abandoned if the Commissioner does not receive the information required to correct a deficiency within sixty (60) calendar days of a written notification requesting such information.

Note: Authority cited: Sections 3203 and 3215, Financial Code. Reference: Sections 494.5, 17900, 17910, 17913, 17915, 17916 and 17926, Business and Professions Code; Sections 1798.17 and 1798.24, Civil Code; Section 17520, Family Code; Sections 3203, 3217, 3219, 3307, 3501, 3603, 3701, 3702, 3905, 3906 Financial Code; Section 11019.9, Government Code; and 5 U.S.C. section 552a.

§ ~~2049~~1213. Consent to Service of Process.

~~(e)~~(a) Applicants are required to complete and submit to the Commissioner, in accordance with subdivisions (b) and (c), the following Consent to Service of Process form:

STATE OF CALIFORNIA -- DEPARTMENT OF FINANCIAL PROTECTION AND
INNOVATION

CONSENT TO SERVICE OF PROCESS

(Name) hereby irrevocably appoints the Commissioner of Financial Protection and Innovation of the State of California, and his or her successor, to be the undersigned's attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the undersigned, or any successor, executor, or administrator of the undersigned, which arises under the Digital Financial Assets Law, or under any regulation or order issued under Digital Financial Assets Law, with the same force and validity as if served personally on the undersigned.

Dated: _____

Name (Printed)

By: _____

(Signature)

(The signature of the Applicant must be notarized.)

~~(a)~~(b) The Consent form must be signed by an individual with authority to sign on behalf of the applicant. The signature of the individual signing the Consent form must be notarized.

~~(b)~~(c) Applicants must file the completed, signed, notarized Consent form, electronically, with NMLS, for transmission to the Commissioner.

~~(c)~~(d) Service may be made by leaving a copy of the process at any office of the Commissioner. The party making service must do the following for service to be effective:

- (1) Send notice of service and a copy of the process by registered or certified mail to the party served at its last address on file with the Commissioner; and
- (2) File an affidavit of compliance with this subdivision on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

Note: Authority cited: Sections 3203 and 3215, Financial Code. Reference: Sections 3203 and 3217, Financial Code.

§ ~~2050~~1214. Applications Submitted Before July 1, 2026

For purposes of Financial Code section 3201, subdivision (b), a person may engage in digital financial asset business activity, or hold itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident if the person submits a completed application, as that term is defined in Financial Code section 3203, subdivision (g), on or before July 1, 2026 and is awaiting approval or denial of that application.

Note: Authority cited: Section 3215, Financial Code. Reference: Section 3201, Financial Code.

§ ~~2051~~1215. Information Regarding Individuals who are not Residents of the United States.

- (a) In addition to other background information required in the application, applicants must engage a search firm to perform an investigative background report of each individual required to be fingerprinted under the Digital Financial Assets Law and

Sections ~~2048~~1212 and ~~2052~~1216 of these rules who does not currently reside in the United States or has resided outside the United States at any time in the last ten years. This investigative background report shall be required in addition to fingerprinting.

- (1) A copy of the investigative background report shall be filed through NMLS for transmission to the Commissioner.
 - (2) The search firm must be able to demonstrate that it has sufficient resources and is properly licensed to conduct the background search.
 - (3) The search firm shall not be affiliated with or related to the applicant or the individual who is the subject of the search.
 - (4) The report must be in English or if the report is in another language, the report must be translated to English and include a translator's certificate as provided in Section ~~2047~~1211 of these rules.
 - (5) The cost of the report shall be paid by the applicant or individual.
- (b) The report shall contain the following, at a minimum:
- (1) A comprehensive credit report and/or history, including the actual credit report if available, as well as a summary;
 - (2) Civil court and bankruptcy court records concerning the individual for the past ten (10) years. The search for these records shall include a search of the court data in the country(s), state(s), and town(s) where the individual resided or worked;
 - (3) Criminal records of the individual, including felonies, misdemeanors, and violations (excluding traffic violations). The search for these records shall include a search of court data in the country(s), state(s), and town(s) where the individual resided or worked;
 - (4) Residential history during the last ten (10) years;
 - (5) Employment history during the last ten (10) years;
 - (6) Media records during the last ten (10) years referencing the individual. Media records include national and local publications, wire services, and business publications; and
 - (7) Regulatory history, particularly in connection with digital financial asset business activities, including any active investigations, enforcement actions, or compliance infractions.
- (c) The report shall be accompanied by a search summary letter, which:
- (1) Identifies the scope of the search;
 - (2) Indicates the independence of the search firm from the applicant and the individual who is the subject of the search; and

- (3) Identifies an individual from the search firm and the individual's contact information for the Commissioner to contact with questions regarding the report.
- (d) If an individual has had a report containing at least the information listed in subdivision (b) of this section prepared for another licensing agency within 12 months of the filing of the application, the applicant or individual may request permission from that licensing agency or the search firm to file a copy of that report with the Commissioner through NMLS. If the applicant or individual elects to file a prior report as authorized in this subsection, the applicant or individual shall also attach to the report a statement of no material change to the information in the report with the Commissioner through NMLS. The statement shall include the name of the individual and the license applicant and be dated and signed by the individual or applicant.

Note: Authority cited: Section 3203, Financial Code. Reference: Section 3203, Financial Code.

§ ~~2052~~1216. Notices Included with Application.

The following notices required by state and federal law are hereby provided to those completing an application for a license under these rules:

INFORMATION PRACTICES ACT OF 1977 (California Civil Code Section 1798.17)

- (a) The Department of Financial Protection and Innovation of the State of California is requesting the information specified in the application for a license pursuant to the Digital Financial Assets Law.
- (b) The Privacy Officer, the Department of Financial Protection and Innovation, 651 Bannon Street, Suite 300, Sacramento, CA 95811, telephone number (866) 275-2677, is responsible for the system of records and shall, upon request, inform individuals regarding the location of the Department of Financial Protection and Innovation's records and the categories of persons who use the information in the records.
- (c) The records are maintained pursuant to the Digital Financial Assets Law (Financial Code Section 3101 et seq.).
- (d) The submission of all items of information is mandatory. The Department of Financial Protection and Innovation is required to collect from all applicants social security numbers under Family Code Section 17520 and social security numbers or federal taxpayer identification numbers under Business and Professions Code Section 494.5.
- (e) Failure to provide all or any part of the information requested may preclude the Department of Financial Protection and Innovation from approving the license application.
- (f) The principal purposes within the Department of Financial Protection and Innovation for which the information is to be used are to determine whether (1) a license, or other authority, as allowed under the law, should be accepted, granted, approved, denied, revoked or limited in any way; (2) business entities or individuals licensed or

otherwise regulated by the Department of Financial Protection and Innovation are conducting themselves in accordance with applicable laws; and/or (3) laws administered by the Department of Financial Protection and Innovation are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state, or local law enforcement or regulatory agencies, as authorized by law, is appropriate.

- (g) Any known or foreseeable disclosures of the information pursuant to subdivision (e) or (f) of Civil Code section 1798.24 may include transfers to other federal, state, or local law enforcement and regulatory agencies, including NMLS as a channeling agent to, from, or on behalf of those federal, state, and local law enforcement and regulatory agencies, as authorized by law.
- (h) Subject to certain exceptions or exemptions, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual that is maintained by the Department of Financial Protection and Innovation.

FEDERAL PRIVACY ACT OF 1974 (Public Law 93-579)

- (i) In accordance with Section 7 of the Privacy Act of 1974 [found at 5 U.S.C. § 552a note (Disclosure of Social Security Number)], the following is information on whether the disclosure of a social security account number is voluntary or mandatory, by what statutory or other authority the number is solicited, and what uses will be made of it.
 - (1) The Department of Financial Protection and Innovation is required to collect from all applicants social security numbers under Family Code Section 17520, and social security numbers or federal taxpayer identification numbers under Business and Professions Code Section 494.5.
 - (2) A social security number or federal taxpayer identification number is solicited pursuant to one or more of the following authorities: these rules, and Section 2048 of the Financial Code; Section 17520 of the Family Code; and Section 494.5 of the Business and Professions Code.
 - (3) For all persons disclosing a social security number or federal taxpayer identification number, the number is used to match the information to the names on the list provided by the California Department of Child Support Services under Family Code Section 17520, and the lists of tax delinquencies provided by the California Department of Tax and Fee Administration and the California Franchise Tax Board, under Business and Professions Code Section 494.5. The social security number may be used, in addition to other information provided, to conduct a background investigation of the individual by the California Department of Justice's Identification and Information Branch or by other federal, state or local law enforcement agencies, as authorized by law. The social security number may also be used to respond to requests for this number made by child support agencies.

NOTICE REGARDING TAXPAYER INFORMATION

(j) The California Department of Tax and Fee Administration and the California Franchise Tax Board are authorized to share taxpayer information with the Department of Financial Protection and Innovation. In the event the state tax obligation is not paid by a licensee, the Department of Financial Protection and Innovation may be required to suspend the license.

Note: Authority cited: Section 334, Financial Code. Reference: Section 494.5, Business and Professions Code; Sections 1798.17 and 1798.24, Civil Code; Section 17520, Family Code; Sections 3203, Financial Code; Section 11019.9, Government Code; and 5 U.S.C. section 552a.

§ ~~2053~~1217. Challenge Process for Information Entered Into NMLS.

- (a) If an applicant or licensee disputes the accuracy or completeness of any material information entered into and maintained by NMLS, the applicant or licensee may submit a written request to the Commissioner to the attention of the Special Administrator, Digital Financial Assets Licensing Program, at DFAL.licensing@dfpi.ca.gov.
- (b) The request shall include the applicant or licensee's name, unique identifier, a statement of the alleged inaccuracy or incompleteness of the information entered into NMLS, and its materiality, and provide any proof or corroboration available, including copies of official documents or court orders that support the changes requested by the licensee or applicant.
- (c) Upon receipt of the request, the Commissioner shall investigate the request, along with any information provided, and determine whether the information entered into NMLS is correctly reflected.
- (d) If the Commissioner determines that the information is materially incorrect, the Commissioner shall request the NMLS record to be corrected.
- (e) If the Commissioner denies the allegations of material inaccuracy or incompleteness in the NMLS record, the Commissioner shall notify the licensee or applicant in writing.
- (f) Within thirty (30) calendar days from the mailing or service of the Commissioner's decision to the licensee or applicant that the information is not inaccurate or incomplete, the licensee or applicant may request a hearing under the Administrative Procedure Act (Government Code section 11500 et seq.) for a determination of whether material inaccuracy or incompleteness exists in the record.
- (g) Upon a hearing, if a material inaccuracy or incompleteness is found in any record, the Commissioner shall, within thirty (30) calendar days of notice of the finding, request NMLS to correct the information.
- (h) After a hearing is held pursuant to a request described in subsection (f), judicial review of the decision shall be governed by Section 11523 of the Government Code.

Note: Authority cited: Section 3215, Financial Code. Reference: Section 3217, Financial Code; and Section 11523, Government Code.

§ ~~2054~~1218. Designated Email Address.

Upon receiving a license, the licensee shall establish a designated email address by registering through the Department of Financial Protection and Innovation's website at www.dfpi.ca.gov. The email account shall be established and monitored in accordance with the requirements in Financial Code section 331.5. By registering the designated email address, the applicant consents to receive information, including assessment notices, from the Commissioner at that email address, ~~including, assessment notices~~.

Note: Authority cited: Section 3215, Financial Code. Reference: Section 331.5, Financial Code.

Article 3. Requirement to Maintain Current Information.

§ ~~2055~~1220. Notice of Changes.

- (a) A licensee shall, upon any material change in the information contained in its application for a license, file the changed information with the Commissioner through NMLS.
- (b) A licensee shall file the changed information through NMLS on Forms MU1 and MU2, and through the UAAR as applicable, and any exhibits and supporting documents thereto, and pay any related fees. Any change that cannot be filed through NMLS shall be filed directly with the Commissioner. The NMLS fees for obtaining credit reports and any other NMLS fees shall be paid by the licensee.
- (c) All changes to the information in the license application shall be filed within fifteen (15) calendar days after the occurrence of the event that results in the information becoming inaccurate or incomplete.
- (d) If a licensee plans to operate under a new fictitious business name, the licensee shall comply with the laws governing the filing of a fictitious business name set forth in Business and Professions Code sections 17900 through 17930.
- (e) A change in the principal place of business identified in a license application to a different street address must be filed at least fifteen (15) calendar days before the date of the change. The notice to the Commissioner of the change in the principal place of business must be filed with the Commissioner through NMLS and include the licensee's name, street address of the new location and date of change, and describe any other existing business being conducted at the new location.

Note: Authority cited: Section 3215, Financial Code. Reference: Sections 3307 and 3217, Financial Code.

§ ~~2056~~1221. Officers, Directors, Partners, and Other Persons: Maintenance of Current List with Commissioner: Information Required.

- (a) A licensee must at all times maintain on file through NMLS a current list of executive officers, control persons, and responsible persons named on Forms MU1, and MU2, as applicable.
- (b) In the event of any change in the executive officers, control persons, and responsible persons named in the application, a licensee shall, within fifteen (15) calendar days of the date of the change, file an amendment to the application containing the same information in relation to the new person(s) as is required on Forms MU1 and MU2 and pay the fees, if any, to file the changed information. Fingerprinting fees specified in Sections ~~2048~~1212 of these rules shall be paid by the licensee, and any other fees payable, including fees, if any, to file the new or changed information, shall be paid by the licensee. The NMLS fees for obtaining credit reports and any other NMLS fees shall be paid by the licensee to NMLS. Fees are not refundable.

Note: Authority cited: Section 3215, Financial Code. Reference: Sections 3217, 3307, Financial Code.

§ ~~2057~~1222. New Registration or Change in Location of Digital Financial Asset Transaction Kiosk; Quarterly Reports.

- (a) A licensee shall report through the UAAR any changes, including the addition, removal, or change in location of a digital financial asset transaction kiosk or other business location within 30 calendar days of such change.
- (b) A licensee shall file on a quarterly basis through the UAAR a report of all locations of digital financial asset transaction kiosks that the licensee owns, operates, or manages in California. This quarterly report is required even if no changes have occurred in the reporting period.

Note: Authority cited: Section 3215, Financial Code. Reference: Section 3906, Financial Code.

Article 4. Surety Bond.

§ ~~2058~~1230. Surety Bond.

- (a) All surety bonds, amendments, cancellations, notices of claims, and information related to surety bonds such as riders and endorsements shall be filed through NMLS for transmission to the Commissioner.
- (b) The surety bond shall be in the form of the “electronic surety bond form,” titled ~~“SURETY BOND,”~~ DIGITAL FINANCIAL ASSETS LAW LICENSEE BOND,” set forth in title 11, section 25 (31.30), of the California Code of Regulations.
- (c) The surety bond shall not be cancelled, in whole or in part, without at least sixty (60) calendar days’ notice to the Commissioner by the surety, bonding, or insurance company.

- (d) The surety bond shall provide that the surety, bonding, or insurance company issuing the bond provide notice to the Commissioner within ten (10) calendar days of service of any action.

Note: Authority cited: Section 3207, Financial Code. Reference: Section 3207, Financial Code.; and 995.320, Code of Civil Procedure.

Article 5. Surrender of License.

§ 20591240. Surrender of License.

- (a) An application to surrender a license shall be filed on Form MU1 ~~and MU2, as applicable,~~ through NMLS in accordance with the procedures for transmission to the Commissioner.
- (b) Prior to surrendering its license, the licensee shall file with the Commissioner through NMLS a plan containing the licensee's detailed proposal for the orderly closure of its digital financial asset business activity, including a detailed description of the plan to close out or transfer the licensee's digital financial asset files; the name and contact information of the person taking over the licensee's digital financial asset files, if applicable; and the time frame within which the closure or transfer will be completed. Surrender shall not be effective until approved by the Commissioner.

Note: Authority cited: Section 3215, Financial Code. Reference: Section 3413, Financial Code.

Article 6. Disclosures and Protections.

§ 1250. Token Listing Certification.

Except as provided for under paragraph (2) of Financial Code section 3505, subdivision (a), an applicant or licensee that is a covered exchange shall execute the certification provided below and file the executed certification through NMLS prior to listing or offering a digital financial asset for exchange on behalf of a resident:

DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

COVERED EXCHANGE CERTIFICATION

Name of Applicant/Licensee:_____

Digital financial asset(s) that the covered exchange plans to list or offer as specified by Financial Code section 3505, subdivision (a)(1). List each digital financial asset, the full name of the digital financial asset, and the ticker or other trading symbols used with each digital financial asset.

The undersigned hereby certifies that the applicant/licensee named above has done the following with respect to each and every digital financial asset listed above:

1. Identified the likelihood that the digital financial asset would be deemed a security by federal or California regulators.
2. Provided, in writing, full and fair disclosure of all material facts relating to conflicts of interest that are associated with the covered exchange and the digital financial asset.
3. Conducted a comprehensive risk assessment designed to ensure consumers are adequately protected from cybersecurity risk, risk of malfeasance, including theft, risks related to code or protocol defects, or market-related risks, including price manipulation and fraud.
4. Established policies and procedures to reevaluate the appropriateness of the continued listing or offering of the digital financial asset, including an evaluation of whether material changes have occurred.
5. Established policies and procedures to cease listing or offering the digital financial asset, including notification to affected consumers and counterparties.

Officer's Signature:

Name:

Title:

Date:

Note: Authority cited: Sections 3215 and 3505, Financial Code. Reference: Section 3505, Financial Code.