

NOTICE OF PROPOSED CHANGES ON DEFERRED DEPOSIT ADVANCES
IN THE REGULATIONS OF THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT

BRIEF DESCRIPTION

The Department of Commerce, Community, and Economic Development proposes regulations to add virtual currency to regulated money transmission through updates and clarify various sections throughout 3 AAC 13.

The Department of Commerce, Community, and Economic Development proposes to adopt regulation changes in Title 3, Chapter 13, of the Alaska Administrative Code, dealing with money transmission, including the following:

- (1) Add 3 AAC 13.005. Add virtual currency activity or transaction covered as money transmission.
- (2) Add 3 AAC 13.006. Money transmitters who only conduct virtual currency activity or transactions must submit an application for a license.
- (3) Amend 3 AAC 13.810. Additional permissible investments to include virtual currency.
- (4) Repeal and readopt 3 AAC 13.990. Update definitions to include virtual currency under monetary value and provide a definition for virtual currency.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Dean Fleer, Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7th Avenue, Suite 1850, Anchorage, AK 99501. Additionally, the Department of Commerce, Community, and Economic Development (“Department”) will accept comments by facsimile at (907) 269-8146 and by electronic mail at dbsregs@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. **The comments must be received not later than September 30, 2022.**

You may submit written questions relevant to the proposed action to Dean Fleer by electronic mail at dbsregs@alaska.gov or by mail at Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7th Avenue, Suite 1850, Anchorage, AK 99501. **The questions must be received at least 10 days before the end of the public comment period.** The Department will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and the Division of Banking and Securities’ website at <https://www.commerce.alaska.gov/web/dbs>. The Department may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Dean Fler at dbsregs@alaska.gov or (907) 269-0096 not later than September 19, 2022, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Division of Banking and Securities' website at <https://www.commerce.alaska.gov/web/dbs> and the Alaska Online Public Notice System. You may also request a copy by contacting Dean Fler at dbsregs@alaska.gov or (907) 269-0096.

After the public comment period ends, the Department will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected. Written comments and questions received are public records and are subject to public inspection.**

Statutory authority: AS 06.55.101, AS 06.55.102, AS 06.55.103, AS 06.55.105, AS 06.55.203, AS 06.55.204, AS 06.55.403, AS 06.55.404, AS 06.55.405, AS 06.55.820, AS 06.55.501, AS 06.55.502, AS 06.55.990, AS 44.33.020.

Statutes being implemented, interpreted, or made specific:
AS 06.55.101, AS 06.55.102, AS 06.55.502, AS 06.55.990.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

August 19, 2022
Date

/s/ Robert H. Schmidt
Director

The Department of Commerce, Community, and Economic Development, Division of Banking and Securities keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all the Division's Notice of Proposed Regulation Changes. To be added to or removed from the list, send the request to the Division of Banking and Securities, Department of Commerce, Community, and Economic Development, 550 W. 7th Avenue, Suite 1850, Anchorage, AK 99501 or to dbsregs@alaska.gov. Please include your name and either your electronic mail address or mailing address, as you prefer for receiving notices.

3 AAC 13 is amended by adding new sections to read:

3 AAC 13.005. Virtual currency as money transmission. An activity or transaction that would be covered as money transmission remains covered as money transmission if that activity or transaction is in the form of virtual currency. (Eff. ____/____/____, Register ____)

Authority: AS 06.55.990

3 AAC 13.006. Money transmitters who only conduct virtual currency activity or transactions. Beginning January 1, 2023, a person who is engaging in activities or transactions for which a license is required under AS 06.55 with activity or transactions in the form of virtual currency, shall submit an application for licensure through the registry. The department considers a person to be engaging in activities for which a license is required under AS 06.55 if the person is conducting money transmission and that activity or transaction is in the form of virtual currency being transmitted to or from the state. A Limited Licensing Agreement (LLA), as related to virtual currency activity, entered into with the state shall be void and removed from the registry. (Eff. ____/____/____, Reg. ____)

Authority: AS 06.55.990 AS 06.55.101 AS 06.55.102

3 AAC 13.810 is amended to read:

3 AAC 13.810. Additional permissible investments. In addition to the assets and securities listed in AS 06.55.502, a permissible investment for purposes of AS 06.55 includes

(1) commercial paper within the top three rating categories of a nationally recognized rating service; [AND]

(2) interest-bearing bills, notes, or bonds that bear a rating within the top three rating categories of a nationally recognized rating service; **and**

(3) virtual currency for outstanding obligations denominated in the same virtual currency. (Eff. 7/12/2008, Register 187; am ____ / ____ / ____, Register ____)

Authority: AS 06.55.501 AS 06.55.502 AS 44.33.020

3 AAC 13.990 is repealed and readopted to read:

3 AAC 13.990. Definitions. In AS 06.55 and this chapter, unless the context requires otherwise,

(1) "business day" means a day other than Saturday, Sunday, or a state or federal holiday;

(2) "department" means the Department of Commerce, Community, and Economic Development;

(3) "Form MU1" means the uniform money services license application developed and used by the registry;

(4) "monetary value" includes virtual currency;

(5) "registry" means the Nationwide Multistate Licensing System and Registry; in this paragraph, "Nationwide Multistate Licensing System and Registry" means a licensing system developed by the Conference of State Bank Supervisors and the American Association of Residential Registry, LLC, or a successor or an affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries;

(6) "virtual currency" means a digital representation of value that is used as a medium of exchange, unit of account, or store of value; and is not money, whether or not

denominated in money. Virtual currency does not include a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant, bank credit, or virtual currency, or a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform. (Eff. 7/12/2008,

Register 187; am 11/22/2017, Register 224; am ____ / ____ / ____, Register _____)

- Authority:**
- | | | |
|--------------|--------------|--------------|
| AS 06.55.103 | AS 06.55.204 | AS 06.55.820 |
| AS 06.55.105 | AS 06.55.403 | AS 44.33.020 |
| AS 06.55.103 | AS 06.55.404 | |
| AS 06.55.203 | AS 06.55.405 | |



ADDITIONAL REGULATION NOTICE INFORMATION

(AS 44.62.190(d))

1. Adopting agency: DCCED – Division of Banking and Securities
2. General subject of regulation: Money Transmitters – Add virtual currency to regulated transmission
3. Citation of regulation (may be grouped): 3 AAC 13
4. Department of Law file number, if any: 2022200373
5. Reason for the proposed action:
 - () Compliance with federal law or action (identify): _____ ()
Compliance with new or changed state statute
 - () Compliance with federal or state court decision (identify): _____ ()
Development of program standards
 - (X) Other (identify): Create regulations to add virtual currency activities to the definition of regulated money transmission
6. Appropriation/Allocation: DCCED Banking and Securities/Banking and Securities
7. Estimated annual cost to comply with the proposed action to:
 - A private person: 0
 - Another state agency: 0
 - A municipality: 0
8. Cost of implementation to the state agency and available funding (in thousands of dollars):⁶

	Initial Year	Subsequent
	FY <u>2023</u>	Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>

1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

1. The name of the contact person for the regulation:

Name: Dean Fler
 Title: Financial Examiner 3
 Address: 550 W. 7th Avenue, Suite 1850
Anchorage, AK 99501
 Telephone: 907-269-0096
 E-mail address: dean.fler@alaska.gov

2. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change⁷
 Other (identify): _____

3. Date: 9/1/2022 Prepared by: 

[signature]

Name (printed): Dean Fler
 Title (printed): Financial Examiner 3
 Telephone: 907-269-0096