The ideas and conclusions set forth in this draft, including the proposed statutory language and any comments or reporter’s notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws or the Drafting Committee. They do not necessarily reflect the views of the Conference and its Commissioners and the Drafting Committee and its Members and Reporter. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.
REGULATION OF VIRTUAL CURRENCIES ACT

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# REGULATION OF VIRTUAL CURRENCIES ACT

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1 Reporter’s Note: the 2004 Amendments to the UMSA do not provide for removal of officers and directors; however, that authority is contained in the Final BitLicense Regulation and is typical in other financial services regulatory schemes and so it is included here for discussion.
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REPORTER’S PRELIMINARY NOTE

Formatting: In this initial working draft legislation, reporter’s notes and questions appear as footnotes to the relevant provision, instead of in the more common presentation by ULC Reporters of “comments” following each section of the draft. The purpose is to allow the Drafting Committee members, Advisors, and Observers the opportunity to see each note or question directly in connection with the text to which it pertains. In the next version of the draft, the notes will appear in proper “comments” sections following each article of the legislation.

Source documents and thanks: Source documents for this initial working draft include the 2004 Amendments to the ULC’s Uniform Money Services Act, the Conference of State Bank Supervisors’ (CSBS) September 15, 2015 Model Regulatory Framework and its Draft Model Regulatory Framework released on December 16, 2014, definitions contained in guidance published by the United States Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) in March 2013 and early 2014, and, to a lesser extent, the Final “BitLicense” Regulation (Virtual Currency Businesses) promulgated by the New York State Department of Financial Services. Specific sources are not mentioned in the presentation of many sections of this initial working draft, but will be in subsequent drafts. All of these documents provided valuable source materials; all can assist in the crafting of a draft that can promote potentially greater uniformity and, to the degree feasible, reduce duplicative licensing requirements for providers already licensed for some purposes. Thanks go to the CSBS for hosting the April, 2015 stakeholders’ meeting, to the talented staff at the ULC, works shared by Dax Hansen of Perkins Coie and Ryan Straus of Riddell Williams, among others, and the May 2015 Report by Peter Van Valkenburgh and Jerry Brito of CoinCenter, State Digital Currency Principles and Framework, http://coincenter.org/2015/04/state-digital-currency-principles-and-framework/.

Coverage: This initial working draft envisions that any person or entity that operates as a trusted intermediary in the performance of services or offering of products to third parties, whether consumers or not, should be licensed. The range of such intermediaries is large already and likely to expand.

For now, the range includes at least the following types of digital currency businesses: digital currency payments intermediaries, digital currency converters and exchanges, providers of web wallet services and products, digital currency gateways, digital cash platforms and digital currency ATMs, and is intended to cover any form of business that handles, stores, maintains, or transfers or engages in the exchange or delivery of digital currency for money or real currency or of one form of digital currency for another, or – like money transmission traditionally – performs functions necessary to move or transfer digital currencies from one person to another or from one location to another even for the same person or beneficiary.

If this statement of intent does not cover every option currently available or about to come to market, the Drafting Committee will wish to revise it to be more encompassing. To allow for segmentation of the licensure authority, if desired, this initial working draft reserves Articles 3, 4 and 5 for possible sub-industries – without intending to prejudge in any manner the wisdom of license segmentation.
The activating principles of this draft include the concept, to paraphrase CoinCenter’s Van Valkenburgh and Brito, that if a trusted intermediary operates in a space that walks and quacks like a financial services provider, it should be regulated like a financial services provider. Here, that concept translates into three work streams – licensure and prudential regulation, user/consumer protections, and, increasingly over the past few decades, the deterrence and detection of money laundering, economic sanctions, and terrorism support.

In preparing this initial working draft, the Chairman encouraged that it follow to the extent possible guidance available from CSBS so that the process of enactment of the resulting draft uniform law might be smoother. The September 15, 2015 release of the final CSBS Model Regulatory Framework means that this initial working draft does not conform to every recommendation that CSBS made, but the Drafting Committee may choose to follow the CSBS lead even more closely than this initial working draft does.

As an initial proposition, the Drafting Committee should decide whether to refer to the subject of this draft as “digital currency,” as is proposed, or as “virtual currency,” as both the CSBS Model Regulatory Framework and the New York State Virtual Currency Business Regulation (“BitLicense”) describes its subject matter. For possible future collaboration between the CSBS and ULC in this arena, the CSBS’ definition of the term “virtual currency” may be employed in lieu of the definition of “digital currency,” in draft section 102(7) of this initial working draft. Draft section 102(7) is modeled after the definition used by FinCEN in its 2013 and 2014 guidance on this topic. The CSBS definition of “virtual currency” provides:

Virtual Currency is a digital representation of value used as a medium of exchange, a unit of account, or a store of value, but does not have legal tender status as recognized by the United States Government. Virtual Currency does not include the software or protocols governing the transfer of the digital representation of value. Virtual Currency does not include stored value redeemable exclusively in goods or services limited to transactions involving a defined merchant, such as rewards programs.\(^2\)

Consistent with the policy expressed in the CSBS Model Regulatory Framework, this initial working draft proceeds from the policy goal that “entities performing activities involving third party control of virtual currency should be subject to state licensure and supervision like an entity performing such activities with fiat currencies.”\(^3\) Because the CSBS Model Regulatory Framework was released after much work on this initial working draft had been completed, there will be variations between principles in the Framework and this initial working draft. One marked difference between this initial working draft and the Model Regulatory Framework involves the latter’s decision not to include an “on-ramp” option – that is, a temporary or conditional license – similar to the BitLicense. CSBS notes that, in addition to the consumer harm that can attend an intermediary operating on such a license, it was concerned about the

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\(^2\) CSBS Model Regulatory Framework, at 2.

“property rights” issues and due process issues that would attend it.  

This working draft’s accommodates an “on-ramp” option to a degree and invites comments and suggestions from the Drafting Committee on them. These include possible lower licensing application or renewal fees, a possible provisional registration for providers who seek licenses under the reciprocal licensing option posed in Article 2, and a possible de minimis exception. The Drafting Committee should express preferences on which approach – favoring the CSBS Framework, the BitLicense or any of the many other possible approaches arising from States such as California and North Carolina – it wishes to see in the second working draft and whether it wishes to see a more expanded range of “on-ramp” provisions. (Note: both California and North Carolina appear to have abandoned legislation introduced in each state over the course of the last few months.)

The BitLicense provides for “conditional licenses,” subject to heightened supervision in regard to the potential scope and frequency of examinations and also provides that conditional licenses expire two years after their issuance if the condition first imposed is not removed or the conditional license renewed. BitLicense, § 200.4(c). This initial working draft provides, instead, for “provisional registrations” for applicants proceeding under reciprocal licensing arrangements pursuant to Article 2’s provisions. The reason not to provide for conditional licenses is to avoid the creation of a property right that could be repealed only by a full-dress notice and hearing pursuant to any jurisdiction’s administrative procedures statute. As noted in footnotes accompanying Article 2, because CSBS does not prefer to permit “conditional licenses,” this initial working draft does not do so either. The concerns about both sufficient consumer protections and due process expressed in the CSBS Model Regulatory Framework were sufficient to keep “conditional licenses” out of this draft. I note, however, that I made need to devote additional time to determining whether a provisional registration prevents the due process issues that CSBS raised in connection with “conditional licenses.”

Additionally, CSBS advocates use of a licensing system that can accommodate significant collaboration among a few or many States, such as the Nationwide Multistate Licensing System (“NMLS”) that CSBS operates. In this initial working draft, Alternative C in Section 203 (“Reciprocal Licensing”) mentions this possible NMLS option for licensure. CSBS recommends that regulators be capable of exchanging information “in real time or close to real time” and that they can use a system such as the NMLS to “streamlin[e] all technical aspects of licensing, including application processing, background check processing, reporting, and complaint management.” This initial working draft provides language to enable such forms of collaboration and seeks instruction on whether background check processing is an issue that should be spelled out in a uniform law, when the 2004 Amendments to the UMSA did not mention it. This draft also proposes the development of a common application in cooperation with CSBS, regardless of whether the Drafting Committee embraces full reliance on the NMLS.

To add to the range of choices to be made, this initial working draft shifts from following the UMSA’s provisions on “permissible investments” to the “flexible” approach that CSBS

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4 CSBS Model Regulatory Framework, at 3-4.
5 Id. at 4.
6 Id.
recommends. Draft Section 702 (“Types of Permissible Investments”) is currently bracketed for
discussion during the first meeting of the Drafting Committee and whatever specific
collaboration with CSBS the Chair and ULC may authorize. For references purposes, please
consult Section 702 of the 2004 Amendments to the UMSA for the content of what a comparable
provision in this act might contain.

The provisions of Article 11 (“Compliance”) are drawn, nearly verbatim but not
necessarily in the same order of presentation, from the BitLicense’s provisions. Compliance
responsibilities is one area in which provisions of the BitLicense comport perfectly with the
CSBS Framework.

New York State and the CSBS have taken what appear to be different positions on the
nature of anti-money-laundering program requirements and reports that each will require or
propose. The 2004 Amendments to the UMSA take a somewhat different approach as well.
Before the comparable provisions in this Act are drafted, the Drafting Committee may wish to
discuss the scope they would like to see and give instructions.

Beyond the definitions presented in this initial working draft, the hardest task in
producing this draft relates to Article 10 on Disclosures and User Protections. The sources
mentioned above in this note offer many alternatives to formulating these very important
provisions, but in formulating those presented and in furtherance of potential collaboration with
CSBS, this draft endeavors to follow the CSBS Framework principles for user protection, which
CSBS refers to as “consumer protection.”

This initial working draft does not make any provision for authorized delegates of the
licensee on the theory that emergent digital currency transfers businesses that operate primarily
by electronic media are not likely to have the need for remote agent locations, as has been the
norm for traditional check cashers, currency exchanges, and money transmitters. This may be a
mistaken impression. In the event that it is, the 2004 Amendments to the UMSA offer suitable
eamples of legislative text to govern what that Act referred to as “authorized delegates.” The
Drafting Committee, Advisors and Observers may consult Section 802 of the UMSA for an
eample of what such text would provide.

Another major issue is the extent to which “user protections” should extend to include
provisions more commonly associated with commercial laws than laws providing for licensure
and prudential supervision. The December, 2014 Report from the Study Committee touched
upon the possibility of including some commercial law provisions that would focus on the
execution of transfers that can be completed using digital currency payments intermediaries, and
the rights and liabilities that flow from transfer execution. If the Drafting Committee is
interested in seeing how commercial law provisions could play out, Stephen T. Middlebrook, one
of the ABA’s Business Law Section Advisors to the Alternative and Mobile Payments Study
Committee, and I have written an article advocating a commercial law for digital currency
intermediaries that is about to be in print. I can make copies of the article in draft form available
for the Drafting Committee’s use.
And, finally, as noted in the CSBS Model Regulatory Framework,

To ensure that existing laws and regulations can be implemented in the event of a failure of a digital currency transfers or custody provider, CSBS added a strength and stability component that policies and procedures be in place to protect customer access to funds in the event of a failure. Entities that manage private keys for a public ledger risk losing customer funds if the private keys become unavailable upon failure. At a minimum, policies and procedures should cover how private keys are transferred or recovered in the event a licensee goes out of business.

Because of the importance of this subject to the preservation of customer and consumer access to their assets, this is a topic that requires additional consultation by the Drafting Committee and with the CSBS.

Readers will note that this initial working draft leaves open the text of certain standard state licensure scheme provisions and specifically leaves open for consultation with other ULC Drafting Committees or the CSBS other sections. In the case of the former, the standard provisions are pro forma and do not require the same degree of attention from the Drafting Committee at this stage as others.

Finally, readers should know that the Chairman of the Drafting Committee has not approved the text presented below. It is presented in the spirit of a discussion draft. The Reporter is responsible for all controversies and errors or omissions in the text below.
ARTICLE 1

GENERAL PROVISIONS

SECTION 101. SHORT TITLE. This [act] may be cited as the Regulation of Virtual Currencies Act.

SECTION 102. DEFINITIONS. In this [act]:

(1) “Applicant” means a person that files an application for any license under this [act];

(2) “Bank” means a “bank” under the Federal Deposit Insurance Act of 1933, 12 U.S.C.§ 1813(a)(1) (2011);

(3) “Control” means “control” as defined in the Bank Holding Company Act of 1956, 12 U.S.C. § 1841(a)(2) (2011);

(4) “Currency” or “real currency” means the coin or paper money of the United States or of any other country (a) that is designated as legal tender and (b) that circulates and is customarily used and accepted as a medium of exchange in the country of issuance.\(^7\)

(5) “Custodian” means a person engaged in the business of holding digital assets, including digital currency, e-precious metals, or e-certificates of precious metals;\(^8\)

(6) “Department” means the [name of State, etc.] [name of specific department];

(7) “Digital cash platform” means a device that enables the purchase of digital tokens in exchange for money;

(8) “Digital currency” means any type of digital unit that is used as a medium of exchange and that operates like currency in some environments, but is not legal tender and does not have the attributes of real currency. The term “Digital Currency” shall be broadly construed.

\(^7\) Reporter’s Note: This definition is based on 31 C.F.R. § 1010.100(m).

\(^8\) Reporter’s Note: This definition could be expanded.
(9) “Digital Currency” shall not be construed to include any of the following:

(A) Digital units that are used solely within online gaming platforms, have no market or application outside of those gaming platforms, cannot be converted into, or redeemed for, money or Digital Currency, and may or may not be redeemable for real-world goods, services, discounts, or purchases.

(B) Digital units that can be redeemed for goods, services, discounts, or purchases as part of a customer affinity or rewards program with the issuer and/or other designated merchants or can be redeemed for digital units in another customer affinity or rewards program, but cannot be converted into, or redeemed for, money or Digital Currency. Or,

(C) Any digital units that cannot be converted into legal tender or otherwise act as a substitute for real currency.

(D) Digital units used as part of Prepaid Cards.

(9) “Digital Currency Transfers Business Activity” means the conduct or any one of the following types of activities involving [this State] or a Resident [of this State]:

(A) Engaging as a business in issuing or circulating a digital currency or having the authority to redeem or withdraw from circulation the same form of digital currency as it issues or circulates;

(B) Engaging as a business in the exchange of digital currency for money, real currency, funds, or other digital currency or in the conversion of one digital currency to one or more digital currencies or of one digital currency to money or to one or more currencies of one
or more Governments, including through the offering or operation of a digital cash platform or ATM machine;

(C) Receiving Digital Currency for Transmission or Transmitting Digital Currency, except where the transaction is undertaken for non-financial purposes and does not involve the transfer of more than a nominal amount of Digital Currency;  

(D) Storing, holding, or maintaining custody or control of Digital Currency on behalf of others, including by hosting one or more Web Wallets, as a customer business;

(E) Buying and selling Digital Currency as a customer business;  

(F) Performing Exchange Services as a customer business; or

(G) Controlling or administering a Digital Currency.

The term does not include development or dissemination of software related to Digital Currency activity, or the provision or sale of prepaid access or as a dealer in foreign exchange as those terms are defined in federal statutes or regulations. The term also does not include a person that obtains digital currency to purchase goods or services or any person excluded pursuant to section 103 of this [act].

(10) “Digital currency exchange” means receipt of revenues or other consideration from the exchange of one form of digital currency for another form of digital currency, or the exchange of Digital Currency for Money of one Government, or the exchange of Money of one Government for a Form of Digital Currency;

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9 Reporter’s Note: This provision is mentioned in the BitLicense. The Drafting Committee should discuss whether they want to allow the exception for transactions undertaken for “non-financial purposes” or those involving transfers of no “more than a nominal amount of Digital Currency.”

10 Reporter’s Note: “Mining” is not covered by FinCEN’s guidance, as adjusted by guidance letters issued in early 2014. Miners “administer” the Bitcoin block chain. The Drafting Committee might want to adjust this definition to exclude miners who are not engaged in administering the block chain or other ledger.

11 Reporter’s Note: This definition is an amalgam of the guidance provided by FinCEN in 2013 and 2014 and the definition of “Virtual Currency Business Activity” contained in the BitLicense, § 200.2(q) (2015).
(11) “Digital currency transfers” means …

(12) “Executive Officer” means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other person who performs similar functions regardless of their title;

(13) “Fiat Currency” means … — an alternative formulation is CSBS’ definition of “Sovereign Currency,”

(14) “Gateway” means a network participant takes deposits of one Digital Currency in exchange for credits to be used on the network and capable of exchanging or of arranging exchanges of one currency for another by employing intermediaries in one or more transactions as necessary to complete the exchange.

(15) “Licensee” means a person licensed under any form of license under this [act];

(16) “Monetary value” means a medium of exchange, whether or not redeemable in money;

(17) “Money” means a medium of exchange that is authorized or adopted by the United States or a foreign government as a form of legal tender by government decree, regulation, or law. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments, including in tangible or digital form;

(18) “Outstanding” means …

———

12 Reporter’s Note: The Drafting Committee may want to include a definition of “Fiat Currency” as the BitLicense does. I am not persuaded it is necessary here.
13 CSBS Model Regulatory Framework, at 3.
14 Reporter’s Note: This definition is drawn from the UMSA. The Drafting Committee should decide it if wishes to include it here.
15 Reporter’s Note: This definition is a placeholder until the Drafting Committee decides whether it is needed. Practically speaking, many digital currency transfers can be completed P2P and so quickly that there is little intervening “float” or credit risk. Others, however, require a series of transfers much like a commercial wire transfer to move the originator’s initial form of digital currency into an intermediary’s hands for exchange for another form
(19) “Payments Intermediary” means a person, other than a licensed [money services business or money transmitter] or a regulated bank that engages in offering and providing transaction execution services for third parties for which it receives compensation or consideration.

(20) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; government subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity, regardless of how organized;

(21) “Qualified Custodian” means a bank, trust company, national bank, savings bank, savings and loan association, federal savings association, credit union, or federal credit union in the State of [name of this State], subject to the prior approval of the superintendent/commissioner, eligible to hold permissible investments on behalf of a licensee under this [act].

To the extent applicable, terms used in this definition shall have the meaning ascribed by the State [Banking Law];

(22) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(23) “Reciprocity Agreement” means a bilateral or multilateral arrangement among the States that permits the recognition of a license granted by another State by the [superintendent/commissioner] of [this State] subject to any condition imposed by the participating States.

(24) “Responsible individual” means an individual who is employed by a licensee and

Of digital currency or for money of one Government before finally reaching the intended beneficiary in the intended final form of the exchange. In this second subset of transfers, float and credit risks may arise, even if they may stress may be lower or shorter in time than with legacy providers’ wire transfers, for example. The UMSA definition of “outstanding” read: “… with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee.” UMSA § 102 (15) (2004).
has principal managerial authority over the provision of digital currency business services by the
licensee in this [State].

(25) “State” means a State of the United States, the District of Columbia, Puerto Rico, the
United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
the United States.

(26) “[State] Resident” means any Person that resides, is located, has a place of business,
or is conducting business in [this State], whether by means of a physical location or via the
Internet or other electronic media;

(27) “Stored value” means monetary value that is evidenced by an electronic record, but
does not include substitutes for monetary value or digital currency as defined in this [act];

(28) “Substitutes for monetary value” means … ;

(29) [“Superintendent/ commissioner”] means the [state superintendent/ commissioner of
banks or other senior state regulator empowered to license digital currency businesses under this
[act];

(30) “Transmission” means the transfer, by or through a third party, of Digital Currency
from a Person to a Person, including the transfer from the account or storage repository of a
Person to the account of storage repository of a Person;

(31) “Trust company” means a person licensed or chartered by this state or any state with
which this state has reciprocal licensing arrangements as a trust company or a limited purpose
trust company under the laws of this state or any other such state. 16

(32) “Unsafe or unsound practice” means a practice or conduct by a person licensed to

16 Reporter’s Note: Some states treat trust companies chartered by any other state as exempt from their “money
services” or “money transmitter” license requirements (Illinois, for example) and others (including California) only
exempt those trust companies that they themselves charter.

11
engage in digital currency transmission that may pose financial risks to a licensee or to its
customers’ ability to redeem digital currency, money, or other value being held by the licensee,
including risks of material loss, insolvency, dissipation of the licensee’s assets, or otherwise
materially prejudices the interests of its customers or of customers’ ability to redeem digital
currency, money, or other value being held by the licensee. 17

(33) “Vault” means a …. 
(34) “Web Wallet” means a collection of private keys associated with a digital currency
address on a public ledger, whether distributed to one or more devices, including but not limited
to a mobile app, that through software allows the provider (the person in control) to spend or
manage the digital currency, query the public ledger and report on the amount of digital currency
available, generate new addresses to receive digital currency, allow the user to send digital
currency to addresses of the user’s choosing, track or observe transactions’ confirmation status,
make a back-up copy of the wallet, or restore a copy of the wallet, and held by an external
provider. 18

SECTION 103. EXCLUSIONS. This [act] does not apply to 19:

(1) the United States or a department, agency, or instrumentality thereof;
(2) money transmission by the United States Postal Service or by a contractor on behalf
of the United States Postal Service;

17 Reporter’s Note: This definition is slightly broader than the 2004 amendments to the Uniform Money Services Act.
18 Reporter’s Note: At this time, web wallet providers are not covered by any form of deposit insurance offered by a
government and, with the exception of providers covered by BitLicenses issued by New York State, are not
regulated. For more information on digital wallets generally, see Pedro Franco, UNDERSTANDING BITCOIN 123-142
(John Wiley & Sons, 2015).
19 Reporter’s Question: This draft does not contain a de minimis exception, but that is a topic on which the Drafting
Committee might focus. A de minimis exception could proceed from a cap on the number of transactions in a year, a
cap on the equivalence of United States dollars transferred, or a combination of both. A de minimis exclusion could
be placed among the exclusions in Section 103, or in the definition of “digital currency transfers business” in
Section 102.
(3) A state, county, city, or any other governmental agency or governmental subdivision of a State;

(4) A commercial bank, bank holding company, office of an international banking corporation, branch of a foreign bank, corporation organized pursuant to the Bank Service Corporation Act [12 U.S.C. Section 1861-1867 (Supp. V. 2011)], or corporation organized under the Edge Act [12 U.S.C. Section 611-633 (Supp. V. 2011)] under the laws of a State or the United States if it does not issue, sell, or provide digital currency, payment instruments, or stored value through a person that is not a licensee under [this act].

(5) Electronic funds transfer or governmental benefits for a federal, state, [county], or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a State or government subdivision, agency or instrumentality thereof.

(6) A board of trade designated as a contract market under the federal Commodity Exchange Act [7 U.S.C. Section 1-25 (2011)] or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board.

(7) A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.

(8) A person that provides clearance or settlement services pursuant to a registration as a clearing agency or that holds an exemption from such registration granted under the federal securities laws to the extent of its operation as such a provider.

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20 Reporter’s Note: The Final BitLicense Regulation uses an alternate formulation of the bank exemption that the Drafting Committee could consider. It requires that commercial banks and other chartered depository institutions obtain permission from the Superintendent/ commissioner to engage in new virtual currency activities. The Clearing House noted its objection to this BitLicense requirement in its February 13, 2015 comment on the Conference of State Bank Supervisors Model Framework. Thus, for the purpose of this initial working draft, I have followed the preference of The Clearing House, rather than the model offered by the Final BitLicense Regulation.
(9) An operator of a payment system to the extent that it provides processing, clearing, or settlement services, solely between or among persons otherwise excluded by this [act], [in connection with wire transfers, credit or debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers.

(10) A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as a broker-dealer.

(11) A person who obtains convertible digital currency to the extent that the person uses it to purchase real or virtual goods or services on the user’s own behalf or for their own investment purposes;

(12) A person who mines or manufactures digital currency and uses it solely for their own purposes, such as to purchase goods or services on the user’s own behalf, including paying debts previously incurred in the ordinary course of the user’s business (including the debts of its owner(s)), or in the case of a corporate user, making distributions to shareholders or its own investment purposes, even if it is necessary to convert the digital currency to currency or funds in order to do so, so long as the person is not engaged in a business service performed on behalf of another.

(13) A person that converts digital currency into currency or another convertible digital currency for the person’s own behalf and not in the course of a business service performed on behalf of another.

(14) A person engaged in activities that, in and of themselves, do not constitute accepting or transferring currency, funds, or the value of funds or digital currency that can be converted into currency, funds, or the value of funds.
A person engaged in the business of dealing in foreign exchange.\textsuperscript{21} And, A person engaged in the development and dissemination of software in and of itself to support the digital currency transfer businesses of others and not otherwise engaged as a business in transmission or conversion of digital currency on behalf of others.

**ARTICLE 2**

**GENERAL PROVISIONS**

**SECTION 201. LICENSE.**

(a) License required.\textsuperscript{22} A person may not engage in any digital currency business or advertise, solicit, or hold itself out as providing digital currency … unless the person:

(1) Is licensed under this article;

(2) Is licensed by a State with which this State has a reciprocity agreement for licensure of digital currency businesses; or

(3) Is exempt under this [act] from licensure.

(b) Exemption from licensure requirements. A person exempt from this [act] pursuant to section 103 is exempt from licensure requirements of this [act.]

(c) A license issued under this [act] is not transferable or assignable.

\textsuperscript{21} Reporter’s Note: Source: 31 C.F.R. § 1010.100(ff)(1) (“dealer in foreign exchange” exempt from FinCEN’s definition of “money transmission” because such dealers must deal in the currencies of two or more countries or other monetary instruments, funds, or other instruments in the currency of one or more countries for the currency, or other monetary instruments, funds, or other instruments denominated in the currency of one or more countries, to qualify).

\textsuperscript{22} Reporter’s Questions: (1) The Uniform Money Services Act has specific provisions for licensure exemptions for authorized delegates of licensees. This has been omitted from this first draft because, in the different environment in which digital currencies circulate and are exchanged, the Drafting Committee may determine that all persons engaged in the transmission or exchange, other than those exempted, should be required to be licensed. Should the Drafting Committee want to exempt authorized delegates, that provision would be subsection (c) and the subsection (c) shown would become subsection (d).

(2) The Uniform Money Services Act permits persons licensed as money transmitters to engage in other services, including check cashing and currency exchange, without obtaining additional licenses from the state(s) that issued the money transmitter license to such person. How does the Drafting Committee wish to handle that subject?
SECTION 202. APPLICATION FOR LICENSE.

(a) A person applying for a license under this [article] shall do so in a form and in a
medium prescribed by the [superintendent/ commissioner]. The application must state or contain:

(1) the legal name of the applicant, its business address(es), and any fictitious or
trade name used by the applicant or planned to be used by the applicant in conducting its
business;

(2) the legal name of the executive officer of the applicant, his or her residential
and business address(es), and any former names or fictitious names used by that person;

(3) the legal name of every responsible individual who is performing or is
expected to perform managerial authority over the provision of services covered by this [act] in
this [State];

(4) a description of the proposed, current, and historical business(es) of the
applicant, including detail on the products and services provided and to be provided, all
associated website addresses, the jurisdictions in which the applicant is engaged in any form of
business, the principal place of business, the projected customer base together with any specific
marketing targets, and the physical address of any current or proposed operation in this [State];

(5) a list of any criminal convictions and deferred prosecution agreements of the
applicant and any [State] or the United States government and of any industry suspensions or
bars imposed by any regulatory or law enforcement agency for any line of business;

[23 Reporter’s Note: The BitLicense requires fingerprints and photographs for each individual applicant, and for each
principal officer, principal stockholder, and principal beneficiary of any trust connected with the proposed virtual
currency business to be licensed. § 200.4(a)(5). Additionally, it requires detailed background information, §
200.4(a)(3), and a background report prepared by an independent investigative agency acceptable to the
Superintendent/ commissioner of the Department of Financial Services on each individual applicant or on principal
officer, principal shareholder or principal beneficiary of the applicant for license. § 200.4(a)(4). The Drafting
Committee should give its views on whether it wishes to require this additional information or to provide explicit
authority for the [regulatory agency or senior official] to require such information.

[24 Reporter’s Note: This provision is nearly verbatim from BitLicense Section 200.4(a)(8).]
(6) a list of any material litigation in which the applicant has been involved in the
[10]-year period immediately preceding the submission of the application, determined in
accordance with generally accepted accounting principles and to the extent that it would be
required to be disclosed in the applicant’s annual audited financial statements, reports to
shareholders, or similar records or reports;
(7) a list of any other [States /jurisdictions] in which the applicant is licensed to
provide services and any license revocations, suspensions or other disciplinary actions taken
against the applicant in another [State/ jurisdiction];
(8) information concerning [any bankruptcy or receivership proceedings affecting
the applicant, the executive officer, or any responsible individual] in the past 10 years;
(9) the name(s) and address(es) of any bank in which applicant plans to deposit
any money belonging to its customers or through which any digital currency business of the
applicant is expected to be performed;
(10) a description of the source of money and credit to be used by the applicant to
provide any digital currency business in this [State];
(11) the locations at which the applicant currently uses or expects to use in the
next six months the digital currency it expects to hold on behalf of its customers;
(12) a description of any money services or money transmitter licenses that the
applicant conducts in any other [jurisdiction/ State] and a copy of every license of current or past
validity held by the applicant from each such [jurisdiction/ State];
(13) a description of any other lines of business engaged in or expected to be
engaged in by the applicant in this [State];
(14) If applicable, a copy of any insurance policy(ies) maintained for the benefit
of the applicant, its directors and officers, or its customers, including of any business interruption
insurance;\textsuperscript{25}

(15) an explanation of the methodology that the applicant proposes to use to
calculate the value of Digital Currency in United States Dollars or any other money of a
Government;\textsuperscript{26} and,

(16) other information that the [superintendent/ commissioner or any common
application approved by the superintendent/ commissioner] reasonably may require.

(b) If the applicant is a corporation, limited liability company, partnership, or other entity,
the applicant also shall provide:

(1) the date of the applicant’s incorporation or formation and the State or country
of incorporation or formation;

(2) if applicable, a certificate of good standing from the State or country in which
the applicant was incorporated or formed;

(3) a brief description of the structure or organization of the applicant, including
any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential
addresses, and the employment in the [10]-year period immediately preceding the submission of
the application of each executive officer, manager, director, or person that has control of the
applicant;

(5) a list of any criminal convictions and material litigation, determined in
accordance with generally accepted accounting practices and to the extent that it would be
required to be disclosed in the applicant’s annual audited financial statements, reports to

\textsuperscript{25} Reporter’s Note: This requirement is based on BitLicense Section 200.4(a)(13).
\textsuperscript{26} Reporter’s Note: This requirement is based on BitLicense Section 200.4(a)(14).
shareholders, or similar records or reports;

(6) a copy of the applicant’s audited financial statements for the most recent fiscal year and, if available, for the two-year period immediately preceding the submission of the application;

(7) a copy of the applicant’s unconsolidated financial statements for the current fiscal year and, if available, for the two-year period immediately preceding the submission of the application; and,

(8) if the applicant’s shares are publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission under Section 13 of the federal Securities Exchange Act of 1934 [15 U.S.C. § 78m (1994 & Supp.)];

(c) If the applicant is a wholly owned subsidiary of:

(1) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation’s most recent report filed under Section 13 of the Securities Exchange Act of 1934 [15 U.S.C. § 78m (1994 & Supp.)]; or

(2) a corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation’s domicile outside the United States;

(d) If the applicant has a registered agent in this [State], the name and address of the registered agent in this [State]; and

(e) A nonrefundable application fee of [determine range of amount].

(f) No license shall be issued until the applicant also has paid the initial license fee of [determine amount].
(g) The [superintendent/ commissioner] may waive one or more requirements of subsections (b), (c), and (d) or permit any applicant to submit other information in lieu of the required information.

(h) A person applying for a license may use any common application form allowed by the [superintendent/ commissioner] under the provision of Section 203 of this [act].

SECTION 203. RECIPROCAL LICENSING. 27

Alternative A

(a) A person engaged in digital currency transmission that is currently licensed in at least one other state, may, with the approval of the [superintendent/ commissioner] and in accordance with the provisions of this section, engage in digital money transmission [and such other services as this [act] may allow] in this state without applying for a license pursuant to Section 202 if:

(1) the state where such person is licensed has enacted the Uniform Digital Currency Business License Act or has digital currency business laws that are substantially similar to those imposed by the laws of this state, as determined by the [superintendent/ commissioner]. 28

(2) any such person that engages in digital currency business in this state pursuant to this Section shall comply with the requirements of Articles [complete this list per direction of the Drafting Committee] of this [act].

(b) A person that wishes to engage in digital currency business on the basis of reciprocal

27 Reporter’s Note: The Uniform Money Services Act offers two alternatives for the text of this section. For the sake of consistency with it, this draft section 203 shows two alternatives that are identical to section 203 of the 2004 amendments to the Uniform Money Services Act. Since the Uniform Money Services Act was last amended, the Conference of State Bank Supervisors has developed its SAFE Act multistate licensure program. A third alternative formulation for section 203 suggests a new provision to be drafted jointly with CSBS to enable use of its SAFE Act Nationwide Mortgage Licensing System (“NMLS”) platform.

28 Reporter’s Note: As explained in the Comments to UMSA Section 203, Alternative A (2004 Amendments), reciprocity should be recognized only between or among states that have similar licensing requirements to those in the state enacting this [act].
licensing shall:

(1) File with the [superintendent/ commissioner] a request for a reciprocal license pursuant to this Section; and

(2) Submit:

(A) A fee of [specified amount by rule] with the request;

(B) A reciprocal license application form; and

(C) A certification of license history from the [responsible official/superintendent/ commissioner of the department] in each [State] that has issued a license to the applicant.

(c) Before permitting a person to operate in this state under a reciprocal license, the [superintendent/ commissioner] shall make such findings as required by [rule].

If the [superintendent/ commissioner] determines that the person who wishes to engage in a digital currency business in this state is not eligible pursuant to the requirements of this [act] and any [rule] implementing it, the [superintendent/ commissioner] shall deny reciprocity and notify the person within 15 business days.

(e) If the [superintendent/ commissioner] determines that the person who wishes to engage in a digital currency business in this state is eligible pursuant to the requirements of this [act] and any [rule] implementing it, the superintendent/ commissioner shall grant the reciprocity and issue a license to take effect not later than 30 days following the receipt of the items listed in subsection (b)(2) of this section.

(f) The [superintendent/ commissioner] has discretion to waive the bond and net worth requirements otherwise required under this [act] or [rule] implementing it for any reciprocal licensee if the State(s) that granted the license(s) on which reciprocity is based require bonding.
and net worth requirements that are substantially similar to those required under this [act].

(g) The [superintendent/ commissioner] has discretion to permit provisional registration of any applicant for reciprocal licensure during the period necessary to complete the investigation required by this Section, provided that no provisional registration may be deemed to convey a property interest to any applicant or other right that may be treated as the equivalent of a property interest.

Alternative B

(a) A person that is licensed as a digital currency business in another State, may submit a copy of its license application and license in lieu of submitting an application in the form prescribed in Section 202. The [superintendent/ commissioner] shall accept the application from the other State as an application for a license in this State if:

(1) the State that licensed such person has enacted the Uniform Digital Currency Business Act or has digital currency business laws that are substantially similar to those imposed by the laws of this state, as determined by the [superintendent/ commissioner];

(2) the application to the other State contains information substantially similar to or is more comprehensive than that required in an application submitted in this State; and,

(3) the applicant certifies under penalty of perjury that the information contained in the application to the other State remains accurate and that no material litigation or loss of assets that would affect the applicant’s ability to perform its responsibilities under this [act] or its license in the other State has arisen in the time since the applicant filed in the other State.

The [superintendent/ commissioner] has discretion to waive the bond and net worth requirements

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29 Reporter’s Note: Bonding and net worth requirements, while important, also can pose significant barriers to entry by start-ups and are criticized for stifling innovation. The recommendation for section 203 attempt to ensure safety for users without unduly burdening licensees.
otherwise required under this [act] or [rule] implementing it for any reciprocal licensee if the State(s) that granted the license(s) on which reciprocity is based require bonding and net worth requirements that are substantially similar to those required under this [act].

(b) The [superintendent/ commissioner] has discretion to permit provisional registration of any applicant for reciprocal licensure during the period necessary to complete the investigation required by this Section, provided that no provisional registration may be deemed to convey a property interest to any applicant or other right that may be treated as the equivalent of a property interest.

Alternative C

[develop per SAFE Act/NMLS program operated by CSBS if CSBS is willing to provide this support and arrangements can be made] relying on a common application developed with CSBS for this purpose. The text of this Alternative should include any factor shown in Alternatives A or B not otherwise included in the CSBS NMLS program application.]

End of Alternatives

SECTION 204. SECURITY.

(a) Except as otherwise provided in subsection (b), a surety bond, letter of credit, or other similar security acceptable to the [superintendent/ commissioner] in the amount of [amount decided for temporary use] must be provided before any license may be issued.

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30 Reporter’s Note: Bonding and net worth requirements, while important, also can pose significant barriers to entry by start-ups and are criticized for stifling innovation. The recommendation for section 203 attempt to ensure safety for users without unduly burdening licensees.

31 Reporter’s Note: Security is one of the hallmarks of every types of non-depository provider licensure statute in every State.

32 Reporter’s Question: The digital currency community may request that security include a comparable amount in a digital currency. Will the Drafting Committee accept digital currency, perhaps with a multiplier effect to ensure value equivalence is maintained?
(b) Security must be in a form satisfactory to the [superintendent/ commissioner] and payable to the State for the benefit of any claimant against the licensee to secure the faithful performance of the obligations of the licensee with respect to digital currency business activity. In lieu of the security prescribed in subsection (a), the applicant for a license or licensee may provide security in any form specified by the [superintendent/ commissioner] by [rule] or otherwise satisfactory to the [superintendent/ commissioner]. The [superintendent/ commissioner] may permit a licensee to substitute another form of security acceptable to the [superintendent/ commissioner] for the security required under subsection (a) so long as there is no time when the licensee’s activity in this State is not covered by security acceptable to the [superintendent/ commissioner].

(c) The aggregate liability on a surety bond may not exceed the principal sum of the bond.

(d) A claimant against a licensee may maintain an action on the bond, or the [superintendent/ commissioner] may maintain an action on behalf of the claimant.

(e) A surety bond must cover claims for so long as the [superintendent/ commissioner] specifies by [rule], but at least [specified number] of years after the licensee ceases to provide digital currency business services in this State.

(f) The [superintendent/ commissioner] may increase the amount of security required to a maximum of [amount decided by Drafting Committee] if the financial condition of the licensee so requires, as evidenced by reduction of net worth, financial losses, or other criteria to be

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33 Reporter’s Note: This sentence was in subsection (e) to the 2004 Amendments to the UMSA.
34 Reporter’s Note: This subsection differs slightly in its organization from the 2004 Amendments to the UMSA.
35 Reporter’s Note: This subsection differs from the 2004 Amendments to the UMSA, viz., (a) it does not allow for decrease in the amount of security as the value of outstanding transactions being or to be processed in the enacting State is reduced mostly because of the fluctuations in the value of digital currencies that occur, and (b) the last sentence has been moved to subsection (b) of this section and also slightly revised.
prescribed by [rule] by the [superintendent/ commissioner]. Failure of a licensee to provide the additional security required by the [superintendent/ commissioner] shall be grounds for immediate suspension of a licensee or for commencement of a license revocation proceeding.\footnote{36}

SECTION 205. ISSUANCE OF LICENSE.

(a) When an application is filed under Section 202 of this [article], the [superintendent/ commissioner] shall investigate the applicant’s financial condition and responsibility, financial and business experience, character and general fitness; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of the applicant.

(b) The [superintendent/ commissioner] may conduct an on-site investigation of the applicant’s business premises, which may include an investigation of any facilities at and servers on which the applicant proposes to store customer’s digital currency or other digital assets and from which the applicant proposes to transact digital currency businesses on behalf of its customers. The applicant shall pay the reasonable costs of any investigation, physical or virtual, that the [superintendent/ commissioner] may elect to conduct.\footnote{37} No application may be deemed complete for the purposes of this section until the [superintendent/ commissioner] has conducted any on-site investigation or other [virtual storage and capacity] investigations that the [superintendent/ commissioner] may require by [rule] or otherwise.

(c) No original application under Section 202 of this [article] shall be considered

\footnote{36} Reporter’s Note: This sentence is not in the 2004 Amendments to the UMSA, but is needed to clarify the authority of the [superintendent/ commissioner] to act if the licensee fails to provide additional security. Of course, an increase in security under such circumstances may cause the licensee to fail, but the goal is to ensure that the licensee can perform transaction-executions it has undertaken to perform for third parties and have sufficient assets to allow each customer to redeem any digital currency or other digital assets placed with the licensee or otherwise under the licensee’s custody or control.

\footnote{37} Reporter’s Note: It apparently is customary for the responsible state official to set investigation fees by rule, according to the 2004 Amendments to the UMSA.
complete until the [superintendent/ commissioner] has all of the information required by [rule] to
implement the requirements of subsection (a) of this Section and has concluded any
investigations required or allowed by subsection (b) of this Section.
(d) Once an original application under section 202 of this [article] is complete, the
[superintendent/ commissioner] shall notify the application in a record of the date on which the
[superintendent/ commissioner] determined that the application was complete and:
(1) The [superintendent/ commissioner] shall approve or deny the application
within [30] days after that date; or
(2) If the [superintendent/ commissioner] has not approved or denied the
application within [30] days after that date:
(A) The application is deemed approved; and
(B) The [superintendent/ commissioner] shall issue the license under this
[article], which shall take effect on the first business day following expiration of the [30] day
period. 38
(e) The [superintendent/ commissioner] shall issue a license to an applicant under this
[article] if the [superintendent/ commissioner] finds that the applicant has fulfilled all of the
following conditions:
(1) The applicant has complied with the requirements of Section 202 or Section
203;
(2) The [superintendent/ commissioner] has determined that the financial

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38 Reporter’s Note: The 30-day periods recommended for this section are for purposes of discussion. The 2004 Amendments to the UMSA used the 120-day period specified in the MTRA Model Legislation Online. Given the rapid entry into the digital currency business industry and the pace of innovations within that industry, it seemed more appropriate to suggest a shorter period for discussion. In addition, some states have been criticized publicly for slow action on applications for money transmitter licenses and generally slow progress on review of license applications. The 30-day suggestion is an effort to respond to the concerns raised by the industry, and to facilitate a smoother on-ramp for start-ups and those seeking to expand their services to additional jurisdictions.
condition and responsibility, financial and business experience, and character and general fitness of the applicants and other criteria listed in subsection (a) of this section are met; and

(3) The applicant has provided to the [superintendent/ commissioner] the surety bond, letter of credit or other security in the amount and form required by Section 204(a) of this article [or by rule].

(f) The [superintendent/ commissioner] may extend for good cause the application review period from [30] to [60] days for good cause.

(g) An applicant whose application the [superintendent/ commissioner] denied under this article may appeal the denial, within [30] days after receipt of the notice of the denial, and request a hearing.

SECTION 206. RENEWAL OF LICENSE.39

(a) A licensee under this [article] shall pay an annual renewal fee of [discuss suggested amount] if their volume of digital currency business in this State for the prior calendar year was $1,000,000 or less or of [discuss amount twice as high or a scale?] if their volume in this State for the same period was greater than $1,000,001. Payment of the renewal fee shall be made no later than [15] business days before the anniversary of the issuance of the license, or if the last day is not a business day, on the next business day.40

(b) A licensee under this [article] shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the [superintendent/ commissioner]. The renewal report must state or contain:

39 Reporter’s Question: The UMSA requires renewals only biennially rather than annually. They may pose lesser safety and soundness concerns than other licensees. The Drafting Committee could give the [superintendent/ commissioner] discretion to require more frequent reports of licensees whose operations have proved problematic. This is your call.

40 Reporter’s Note: State licensure statutes often require payment of the renewal fee 30 days before the anniversary date. The shorter time period is in line with the increasing number of electronic payments being made to state governments and their more speedy clearing into the regulatory agency’s accounts.
Alternative A

(1) A copy of the licensee’s most recent (A) reviewed annual financial statement if the licensee’s digital currency business activity in this State amounted to $300,000 or less in the prior calendar year, (B) audited annual financial statement if the licensee’s digital currency business activity in this State amounted to $300,000 or more in the prior calendar year, or (C) if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation of the licensee’s most recent audited consolidated annual financial statement; 41

Alternative B

(1) A copy of the licensee’s most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee’s most recent audited consolidated annual financial statement, provided that any licensee whose transfer volume or custody of digital currency on behalf of others did not exceed $500,000 shall only be required to submit a reviewed annual financial statement unless it is a wholly owned subsidiary of another corporation;

End of Alternatives

(2) A description of any material change in condition in the licensee’s business, of any material litigation involving the licensee and plaintiff or defendant, and of any investigation by an federal or state governmental unit or agency involving the licensee;

(3) The number of digital currency business transfers engaged in by the licensee

41 Reporter’s Note: Audit costs tend to be much higher than costs for reviewed financial statements. Some states, particularly Massachusetts, allow public corporations to submit reviewed rather than audited financial statements if the dollar volume of the corporation is below a fixed threshold. This Drafting Committee might make a similar nod to start-up companies.
on behalf of third parties in this State for the most recent[determine number of months] if this
license was first issued in the same fiscal year or for the most recent fiscal year of the licensee,
the number and equivalence in United States dollars of the digital currency transfers or the
amount and equivalence of the digital currency in custody in the month next preceding the
submission of the renewal report, and the number of private keys stored in any Web Wallet
hosted by the licensee for the same month;

(4) The dollar-equivalent of digital currency or digital currency assets held on
behalf of others as of the date [30 days] prior to the date of the renewal report, and the total
number of customers for whom digital currency or digital currency assets were held on the same
date;

(5) A description of each material change in information submitted by the licensee
in its original license application in this State or any other State that has not been reported to the
[supervisor/ commissioner] on a required report or a copy of any report submitted under
previously provided to the [supervisor/ commissioner];

(6) A list of the licensee’s permissible investments and proof that the licensee
continues to maintain permissible investments according to requirements set forth in Sections
[701 and 702];

(7) Proof that the licensee continues to maintain adequate security as required by
Section 204;

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42 Reporter’s Notes: The 2004 Amendments to the UMSA require a certification, not proof, of the maintenance of permissible investments. Certifications in some environments are only as good as the paper or electronic medium they were written on yesterday in many cases. It would seem proof – the higher standard—is the preferable means of obtaining the user protections that both permissible investments and adequate security were intended to provide. Is there any method other than a certification that would satisfy the Drafting Committee? Certifications in some environments are only as good as the paper or electronic medium they were written on yesterday in many cases
(8) A list of the locations in this State where the licensee engages in digital
currency business activity or where the licensee operates any servers for the hosting of Web
Wallets or the conduct of its business or the provision of services to third parties; and,

(9) Notice of any data security breach, specifying the number of customers that
may be affected and the dollar-value of any digital currency or digital assets that may have been
lost or compromised since any prior report to the [superintendent/ commissioner].

(c) If a licensee does not file a renewal report or pay its renewal fee by the renewal date
or any extension of time granted by the [superintendent/ commissioner], the [superintendent/
commissioner] shall suspend the license and notify the licensee. Unless the licensee files the
renewal fee and pays the renewal fee, whichever it had failed to do, before the expiration of 10
days after the notice of suspension is sent, the licensee’s license is suspended at the beginning of
the 11th day after the notice of suspension was sent. The suspension may be lifted if, within 20
days after the license suspended, the licensee:

(1) [files the report and] pays the renewal fee; and

(2) pays a fine not to exceed [amount to be determined] for each day after

suspension and prior to the date that the licensee provides the information and reports, as well as
the renewal fee required, to the [superintendent/ commissioner].

(d) The [superintendent/ commissioner] may for good cause grant an extension of the
renewal date.

(e) The licensee may provide the same annual renewal report for this State that it may be
required to prepare for any other State from which it holds a license to the extent that the laws of

43 Reporter’s Question: the 2004 Amendments to the UMSA allowed reinstatement of the license if within 20 days
after the superintendent/ commissioner suspends the license, the licensee files the renewal report or pays the renewal
fee -- whichever it had failed to do on time -- and pays a $100 per day after suspension fee. This seems to invite
delays.
that State are substantially similar to the laws of this State, except with respect to the report that
relates to services provided in this State.

[SECTION 207. NET WORTH [CAPITAL REQUIREMENTS].] A licensee under
this [article] shall demonstrate and maintain a net worth of at least [specify amount] determined
in accordance with generally accepted accounting principles.]\(^{44}\) Provisional registrants under this
[article] must meet any net worth requirements set by the [superintendent/ commissioner] under
this Section prior to being issued any license under this [article]. ]\(^{45}\)

ARTICLES 3, 4, AND 5

RESERVED

[SEE TABLE OF CONTENTS
FOR POSSIBLE CONTENT OF THESE THREE ARTICLES]

ARTICLE 6

EXAMINATIONS; REPORTS; RECORDS

SECTION 601. AUTHORITY TO CONDUCT EXAMINATIONS.

(a) The [superintendent/ commissioner] may conduct an annual examination of a licensee
or of any of its facilities or servers upon [decide number of] days’ notice to the licensee. \(^{46}\)

(b) The [superintendent/ commissioner] may examine a licensee at any time, without
notice, if the [superintendent/ commissioner] has reason to believe that the licensee is engaging

\(^{44}\) Reporter’s Note: As with the 2004 Amendments to the UMSA, some states may prefer to use net worth as part of
their safety and soundness protections and others may rely on bonding and other security requirements. States
should choose among combinations of security, net worth, and permissible investment requirements as prudential
safeguards, according to choices they have made for money transmission, check cashing or currency exchange
regulatory purposes.

\(^{45}\) Reporter’s Question: This requirement is bracketed in the 2004 approved amendments to the UMSA. Please
provide guidance on how the Drafting Committee would like to handle this requirement after experience with it.
Also, note that I have added a sentence covering net worth requirements to be required of provisional registrants
(persons applying for reciprocal licensure), above.

\(^{46}\) Reporter’s Note: The UMSA provides a 45-day advance notice of an examination. Other non-depository
providers licensed by States can be subject to spot examinations. The Drafting Committee should decide whether to
continue the 45-day notice requirement, to select a shorter advance notice period, or to permit spot examinations if
deemed necessary in the [superintendent/ commissioner’s] judgment.
in an unsafe or unsound practice or has violated or is violating this [act] or a rule adopted or an order issued under this [act].

(c) If the [superintendent/ commissioner] concludes that an on-site examination is necessary under subsection (a), the licensee shall pay the reasonable costs of the examination.

(d) Information obtained during an examination under this [act] may be disclosed only as provided in Section 607.

SECTION 602. COOPERATION AND DATA-SHARING AUTHORITY.

Alternative A

(a) [Objective of cooperation.] Subject to section 607 and under terms consistent with applicable laws concerning privacy and data protection, the [superintendent/ commissioner] may cooperate, coordinate, jointly examine, consult and share records and information with the [superintendent/ commissioner] of one or more other States, a self-regulatory organization (should one be created), a federal or state regulator of banking and non-depository providers, and a government law enforcement agency concerning the affairs of any licensee under this [act].

(b) [Policy to consider.] In cooperating, coordinating, jointly examining, consulting, and sharing records and information under this section, the [superintendent/ commissioner] may consider the desirability of:

(1) Maximizing effectiveness of regulation and examination for the benefit of consumers;

(2) Maximizing uniformity in federal and state regulatory standards and their implementation and enforcement;

(3) Minimizing burdens on licensees, without adversely affecting consumer protection goals.
(c) [Subjects for cooperation.] This section authorizes cooperating, coordination, joint examinations, consultation and sharing of records and information for the following purposes:

1. Establishing or employing one or more designees as a central depository for filings required under this [act] and or records or reports required or allowed to be maintained under this [act];
2. Developing, maintaining and storing uniform forms for initial applications, renewals and other reports, and other purposes related to this [act];
3. Conducting joint examinations or investigations;
4. Holding joint administrative hearings;
5. Instituting and prosecuting joint civil or administrative proceedings;
6. Sharing personnel and maximizing their effectiveness in carrying out responsibilities under this [act];
7. Coordinating requirements for reciprocal licensing under section 203;
8. Sharing and exchanging records, subject to restrictions contained in section 607 (confidentiality);
9. Formulating rules, statements of policy, guidelines, and interpretative opinions and releases;
10. Formulating common systems and procedures;
11. Notifying the public of proposed rules, forms, statements of policy and guidelines; and,
12. Cooperating with other federal and state non-depository and bank regulators to promote or achieve uniformity.
Alternative B

The [superintendent/ commissioner] is authorized and directed to consult and cooperate with other State and Federal regulators of banks and non-depository providers to maintain compliance with this [act] and to promote consumer protection. The [superintendent/ commissioner] may pursue joint examinations and investigations, and take other official action, as may be appropriate, with any other State or Federal official similarly authorized to undertake examinations or investigations or to take action.

SECTION 603. REPORTS.

(a) A licensee shall file with the [superintendent/ commissioner] within 15 business days any material change in information provided in the licensee’s application for license to this [State].

(b) A licensee shall file with the [superintendent/ commissioner] within 15 business days of any of the following occurrences and subject to the discretion of the [superintendent/ commissioner] to expand the following: a change of physical location or of the physical location of any server used in the licensee’s business that is under the licensee’s exclusive control, a change in the business model used by the licensee to perform digital currency transfers for third parties, a change in the officers, directors, principal shareholders or responsible individuals of the licensee’s digital currency transfer business together with the names and physical addresses of each new individual in any such capacity, and a change in the type of digital currencies being utilized by the licensee or being offered to customers.

SECTION 604. CHANGE OF CONTROL.

SECTION 605. RECORDS.

(a) A licensee shall maintain the following records for determining compliance with this
[act] for a period of at least [three] years:

(1) A record of each digital currency transfer made by the licensee on behalf of a customer or on its own account, including the identification of the customer provided, form of transfer, amount, date, location, and block chain information;

(2) A record of each customer who places into custody with the licensee any digital currency or digital assets governed by this [act] and the number or value of the units of digital currency or digital assets placed into custody;

(3) A record of the Internet Protocol (IP) address of the customer at the time the customer requests that the licensee make a digital currency transfer on the customer’s behalf under subparagraph (a)(1) or at the time the customer places into custody or redeems digital currency or digital assets from the licensee;

(4) A record of all cryptographic signatures employed by the customer or the licensee in connection with transactions governed by subparagraphs (a)(1) or (a)(2) of this section;

(5) A record of the aggregate transaction values and volumes exchanged into digital currency or digital assets or from digital currency including transactions from United States dollars or other money of one or more Governments to digital currency, or from digital currency to United States dollars or money of one or more Governments, made by the licensee, showing the type(s) of digital currency or digital asset and whether the exchange was for United States dollars or other money aggregated for each type of digital currency and for United States dollars or other money;

(6) A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts for the licensee;
(7) A copy of each business call report that the licensee may be required to create and provide to the [superintendent/ commissioner] under any requirement of this [State] or the Nationwide Mortgage Licensing System;

(8) Bank statements and bank reconciliation records for the licensee and the name, account numbers and physical addresses of the banks used by the licensee in the conduct of its business in this [State] or outside it; and,

(9) A record of any digital currency transfer or digital currency or digital asset held by the licensee in custody for a customer that is the subject of a dispute or that the licensee has been unable to complete for any reason.

(b) The items specified in subsection (a) may be maintained in any form of record in addition to the form of record in which any such record was originally made.

(c) Records may be maintained outside this [State] so long as they are made accessible to the [superintendent/ commissioner] on [seven] business-days’ notice that is communicated in a record.

(d) All records maintained by the licensee that are required by this [act] are open to inspection by the [superintendent/ commissioner] pursuant to Section 601.

SECTION 606. MONEY LAUNDERING REPORTS.

(a) A licensee shall comply with all federal or state laws with response to the detection and deterrence of money laundering, economic sanctions, or terrorist finance violations, shall file all reports required by federal cash or currency transaction reporting, record keeping, and suspicious activity transaction reporting as set forth in titles 26 or 31 of the United States Code 5311 (1994), 31 C.F.R. Part X (2013), and other federal or state laws pertaining to money laundering, economic sanctions or terrorist financing.
(b) The timing filing of a complete and accurate report required under subsection (a) with the appropriate federal agency or, as may be required under other laws of this [State] with the appropriate agency of this [State], is compliance with the requirements of subsection (a), unless the [superintendent/commissioner] notifies the licensee that the licensee is not regularly and comprehensively filing reports as required by subsection (a).

SECTION 607. CONFIDENTIALITY.

(a) Except as otherwise provided in subsection (b), all information or reports obtained by the [superintendent/commissioner] from an applicant or licensee and all information contained in or related to an examination, investigation, operating or condition report prepared by, on behalf of, or for the use of the [superintendent/commissioner], trade secrets, balance sheets and other financial and operational information not contained in any report not otherwise available to the public, are confidential and are not subject to disclosure under [this State’s open records law].

(b) The [superintendent/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 [superintendent/commissioner] finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee is given advance notice by the [superintendent/commissioner] of its intent to release the information, provided that additional advance notice shall be required before any release of any trade secret(s) of the licensee under this subsection.

(c) This section does not prohibit the [superintendent/commissioner] from disclosing to the public a list of persons licensed under this [act] or the aggregated financial data concerning those licensees.
SECTION 608. COMPLIANCE WITH STATE ESCHATEMENT LAWS.

[THIS PROVISION NOT YET DRAFTED; CHAIRMAN MILLER AND DRAFTING COMMITTEE TO CONSULT WITH DRAFTING COMMITTEE ON UNCLAIMED PROPERTY.]

ARTICLE 7

PERMISSIBLE INVESTMENTS

SECTION 701. MAINTENANCE OF PERMISSIBLE INVESTMENTS.

(a) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all outstanding digital currency transfers it has been instructed to make by the [owners or a substitute term] of the private keys identifying the addresses of the digital currency to be transferred and of all digital currency private keys it has in its custody through a web wallet, digital vault, or any similar device or software offered by the licensee, whichever or both may comprise the licensee’s business model(s).

(b) The [superintendent/ commissioner], with respect to any licensee, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit in a bank. The [superintendent/ commissioner] by rule may prescribe or by order allow other types of investments that the [superintendent/ commissioner] determines to have a safety substantially equivalent to other permissible investments, including in a combination of cash, digital currency, or high-quality, highly liquid, investment-grade assets, in such proportions as are acceptable to the [superintendent/ commissioner] taking into account the licensee’s business model(s) and risk(s), but not excluding from any calculation like-kind reserves required to effect transfers or redemption of cryptographic keys or other digital value stored in any web wallet, vault, or
similar device or software by the licensee. The [superintendent/ commissioner] shall consider as acceptable methods of reserves under this [article] all of the following: cryptographic proof of reserves, independently audited reserve accounts, segregated accounts of money or digital currency, or funds or digital currency held by third parties.

(c) In determining the types of permissible reserves, the [superintendent/ commissioner] of this [State] shall consult with the [superintendent/ commissioner] of any other [State] that has licensed the same digital currency business to ensure that digital currency businesses’ reserves are treated consistently.

(d) The [superintendent/ commissioner] in determining the minimum amount of capital/net worth to be required of any licensee may consider factors such as:

(1) the composition of the licensee’s total assets, including the position, size, liquidity, risk exposure, and price volatility of each type of asset;

(2) the composition of the licensee’s total liabilities, including the size and repayment timing of each type of liability;

(3) the actual and expected volume of the licensee’s digital currency business activity;

(4) whether the licensee is already licensed or regulated by the [superintendent/commissioner] as a provider of a financial product or service, and whether the licensee is in good standing in such capacity;

(5) the amount of leverage employed by the licensee;

(6) the financial protection, if any, that the licensee provides for its customers through its trust account, bond, insurance, or otherwise;

(7) the types of entities to be serviced by the licensee; and,
(8) the types of products or services to be offered by the licensee.

(e) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of its customers in the event of a bankruptcy or receivership of the licensee.47

SECTION 702. TYPES OF PERMISSIBLE INVESTMENTS. [Subsection 702(a) of the 2004 Amendments to the UMSA contains explicit provisions on a wide variety of types of permissible investments. Subsection 702(b) permits the [superintendent/ commissioner] to prescribe the extent to which certain forms of permissible investments may be included in the total of permissible investments required of a licensee, specifically including receivables. The Drafting Committee should consider, and provide instruction, on whether it wants this working draft to follow the UMSA or to be more flexible, as the CSBS Framework recommends.]

ARTICLE 8
ENFORCEMENT

SECTION 801. SUSPENSION AND REVOCATION; [RECEIVERSHIP].

SECTION 802. ORDERS TO CEASE AND DESIST.

SECTION 803. CONSENT ORDERS.

SECTION 805. CIVIL PENALTIES.

SECTION 806. CRIMINAL PENALTIES.

SECTION 807. UNLICENSED PERSONS.

SECTION 808. AUTHORITY TO REMOVE OFFICERS AND DIRECTORS.

[Provisions to address relatively standard enforcement authorities of departments and

47 Reporter’s Note: The CSBS Model Regulatory Framework recommends regulators “should follow the same procedures [for resolving failures of digital or virtual currency companies] as for resolving failed money transmitters.” CSBS, at 8. It also observes that adequate tools exist “for dealing with distressed or failed companies.” Id.]
superintendents or commissioners are included in the Final BitLicense Regulation and in the
CSBS Model Regulatory Framework and text of the 2004 Amendments to the USMA.
Assuming the familiarity of the Drafting Committee with the texts of such provisions, they are
not included in this initial working draft.]

ARTICLE 9

ADMINISTRATIVE PROCEDURES AND POWERS OF THE [SUPERVISORY
AGENCY OR SENIOR SUPERVISORY OFFICER]

SECTION 901. ADMINISTRATIVE PROCEEDINGS. All administrative
proceedings under this [act] must be conducted in accordance with [the state administrative
procedures act].

SECTION 902. HEARINGS. Except as otherwise provided in Sections 205(c), 803,
and 807, the [superintendent/ commissioner] may not suspend or revoke a license, [place a
licensee in receivership,] issuance an order to cease and desist, or assess a civil penalty without
notice and an opportunity to be heard. The [superintendent/ commissioner] also shall hold a
hearing when requested to do so by an applicant whose application for a license the
[superintendent/ commissioner] has denied.

ARTICLE 10

DISCLOSURES AND USER PROTECTIONS; CYBERSECURITY PROGRAMS AND
MONITORING; BUSINESS CONTINUITY AND DISASTER RECOVERY PROGRAMS

SECTION 1001. REQUIRED DISCLOSURES.48

(a) Each licensee shall provide each customer, including consumer and enterprise

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48 Reporter’s Note: This provision closely follows both the CSBS Model Regulatory Framework and the Final
BitLicense Regulation’s recommendations and provisions on disclosures; it is not as detailed as the BitLicense
analog.
customers, with such disclosures as the [superintendent/commissioner] may prescribe by rule
pursuant to this section.

(b) Such disclosures shall include, at a minimum,

(1) A disclosure of whether the digital currency is covered by a form of insurance
or otherwise guaranteed against loss by any governmental agency, including the Federal Deposit
Insurance Corporation or the Securities Investor Protection Corporation, up to the [full
equivalent in United States dollars or in the same form of digital currency] of the digital currency
placed with the licensee or purchased from the licensee on the date of the placement or purchase,
and that any bond or trust account maintained by a licensee for the benefit of its customers may
not be sufficient to cover all losses by users;

(2) A disclosure that digital currency is not legal tender, and that its value may
fluctuate unlike legal tender;

(3) A disclosure that digital currency transfers may be irreversible, and,
accordingly, losses due to fraudulent or accidental transactions may not be recoverable;

(4) A disclosure that legislative and regulatory changes may affect the value after
the use, transfer, and exchange of digital currency, and a disclosure that market participants that
take digital currency in payment for goods or services or in exchange for other digital currencies
or money may not continue to do so in future;

(5) A disclosure that the nature of digital currency and unpredictability of its
value relative to legal tender or other digital currency may result in a significant loss of value
over a short period of time; and,

(6) A disclosure that the date on which a digital currency transfer or digital is
made so that the user’s account may be debited may differ from the date or time that the user
initiates the instruction to transfer or makes a transfer of digital currency.

(c) The timing of provision of disclosures to be made pursuant to this section shall include:

(1) When opening an account for a customer, and prior to the initial transactions for, on behalf of, or with a customer, each licensee shall disclose all relevant terms and conditions associated with the products, services, and activity generally and digital currency specifically, at a minimum, the following:

(A) The customer’s liability for unauthorized or erroneous digital currency transfers and transactions;

(B) The customer’s right to stop payment of a pre-authorized digital currency transfer and the procedure to initiate a stop-payment order;

(C) Any circumstances under which, absent a court or government order, the licensee may disclose information concerning the customer’s account to third parties;

(D) The customer’s right to receive periodic statements and valuations from licensee;

(E) The customer’s right to receive a receipt, trade ticket, or other evidence of the transfer or transaction;

(F) The customer’s right to prior notice of a change in licensee’s rules or policies; and

(G) Such other disclosures as are customarily given in connection with the opening of customer accounts.

(2) Prior to each transactions in digital currency or digital assets, for, on behalf of, or with a customer, each licensee shall furnish to the customer the following disclosures:
(A) The amount of the transaction;
(B) Any fee, expense, and charge to be borne by the customer, including applicable exchange rates;
(C) The type and nature of digital currency transaction;
(D) A warning that once executed the transaction may not be reversed, if applicable; and
(E) Such other disclosures as are customarily given in connection with a transfer or transaction of this nature.

(d) Licensees shall make any disclosures required to be made under this section clearly and conspicuously and in a legible record in the English language and in any language predominantly used by the licensee to communicate with its customers.

(e) Licensees shall ensure that all disclosures required by the Section are acknowledged as received by customers.

SECTION 1002. RECEIPTS.

(a) Upon completion of any transfer or transaction, the licensee shall provide a receipt to each customer. Such receipts shall contain all of the following information:

(1) The name and contact information of the licensee, including a telephone number established by the licensee to answer questions and receive complaints;
(2) The type, value, date, and precise time of the transfer or transaction;
(3) The fee charged;
(4) The exchange rate, if applicable;
(5) A statement of the licensee’s liability for non-delivery or delayed delivery;

49 Reporter’s Note: This section relies heavily on section 200.19 of the Final BitLicense Regulation.
(6) A statement of the licensee’s liability for erroneous transfers or transactions;

(7) A statement of the refund policy of the licensee; and,

(8) Any additional information the [superintendent/commissioner] may require.

(b) Each licensee shall make available to the [superintendent/commissioner] the form of
receipts it uses to comply with this section.

SECTION 1003. CONSUMER PROTECTION POLICIES AND PROCEDURES.

(a) Each licensee shall establish and maintain written consumer protection policies and
procedures to implement the consumer protection and disclosure requirements of this [act].

(b) Each licensee shall report to the [superintendent/commissioner] any change in the
licensee’s consumer protection policies and procedures within seven (7) days of making any
change.

SECTION 1004. RELATION TO OTHER FEDERAL CONSUMER
PROTECTION, COMMODITIES TRADING, AND SECURITIES TRADING LAWS.50

This [article] does not apply to a transfer any part of which is governed by the Electronic
U.S.C. §§ 1-27f (2013)).

SECTION 1005. COMPLAINTS.51

(a) Each licensee shall establish and maintain written policies and procedures to resolve
complaints on a fair and timely manner.

50 Reporter’s Note: The location of this relation to other laws provision and its mention of the term “article” instead of “act” is intended to restrict the carve out to the User Protections in Article 10 of this initial working draft. The Drafting Committee may decide to relocate this provision or to expand it.

51 Reporter’s Note: This provision is modeled after the Final BitLicense Regulation, § 200.21(a)-(c). Those provisions are similar to the thrust of the CSBS Framework on Complaints and Error Resolution. CSBS Model Regulatory Framework, at 13. Subsection (d) is based on other consumer protection compliance statutes.
(b) Each licensee shall provide, in a clear and conspicuous manner, on its website or websites, in all physical locations that its customers may access to do business with it, and in any other location or medium that the [superintendent/ commissioner] may prescribe, the following disclosures:

(1) The licensee’s mailing address, email address, and telephone number for the receipt of complaints;

(2) A statement that the complainant also may bring his or her complaint to the attention of the [department];

(3) The Department’s mailing address, website, and telephone number; and

(4) Such other information as the [superintendent/ commissioner] may require.

(c) Each licensee shall report to the [superintendent/ commissioner] any change in the licensee’s complaint policies or procedures within seven (7) days of making any change.

(d) Each licensee shall retain records of all complaints received for a period of [three] years from the date of receipt and records of the disposition or resolution of each complaint for three years from the date of the disposition or resolution.

SECTION 1006. CYBERSECURITY PROGRAMS AND MONITORING.

[This section should be added to the working draft once consultation with the CSBS can be conducted. It may rely on the requirements stated in section 200.16 of the Final BitLicense Regulation.]

SECTION 1007. BUSINESS CONTINUITY AND DISASTER RECOVERY PROGRAMS.52

(a) Each licensee shall establish, monitor and maintain a written business continuity and

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52 Reporter’s Note: This provision relies heavily on the text of section 200.17 of the Final BitLicense Regulation.
disaster-recovery program reasonably designed to ensure the availability and functionality of the
licensee’s services in the event of an emergency or other disruption of the licensee’s normal
business activities. The program, at a minimum, shall:

(1) Identify documents, data, facilities, infrastructure, personnel, and
competencies essential to the continued operations of the licensee’s operations;

(2) Identify the supervisory personnel responsible for implementing and
monitoring the program;

(3) Include a plan to communicate with supervisory personnel or other personnel
essential to the implementation of the program, and with counterparties, regulatory authorities,
data and communications providers, disaster recovery specialists, and other persons essential to
the recovery of data and resumption of operations;

(4) Include procedures for the maintenance of back-up facilities, systems and
infrastructure as well as appropriate staffing to enable timely recovery of data and documentation
and to resume operations as soon as reasonably possible following any disruption to normal
business activities and customer access to digital currency transfers and digital assets in the
licensee’s custody or control;

(5) Include procedures for the back-up of documents and data essential to the
operation of the licensee and storing of information off-site; and

(6) Identify third parties that are necessary to the continued operations of the
licensee’s business, including providers of electrical supply, and the alternative sources of
electrical supply or other services that licensee is ready to employ to resume operations as soon
and reliably as possible.

(b) Each licensee shall distribute a copy of the program required by this section to all
employees whose duties are relevant to the program and shall maintain copies of the program’s content at one or more accessible off-site locations.

(c) Each licensee shall provide training to all employees on the program required by this section and shall re-train employees at suitable intervals or whenever licensee changes any material aspect of the program.

SECTION 1008. PREVENTION OF FRAUD. Licensees are prohibited from engaging in fraudulent activity. Additionally, each licensee shall take reasonable steps to detect and deter fraud, by establishing, monitoring, and maintaining a written anti-fraud policy. The anti-fraud policy, at a minimum, shall include:

(a) The licensee’s identification and assessment of risks of its business operations related to fraud;

(b) Procedures and controls to protect against identified risks;

(c) Allocation of responsibility for monitoring and addressing risks;

(d) Procedures for periodic evaluation and revision of the anti-fraud procedures, controls, and monitoring mechanisms.

ARTICLE 11

COMPLIANCE

SECTION 1101. LICENSEE REQUIRED TO COMPLY WITH APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS. Each licensee shall comply with all applicable federal and state laws, rules, and regulations.

SECTION 1102. COMPLIANCE POLICY. Each licensee shall maintain and enforce written compliance policies, including policies with respect to anti-fraud, anti-money laundering,

53 Reporter’s Note: This provision relies heavily on the text of section 200.19(g) of the Final BitLicense Regulation.
cybersecurity, customer privacy and information security, and any other policy required by this
[act], which must be reviewed and approved by the licensee’s board of directors or an equivalent
governing body.

SECTION 1103. COMPLIANCE OFFICER. Each licensee shall designate a qualified
individual or individuals to be responsible for coordinating and monitoring compliance with this
[act] and all other applicable federal and state laws, rules, and regulations.

ARTICLE 12

MISCELLANEOUS PROVISIONS

SECTION 1201. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this Uniform Act, consideration must be given to the need to
promote uniformity of the law with respect to its subject matter among the States that enact it.

SECTION 1202. SEVERABILITY CLAUSE. If any provision of this [act] or its
application to any person or circumstance is held invalid, the invalidity does not affect other
provisions or applicability of this [act], which can be given effect without the invalid provision
or application, and to this end the provisions of this [act] are severable.

SECTION 1203. EFFECTIVE DATE. This [act] takes effect . . . .

SECTION 1204. REPEALS. The following Acts and parts of Acts are repealed:

(1) . . . .

(2) . . . .

(3) . . . .
SECTION 1105. SAVINGS AND TRANSITIONAL PROVISIONS.

Alternative A

(a) A license issued under [name of existing statute(s) repealed under Section 1104 that is in effect immediately before [effective date of this Act] remains in effect as a license under [name of existing statute(s) repealed under Section 1104 until the license’s expiration date. Thereafter, the licensee is deemed to have applied for and had received a license under this [act] and must comply with the renewal requirements set forth in this [act] to the extent that the existing license relates to the same or similar types of products and services governed by this [act].

(b) This [act] applies to the provision of digital currency transfer businesses on or after the effective date of this [act]. [The Drafting Committee should discuss how it wants to handle the transfer options from an existing money services or money transmitter license to a digital business transfers licenses, and the extent to which it wants to retain the remaining provisions in Section 1005 of the 2004 Amendments to the UMSA.]

Alternative B

(a) To the extent that a person engaged in Digital Currency Transfers Business Activity on the enactment date of this [act] is not violating another [statute or money services or money transmitter statute] of this [State], a person already engaged in Digital Currency Business Activity in this [State] on the enactment date of this [act] must apply for a license in accordance with the licensure requirements of Article 2 of this [act] within [BitLicense used 45 days] of the

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54 Reporter’s Note: The CSBS Model Regulatory Framework expressed a goal of avoiding the duplication of licensure for persons already providing one or more forms of regulated financial products or services as licensed providers by the State in question.
55 Alternative B is adapted from Section 200.21 of the Final BitLicense Regulation, but it is not a verbatim presentation of that section.
date of enactment of this [act]. Applicants who comply with the filing requirements of this
subsection shall be deemed in compliance with the licensure requirements of this [act] until the
applicant has been notified by the [superintendent/commissioner] that its application has been
denied. If an application is denied, the former applicant shall cease operating in this State
immediately and doing business with residents of this [State]. Any person engaged in Digital
Currency Transfers Business Activity that fails to submit an application for license within 45
days of the date of enactment shall be deemed to be conducting unlicensed Digital Currency
Transfers Business Activity.

End of Alternatives