

STATE OF GEORGIA DEPARTMENT OF BANKING AND FINANCE



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BRIAN KEMP
GOVERNOR

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COMMISSIONER

***SPECIAL EDITION
IMPORTANT NOTICE
PROPOSED RULEMAKING
MAY 13, 2026***

**NOTICE OF PROPOSED RULEMAKING
AND
OPPORTUNITY TO COMMENT**

**PROPOSED ENACTMENT OF RULES AND REGULATIONS
BY
DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA**

To all interested persons:

Pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., and by the authority of O.C.G.A. §§ 7-1-61, 7-1-690, 7-1-1012, 7-3-51, 7-9-13, 7-10-11, and other cited statutes, the Department of Banking and Finance hereby gives notice of its intent to adopt new rules.

A synopsis and purpose precedes the proposed rules.

Comments to the Department of Banking and Finance must be received by the close of business on **Friday, June 12, 2026**. Please send all comments to:

Amy L. Patterson, Deputy Commissioner for Legal Affairs
Georgia Department of Banking and Finance
2990 Brandywine Road, Suite 200
Atlanta, GA 30341-5565
Fax: (770) 986-1654 or 1655
Email: apatterson@dbf.state.ga.us

The Department shall review all comments, may contact commenters to discuss their suggestions, and, after the comment period has closed, intends on promulgating final rules. The Department will consider the proposed new rules for adoption at a meeting **at 10:00 a.m. on Tuesday, June 16, 2026**, at the offices of the Department of Banking and Finance at Suite 200, 2990 Brandywine Road, Atlanta, Georgia 30341. Notice and a copy of the final rules adopted will be e-mailed to individuals who have made a special request and will be made available on our website at <http://dbf.georgia.gov>. Other interested parties may receive a copy of the final rules by contacting the Department at (770) 986-1633, after **Tuesday, June 16, 2026**.

2026 Rules and Regulations

Proposed Changes: Synopsis, Purpose and Background

80-1-1-.11 Acquisition of Voting Control of Large Financial Institutions

The proposed amendment updates the citation to the Code of Federal Regulations in subsection (3) to accurately reflect the section that defines “tax-qualified employee stock benefit plan.”

Economic Impact: None. This change does not reflect any practical change for financial institutions or create any new compliance burden.

80-1-8-.01 Dormant Accounts: Service Charges

The proposed amendment clarifies the timeframe during which a financial institution can charge a dormant account service or maintenance charge. Specifically, the amendment clarifies that such charge may only be assessed after the account has been dormant for at least twelve months and that such charge may not be assessed for more than twelve months.

Economic Impact: None. This change does not reflect any practical change for financial institutions or create any new compliance burden.

80-2-12-.02 Real Estate Loans

The proposed amendment updates the citation to the Code of Federal Regulations in subsection (3) to refer to the entire Part that explains “a written estimate of market value.”

Economic Impact: None. This change does not reflect any practical change for financial institutions or create any new compliance burden.

80-3-4-.01 Administrative Fines

The proposed amendment establishes fines and penalties for violations of laws or rules specific to virtual currency kiosk operators, including: a \$1,000 fine for failing to provide consumers with disclosures as required by law; a \$1,000 fine for failing to provide consumers with receipts as required by law; a \$5,000 fine for charging a fee, commission, or spread above the amount authorized by law; a \$10,000 fine for failing to prevent consumers from transacting over the maximum daily transaction limit provided by law; a \$5,000 fine for failing to provide a refund as required by law; and a \$1,000 fine for failing to comply with additional requirements laid out in law.

Economic Impact: The 2025 FBI Internet Crime Report, available at <https://www.fbi.gov/news/press-releases/cryptocurrency-and-ai-scams-bilk-americans-of-billions>, reported that, across the country, Americans lost over \$389 million through virtual currency kiosks. The requirements enacted by HB 945 (and reflected in Rule 80-3-1-.07, below) were designed to prevent these consumer losses and to provide Georgians with recourse when they do lose money through a virtual currency kiosk. These requirements are only effective if the Department can enforce virtual currency kiosk operators to comply with them. The Department has determined that an effective means of requiring compliance is to have a fine structure for individual requirements, consistent with the existing approach in Rule 80-3-4-.01.

For virtual currency kiosk operators that comply with the requirements of HB 945, there will be no economic impact to this Rule. To the extent that virtual currency kiosk operators do not comply with the requirements, the potential economic impact to Georgians significantly outweighs the economic impact to the virtual currency kiosk operators who do not operate in compliance with Georgia law.

80-3-1-.07 Virtual Currency Kiosks

The proposed rule establishes requirements for virtual currency kiosks. First, the proposed rule establishes the format in which virtual currency kiosk operators must report their locations to the Department, as required by O.C.G.A. § 7-1-699.10(9). Second, the proposed rule requires that virtual currency kiosk operators provide refunds required by O.C.G.A. § 7-1-699.9 in fiat currency in a manner selected by the consumer. Third, the proposed rule requires that virtual currency kiosk operators maintain a contractual relationship with an existing third party blockchain analysis firm, as required by O.C.G.A. § 7-1-699.10. Finally, the proposed rule requires that virtual currency kiosk operators have policies and procedures that include a risk-based method of monitoring consumers.

Economic Impact: None. These requirements mirror the statutory requirements enacted by HB 945. To the extent that there is an economic impact, it because of the underlying legislation, not the rules. As such, there will be no economic impact to this proposed rule.

80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, Installment Lenders, and Litigation Financiers; Due Dates

The proposed amendment provides that litigation financiers shall pay an annual renewal registration fee of \$1,000.

Economic Impact: \$1,000/year for registrants. HB 945 created a requirement that litigation financiers need to renew their registration each year, and the \$1,000 fee is half of the initial registration fee that litigation financiers pay pursuant to existing rules. This represents a modification from the Department's existing approach, where the initial and renewal fees are identical. This reduction is due to the fact that litigation financiers obtain a registration, not a license, from the Department.

80-12-2-.10 Approval of Executive Officers, Directors, Principal Shareholders, and Control Persons of MALPB Applicant and Proposed Holding Company of Applicant

The proposed amendment removes the requirement that executive officers, directors, principal shareholders, and control persons of MALPB applicants and holding companies of applicants provide a credit report that is "obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f)."

Economic Impact: None. This change does not reflect any practical change for financial institutions or create any new compliance burden.

80-12-4-.07 Compliance with Other Requirements

The proposed amendment removes the requirement that an MALPB provide a filed suspicious activity report to the Department when such report is filed. Additionally, the proposed amendment establishes a requirement that an MALPB remain in substantial compliance with each payment card network's risk program that the MALPB participates in.

Economic Impact: The removal of the requirement to provide filed suspicious activity reports to the Department contemporaneously with filing will lower the compliance burden on MALPBs and will have a positive economic impact on MALPBs as it should result in lower compliance costs. The creation of the requirement to comply with the risk program of the payment card networks, while a new regulatory requirement, is an existing requirement of the payment card networks. Thus, there will be no economic impact on MALPBs that was not already present from the MALPB's existing relationship with the payment card networks.

80-12-5-.05 Minimum Requirements for Books and Records

The proposed rule adds a requirement that MALPBs maintain records related to compliance with payment card network risk programs.

Economic Impact: As discussed above for Rule 80-12-4-.07, there is no economic impact to the requirement to comply with the payment card network risk programs. To the extent that there is any economic impact for MALPBs, it would be a de minimis cost to ensure that the MALPBs maintain the records related to such compliance in the form required by Rule 80-12-5-.05.

80-12-10-.01 Change in Director, Executive Officer, Principal Shareholder, or Control Person of MALPB

The proposed amendment removes the requirement that executive officers, directors, principal shareholders, and control persons of MALPBs provide a credit report that is "obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f)" in connection with changes in control of the MALPB.

Economic Impact: None. This change does not reflect any practical change for MALPBs or create any new compliance burden.

80-12-11-.02 Change in Director, Executive Officer, Principal Shareholder, or Control Person of Holding Company

The proposed amendment removes the requirement that executive officers, directors, principal shareholders, and control persons of MALPB holding companies provide a credit report that is "obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f)" in connection with changes in control of the MALPB holding company.

Economic Impact: None. This change does not reflect any practical change for MALPBs or create any new compliance burden.

80-14-1-.02 Location Managers

The proposed amendment changes the timeframe for licensees to submit an application for approval of a new branch manager from 15 days to 30 days.

Economic Impact: As it extends the timeframe to submit certain required applications, this change will either have no economic impact or lower the economic burden as it reduces the compliance burden for licensees.

80-14-2-.02 Minimum Requirements for Books and Records

The proposed amendment adds a new requirement that licensees maintain records of confirmed or suspected fraud related to unsolicited live checks, including any investigation and the resolution of the confirmed or suspected fraud.

Economic Impact: While this rule creates a new recordkeeping requirement for installment lenders, it must be read in conjunction with the proposed changes to Rule 80-14-5-.04. As described below, the Department is removing an existing requirement for installment lenders to provide reports on certain information about fraud related to the use of unsolicited live checks in Rule 80-14-5-.04. However, the Department will still review such information during the examination of the installment lender. Ultimately, there is no economic impact to the change to Rule 80-14-2-.02 as installment lenders were already required to compile such information under Rule 80-14-5-.04.

80-14-5-.01 Loan Contract, Disclosures, and Limitations

The proposed amendment requires that, if licensees report the consumer's payment history or performance to a credit reporting agency, the licensee disclose such reporting to the consumer at the time the loan agreement is signed and provide the consumer with the name(s) of such credit reporting agencies.

Economic Impact: To the extent that installment lenders report consumers' payment history or performance to a credit reporting agency, the lender must already disclose such information to the borrower under the federal Fair Credit Reporting Act. Thus, there will be no economic impact to installment lenders that do report to the credit reporting agencies. To the extent that installment lenders do not report to a credit reporting agency, there will be a de minimis initial cost of compliance to edit the form loan documents to include the disclosure contemplated in this proposed rule.

80-14-5-.04 Unsolicited Live Checks

The proposed amendment updates the Department email address that licensees must include in any use of an unsolicited live check. The proposed amendment further removes the requirement that licensees report to the Department any knowledge of any suspected or confirmed fraud related to an unsolicited live check.

Economic Impact: As described in the economic impact to Rule 80-14-2-.02, the Department is removing the requirement that installment lenders file a report with the Department of any suspected or confirmed fraud related to an unsolicited live check. To the extent that there is any

economic impact to this change, it will be a positive impact as it will remove an existing regulatory and compliance reporting requirement for installment lenders.

80-15-1-.02 Nationwide Multistate Licensing System and Registry

The proposed amendment provides that registrations expire on December 31 of each year and that registrants must submit an application for renewal between November 1 and December 31. The proposed amendment additionally provides that renewal applications received after December 1 shall be assessed a late fee. Further, the proposed amendment provides that a renewal application shall not be deemed received until all information and fees have been provided. The proposed amendment also provides that, if a renewal application is not received on or before December 1 cannot be assured of approval prior to January 1. Finally, the rule provides that any registration that is not renewed on or before December 31 will require the registrant to file an initial application in order to conduct business as a litigation financier.

Economic Impact: None. These requirements mirror the statutory requirements enacted by HB 945. To the extent that there is an economic impact, it is because the underlying legislation, not the rules. As such, there will be no economic impact from this proposed rule.

CHAPTER 80-1

BANKS

SUBJECT 80-1-1

APPLICATIONS, REGISTRATIONS AND NOTIFICATIONS, GENERALLY

80-1-1-.11 Acquisition of Voting Control of Large Financial Institutions

Rule 80-1-1-.11 Acquisition of Voting Control of Large Financial Institutions

- (1)** Notice and approval to acquire voting control of a large state chartered financial institution. No person shall (a) acquire voting control of any large financial institution or (b) initiate or actively propose in opposition to the board of directors of the large financial institution any corporate action by a large financial institution, in each case without the prior approval of the Department, pursuant to the notice and approval procedures set forth in Part 10 of Title 7. The person shall provide a certification to the Department, along with a copy of the actual notification to the affected large financial institution, that it has filed an application with the Department under this Section. No application for acquisition of voting control of a large financial institution shall be considered complete until such certification and copy of the required notification are filed and accepted by the Department.
- (2)** Exceptions.

 - (a)** Any person who acquires voting control of a large financial institution solely for the purpose of investment shall not be subject to the requirement set forth in subsection (1)(a) of this Rule 80-1-1-.11.
 - (b)** Any person who acquired voting control of a large financial institution prior to November 19, 2007, shall not be subject to the requirement set forth in subsection (1)(a) of this Rule 80-1-1-.11, although subsection (1)(a) shall apply to any subsequent acquisition of voting securities of such large financial institution by such person.
 - (c)** Any person who is (i) registered as an "investment company" under the Investment Company Act of 1940 and (ii) eligible to report its holdings on a Schedule 13G under Rule 13d-1(c) promulgated under the Securities Exchange Act of 1934 shall not be subject to the requirement set forth in subsection (1) of this Rule 80-1-1-.11.
 - (d)** Any person who has voting control of less than one percent of a large financial institution shall not be subject to the requirement set forth in subsection (1)(b) of this Rule 80-1-1-.11.
- (3)** Definitions.

 - (a)** Acting in concert. For purposes of this Rule 80-1-1-.11, acting in concert may include, without limitation, any of the following:

1. knowing participation in a joint activity or interdependent conscious parallel action towards a common goal whether or not pursuant to an express agreement; or
 2. a combination or pooling of voting or other interests in the securities for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise.
- A person or company which acts in concert with another person or company ("other party") shall also be deemed to be acting in concert with any person or company who is also acting in concert with that other party, except that any tax-qualified employee stock benefit plan as defined in 12 CFR 192.25 will not be deemed to be acting in concert with its trustee or a person who serves in a similar capacity solely for the purpose of determining whether stock held by the trustee and stock held by the plan will be aggregated.
- (b) Corporate action. For purposes of this Rule 80-1-1-.11, corporate action may include, without limitation, any of the following:
1. an extraordinary corporate transaction, such as a merger, reorganization or liquidation involving a large financial institution or any of its subsidiaries;
 2. a sale or transfer of a material amount of assets of a large financial institution or any of its subsidiaries;
 3. any change in the present board of directors or management of a large financial institution, including any plan or proposal to change the number or term of directors or to fill any existing vacancies on the board;
 4. any material change in the present capitalization or dividend policy of a large financial institution;
 5. any other material change to a large financial institution's business or corporate structure;
 6. changes in a large financial institution's charter, bylaws or other instruments or other actions which may impede or facilitate the acquisition of control of a large financial institution by any person;
 7. causing a class of securities of a large financial institution to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;
 8. a class of equity securities of a large financial institution becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Securities Act of 1933; and
 9. any action similar to any of those enumerated above.
- (c) Large financial institution. A state-chartered financial institution or bank holding company having consolidated assets in excess of \$ 5 billion in the aggregate, as determined as of the end of the most recent fiscal quarter of the financial institution or bank holding company, as applicable, and set forth in its most recent quarter end financial statements filed pursuant to the Securities Exchange Act of 1934.

- (d) Person. An individual or a corporation, partnership, limited liability company, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed in this paragraph.
 - (e) Solely for the purpose of investment. Held by the acquirer with no intention of participating in the formulation, determination or direction of the basic business decisions of the financial institution. Any person holding shares of a financial institution in a fiduciary capacity shall be deemed to hold such shares solely for the purpose of investment unless such person is acting in concert with a person other than its beneficiary. Any person exercising voting control in connection with a proposal of corporate action shall not be deemed to have acquired voting control solely for the purpose of investment intent.
 - (f) Voting control. The power of any person, acting directly or indirectly or acting in concert with one or more persons, to exercise the voting rights of five percent or more of any class of voting securities whether or not such voting rights are exercised by the shareholder with the rights to dispose of the shares giving rise to such voting rights. A person shall be deemed to have the power to vote securities that it has the right to acquire in the future.
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SUBJECT 80-1-8

DORMANT ACCOUNTS

80-1-8-.01 Dormant Accounts: Service Charges

Rule 80-1-8-.01 Dormant Accounts: Service Charges

- (1) Dormant accounts are hereby defined as follows:
 - (a) Demand Deposit Accounts are deemed to be dormant when the depositor, which for the purposes of this rule shall include a member in the case of credit unions and a shareholder in the case of savings and loan associations, has neither increased or decreased the amount of the deposit nor corresponded with the financial institution regarding the deposit for a period of not less than twelve months immediately preceding the determination.
 - (b) Time and Savings Deposits, including Certificates of Deposit, are deemed to be dormant when the depositor has neither increased or decreased the amount of the deposit or shares nor corresponded with the financial institution regarding the deposit or shares for a period of not less than five (5) years from the date upon which the deposit or share first became eligible for withdrawal.
 - (c) Certified and Official Checks shall be deemed to be dormant when they have not been presented for payment within two (2) years of the date of issue, or if the

issuing financial institution has not had correspondence with the registered owner of the check for a period of two (2) years immediately preceding the determination of dormancy.

- (d) For purposes of this regulation, the term, "Demand Deposit Accounts," shall include share draft accounts in the case of credit unions, as well as any "Time" or "Savings" account which by its terms is due and payable, either in whole or in part, within less than ninety days or upon less than ninety days notice by the depositor.
- (e) For purposes of this regulation, the term "corresponded" or "correspondence" includes, but is not limited to:
 - (i) any communication, indication of interest, or relationship set forth in O.C.G.A. § 44-12-197(a) (2) -(5); or
 - (ii) a depositor accessing an online account.
- (2) Where the signature card or other evidence of the financial institution's contractual obligation relative to a deposit account does not make provision for maintenance or service charge on a dormant account as heretofore described, such a charge may be assessed in an amount not to exceed \$5.00 per month. Service charges or maintenance charges assessed pursuant to contractual authority governing the account shall not exceed the greater of \$5.00 per month or the per month service charge which the financial institution otherwise assesses against active accounts. Such service charge or maintenance charge may only be assessed after the account has been dormant for at least twelve months. No service charge or maintenance charge may be assessed for the dormancy period beyond the first twelve months in which the service charge or maintenance charge is first assessed. No service charge or maintenance charge may be assessed unless the financial institution provides written notice prior to the initial imposition of the charges pursuant to O.C.G.A. § 44-12-197(c)(1). Dormant account service charge or maintenance charge may be charged against the account at any time prior to escheat of the account balance under the provisions of the Disposition of Unclaimed Properties Act so long as the total service charge or maintenance charge does not exceed the amount which could have been assessed during the first twelve months of dormancy pursuant to the governing contract between the parties or this regulation.

CHAPTER 80-2

CREDIT UNIONS

SUBJECT 80-2-12

CREDIT UNION LOANS

Rule 80-2-12-.02 Real Estate Loans

- (1)** A real estate loan shall be any loan secured by real estate where the credit union relies upon such real estate as the primary security for the loan. If the proceeds of the loan are used for the purchase of the real estate pledged, the loan will be presumed to be a real estate loan. Where the credit union relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than real estate, the loan does not constitute a real estate loan, although as a matter of prudent underwriting it may also be secured by real estate, provided:

 - (a)** Current credit information on the borrower and/or the guarantors is maintained to sufficiently show the credit worthiness of the borrower or guarantors is adequate to support the debt; and
 - (b)** The other collateral is properly pledged to the credit union, protected by adequate hazard insurance, and supported by a statement of appraised or estimated value.
- (2)** A loan may be secured by a first lien although subordinate to another lien if:

 - (a)** The credit union takes obligations of the borrower in an amount equal to the debt outstanding on the prior mortgage obligation plus the amount secured by such credit union's lien; and
 - (b)** The credit union may at any time effect payment of the prior lien. In such case the credit union may require the borrower to make all mortgage payments to such credit union, with that credit union servicing the prior lien from such payments, provided that:

 - 1.** Where such "wrap around" arrangements are made, the credit union will obtain a statement from the borrower and the holder of the first lien that no further advances will be made to the borrower by the first lien holder and subject to its lien without the prior consent of the credit union, and that
 - 2.** The credit union may repay the first lien at its option with no penalty or a stated prepayment penalty.
- (3)** Conditions common to all real estate loans as to legal requirements and technical aspects shall be met, including but not limited to evidence of title search, recordation, an independent written appraisal or, in the alternative, a written estimate of market value in conformity with 12 CFR Part 722 (hereinafter "estimate"), and adequate insurance protection upon the insurable improvements with loss payable clause to the credit union. The lack of the foregoing technical requirements, while causing the loan to be technically defective, shall not be cause to consider the loan as nonconforming and in violation of law unless the total aggregate borrowings by the borrower exceed the unsecured lending limits of O.C.G.A. § 7-1-658, in which case the real estate collateral will not contribute to the "ample security" of the line.
- (4)** Nonamortized commercial real estate loans shall not exceed seventy-five percent (75%) of the fair market value of the property pledged. Exemptions from this loan to value ratio for first liens are as follows:

- (a) Loans to the extent secured in whole or in part by guarantees or commitments to take over, insure, participate in, or purchase the same, made by any governmental agency of the United States or entities sponsored by the United States, including corporations wholly owned either directly or indirectly by the United States.
 - (b) Loans which are fully guaranteed or insured by this State or by a State Authority.
 - (c) Commercial loans made for operating funds, working capital, or similar purposes, (other than the purchase of, investment in, or development of real estate) predicated upon the credit standing of the borrower or endorser, guarantor or co-maker, or other such security, but on which real estate collateral (including second mortgages) is taken as precautionary measure against possible contingencies may be exempt from the restrictions and limitations imposed upon real estate loans, provided such loans are supported (in addition to adequate credit information and/or collateral documents) by a general purpose statement signed by the borrower or by a credit memorandum signed by a loan officer, stating the purpose for which the loan is made and sufficient to indicate the exemption is valid.
 - (d) Loans representing the sale by the credit union of other real estate acquired for debts previously contracted shall be exempt from the limitations as to property values and membership requirements exempted by O.C.G.A. § 7-1-650(9), but shall be subject to all other requirements of this regulation, provided that the amount so financed shall not be for a greater sum than the credit union's investments in such property.
 - (e) Loans which, when made, were either unsecured or secured by personalty, but which are now secured in whole or in part by liens on real estate taken in order to prevent loss on a debt previously contracted.
- (5) All construction and development loans made or held by a credit union shall be exempt from the state loan to value and maturity limitations of this rule when made to comply with the following conditions:
- (a) Loans having maturities not to exceed sixty (60) months may be made to finance the construction of industrial or commercial buildings where there is a valid and binding agreement entered into by a financially responsible lender to advance the full amount of the credit union's loan upon completion of the buildings.
 - (b) Loans having maturities not to exceed twenty-four (24) months may be made for residential construction or development purposes where the credit union holds a firm (or conditional) commitment to guarantee or insure from any instrumentality or corporation wholly-owned by the United States or by any Authority of this State as indicated in Rule 80-2-12-.02(4)(a) and (b) of this Rule, or where there is a take-out agreement by any financially responsible lender to advance the full amount of the credit union's loan upon completion of the dwelling.
 - (c) Temporary construction or development loans may be made by a credit union for a period not to exceed sixty (60) months where the loan is made to finance the construction of residential development which will exceed nine (9) units or industrial or commercial buildings, or for a period not to exceed twenty-four (24) months where the loan is made to finance construction of nine (9) or less residential units or farm buildings or to improve and develop land preliminary to such construction, without a

- prior commitment to guarantee or insure or take-out agreement by an instrumentality or corporation wholly-owned by the United States or of this State or any other financially responsible lending agency. The parties must actually intend the loan to be paid off or refinanced by a purchaser within the specified maturities and the lots, when development is residential, must be released periodically during the development of land for such purposes, and pro rata reductions must be made in the principal of the debt. All such temporary construction and development loans must be supported by a statement of purpose or intent, and if held beyond the construction or development periods, must be made to conform to the seventy-five percent (75%) and ninety-five percent (95%) limitations; otherwise, they will be held to be nonconforming real estate loans. For purposes of this Rule, 75% and 95% limitations are defined as loans for not more than 75 percent of the fair market value of the real estate in the case of a single maturity loan, or for not more than 95 percent of the fair market value of the real estate in the case of loans that must be regularly amortized.
- (d) Commitments to guarantee, insure or purchase must be currently valid, and maturities of the loans may not be extended or loans held beyond the periods stipulated above.
- (6) Except as otherwise provided in law or regulations, credit unions may not acquire directly or indirectly an ownership interest in real estate without the prior written approval of the Department.
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CHAPTER 80-3

MONEY TRANSMISSION

SUBJECT 80-3-1

DISCLOSURES, LOCATIONS, AUTHORIZED AGENTS, AND CUSTOMER INFORMATION

80-3-1-.07 Virtual Currency Kiosks

Rule 80-3-1-.07 Virtual Currency Kiosks

- (a) Location Reporting: Virtual currency kiosk operators shall submit to the Department on a quarterly basis a report containing location information of each operators' virtual currency kiosks as required by O.C.G.A. § 7-1-699.10(9). Such report shall include:
1. The street address where each virtual currency kiosk is located;
 2. The name of the business as displayed to the public at the location of each virtual currency kiosk;

3. The name of the business the operator contracted with to place each virtual currency kiosk at the location; and
4. The owner of each virtual currency kiosk, if different from the operator.

Such report shall be in a form as prescribed by the Department and must be uploaded to NMLS under “Document Uploads” as the “Georgia VC Kiosk Location Report” for the applicable quarter. Such report must be filed no later than forty-five (45) days after the end of each calendar quarter.

- (b) Refunds: Virtual currency kiosk operators shall provide refunds as required by O.C.G.A. § 7-1-699.9. Refunds shall be provided to the consumer in fiat currency. The operator may provide options to the consumer on how to receive the refund, which shall include, at a minimum, electronic or wire transfers and paper check.
- (c) Blockchain Analysis: Virtual currency kiosk operators must have a contractual relationship with an existing third party blockchain analysis firm. Such relationship must include, at a minimum, a preemptive analysis to identify and prevent high risk and sanctioned virtual currency wallets from being used at virtual currency kiosks. Such relationships shall comply with the requirements of Rule 80-3-1-.06.
- (d) Policies and Procedures: Virtual currency kiosk operators must include a risk based method of monitoring customers that transact at the operator’s virtual currency kiosks on a post-transaction basis to determine compliance with applicable federal and state law. Such policies and procedures shall be tested by the operator at the time of implementation and must be updated and modified as required to ensure that the policies remain effective.

SUBJECT 80-3-4

ADMINISTRATIVE FINES AND PENALTIES

80-3-4-.01 Administrative Fines

Rule 80-3-4-.01 Administrative Fines

- (1) Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, corporation, or any other group of individuals, however organized, that is required to be licensed under Article 4 of Chapter 1 of Title 7. The Department, at its sole discretion, may waive or modify a fine based upon the financial resources of the person,

gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the department.

- (2) All fines levied by the Department are due within thirty (30) days from the date of assessment and must be paid prior to renewal of the annual license, reapplication for a license, or any other activity requiring Departmental approval.
- (3) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.
- (4) The Department establishes the following fines and penalties for violation of the laws and rules governing money transmitters.
 - (a) **Books and Records.** If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § 7-1-689 and Rules 80-3-1-.03, 80-3-1-.01(3), 80-3-2-.01, 80-3-1-.02(2), 80-3-3-.01, or 80-3-3-.02, such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each books and records violation listed in Rule 80-3-1-.03, 80-3-1-.01(3), 80-3-2-.01, 80-3-1-.02(2), 80-3-3-.01, or 80-3-3-.02.
 - (b) **Operating Without Proper License.** Any person who acts as a money transmitter prior to receiving a current license required under O.C.G.A. Article 4 of Chapter 1 of Title 7, or who acquires a money transmission business without its own license, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per day.
 - (c) **Felons.** Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § 7-1-684(c), when such covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-684(c), for each conviction before such employment, shall be subject to a fine of five thousand dollars (\$5,000) for each such covered employee.
 - (d) **Locations and Authorized Agents.** Any licensee that does not give timely notice to the Department of new locations or agents beyond those previously reported as required in O.C.G.A. § 7-1-686(d) and Rules 80-3-1-.03(2), and 80-3-1-.01(3), shall be subject to a fine of five hundred dollars (\$500) for each location or agent not reported.
 - (e) **Background Checks on Employees.** Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-3-5-.04(1), shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. Proof of the required criminal background check must be retained by the licensee until five years after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) for each covered employee for which the licensee is missing this documentation.

- (f) **Authorized Agents.** Any licensee that does not give notice of an authorized agent whose agency certificate has been revoked, suspended, cancelled, terminated, or voluntarily closed by the licensee as required by Rule 80-3-1-.03(2), shall be subject to a fine of five thousand dollars (\$5,000) for each authorized agent revocation, suspension, cancellation, termination, or voluntary closure not reported in writing to the Department.
- (g) **Failure to Provide Receipt.** In the event a licensee or its authorized agent does not provide the customer with a written receipt or other evidence of acceptance as required in Rule 80-3-1-.02(2), it shall be subject to a fine of one thousand dollars (\$1,000) per transaction where the receipt was not provided.
- (h) **Failure to Notify or Obtain Approval from the Department of Change in Ownership, Change in Control, or Designation of Executive Officer.** Any licensee or other person who fails to obtain the Department's prior approval of a change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee in compliance with O.C.G.A. § 7-1-688 and Rule 80-3-2-.04, shall be subject to a fine of one thousand dollars (\$1,000). Any licensee or other person who fails to timely notify the Department of a change in control not requiring approval in compliance with O.C.G.A. § 7-1-687, shall be subject to a fine of one thousand dollars (\$1,000). Any licensee or other person who fails to timely notify the Department of a change in executive officer not resulting from a change in control or ownership in compliance with O.C.G.A. § 7-1-687, shall be subject to a fine of one thousand dollars (\$1,000).
- (i) **Other Business Activities.** Any licensee found to have violated any law of this state by conducting any other business that is not lawful in conjunction with money transmission, shall be subject to a fine of five thousand dollars (\$5,000).
- (j) **Failure to File Timely or Accurate Call Reports.** Any licensee who fails to file a timely Call Report as required through the Nationwide Multistate Licensing System and Registry within the designated time period or fails to file an accurate Call Report shall be subject to a fine of one thousand dollars (\$1,000) per occurrence.
- (k) **Failure to Submit to Exam.** The penalty for the refusal of a licensee to permit the Department to conduct an investigation or examination of its books, accounts, and records (after a reasonable request by the Department), shall be a five thousand dollars (\$5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.
- (l) **Consumer Complaints.** Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence.
- (m) **Bank Secrecy Act.** If the Department, in the course of an examination or investigation, finds that a licensee has failed to comply with the Currency and Foreign

Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or the requirements referred to in Rules 80-3-6-.01, 80-3-6-.02, and 80-3-6-.03, such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.

- (n) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed money transmitter that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars (\$1,000). Any licensed money transmitter that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.
- (o) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensee that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. In addition, the failure of a control person of a licensee to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions by the control person, within ten (10) business days of the date of the event necessitating the change, shall subject the licensee to a fine of one thousand dollars (\$1,000) per occurrence.
- (p) Failure to Post Required License. Any licensee that fails to post a copy of its license in any physical location in this state where money transmission is conducted shall be subject to a fine of five hundred dollars (\$500) for each instance of non-compliance.
- (q) Prohibited Acts. Any licensee or other person who violates the provisions of O.C.G.A. §§ 7-1-691 and 7-1-692, shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation.
- (r) Unauthorized Access to Customer Information. Any licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-3-1-.04, shall be subject to a fine of one thousand dollars (\$1,000) a day until the notice is provided.
- (s) Failure to Timely Increase the Amount of the Surety Bond. Any licensee that fails to increase the amount of the applicable surety bond when its average daily money transmission liability, as required by Rule 80-3-2-.03, exceeds the face amount of the surety bond by ten percent (10%) or more shall be subject to a fine of one thousand dollars (\$1,000) per occurrence.

- (t) **Failure to Provide Refund.** Any licensee that fails to provide the customer with a refund as required by O.C.G.A. § 7-1-691(6), within ten (10) days of a written request shall be subject to a fine of one hundred dollars (\$100) per transaction where a refund was not timely provided.
- (u) **Failure to Notify Authorized Agents of Termination of License.** Any licensee that fails to timely provide documentation to the Department that the licensee has notified its authorized agents of the suspension, revocation, surrender, or expiration of the licensee's license as required by O.C.G.A. § 7-1-683.1(d), shall be subject to a fine of five thousand dollars (\$5,000).
- (v) **Money Transmission Service Provider Contracts.** A licensee that fails to enter into a contract for material services where required or enters into a contract with a material service provider but fails to obtain the information required by Rule 80-3-1-.06 shall be subject to a fine of one thousand dollars (\$1,000) per day.
- (w) **Failure to maintain tangible net worth.** A licensee that fails to satisfy the net worth requirement in O.C.G.A. § 7-1-683.2, shall be subject to a fine of one thousand dollars (\$1,000) per day that the net worth is not compliant with O.C.G.A. § 7-1-683.2.
- (x) **Virtual currency kiosk operators:**
 - (1) **Failure to provide required disclosures.** A virtual currency kiosk operator that fails to provide the disclosures required by O.C.G.A. §§ 7-1-699.1, 7-1-699.2, or 7-1-699.3, the updated disclosures required by O.C.G.A. § 7-1-699.4, or obtain the acknowledgment of the disclosures required by O.C.G.A. § 7-1-699.5, shall be subject to a fine of \$1,000 per occurrence. However, a virtual currency kiosk operator licensee shall not be subject to such fine for providing additional disclosures to consumers.
 - (2) **Failure to provide a receipt:** A virtual currency kiosk operator that fails to provide the receipt required by O.C.G.A. § 7-1-699.6, shall be subject to a fine of \$1,000 per occurrence.
 - (3) **Fees:** A virtual currency kiosk operator that collects or obtains fees, commissions, spreads, or any other charges related to a transaction initiated at a virtual currency kiosk that total more than 18% of the amount of the fiat currency exchanged or transmitted, as provided by O.C.G.A. § 7-1-699.7 shall be subject to a fine of \$5,000 for each transaction the fee, commission, spread, or other charge was collected on.
 - (4) **Maximum Daily Transaction Limit:** A virtual currency kiosk operator that fails to prevent consumers from transacting over the maximum daily transaction limit, as provided by O.C.G.A. § 7-1-699.8, shall be subject to a fine of \$10,000 for each occurrence.

- (5) Refunds: A virtual currency kiosk operator that fails to provide a refund where required under O.C.G.A. § 7-1-699.9 shall be subject to a fine of \$5,000 for each occurrence.
 - (6) General operations requirements: A virtual currency kiosk operator that fails to comply with the requirements of O.C.G.A. § 7-1-699.10, shall be subject to a fine of \$1,000 per occurrence of non-compliance.
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CHAPTER 80-5

FINANCIAL INSTITUTIONS

SUBJECT 80-5-1

SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES

AND ADMINISTRATIVE LATE FEES

80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, Installment Lenders, and Litigation Financiers; Due Dates

Rule 80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, Installment Lenders, and Litigation Financiers; Due Dates

- (1) Money transmitters.
 - (a) The annual license fee is one thousand nine hundred dollars (\$1,900) for money transmitters.
 - (b) The annual renewal license fee is one thousand nine hundred dollars (\$1,900) money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.
 - (c) An additional non-refundable application investigation fee of two hundred fifty dollars (\$250) will be assessed.
 - (d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-688 shall pay a

nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).

(2) Check Cashers.

- (a)** The annual license fee is three hundred dollars (\$300).
- (b)** The annual renewal license fee is three hundred dollars (\$300).
- (c)** An initial investigation and supervision fee shall be five hundred fifty dollars (\$550) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.
- (d)** Initial and renewal license fees shall also include an additional thirty dollars (\$30) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.
- (e)** Annual renewal license fees shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual renewal license fee is not received by the Department on or before the first day of December of each year may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.
- (f)** Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-705.1 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).

(3) Registrants of Georgia state representative offices as defined in O.C.G.A. § 7-1-1100 shall pay an annual registration fee of one thousand dollars (\$1,000).

(4) Mortgage licensees.

- (a)** Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine hundred dollars (\$900). The initial fee of nine hundred dollars (\$900) covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars (\$330) each. A fee of three hundred thirty dollars (\$330) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

- (b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four hundred dollars (\$400). The initial four hundred dollar (\$400) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred thirty dollars (\$330) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars (\$250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars (\$300). A renewal application and license fee that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.
- (c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be two hundred dollars (\$200). Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant may be assessed a late fine of two hundred dollars (\$200). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct mortgage loan origination activity without a current license.
- (d) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).
- (e) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars (\$500).
- (f) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollars (\$330), as provided in O.C.G.A. § 7-1-1006.
- (5) Installment Lenders.

 - (a) The annual license fee is five hundred dollars (\$500).

- (b) The annual license renewal fee is five hundred dollars (\$500) and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars (\$300) and cannot be assured of renewal of its license prior to January 1.
 - (c) An additional nonrefundable initial application investigation fee of two hundred fifty dollars (\$250) will be assessed.
 - (d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-3-32 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars (\$500).
 - (e) An application for an additional location of a licensee shall be accompanied by a nonrefundable fee of three hundred dollars (\$300). An annual renewal fee of three hundred dollars (\$300) per each approved additional location shall be due and must be received by the Department on or before the first day of December of each year.
 - (6) Litigation Financing registrants as defined in O.C.G.A. § 7-10-1 shall pay an initial registration fee of two thousand dollars (\$2,000). Registrants shall pay an annual renewal registration fee of one thousand dollars (\$1,000).
 - (7) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.
 - (8) Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry ("NMLSR") shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will be responsible for any and all fees or charges imposed by NMLSR.
 - (9) All license, investigation, and supervision fees, late fees, fines, taxes owed to the Department, and assessed civil penalties must be paid prior to renewal, reinstatement, or reapplication for a license or any other approval from the Department.
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CHAPTER 80-12

MERCHANT ACQUIRER LIMITED PURPOSE BANKS

SUBJECT 80-12-2

APPLICATION PROCESS

Rule 80-12-2-.10 Approval of Executive Officers, Directors, Principal Shareholders, and Control Persons of MALPB Applicant and Proposed Holding Company of Applicant

- (1) As part of the MALPB charter application process, the Department must approve the ownership and/or control of the applicant and the character and fitness of the directors and proposed executive officers, which includes, but is not limited to, the required positions of chief executive officer, chief information officer, and chief risk officer of the applicant. In order to make these determinations, the executive officers, directors, principal shareholders, and control persons of the MALPB will provide the Department any information or documents requested by the Department including, but not limited to: an independent credit report; any information necessary for submission to the Federal Bureau of Investigation, the Georgia Crime Information Center, and/or any other government agency or entity authorized to receive such information in order to perform a criminal history background check along with the applicable fees and any other required information in order that the Department may obtain the results of such criminal background checks; personal financial statements; and filed state, federal, and, if applicable, international income tax returns, including any amendments, for the previous two completed taxable years.
- (2) As part of the MALPB charter application process, the Department must approve the ownership and/or control of the holding company and the character and fitness of the directors and proposed executive officers of the holding company. In order to make these determinations, the principal shareholders, executive officers, directors, and control persons of the holding company, if any, will provide the Department any information or documents requested by the Department including, but not limited to, an independent credit report.
- (3) The requirements of Paragraph 2 of this Rule shall not apply to the principal shareholders, executive officers, directors, and control persons of a holding company that is a public company.

SUBJECT 80-12-4

OPERATIONS OF MALPB

Rule 80-12-4-.07 Compliance with Other Requirements

- (1) An MALPB shall comply with: the Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. § 5361et seq., and the related rules and regulations found at 12 CFR Part 233 and 31 CFR Part 132 ; and all international, federal, and state laws, rules, and regulations that are applicable to the MALPB.

- (2) Solely for purposes of the following laws, an MALPB shall be deemed to be a "financial institution" for purposes of complying with: information security requirements set forth in 12 CFR Part 364, including, but not limited to, Appendix B (Interagency Guidelines Establishing Information Security Standards) and Supplement A to Appendix B (Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice); the rules and regulations in 31 CFR Chapter X, including, but not limited to, customer identification standards set forth at 31 U.S.C. § 5318(l) and 31 CFR § 1020.220, suspicious transaction reporting as set forth in 31 U.S.C. § 5318(g) and 31 CFR § 1020.320, and anti-money laundering requirements set forth at 31 U.S.C. § 5318(h) and 31 CFR § 1020.210; and the regulations set forth in 31 CFR Chapter V by the Office of Foreign Asset Control.
- (3) An MALPB shall comply with the Payment Card Industry Data Security Standard ("PCI DSS") and such other data security standards recognized by the payment card networks in which the MALPB participates.
- (4) An MALPB shall be in substantial compliance at all times with each payment card networks risk program in which the MALPB participates.

SUBJECT 80-12-5

BOOKS AND RECORDS

80-12-5-.05 Minimum Requirements for Books and Records

Rule 80-12-5-.05 Minimum Requirements for Books and Records

An MALPB must maintain the following books and records:

- (a) All records required to be maintained by federal, state or, if applicable, international law, rules, or regulations, including, but not limited to, the rules enacted by the Department to carry out the provisions of the Act;
- (b) All records required to be maintained by the applicable payment card networks;
- (c) All contracts related to the MALPB's provision of merchant acquiring activities, including, but not limited to, contracts with payment card networks, merchants, affiliates, subsidiaries, eligible organizations, and support organizations;
- (d) All records related to compliance with payment card network data security standards, such as Payment Card Industry Data Security Standard ("PCI DSS"), including, but not limited to, records indicating data security deficiencies by the MALPB, affiliates, subsidiaries, eligible organizations, support organizations, and merchants;

- (e) All records related to the clearing and settlement of transactions through the payment card networks including, but not limited to, remittances to payment card networks;
- (f) All reports or other compilation of data provided to payment card networks and/or merchants related to transactions;
- (g) All records related to chargebacks, and business format change;
- (h) Daily account of merchant funds broken down by merchant;
- (i) Copies of all trust or custodial account agreements;
- (j) Records of all complaints and records of disposition;
- (k) Copies of examination reports prepared by any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country which report relates to the merchant acquiring activities of the MALPB;
- (l) Copies of reports required to be prepared or submitted by the MALPB to any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country which report relates to the merchant acquiring activities of the MALPB;
- (m) Copies of documents related to any adverse action taken by any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country, including, but not limited to, a revocation or suspension of a license or charter or the imposition of a fine or civil monetary penalties;
- (n) Copies of all payroll records, including, but not limited to, federal and state withholding tax forms such as W-2s filed with the Internal Revenue Service by the MALPB on behalf of individuals employed by the MALPB;
- (o) Employee files for all employees which shall include a criminal background check performed by a commercial entity as required by [O.C.G.A. § 7-9-7](#) and [Rule 80-12-4-.05](#);
- (p) Subject to the limitations in [O.C.G.A. § 7-9-12](#), a deposit record which contains a continuing itemized record of all activity in the deposit account;
- (q) An income and expense register and all of the supporting documentation related to income and expenses;
- (r) A daily statement for each business day properly supported by a general ledger showing daily activity to each asset, liability, and capital account;
- (s) Minutes from all meetings of the MALPB's Board of Directors and the committees of the Board of Directors;
- (t) A shareholder list;

- (u) An investment register and investment safekeeping report;
 - (v) Information on transactions with holding companies, affiliates, and subsidiaries with respect to the terms and circumstances of such transactions and the basis of fees or other charges in order to determine compliance with [Rules 80-12-9-.01](#) and [80-12-9-.02](#); and
 - (w) All records related to compliance with payment card network risk programs in which the MALPB participates.
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SUBJECT 80-12-10

CONTROL OVER MALPB

80-12-10-.01 Change in Director, Executive Officer, Principal Shareholder, or Control Person of MALPB

Rule 80-12-10-.01 Change in Director, Executive Officer, Principal Shareholder, or Control Person of MALPB

- (1) The MALPB must provide the Department with written notice of any new director, control person, principal shareholder, or executive officer, which includes, but is not limited to a chief executive officer, a chief information officer, and a chief risk officer, prior to any such appointment or change taking effect, so that the Department can consider the character and fitness of such person. After receipt of the notice, the proposed executive officers, directors, principal shareholders, and control persons will provide the Department with any information or documents the Department may request including, but not limited to: an independent credit report; any information necessary for submission to the Federal Bureau of Investigation, the Georgia Crime Information Center, and/or any other government agency or entity authorized to receive such information in order to perform a criminal history background check along with the applicable fees and any other required information in order that the Department may obtain the results of such criminal background checks; personal financial statements; and filed state, federal, and, if applicable, international income tax returns, including any amendments, for the previous two (2) completed taxable years.
- (2) The Department shall be given at least sixty (60) days written notice prior to the proposed appointment or change of director, executive officer, principal shareholder, or control person taking effect. If the Department does not issue a notice disapproving such person within sixty (60) days after receipt of the required written notice or extend the period during which a disapproval may be issued for another thirty (30) days, the proposed appointment or change of such person shall take effect. The period for disapproval may be further extended if the Department determines that the MALPB or proposed director, executive officer, principal shareholder, or control person has not furnished all the information required by this Rule or, in the Department's judgment, inaccurate information

has been submitted. An appointment or proposed change may be made prior to expiration of the disapproval period if the Department issues a written notice of its intent not to disapprove the proposed director, executive officer, principal shareholder, or control person.

- (3) The requirements of this Rule shall not apply to an entity that satisfies the definition of control person as a result of ownership of a holding company that is a public company.

SUBJECT 80-12-11

HOLDING COMPANY

80-12-11-.02 Change in Director, Executive Officer, Principal Shareholder, or Control Person of Holding Company

Rule 80-12-11-.02 Change in Director, Executive Officer, Principal Shareholder, or Control Person of Holding Company

- (1) The Department must approve in writing any new director, executive officer, principal shareholder, or control person of the holding company, prior to any such appointment or change taking effect, for the purpose of considering the character and fitness of such person. In order to make these determinations, such persons will provide the Department any information or documents requested by the Department including, but not limited to, an independent credit report.
- (2) The Department shall be given at least sixty (60) days written notice prior to the proposed appointment or change of director, executive officer, principal shareholder, or control person taking effect. If the Department does not issue a notice disapproving the proposed director, executive officer, principal shareholder, or control person within sixty (60) days of receipt of the required written notice or extend the period during which a disapproval may be issued for another thirty (30) days, such person shall stand approved. The period for disapproval may be further extended if the Department determines that the holding company or proposed director, executive officer, principal shareholder, or control person has not furnished all the information required by this Rule or, in the Department's judgment, inaccurate information has been submitted. An appointment or proposed change may be made prior to expiration of the disapproval period if the Department issues a written notice of its intent not to disapprove the proposed director, executive officer, principal shareholder, or control person.
- (3) The requirements of Paragraphs 1 and 2 of this Rule shall not apply to the principal shareholders, executive officers, directors, and control persons of a holding company that is a public company.
- (4) At the time of the submission of an MALPB charter application or at any time thereafter, a holding company that is not a public company can make a written request to the

Department for a waiver or modification of the requirements of Paragraphs 1 and 2 of this Rule. Such request shall set forth in detail the rationale for the requested waiver or modification. In evaluating such request the Department shall consider, among other factors, the financial condition of the MALPB and the holding company, financial support from the holding company to the MALPB, any recent findings in the most recent audits and reports of examinations of the MALPB and the holding company, condition of the MALPB, number of independent directors at the holding company, manner of appointment or election of directors or executive officers at the holding company, evaluation process for directors, executive officers, principal shareholders, and control persons of the holding company, corporate governance of the holding company, and activities of the holding company and affiliates. It shall be in the Commissioner's sole discretion to approve, conditionally or otherwise, or deny the request for a waiver or modification.

CHAPTER 80-14

INSTALLMENT LOANS

SUBJECT 80-14-1

PLACE OF BUSINESS, ADVERTISING AND OTHER REQUIREMENTS

80-14-1-.02 Location Managers

Rule 80-14-1-.02 Location Managers

- (1)** A "location manager" shall mean an individual who supervises daily activities in Georgia of a licensee, whether at a main office or branch as defined in Rule 80-14-1-.01, and regardless of job title.
- (2)** No individual shall be permitted to manage a location in Georgia without being approved by the Department as a location manager. A location manager may be put in place subject to Departmental approval, but the Department must receive a complete application for approval within 30 calendar days of the placement. No individual may serve as the location manager of more than one location of a licensee.
- (3)** The Department shall conduct a criminal background check and require such other pertinent information to satisfy itself that the location manager will operate the location responsibly and in compliance with the laws and rules of this state.
- (4)** Notwithstanding any approval of the location manager by the Department, the licensee has full and direct financial responsibility for the lending activities of each location manager and full and direct responsibility for the training and supervision of the location manager. The licensee will supervise the location and location manager on an ongoing and regular basis and shall be accountable for the lending activities of the location and location manager. Any violation of the Georgia Installment Loan Act or the rules and regulations of

the Department by a location manager shall be deemed to be a violation by both the licensee and the location manager.

SUBJECT 80-14-2

BOOKS AND RECORDS

80-14-2-.02 Minimum Requirements for Books and Records

Rule 80-14-2-.02 Minimum Requirements for Books and Records

Each licensee shall maintain the following books, accounts, and records:

- (a) Copies of all disclosure documents required by Rule Chapter 80-14-5;
- (b) Samples of advertisements as required by Rule 80-14-1-.04;
- (c) Copies of all written complaints by customers and written records of disposition;
- (d) Copies of examination reports prepared by any agency, division or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the installment lending business of the licensee or registrant and are not prohibited from being disclosed to the Department by state or federal law;
- (e) Copies of reports required to be prepared and/or submitted by the licensee to any agency, division, or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the installment lending business of the licensee and are not prohibited from being disclosed to the Department by state or federal law;
- (f) Copies of all payroll records, including federal and state withholding tax forms, W-2's, and 1099 forms filed with the Internal Revenue Service by the licensee or its agent on behalf of individuals employed by the licensee in the installment lending business of the licensee;
- (g) A cash book or daily report for each approved location in which all receipts and disbursements of any amount shall be entered. Separate spaces shall be provided for amounts received or charged as interest, fees, insurance premiums, recording fees and any other receipts or disbursements made by the licensee. All such entries shall be made on the exact date on which they occur. This cash book shall be balanced daily. This paragraph shall not prevent licensees from closing their books in the late afternoon, commonly known as providing for "late drawer" payments, so long as entries of loans and collections are made on their exact date;
- (h) A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and income and expense accounts;

- (i) All bank statements and bank reconciliations records which pertain to the installment lending business of the licensee;
- (j) If the licensee defers installment loans, the deferred loan monthly journal required by O.C.G.A. § 7-3-11(6)(G);
- (k) Copies of all credit report bills received from all credit reporting agencies;
- (l) Employee file for each employee. The employee file must contain all documents related to hiring the employee, including criminal background check, date employment began, and a print out or screenshot confirming that the Department's public records were reviewed on NMLS Consumer Access to verify eligibility for employment with such review of the Department's public records taking place prior to the date of hire;
- (m) Copies of all reports required to be filed with the Department or the Nationwide Multistate Licensing System and Registry, including any amended reports, for the previous five (5) years and all related work papers and supporting documentation that support the accuracy of the information contained in such reports;
- (n) Copies of any required notifications required to be made to the Department pursuant to O.C.G.A. § 7-3-31(a) and (b) and supporting documentation; and
- (o) Information security program materials maintained by the licensee in accordance with 16 C.F.R. Part 314, ("the Safeguards Rule") and Rule 80-3-1-.05, including, but not limited to, any risk assessment and incident response plan; and
- (p) A separate account record for each installment loan transaction or renewal thereof, which shall include the following information:
 - (i) Name and address of the licensee;
 - (ii) Loan number;
 - (iii) Date of the loan;
 - (iv) Name and address of each borrower and co-maker or endorser, if any;
 - (v) Brief description of security, if any;
 - (vi) Actual amounts of individual charges shall be shown separately for interest and fees.;
 - (vii) Amount of loan;
 - (viii) If a renewal, the loan number of the previous loan;
 - (ix) Terms of repayment;
 - (x) Payments received showing:
 - A. Date of payment.
 - B. Amount paid on account.

- C. Remaining balance.
 - D. Date to which account is paid.
 - E. Any late charge collected, and date of collection;
 - (xi) Date of final payment on loan or expiration; and
 - (xii) Record of the amount, date, and reason for any refunds.
 - (q) A record of any confirmed or suspected fraud related to an unsolicited live check, including any investigation conducted by the licensee and the resolution of any confirmed or suspected fraud.
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SUBJECT 80-14-5

DISCLOSURE, CHARGES, AND MISCELLANEOUS

80-14-5-.01 Loan Contract, Disclosures, and Limitations
80-14-5-.04 Unsolicited Live Checks

Rule 80-14-5-.01 Loan Contract, Disclosures, and Limitations

- (1) Loan Contract; Contents.
 - (a) Every consumer loan transaction shall be pursuant to a written loan contract which may include a loan voucher, itemized statement of loan and charges, and disclosure statement. The loan contract shall be signed by the consumer and delivered to the consumer at the time it is executed by him or her. The loan contract shall be contained in a single document which may contain more than one page. Printed terms shall be printed in at least six-point standard type.
 - (b) In connection with every consumer loan transaction, the consumer shall be furnished a written itemized statement in clear terms and easily understood language which shall show the following: the transaction date, a description of the subject matter and amount of the transaction, a description of the collateral, if any, securing the consumer's obligations; the identity and address of the consumer and the identity and address of the creditor; a schedule of the payments; the amount of the actual cash advanced to or on behalf of the consumer; the amount of each class of insurance carried and the premium paid thereon, stated separately for each class of insurance; and an itemization of the exact amount of the interest, fees, and other charges, if any, showing each element thereof.
 - (c) The loan contract shall include immediately above the place for the signature for the parties the following notice:

NOTICE TO CONSUMER

1. Do not sign this agreement if it contains any blank spaces.
 2. You are entitled to an exact copy of all papers you signed.
 3. You have the right at any time to pay in advance the full amount due under this agreement and under certain conditions to obtain a partial refund of the interest charges.
 4. If credit life insurance is required, you have the right to purchase either level term life insurance or reducing term life insurance coverage.
 5. You are not required to purchase noncredit insurance as a condition of obtaining this loan.
- (d) The creditor shall furnish the consumer with an exact copy of the loan contract including any loan voucher, itemized statement of loan charges, and disclosure statement after the agreement has been signed.
- (e) With respect to every installment loan transaction, the creditor shall, at the time of the transaction, furnish to the consumer a written statement of the maximum number of payments required, the amount of such payments, and the exact due dates upon which each payment is due. The maximum number of payments and the amount and date of such payments need not be separately listed if the payments are stated in terms of a series of scheduled amounts.
- (2) The following practices are prohibited in the making of an installment loan pursuant to the Georgia Installment Loan Act:
- (a) Blank Agreements. Every contract evidencing an installment loan transaction shall be completed as to all essential provisions prior to the signing thereof by the parties. No licensee shall induce, encourage, or otherwise permit the consumer to sign a contract containing blank spaces. Blank spaces inapplicable to a transaction must be completed in a manner which reveals their inapplicability.
 - (b) Negotiable Instruments. No licensee shall take or otherwise arrange for the consumer to sign an instrument payable "to order" or "to bearer", other than a check, as evidence of the credit obligation of the consumer in an installment loan transaction.
 - (c) Balloon and Irregular Payments. Except for single payment loans, no licensee shall enter into a contract which contains or anticipates a schedule of payments under which the final payment exceeds the amount of any other payment by more than \$1.00. A single payment loan shall be repayable on terms not to exceed ninety (90) days. All other installment payments shall be scheduled at regular intervals in equal amounts. Notwithstanding the requirement that payments be made at regular intervals for all loans except for single payment loans, the initial payment on an installment loan shall be due within a period not to exceed forty-five (45) days from the date on

which the loan is made but no sooner than the regular interval for all other installment loan payments.

(d) Multiple Agreements to the following extent:

- (i)** No authorized location of a licensee shall engage in any activity in connection with an installment loan by use of multiple agreements or otherwise as a result of which the authorized location of a licensee charges, contracts for, or receives any other or further amount in connection with an installment loan than that authorized by law for a single loan of a comparable amount.
- (ii)** No authorized location of a licensee shall split a consumer loan into separate agreements by spouses if as a result thereof the authorized location of a licensee charges, contracts for, or receives any other or further amount in connection therewith than as authorized by law for a single loan of a comparable amount; provided, however, that the authorized location of a licensee may make an installment loan to spouses jointly and severally if such loans do not arise out of substantially the same transaction.

(e) Non-Judicial Enforcement. Notwithstanding any other provision of law, no term of an agreement shall constitute authorization for a licensee to take possession of collateral by other than legal process unless such authorization is clearly, prominently and conspicuously disclosed to the consumer immediately above the place for his signature on the loan agreement or as an addition to the "NOTICE TO CONSUMER" specified in subsection (1)(c) of this Rule.

(3) Insurance Permitted.

- (a)** With respect to any installment loan transaction, the licensee shall not require any insurance other than insurance covering the loss of or damage to any property in which the creditor is given a security interest. Credit life and credit accident and sickness insurance if required by the licensee, may be provided by the licensee through an insurer authorized to issue such insurance in this State.
- (b)** If a licensee requires any insurance permitted under subsection (1) above in any consumer loan transaction, the consumer shall be given written notice of the option of providing such insurance through an existing policy or a policy independently obtained and paid for by the consumer. If the licensee requires credit life insurance, the licensee shall give the consumer written notice of the consumer's right to choose either level term life insurance or reducing term life insurance coverage. The licensee may for reasonable cause before credit is extended decline the insurance provided by the consumer.
- (c)** Any insurance offered by an installment lender licensee shall comply with any and all applicable insurance laws and regulations.

(4) Discharge of Security Interests. When the consumer is indebted to a particular licensee for two or more consumer loans, any security interest held by such licensee for any particular loan shall be discharged when the loan for which the security interest is held is paid

irrespective of indebtedness to the licensee by the consumer on other outstanding installment loans. As a general rule, security interests in terms of property shall terminate as the debt originally incurred with respect to each item is paid and in the case of the consolidation of two or more installment loans or any circumstances in which the general rule is not followed, the licensee may be required by the Department to show that his conduct with respect to such loan transactions was just, fair and reasonable. For the purposes of this Rule, the renewal of a consumer loan shall not be deemed to be payment thereof.

- (5) **Electronic Transactions Permitted.** The provisions of the Uniform Electronic Transactions Act, O.C.G.A. § 10-12-1 *et seq.*, applies to loans made pursuant to the Georgia Installment Loan Act. Nothing in the Act or the Department's rules shall be construed as prohibiting installment loans from being originated or closed remotely by a licensee.
- (6) **Other Purchases.** If any loan within the Act is made in conjunction with the provision of any item, service, or commodity incidental to the advancement of funds, or if any other element is introduced into the transaction at the expense of the consumer, then the licensee shall provide to the consumer a separate written disclosure statement. The disclosure statement shall disclose, in no smaller than twelve-point type, the following:
 - (a) That the consumer does not have to purchase any such item, service, or commodity, or pay for such element, in order to obtain the loan.
 - (b) The cost to the consumer of any such purchase or element.
 - (c) The disclosure statement shall contain the consumer's signed acknowledgement of the consumer's understanding that such purchase or element is not required and of the specific cost to the borrower for each such item, service, commodity, or element.
 - (d) A copy of the signed document shall be provided to the borrower, and the licensee shall retain the original in the loan file.
- (7) **Receipt.** Each consumer shall be provided with a written receipt for each cash payment made showing the licensee's name on record with the Department, the applicable loan number, the date of the payment, and the dollar amount of the payment.
- (8) **Credit Reporting.** If a licensee will report the consumer's payment history or performance to a credit reporting agency during the term of the loan agreement, the licensee must disclose such reporting at the time the loan agreement is signed and must provide the consumer with the name(s) of any such credit reporting agencies to which the report will be provided.

Rule 80-14-5-.04 Unsolicited Live Checks

- (1) "Live check" means a negotiable check or other negotiable instrument that may be used by a consumer to activate a loan regulated by the Georgia Installment Loan Act ("Act").

- (2) The licensee must maintain in its office a system for:
- (a) preventing the offering of an unsolicited live check to an individual who is not credit-worthy; and
 - (b) protecting the intended recipient of an unsolicited live check and the licensee in the event of the fraudulent conversion of the unsolicited live check.
- (3) Any use of an unsolicited live check must contain:
- (a) the ZIP+4 code and the name of the county of the recipient in the address line of the live check;
 - (b) a check number or other tracking number for the loan offered on the live check;
 - (c) the following statement, printed in 14 point size font boldface type on the face of the live check: " **This is a loan.**";
 - (d) the following statements printed on the face of the live check: "Cashing this check requires repayment of the loan plus potential charges. Read all terms.";
 - (e) the following statement printed clearly and conspicuously in the solicitation or accompanying disclosure statement: "You have the right to file a written complaint with the licensee via [mailing address or email address] and with the Department of Banking and Finance via email at NDFIDivision@dbf.state.ga.us." and,
 - (f) the name on record with the Department, unique identifier, and telephone number of the licensee.
- (4) The terms of the loan resulting from an unsolicited live check must comply with the Act and the rules and regulations of the Department.
- (5) The licensee may not offer or provide insurance or other ancillary products in conjunction with a loan obtained through an unsolicited live check.
- (6) The licensee may not send an unsolicited live check to an individual who resides beyond the boundaries of a county in which the licensee has an approved location or beyond the boundaries of any contiguous county in which the licensee has an approved location. In the event a live check is negotiated by a consumer that resides outside the county in which the licensee has an approved location or resides more than twenty-five (25) miles from an approved location, the licensee must provide a means for the consumer to submit payments electronically without imposing a convenience fee pursuant to O.C.G.A. § 13-1-15.
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CHAPTER 80-15

LITIGATION FINANCING

SUBJECT 80-15-1

REGISTRATION REQUIREMENTS AND ADMINISTRATIVE FINES

80-15-1-.02 Nationwide Multistate Licensing System and Registry

Rule 80-15-1-.02 Nationwide Multistate Licensing System and Registry

(1) Registration.

- (a)** All applications for registrations must be made through the Nationwide Multistate Licensing System and Registry ("NMLS") unless otherwise expressly exempted from this requirement by the Department in writing. Applications for initial registrations which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are non-refundable.
- (b)** All registrations shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and/or registration fees must be received on or before December 1 of each year or the renewal applicant will be assessed a late fee as set forth in [Rule 80-5-1-.02](#). A renewal application is not deemed received until all required information and corresponding fees have been provided by the registrant. A proper renewal application not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the registration will expire. Unless a proper renewal application has been received any registration which is not renewed on or before December 31 will require the renewal applicant to file an initial application in order to conduct business as a litigation financier in the State after that date.

(2) The responsibility of applicants and registrants to update information in NMLS.

- (a)** It shall be the sole responsibility of each applicant for a registration and each registrant to keep current at all times its information on the NMLS. Amendments to any information on file with the NMLS must be made by the applicant or registrant within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or registrant due to its failure to maintain current contact information on the NMLS as required.
- (b)** Amendments to the registration or any responses to disclosure questions by an applicant for a registration or a registrant must be made within ten (10) business

- days following the date of the event necessitating the change. Failure by an applicant for a registration to timely update the applicant's responses to disclosure questions may result in the denial of the application. In the case of a registrant, failure to timely update the registration or any disclosure information may result in the imposition of an administrative fine.
- (c) It shall be the responsibility of each applicant for a registration and each registrant to ensure that its directors, officers, partners, and owners keep current at all times their information on the NMLS. Amendments to any information on file with the NMLS must be made by the director, officer, partner, or owner within ten (10) business days of the date of the event necessitating the change.
 - (d) Amendments to any responses to disclosure questions by a director, officer, partner, or owner must be made within ten (10) business days following the date of the event necessitating the change. Failure by a director, officer, partner, or owner of an applicant for a registration to timely update their responses to disclosure questions may result in the denial of the application. In the case of a registrant, failure by a control person to timely update any disclosure information may result in the imposition of an administrative fine.
- (3) A registrant may challenge information entered by the Department into the NMLS. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the registrant with a written reply that shall be the Department's final decision regarding the challenge.