

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1296

By: Dahm

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5  
6 AS INTRODUCED

7 An Act relating to the Oklahoma Bullion Depository;  
8 defining terms; establishing Oklahoma Bullion  
9 Depository in Office of the State Treasurer;  
10 providing for appointment and duties of administrator  
11 and deputy administrator; providing that deposits  
12 made not be considered part of General Revenue Fund  
13 or certified as available for appropriation;  
14 providing for deposit of certain monies to General  
15 Revenue Fund; providing for receipt of deposits;  
16 specifying procedures; specifying certain duties of  
17 State Treasurer; providing for delivery and shipping  
18 of deposits held by or on behalf of depository;  
19 providing procedures for transfer of accounts;  
20 providing for accounting of depository account  
21 balances; specifying procedures for establishment of  
22 depository accounts; requiring contracts and  
23 specifying terms; providing for contract amendments;  
24 specifying when cause of action for denial of deposit  
liability may accrue; authorizing State Treasurer to  
establish fees and penalties; providing for pledges  
and transfers of depository accounts; prohibiting  
certain payments; providing for liens on depository  
accounts and payments of certain obligations;  
providing for investments by certain persons and  
entities; providing for credit against certain tax;  
providing for governance of certain laws; allowing  
pledge or transfer of jointly held accounts;  
providing that ownership not severed thereby;  
allowing depository or depository agent to accept  
accounts in name of fiduciary; providing procedures  
in cases of persons claiming to be trustees;  
providing that depository not have further liability;  
requiring depository to recognize certain authority  
upon notice; requiring depository to enter into  
certain transactions and relationships; prohibiting

1 certain acts; voiding certain actions to control  
2 accounts; providing procedures for depository in such  
3 instance; requiring State Treasurer to establish  
4 exchange rate references and accounting and reporting  
5 requirements; requiring annual report; providing  
6 procedures to conduct retail transactions; providing  
7 for licensing and appointment of depository agents;  
8 specifying requirements applicable to depository  
9 agents; providing for depository agent services;  
10 prohibiting certain acts by unlicensed persons;  
11 prohibiting licensure of certain persons; specifying  
12 circumstances under which person engages in business  
13 of depository agent services; providing for  
14 application for depository agent license; requiring  
15 certain security; allowing temporary licensure;  
16 specifying liability, duties and prohibited acts of  
17 depository agent license holder; providing for  
18 revocation of licenses; prohibiting consideration of  
19 deposits as assets in certain proceedings; requiring  
20 furnishing of certain information in connection with  
21 transactions; providing for codification; and  
22 providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2401 of Title 62, unless there  
is created a duplication in numbering, reads as follows:

As used in this act:

1. "Administrator" means the bullion depository administrator  
appointed under Section 3 of this act;

2. "Bullion" means precious metals that are formed into uniform  
shapes and quantities such as ingots, bars, or plates, with uniform  
content and purity, as are suitable for or customarily used in the

1 purchase, sale, storage, transfer, and delivery of bulk or wholesale  
2 transactions in precious metals;

3 3. "Business day" means a day other than a Saturday, Sunday, or  
4 banking holiday for a bank chartered under the laws of this state;

5 4. "Deposit" means the establishment of an executory obligation  
6 of the depository to deliver to the order of the person establishing  
7 with the depository the obligation, on demand, a quantity of a  
8 specified precious metal, in bullion, specie, or a combination of  
9 bullion and specie, equal to the quantity of the same precious metal  
10 delivered by or on behalf of the depositor into the custody of:

11 a. the depository, or

12 b. a depository agent;

13 5. "Depositor" means a person who makes a deposit;

14 6. "Depository" means the Oklahoma Bullion Depository created  
15 by this act;

16 7. "Depository account" means the rights, interests, and  
17 entitlements established in favor of a depositor with respect to a  
18 deposit in accordance with this act and rules promulgated under this  
19 act;

20 8. "Depository account holder", regarding a depository account,  
21 means the original depositor or a successor or assignee of the  
22 depositor respecting the depository account;

23 9. "Depository agent" means a person licensed in accordance  
24 with this act to serve as an intermediary between the depository and

1 a retail customer in making a transaction in precious metals bullion  
2 or specie;

3 10. "Depository agent services" means services rendered to the  
4 general public for or on behalf of the Oklahoma Bullion Depository  
5 in the nature of purchasing, selling, transferring, accepting,  
6 transporting, delivering, or otherwise dealing in precious metals  
7 bullion or specie in connection with the creation, transfer,  
8 clearing, settlement, or liquidation of the rights and interests of  
9 a depository account holder and a direct or indirect transferee of a  
10 depository account holder. The term "depository agent services"  
11 does not include:

- 12 a. participation as a party or counterparty to a  
13 transaction, including an agreement with respect to a  
14 transaction, in or in connection with a contract for  
15 the purchase or sale of a person's rights and  
16 interests as a depository account holder, as a cash  
17 contract for present delivery, a cash contract for  
18 deferred shipment or delivery, or a contract for  
19 future delivery, where the underlying deliverable  
20 consists of the depository account holder's interest  
21 in the depository account, rather than the underlying  
22 precious metal represented by the depository account  
23 balance,  
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1           b.    the opening, transfer, settlement, or liquidation of  
2                    any derivative of a contract described by subparagraph  
3                    a of this paragraph, including a forward transaction,  
4                    swap transaction, currency transaction, future  
5                    transaction, index transaction, or option on or other  
6                    derivative of a transaction of any of those types, in  
7                    the nature of a cap transaction, floor transaction,  
8                    collar transaction, repurchase transaction, reverse  
9                    repurchase transaction, buy-and-sell-back transaction,  
10                    securities lending transaction, or other financial  
11                    instrument or interest, including an option with  
12                    respect to a transaction, or any combination of these  
13                    transactions, or

14           c.    the rendition of services exclusively in support of  
15                    the opening, transfer, settlement, or liquidation of  
16                    transaction derivatives described by subparagraph b of  
17                    this paragraph through a central counterparty, such as  
18                    those customarily rendered by a clearinghouse,  
19                    clearing association, or clearing corporation, or  
20                    through an interbank payment system, physical or  
21                    electronic trading facility, broker or brokerage firm,  
22                    or similar entity, facility, system, or organization;

23           11.    "Precious metal" means a metal, including gold, silver,  
24            platinum, palladium, and rhodium, that:

1 a. bears a high value-to-weight ratio relative to common  
2 industrial metals, and

3 b. customarily is formed into bullion or specie; and

4 12. "Specie" means a precious metal stamped into coins of  
5 uniform shape, size, design, content, and purity, suitable for or  
6 customarily used as currency, as a medium of exchange, or as  
7 the medium for purchase, sale, storage, transfer, or delivery of  
8 precious metals in retail or wholesale transactions.

9 SECTION 2. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 2402 of Title 62, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. The Oklahoma Bullion Depository is established as a division  
13 in the Office of the State Treasurer.

14 B. The depository is established to serve as the custodian,  
15 guardian, and administrator of certain bullion and specie that may  
16 be transferred to or otherwise acquired by this state or an agency,  
17 a political subdivision, or another instrumentality of this state.

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2403 of Title 62, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. The depository shall be under the direction and supervision  
22 of a bullion depository administrator jointly appointed by the  
23 Governor and the State Treasurer with the advice and consent of the  
24 Senate.

1 B. The administrator shall:

2 1. Administer, supervise, and direct the operations and affairs  
3 of the depository and depository agents; and

4 2. Liaise with the State Treasurer and other divisions of the  
5 Office of the State Treasurer to ensure that each transaction with  
6 the depository that involves state money, that involves an agency, a  
7 political subdivision, or another instrumentality of this state, or  
8 that involves a private person is planned, administered, and  
9 executed in a manner to achieve the purposes of this act.

10 C. The administrator may appoint, subject to the approval of  
11 the State Treasurer, a deputy administrator or other subordinate  
12 officer as necessary and appropriate to the efficient administration  
13 of the depository.

14 SECTION 4. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2404 of Title 62, unless there  
16 is created a duplication in numbering, reads as follows:

17 No deposits made to the depository shall be considered part of  
18 the General Revenue Fund or shall be certified by the State  
19 Equalization Board as available for appropriation; provided, revenue  
20 the depository realizes from fees, charges, or other payments  
21 received in the course of depository operations shall be deposited  
22 to the credit of the General Revenue Fund.

1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2405 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The depository may receive a deposit of bullion or specie  
5 from or on behalf of a person acting in the person's own right, as  
6 trustee, or in another fiduciary capacity, in accordance with rules  
7 promulgated by the State Treasurer as appropriate to:

8 1. Ensure compliance with law; and

9 2. Protect the interests of:

10 a. the depository,

11 b. depository account holders,

12 c. this state and the agencies, political subdivisions,  
13 and instrumentalities of this state, and

14 d. the public at large.

15 B. The depository shall record the amount of precious metals a  
16 person deposits, regardless of form, in units of troy ounces pure,  
17 and the records must also specify the type and quantity of each  
18 precious metal deposited.

19 C. The State Treasurer by rule shall adopt standards by which  
20 the quantities of precious metals deposited are credited to a  
21 depositor's depository account by reference to the particular form  
22 in which the metals were deposited, classified by mint,  
23 denomination, weight, assay mark, or other indicator, as applicable.  
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1 The standards must conform to applicable national and international  
2 standards of weights and measures.

3 D. The State Treasurer by rule may, if the State Treasurer  
4 determines that to do so is in the public interest, restrict the  
5 forms in which deposits of precious metals may be made to those  
6 forms that conveniently lend themselves to measurement and  
7 accounting in units of troy ounces and standardized fractions of  
8 troy ounces.

9 E. The depository shall adjust each depository account balance  
10 to reflect additions to or withdrawals or deliveries from the  
11 account.

12 SECTION 6. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 2406 of Title 62, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. The depository shall deliver any precious metal held by or  
16 on behalf of the depository in bullion, specie, or a combination of  
17 bullion and specie, on the order of a depository account holder in a  
18 quantity of that precious metal as is available in the depository  
19 account holder's depository account.

20 B. The depository shall make a delivery described by Subsection  
21 A of this section on demand by the presentment of a suitable check,  
22 draft, or digital electronic instruction to the depository or a  
23 depository agent. The State Treasurer by rule shall adopt the  
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1 forms, standards, and processes through which an order for delivery  
2 on demand may be made, presented, and honored.

3 C. The depository shall make a delivery at the depository's  
4 settlement facility designated by the State Treasurer, shipping to  
5 an address specified by the account holder or, at the depository's  
6 discretion, at a facility of a depository agent at which presentment  
7 is made, not later than five (5) business days after the date of  
8 presentment.

9 SECTION 7. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 2407 of Title 62, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. In accordance with rules promulgated under this act, a  
13 depository account holder may transfer any portion of the balance of  
14 the holder's depository account by check, draft, or digital  
15 electronic instruction to another depository account holder or to a  
16 person who at the time the transfer is initiated is not a depository  
17 account holder.

18 B. The depository shall adjust the depository account balances  
19 of the depository accounts to reflect a transfer transaction between  
20 depository account holders on presentment of the check, draft, or  
21 other instruction by reducing the payor's depository account balance  
22 and increasing the depository account balance of the payee  
23 accordingly.  
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1 C. If a depository account holder transfers to a payee who is  
2 not a depository account holder any portion of the balance of the  
3 holder's depository account, the depository shall allow the payee to  
4 establish a depository account by presentment of the payor's check,  
5 draft, or instruction to the depository or to a depository agent.  
6 The depository shall credit a newly established account on behalf of  
7 the payee and shall debit the payor's account accordingly.

8 SECTION 8. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2408 of Title 62, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. To establish a depository account, a depositor must contract  
12 with the depository for a depository account. The contract must  
13 specify:

14 1. The terms applicable to the account, including any special  
15 terms; and

16 2. The conditions on which withdrawals or deliveries with  
17 respect to the account may be made.

18 B. The execution of a contract for a depository account  
19 described by this section may be made, as prescribed by rules  
20 promulgated under this act, by electronic or digital transmission.

21 C. The depository or a depository agent shall hold the contract  
22 for a depository account in the records pertaining to the account.

23 D. A contract for a depository account executed by a depositor  
24 and the depository is considered a contract in writing for all

1 purposes and may be evidenced by one or more agreements, deposit  
2 receipts, signature cards, amendment notices, or other documentation  
3 as provided by law.

4 E. The depository and the depository account holder may amend a  
5 contract for a depository account by agreement, or the depository  
6 may amend the deposit contract by mailing a written notice of the  
7 amendment to the account holder, separately or as an enclosure with  
8 or part of the account holder's statement of account or passbook.  
9 In the case of amendment by notice from the depository, the notice  
10 must include the text and effective date of the amendment. The  
11 effective date may not be earlier than the thirtieth day after the  
12 date the notice is mailed, unless otherwise provided by rules  
13 promulgated under this act.

14 SECTION 9. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2409 of Title 62, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. A cause of action for denial of deposit liability on a  
18 depository account contract without a maturity date does not accrue  
19 until the depository has denied liability and given notice of the  
20 denial to the depository account holder.

21 B. The depository's act of furnishing an account statement or  
22 passbook, whether in physical, digital, or electronic form,  
23 constitutes a denial of liability and the giving of such notice as  
24 to any amount not shown on the statement or passbook.

1 SECTION 10. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2410 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 The State Treasurer by rule may establish fees, service charges,  
5 and penalties to be charged a depository account holder for a  
6 service or activity regarding a depository account, including a fee  
7 for an overdraft, an insufficient fund check or draft, or a stop  
8 payment order.

9 SECTION 11. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 2411 of Title 62, unless there  
11 is created a duplication in numbering, reads as follows:

12 Unless the depository acknowledges in writing a pledge of a  
13 depository account, the depository may treat the holder of record of  
14 the account as the owner of the account for all purposes and without  
15 regard to a notice to the contrary.

16 SECTION 12. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2412 of Title 62, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. A depository account may be transferred on the books of the  
20 depository only on presentation to the depository of:

- 21 1. Evidence of transfer satisfactory to the depository; and
  - 22 2. An application for the transfer submitted by the person to  
23 whom the depository account is to be transferred.
- 24

1 B. A person to whom a depository account is to be transferred  
2 must accept the transferred account subject to the terms of the  
3 deposit contract, this act, and rules promulgated under this act.

4 SECTION 13. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 2413 of Title 62, unless there  
6 is created a duplication in numbering, reads as follows:

7 The depository may not pay on a depository account:

- 8 1. Interest;
- 9 2. An amount in the nature of interest; or
- 10 3. A fee or other payment for the use or forbearance of use of  
11 money, bullion, specie, or precious metals deposited to a depository  
12 account.

13 SECTION 14. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2414 of Title 62, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. Without the need of any further agreement or pledge, the  
17 depository has a lien on each depository account owned by a  
18 depository account holder to secure any fees, charges, or other  
19 obligations owed or that may become owed to the depository in  
20 connection with any of the depository account holder's depository  
21 accounts as provided by the terms of the depository account holder's  
22 applicable depository account contract.

23 B. On default in the payment or in the satisfaction of a  
24 depository account holder's obligation, the depository, without

1 notice to or consent of the depository account holder, may transfer  
2 on the depository's books all or part of the balance of a depository  
3 account holder's depository account to the extent necessary to pay  
4 or satisfy the obligation, as determined by reference to the  
5 exchange rates applicable at the time of the transfer.

6 C. The depository by written instrument may waive wholly or  
7 partly the depository's lien on a depository account.

8 D. Subject to a lien created as provided by this section, the  
9 depository shall recognize the lawful pledge to a third party by a  
10 depository account holder of the depository account holder's rights,  
11 interests, and entitlements in and to a depository account as an  
12 intangible asset. On the satisfaction of other requirements of law  
13 in respect of the perfection and enforcement of a pledge of that  
14 type, the depository shall take all steps reasonably necessary and  
15 appropriate to effectuate on the depository's books any transfer of  
16 a depository account or of all or part of a depository account  
17 balance to the account of the secured party on the successful  
18 enforcement of the pledge.

19 SECTION 15. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2415 of Title 62, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. The following persons may invest the person's money in a  
23 depository account by purchasing precious metals and depositing the  
24 precious metals with the depository or a depository agent:

1 1. A fiduciary, including an administrator, executor,  
2 custodian, guardian, or trustee;

3 2. A political subdivision of this state or an instrumentality  
4 of this state;

5 3. A business or nonprofit corporation;

6 4. A charitable or educational corporation or association; or

7 5. A financial institution, including a bank, savings and loan  
8 association, or credit union.

9 B. An investment by an insurance company in a depository  
10 account is eligible to be applied as a credit against taxes payable  
11 under Section 624 of Title 36 of the Oklahoma Statutes, in  
12 accordance with rules promulgated by the State Treasurer after  
13 consultation with the Insurance Commissioner.

14 C. An investment by a school district in a depository account  
15 may be made instead of an investment as provided by the Security for  
16 Local Public Deposits Act, and the depository may be used by a  
17 district instead of a depository bank for the purposes of the  
18 Security for Local Public Deposits Act.

19 SECTION 16. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2416 of Title 62, unless there  
21 is created a duplication in numbering, reads as follows:

22 The applicable provisions of Title 58 of the Oklahoma Statutes  
23 and Section 801 et seq. of Title 68 of the Oklahoma Statutes, govern  
24 a depository account.

1 SECTION 17. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2417 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Unless a term of the depository account provides otherwise,  
5 a person on whose signature precious metals may be withdrawn from a  
6 depository account that is jointly held in the names of two or more  
7 persons may, by a signed pledge, pledge and transfer to the  
8 depository or to a third party all or part of the account.

9 B. A pledge made as described by subsection A of this section  
10 does not sever or terminate the joint and survivorship ownership of  
11 the account, to the extent applicable to the account before the  
12 pledge.

13 SECTION 18. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2418 of Title 62, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. The depository or a depository agent may accept a depository  
17 account in the name of a fiduciary, including an administrator,  
18 executor, custodian, guardian, or trustee, for a named beneficiary.

19 B. A fiduciary may open, add to, or withdraw precious metals  
20 from an account described by subsection A of this section.

21 C. Except as otherwise provided by law, a payment or delivery  
22 to a fiduciary or an acquaintance signed by the fiduciary to whom a  
23 payment or delivery is made is a discharge of the depository for the  
24 payment or delivery.

1 D. After a person who holds a depository account in a fiduciary  
2 capacity dies, the depository may pay or deliver to the beneficiary  
3 of the account the quantity of precious metals represented by the  
4 balance in the depository account, plus other rights relating to the  
5 depository account, wholly or partly, if the depository has no  
6 written notice or order of the probate court of:

7 1. A revocation or termination of the fiduciary relationship;  
8 or

9 2. Any other disposition of the beneficial estate.

10 E. The depository has no further liability for a payment made  
11 or right delivered under subsection D of this section.

12 SECTION 19. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 2419 of Title 62, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. If the depository opens a depository account for a person  
16 claiming to be the trustee for another person and the depository has  
17 no other notice of the existence or terms of the trust other than a  
18 written claim against the account:

19 1. The person claiming to be the trustee, on the person's  
20 signature, may withdraw precious metals from the account; and

21 2. If the person claiming to be the trustee dies, the  
22 depository may pay or deliver the quantity of precious metals  
23 represented by the balance in the account to the person for whom the  
24 account was opened.

1 B. The depository has no further liability for a payment or  
2 delivery made as provided by subsection A of this section.

3 SECTION 20. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2420 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The depository shall recognize the authority of an attorney-  
7 in-fact authorized in writing by a depository account holder to  
8 manage or withdraw precious metals from the depository account  
9 holder's depository account until the depository receives written or  
10 actual notice of the revocation of that authority.

11 B. For purposes of this section, written notice of the death or  
12 adjudication of incompetency of a depository account holder is  
13 considered to be written notice of revocation of the authority of  
14 the account holder's attorney-in-fact.

15 SECTION 21. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 2421 of Title 62, unless there  
17 is created a duplication in numbering, reads as follows:

18 The depository shall enter into transactions and relationships  
19 with bullion banks, depositories, dealers, central banks, sovereign  
20 wealth funds, financial institutions, international nongovernmental  
21 organizations, and other persons, located inside or outside of this  
22 state or inside or outside of the United States, as the State  
23 Treasurer determines to be prudent and suitable to facilitate the  
24

1 operations of the depository and to further the purposes of this  
2 act.

3 SECTION 22. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2422 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6 The depository may not take any of the following actions, and  
7 any attempt by the depository to take any of the following actions  
8 is void ab initio and of no force or effect:

9 1. Entering into a precious metals leasing, sale-leaseback,  
10 forward transaction, swap transaction, future transaction, index  
11 transaction, or option on or other derivative of any of those,  
12 whether in the nature of a cap transaction, floor transaction,  
13 collar transaction, repurchase transaction, reverse repurchase  
14 transaction, buy-and-sell-back transaction, securities lending  
15 transaction, or other financial instrument or interest intended to  
16 or having the effect of hedging or leveraging the depository's  
17 holdings of precious metals, including any option with respect to  
18 any of these transactions, or any combination of these transactions,  
19 except that the limitation provided by this paragraph does not apply  
20 to a transaction entered into to limit the depository's exposure to  
21 post-signature price risks associated with executory agreements to  
22 purchase or sell precious metals in the ordinary course of  
23 depository operations and does not apply to policies of insurance  
24

1 purchased to insure against ordinary casualty risks such as theft,  
2 damage or destruction, loss during shipment, or similar risks;

3 2. Accrediting the depository account balances of a depository  
4 account holder, or disposing of any precious metals, if to do so  
5 would cause the aggregate depository account balances with respect  
6 to any precious metal represented by all depository accounts to  
7 exceed the aggregate quantities of such precious metal held by or  
8 for the benefit of the depository and the depository's depository  
9 agents;

10 3. Entering into or maintaining a deposit, trust, or similar  
11 relationship for the custody of precious metals by a third party  
12 outside this state, directly or indirectly, for the account or  
13 benefit of the depository if the State Treasurer by rule establishes  
14 that:

- 15 a. the custody or intermediary arrangements in question  
16 do not meet the State Treasurer's standards of safety,  
17 security, and liquidity, or
- 18 b. except in those cases where such relationship may be  
19 incidental to the performance of or preparation for  
20 purchase and sale transactions with counterparties  
21 located outside of this state, suitable alternate  
22 arrangements for physical custody of the precious  
23 metals inside this state have been established and are  
24 available;

1           4. Extending credit to a person, including credit secured by a  
2 depository account or other assets, except an extension of credit  
3 incidental to the performance of the functions and responsibilities  
4 otherwise provided by this act; or

5           5. Engaging in a business or activity that, if conducted by a  
6 private person, would be subject to regulation in this state as a  
7 banking or savings and loan function.

8           SECTION 23.       NEW LAW       A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2423 of Title 62, unless there  
10 is created a duplication in numbering, reads as follows:

11           A. A purported confiscation, requisition, seizure, or other  
12 attempt to control the ownership, disposition, or proceeds of a  
13 withdrawal, transfer, liquidation, or settlement of a depository  
14 account, including the precious metals represented by the balance of  
15 a depository account, if effected by a governmental or quasi-  
16 governmental authority other than an authority of this state or by a  
17 financial institution or other person acting on behalf of or  
18 pursuant to a directive or authorization issued by a governmental or  
19 quasi-governmental authority other than an authority of this state,  
20 in the course of a generalized declaration of illegality or  
21 emergency relating to the ownership, possession, or disposition of  
22 one or more precious metals, contracts, or other rights to the  
23 precious metals or contracts or derivatives of the ownership,  
24

1 possession, disposition, contracts, or other rights, is void ab  
2 initio and of no force or effect.

3 B. The depository in the case of receiving notice of a  
4 purported confiscation, requisition, seizure, or other attempt to  
5 control the ownership, disposition, or proceeds of a withdrawal,  
6 transfer, liquidation, or settlement of a depository account,  
7 including the precious metals represented by the balance of a  
8 depository account, effected by a governmental or quasi-governmental  
9 authority other than an authority of this state or by a financial  
10 institution or other person acting on behalf of or pursuant to a  
11 directive or authorization issued by a governmental or quasi-  
12 governmental authority other than an authority of this state, in the  
13 course of a generalized declaration of illegality or emergency  
14 relating to the ownership, possession, or disposition of one or more  
15 precious metals, contracts, or other rights to the precious metals  
16 or contracts or derivatives of the ownership, possession,  
17 disposition, contracts, or other rights, may not recognize the  
18 governmental or quasi-governmental authority, financial institution,  
19 or other person acting as the lawful successor of the registered  
20 holder of a depository account in question.

21 C. On receipt of notice of any transaction described by  
22 subsection A of this section, with respect to all or any portion of  
23 the balance of a depository account, the depository shall suspend  
24 withdrawal privileges associated with the balances of the depository

1 account until suitable substitute arrangements may be effected in  
2 accordance with rules of the State Treasurer to enable the  
3 registered account holder to take delivery of the precious metals  
4 represented by the account balances in question. A voluntary  
5 transfer of a depository account balance or of a depository account  
6 among depository account holders may continue to take place  
7 unaffected by the suspension, and the depository shall recognize to  
8 the full extent authorized by this act and rules promulgated under  
9 this act.

10 SECTION 24. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 2424 of Title 62, unless there  
12 is created a duplication in numbering, reads as follows:

13 The State Treasurer by rule shall establish the references by  
14 which the official exchange rate for pricing precious metals  
15 transactions in terms of United States dollars or other currency  
16 must be established at the time of a depository transaction. The  
17 State Treasurer shall establish procedures and facilities through  
18 which the rates are made discoverable at all reasonable times by  
19 system participants, both on a real-time basis and retrospectively.

20 SECTION 25. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 2425 of Title 62, unless there  
22 is created a duplication in numbering, reads as follows:

23 The State Treasurer by rule shall establish procedures and  
24 requirements for the depository and depository agents designed to

1 minimize the burden to system participants of accounting for and  
2 reporting taxable gains and losses arising out of depository  
3 transactions as denominated in United States dollars or another  
4 currency.

5 SECTION 26. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 2426 of Title 62, unless there  
7 is created a duplication in numbering, reads as follows:

8 The State Treasurer shall submit to the Governor, the President  
9 Pro Tempore of the Senate and the Speaker of the House of  
10 Representatives a report on the status, condition, operations, and  
11 prospects for the depository and depository participation each year  
12 not later than September 30.

13 SECTION 27. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2427 of Title 62, unless there  
15 is created a duplication in numbering, reads as follows:

16 The depository shall use private, independently managed firms  
17 and institutions licensed as depository agents as intermediaries to  
18 conduct retail transactions in bullion and specie on behalf of the  
19 depository with current and prospective depository account holders.  
20 A depository agent used by the depository under this section must  
21 have a minimum of five (5) years of depository operational  
22 experience or ownership, including three years of direct retail  
23 transaction experience with public and private entities or  
24 individuals. The State Treasurer by rule may impose additional

1 requirements as to capitalization, net worth, liquidity, or other  
2 financial prerequisites to qualify a depository agent to conduct  
3 transactions or take other action on behalf of the depository.

4 SECTION 28. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 2428 of Title 62, unless there  
6 is created a duplication in numbering, reads as follows:

7 The State Treasurer by rule shall require a depository agent to  
8 maintain suitable systems and processes for electronic information  
9 sharing and communication with the State Treasurer and the  
10 depository to ensure that all transactions effected on behalf of the  
11 depository are reported to and integrated into the depository's  
12 records not later than 11:59:59 p.m. on the date of each  
13 transaction.

14 SECTION 29. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 2429 of Title 62, unless there  
16 is created a duplication in numbering, reads as follows:

17 A depository agent shall submit monthly, quarterly, and annual  
18 reports of all depository transactions not later than the fifteenth  
19 day of the month following the expiration of the period with respect  
20 to which such report is submitted. The report must contain  
21 information and be in a form and format as rules of the State  
22 Treasurer require.

1 SECTION 30. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2430 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. A depository agent license holder shall prepare written  
5 reports and statements as follows:

6 1. An audited unconsolidated financial statement that is dated  
7 as of the last day of the license holder's fiscal year that ended in  
8 the immediately preceding calendar year;

9 2. A quarterly interim financial statement and report regarding  
10 the permissible investments required to be maintained under  
11 applicable rules that reflect the license holder's financial  
12 condition and permissible investments as of the last day of the  
13 calendar quarter to which the statement and report relate and that  
14 are prepared not later than the forty-fifth day after the last day  
15 of the calendar quarter; and

16 3. Any other report required by rules of the State Treasurer or  
17 reasonably requested by the State Treasurer to determine compliance  
18 with this act.

19 SECTION 31. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2431 of Title 62, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. Notwithstanding any other provision of this act, a money  
23 service that constitutes both a depository agent service and a money  
24 transmission service, or both a depository agent service and a

1 currency exchange service, for purposes of this act constitutes a  
2 depository agent service only.

3 B. A depository agent service described by subsection A of this  
4 section is not subject to a provision of this act applicable  
5 uniquely to money transmission services or currency exchange  
6 services.

7 C. A person who renders a service that constitutes a depository  
8 agent service, including a depository agent service described by  
9 subsection A of this section, and renders another service that  
10 constitutes money transmission or currency exchange service only, is  
11 subject to the requirements of this act applicable to each type of  
12 service rendered.

13 SECTION 32. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2432 of Title 62, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. A person may not engage in the business of rendering  
17 depository agent services or advertise, solicit, or hold itself out  
18 as a person that engages in the business of depository agent  
19 services unless the person:

20 1. Is licensed under this act and has received the requisite  
21 certifications from the State Treasurer of its facilities, systems,  
22 processes, and procedures as required by this act or rule  
23 promulgated pursuant to this act; or

24 2. Is exempted from licensing requirements as provided by law.

1 B. Notwithstanding any other provision of this act, the  
2 following persons and entities are not eligible for a license under  
3 this act:

4 1. The United States or an instrumentality of the United  
5 States, including the United States Post Office or a contractor  
6 acting on behalf of the United States Post Office;

7 2. A person that, on behalf of the United States or a  
8 department, agency, or instrumentality of the United States, or a  
9 state or county, city, or any other governmental agency or political  
10 subdivision of a state, provides electronic funds transfer services  
11 of governmental benefits for a federal, state, county, or local  
12 governmental agency;

13 3. A person that acts as an intermediary on behalf of and at  
14 the direction of a license holder in the process by which the  
15 license holder, after receiving money or monetary value from a  
16 purchaser, either directly or through an authorized delegate,  
17 transmits the money or monetary value to the purchaser's designated  
18 recipient, provided that the license holder is liable for satisfying  
19 the obligation owed to the purchaser;

20 4. An attorney or title company that in connection with a real  
21 property transaction receives and disburses domestic currency or  
22 issues an escrow or trust fund check only on behalf of a party to  
23 the transaction; and  
24

1           5. A person engaged in the business of currency transportation  
2 who is both a registered motor carrier and a licensed armored car  
3 company or courier company, provided that the person does not engage  
4 in the money transmission or currency exchange business without a  
5 license issued under this act.

6           C. For purposes of this act:

7           1. A person engages in the business of depository agent  
8 services if the person renders a depository agent service,  
9 regardless of whether:

10           a. compensation is sought or received for the service,  
11           directly or indirectly, and

12           b. the service is incidental to any other business in  
13           which the person is primarily engaged; and

14           2. A person solicits, advertises, or holds the person out as a  
15 person that engages in the business of depository agent services if  
16 the person represents that the person will conduct depository agent  
17 services.

18           D. Notwithstanding the provisions of subsection C of this  
19 section, a person does not engage in the business of depository  
20 agent services by engaging in a transaction for the person's own  
21 depository account or for the account of another person acting as a  
22 fiduciary that would constitute depository agent services if  
23 conducted for another person.  
24

1 E. A depository agent license holder may engage in depository  
2 agent services business at one or more locations in this state owned  
3 directly or indirectly by the license holder under a single license.

4 SECTION 33. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 2433 of Title 62, unless there  
6 is created a duplication in numbering, reads as follows:

7 In addition to the general qualifications for licensure set  
8 forth in Section 32 of this act, an applicant for a depository agent  
9 license must demonstrate to the satisfaction of the State Treasurer  
10 that:

11 1. The applicant has and will maintain the capitalization,  
12 minimum net worth, and other applicable financial requirements  
13 established by rules of the State Treasurer;

14 2. The applicant's financial condition will enable the  
15 applicant to safely and soundly engage in the business of depository  
16 agent services; and

17 3. The applicant does not engage in any activity or practice  
18 that adversely affects the applicant's safety and soundness.

19 SECTION 34. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2434 of Title 62, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. An applicant for a depository agent license must submit an  
23 application to the State Treasurer.  
24

1 B. At the time an application for a depository agent license is  
2 submitted, an applicant must file with the State Treasurer:

3 1. An application fee in the amount established by rule of the  
4 State Treasurer;

5 2. Audited financial statements that are satisfactory to the  
6 State Treasurer for purposes of determining whether the applicant  
7 has the minimum net worth required under applicable rules and is  
8 likely to maintain the required minimum net worth if a license is  
9 issued; and

10 3. Security in the amount of Five Hundred Thousand Dollars  
11 (\$500,000.00) that meets the requirements of applicable rules and an  
12 undertaking or agreement that the applicant will increase or  
13 supplement the security to equal the aggregate security required by  
14 the State Treasurer before the issuance of the license and the start  
15 of operations.

16 SECTION 35. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2435 of Title 62, unless there  
18 is created a duplication in numbering, reads as follows:

19 The State Treasurer shall investigate the applicant and act on  
20 the application.

21 SECTION 36. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2436 of Title 62, unless there  
23 is created a duplication in numbering, reads as follows:

1           A. The State Treasurer may issue a temporary depository agent  
2 license to a person that is engaging in depository agent services,  
3 but has not obtained a license under this act, if the person:

4           1. Certifies in writing that the person qualifies for the  
5 license and will submit a completed license application not later  
6 than the sixtieth day after the date the temporary license is  
7 issued;

8           2. Submits a recent financial statement acceptable to the State  
9 Treasurer that reflects the minimum net worth required under  
10 applicable regulations;

11           3. Provides security that meets the requirements specified by  
12 the State Treasurer, but not less than Five Hundred Thousand Dollars  
13 (\$500,000.00);

14           4. Agrees in writing that, until a permanent license is issued,  
15 the person will engage only in activities being conducted at  
16 existing locations; and

17           5. Pays the application fee and a nonrefundable temporary  
18 license fee in the amount established by rules promulgated by the  
19 State Treasurer.

20           B. The effective period for a temporary depository agent  
21 license may not exceed ninety (90) days after the date the license  
22 is issued. The State Treasurer may extend the effective period for  
23 not more than thirty (30) days if necessary to complete the  
24

1 processing of a timely filed application for which approval is  
2 likely.

3 SECTION 37. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2437 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6 A depository agent license holder is liable for the delivery to  
7 or for the account of the depository or each depositor, as  
8 applicable, of all bullion, specie, and money payable or deliverable  
9 in connection with the transactions in which the license holder  
10 engages on behalf of the depository.

11 SECTION 38. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 2438 of Title 62, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. A depository agent license holder shall hold in trust all  
15 cash, bullion, specie, and other assets received in the ordinary  
16 course of its business until the time the delivery obligation is  
17 discharged. A trust resulting from the depository agent license  
18 holder's actions is in favor of the persons to whom such delivery  
19 obligations are owed.

20 B. If a depository agent license holder commingles any money or  
21 other property received for delivery with money or other property  
22 owned or controlled by the depository agent license holder, all  
23 commingled money and other property are impressed with a trust as  
24 provided by this section in an amount equal to the amount of money

1 or property received for delivery, less the amount of fees paid for  
2 the delivery.

3 C. If the State Treasurer revokes a depository agent license,  
4 all money and other property held in trust by the depository agent  
5 license holder is assigned to the State Treasurer for the benefit of  
6 the persons to whom the related delivery obligations are owed.

7 D. Money or other property of a depository agent license holder  
8 impressed with a trust under this section may not be considered an  
9 asset or property of the license holder in the event of bankruptcy,  
10 receivership, or a claim against the license holder unrelated to the  
11 license holder's obligations under this act.

12 SECTION 39. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 2439 of Title 62, unless there  
14 is created a duplication in numbering, reads as follows:

15 A depository agent license holder's name and mailing address or  
16 telephone number must be provided to the purchaser in connection  
17 with each depository agent services transaction conducted by the  
18 depository agent license holder.

19 SECTION 40. This act shall become effective November 1, 2016.

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