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MEMORANDUM

TO: House Commerce and Economic Development Committee
FROM: Department of Financial Regulation
SUBJECT: S. 154 – Suggested Changes
DATE: April 4, 2019

After conversations with industry representatives, the Department recommends the following changes to S. 154.

1. 8 V.S.A. § 2108(c), page 19, lines 1 – 4.

§ 2108. NOTIFICATION OF MATERIAL CHANGE

* * *

(c) A licensee shall file a report with the Commissioner within 15 business days *after the licensee has reason to know* of the occurrence of any of the following events involving the licensee, or any executive officer, manager, director, person in control, responsible individual, or equivalent of the licensee:

The highlighted language currently appears in 8 V.S.A. § 2532, which is being deleted and replaced by new § 2108. Industry representatives have contacted the Department requesting that the highlighted language be added to new § 2108(c). The Department does not object to the change.

2. 8 V.S.A. §2500(12), Sec. 40, page87, lines 18 – 21.

(12) “Prepaid access” means funds or monetary value represented in digital electronic format, *including virtual currency*, whether or not specially encrypted, that are stored or capable of storage on electronic media and are retrievable and transferable electronically.

3. 8 V.S.A. §2500(13), Sec. 40, page89, lines 3 – 10.

(22)(13) “Virtual currency” means ~~stored value~~ *prepaid access a digital representation of value* that:

(A) can be a medium of exchange, a unit of account, or a store of value;

(B) has an equivalent value in money or acts as a substitute for money;

(C) may be centralized or decentralized; and

(D) can be exchanged for money or other convertible virtual currency.

After discussions with industry representatives, the Department believes that the changes suggested to § 2500(12) and (13) provide a more accurate description of “prepaid access” and “virtual currency” for purposes of our money transmitter statute.

4. 8 V.S.A. § 2534, Sec. 53, pages 107 – 108.

§ 2534. RECORDS

~~A~~ In addition to the records required by section 2119 of this title, a licensee shall maintain records for determining the licensee’s compliance with this chapter. A licensee shall maintain *its records the following* for at least *five seven-five* years, *which records shall include the following*:

- (1) a record of each payment instrument or ~~stored-value~~ prepaid access obligation sold;
- (2) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
- (3) bank statements and bank reconciliation records;
- (4) records of outstanding payment instruments and prepaid access ~~stored-value~~ obligations;
- (5) records of each payment instrument and ~~stored-value~~ prepaid access obligation paid within the *five-year seven-year five-year* period;
- (6) a list of the last known names and addresses of all of the licensee’s authorized delegates; and
- (7) any other records the Commissioner requires by rule.

~~(b) The items specified in subsection (a) of this section may be maintained in any form of a record as permitted in subsection 11301(c) of this title.~~

~~(e) The licensee shall keep, use in the licensee's business, and make available to the Commissioner upon request, such books, accounts, records, and data compilations as will enable the Commissioner to determine whether such licensee is complying with the provisions of this chapter and with the rules and regulations lawfully made by the Commissioner hereunder.~~

~~(d) All records maintained by the licensee as required in subsections (a) through (c) of this section are open to inspection by the Commissioner pursuant to section 2530 of this title.~~

The industry standard for record retention by money transmitters in other states and under federal law is five years. Industry representatives requested that the record retention requirement in Vermont remain five years to match the standard in other states and under federal law. The Department supports this change to S. 154.

5. § 2546(a), Sec. 56, page 109, line 17.

§ 2546. TERMINATION OR SUSPENSION OF AUTHORIZED DELEGATE ACTIVITY

(a) Sections 2110 ~~and 2545~~ of this title ~~apply~~ *applies* to authorized delegates.

Section 2545 is being repealed. See page 109, Sec. 55, lines 12-13.