

**“EXHIBIT A”**

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY  
THE FINANCIAL INSTITUTIONS DIVISION (Division)  
TO ASSEMBLY BILL (AB) 21  
MONEY TRANSMITTERS  
September 13, 2023**

**1. Small Business Impact Statement pursuant to NRS 233B.0609:**

**(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

**(I) Solicitation of affected small businesses.**

The Division sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to engage in or who desire to engage in the business of money transmission, to ensure that there is established in this state an adequate, efficient and competitive service available to the general public.

The Division composed the solicitation list from current licensees under Nevada Revised Statutes chapter 671 and all known interested parties. In turn, the Division solicited comments on the proposed regulations for Assembly Bill 21 (A.B.21) from the above lists by emailing a notice and questionnaire. Additionally, a copy of the full text of the proposed regulations was emailed and posted to the Division’s website. The solicited comments were used to formulate this Small Business Impact Statement.

**(II) Summary of responses.**

See attached spreadsheet.

**(III) Obtain a copy of the summary.**

This Small Business Impact Statement was posted on the NFID website dated November 13, 2023, along with a Notice of Workshop for November 28, 2023. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner  
Financial Institutions Division  
3300 W. Sahara Avenue, Suite 250  
Las Vegas, NV 89102  
Email: FIDMaster@fid.state.nv.us  
Telephone: (702) 486-4120  
Website: <http://fid.nv.gov>**

**(b) The manner in which the analysis was conducted.**

Pursuant to NRS 233B.0608(1), the Division made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business. For this effort, the Division sent a copy of the draft regulations and a Small Business Impact Questionnaire to all known interested parties for review and invited written comment regarding the impact to the entities, NFID took all comments submitted into consideration.

Following review and analysis of the authorizing statutory language A.B.21 and written comment from the industry, the Division has determined that the proposed regulation is unlikely to impose a direct and significant economic burden upon a small business; result in any direct or indirect adverse effects on small business; or directly restrict the formation, operation, or expansion of a small business.

**(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:**

**(1) Both Adverse and Beneficial effects:**

**(I) ADVERSE EFFECTS:**

The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processors as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

**(II) BENEFICIAL EFFECTS:**

The industry is in favor of the Division removing the requirement to maintain a trust or custodial bank account in the state of Nevada. This allows licensees the option to seek a banking relationship with banks outside of Nevada, with a depository institution in the same state as the licensee, as long as the depository institution is federally or privately insured.

**(2) Both Direct and Indirect effects:**

**(I) DIRECT EFFECTS:**

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The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

**(II) INDIRECT EFFECTS:**

The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processor as money transmitters in this state, A.B.21 just provides clarification and definition.

**(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

The Division sent out 249 small business questionnaires to all known interested parties. It received a total of twelve (12) responses to the solicitation. Five (5) small business provided comment, two (2) responded with N/A or no impact, and five (5) responded with no comment because they were over the small business threshold of 150 employees. The Division has considered and analyzed all submitted comments and addressed those comment in the attached summary of response spreadsheet.

**(e) The estimated cost to the agency for enforcement of the proposed regulation.**

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

**(f) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect, and the manner in which the money will be used.**

The Division is proposing a minimal increase in application and licensing fees, up to the maximum allowable amount in statute.

**The 1<sup>st</sup> Year → \$65,600** (Based on the application fee of \$500.00 and initial licensing fee of \$400.00 for excepted 20 new licensees and the renewal fee of \$400.00 for the current 119 licensees).

**The 2<sup>nd</sup> Year → \$73,600** (Based on yearly renewal fee of \$400.00 for 119 current licensees and 20 new licensees from year one, and application fee of \$500.00 and initial licensing fee of \$400 for an excepted 20 new licensees in year two.)

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

**(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

To the Division's knowledge, the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity.

**(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.**

This is a result of the passage of new legislation, A.B. 21. The Division can only lessen the impact on small business by proposing regulation that provides clarification to the industry. The regulation itself does not impose an economy burden to small business.

To the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this Small Business Impact Statement was prepared properly and accurate.



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Sandy O'Laughlin  
Commissioner  
Financial Institutions Division  
State of Nevada, Department of Business and Industry

**AB21- Money Transmission- Direct or Indirect  
Impact Item From Small Businesses**

**Number/  
and %**

**Direct or  
Indirect**

**Adverse or  
Beneficial**

**NFID Answer/Mitigation**

A custodial, trust account should not be required for money transmitters dealing only in cryptocurrency assets, holding no customer cash liabilities. If a cryptocurrency company does not offer cash custody or have customer cash liabilities, a licensee cannot get a bank account for purposes other than the intended use of the account. Therefore, a licensee cannot get a custody/trust account without a business need for such account, and in return cannot comply with Nevada law.

2  
(40.00%)

Direct

Adverse

The Division has added proposed language in the regulation, which will allow for a licensee to request an exemption from the Division.

It is difficult for MSBs to establish banking relationships in the first place and particularly difficult when the requirement does not align to our business model.

It is suggested the regulations provide the Commissioner of the FID the authority to grant exceptions to regulatory requirements where appropriate according to the business model of a prospective institutional applicant. Such as business models where the licensee can demonstrate when the funds are not customer funds. Some other state jurisdictions have granted similar exceptions.

Because of the need of a trust account, the state examiners are rigidly bound by this requirement and have cited us for illegal comingling in the trust account in the past. This has forced us to incur additional follow-up examination costs (direct and indirect) as well as outside counsel costs to address with the Commissioner to find a reasonable outcome.

<p>There should be exceptions to tangible net worth requirements for companies that are publicly traded on the NYSE or NASDAQ.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>This is a requirement per AB21 and not in the proposed regulation. The Division cannot change language in AB21 and AB21 does not allow for an exemption from the tangible net worth provision.</p>

<p>Sec. 9. NAC 671.075 Maintenance of separate custodial or trust account and related records. While the intent is clear from subsequent language that this requirement pertains to the custody of customer funds, this section vaguely refers only to "money collected," rather than specifically limiting it to assets collected and held on behalf of customers. For purposes of this section, it should also be clear that this refers to fiat currency. More importantly, a company which does not accept, receive or otherwise hold fiat money belonging to customers, has already been subject to burdensome requests from regulatory bodies in states with similarly vague language seeking to enforce a requirement that is not applicable to a specific business model. In every instance, the regulators have agreed with the company that a trust/custodial account is not necessary since they do not accept or hold customer funds (USD); however, the decision has always been treated as an exception. The proposed language (i.e., "shall at all times maintain a separate custodial or trust account") focuses on the requirement to have an account, rather than on the protection of customer assets. Suggest clarifying the above requirement so that such an account is required only to the extent a business accepts or holds fiat monies on behalf of its customers. For example: "Funds collected or held on behalf of customers must, at all times, be kept in a custodial or trust account, separate from the licensee's own general or operating accounts, at a federally or privately insured bank or credit union." Language such as this would make it easier for licensees that do not collect any such funds on behalf of customers to avoid having to try to maintain empty and unused bank accounts.</p>	<p>1 (20.00%)</p>	<p>Indirect</p>	<p>Adverse</p>	<p>The Division has added proposed language in the regulation, which will allow for a licensee to request an exemption from the Division.</p>

<p>The proposed rule for authorized delegates to maintain a separate custodial or trust account will negatively affect our ability to obtain new authorized delegates. This requirement will be an unnecessary burden on our authorized delegates and will duplicate efforts since the licensee is already segregating these funds.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>This is a requirement per AB21, the Division cannot change the language in AB21. The Division drafted regulations to further expand and support the provisions in AB21. In addition, current law NRS 671 required an agent/authorized delegate to remit funds to a licensee or deposit into the licensee's account not later than the third business day following its receipt, and these funds collected by the agent/authorized delegate could not be commingled with its operating account or other assets. Therefore, these funds were to be held in trust until remitted to the licensee. This 3-day rule has been removed but the trust account remains.</p>
<p>Removing the requirement for a local bank in favor of an FDIC insured national bank allows licensees to consolidate treasury management to be more effective and incur fewer costs.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Beneficial</p>	<p>No response is required since this comment does not have an adverse impact on small business.</p>



<p>Section 20, 2., which states that the definition of money transmission "includes payroll processing services." Section 26, which defines the term "payroll processing services". If payroll processors are classified as money transmitters, they are subject to licensing, capital requirements and restrictions, examination and reporting designed for an entirely different industry, serving different customer base and posing risks not present among payroll processors. This will increase costs for payment processors, including obtaining a surety bond.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>Before AB21 was adopted, payroll processors were required to obtain a license under NRS chapter 671. The new language in AB21 (Money Transmission Modernization Act-MTMA) provides more detail than current language by defining certain terms such as "money transmission" and "payroll processing services" but it did not change the fact that payroll processors always needed a license under NRS chapter 671.</p> <p>In addition, section 20.2 is language in AB21 not the proposed regulation, the Division cannot change the language in AB21. Even without this definition, the Division would continue to license payroll processors under NRS 671 such as other states do.</p>
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<p>Section 20, 2., which states that the definition of money transmission "includes payroll processing services." Section 26, which defines the term "payroll processing services". If payroll processors are classified as money transmitters, they are subject to licensing, capital requirements and restrictions, examination and reporting designed for an entirely different industry, serving different customer base and posing risks not present among payroll processors. This will increase costs for payment processors, including obtaining a surety bond.</p>	<p>1 (20.00%)</p>	<p>Indirect</p>	<p>Adverse</p>	<p>Before AB21 was adopted, payroll processors were required to obtain a license under NRS chapter 671. The new language in AB21 (Money Transmission Modernization Act-MTMA) provides more detail than current language by defining certain terms such as "money transmission" and "payroll processing services" but it did not change the fact that payroll processors always needed a license under NRS chapter 671.</p> <p>In addition, section 20.2 is language in AB21 not the</p>
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**SBI Response Summary:**

Total Known Interested Parties Solicited: 249

Total Responded with Comments: 5

Total Responded with N/A: 2

Total Responded with over 150 Employees (outside the small business threshold): 5

Total Comments Impacting the SBI % (Total Known Interested Parties Solicited - N/A - over 150 Employees=): 242

% Responded/Total Solicited (12/249): 4.82%

% Responded with Comments/Total Comments Impacting SBI (5/242): 2.07%