



Dora
Department of Regulatory Agencies

Division of Banking
Steven A. Strunk
State Bank Commissioner

Bill Ritter, Jr.
Governor

September 1, 2010

Barbara J. Kelley
Executive
Director

**BEFORE THE
COLORADO STATE BANKING BOARD
STATE OF COLORADO
DENVER, COLORADO**

IN THE MATTER OF

RULE PROMULGATION

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NOTICE OF HEARING

PLEASE BE ADVISED THAT, the Colorado State Banking Board (Banking Board) is scheduled to conduct a Hearing on October 21, 2010, commencing at 10:00 a.m. at 1560 Broadway, Suite 975, Denver, Colorado, Division of Banking (Division) Conference Room, which facility is accessible in compliance with the Americans with Disabilities Act (ADA) guidelines. The purpose of the Hearing is to hear comments concerning the proposed promulgation of Banking Board Rule MO8-Employee Money Laundering Affirmation, to ensure compliance with House Bill 10-1081 which went into effect August 11, 2010 and repealed Section 18-18-408, C.R.S. referenced in House Bill 10-1114 and added a new Section 18-5-309, C.R.S. As a result, the contents of Section 18-18-408, C.R.S., referenced in Section 12-52-203, C.R.S., have been replaced by Section 18-5-309, C.R.S. Banking Board Rule MO8 sets forth procedures for an employee of an agent conducting money transmission services to comply with the new statutory requirements.

The rulemaking Hearing is being held under the authority given the Banking Board in Sections 11-102-104(1), 12-52-103.5, 12-52-202, 12-52-203, 12-52-204, and 12-52-206, C.R.S., and pursuant to Section 24-4-103, C.R.S., of the State Administrative Procedures Act. Any interested person(s) has the right to submit written comments or data, view, or argument. Written information should be filed with the Division no later than October 11, 2010. In addition, any interested person(s) has the right to make an oral presentation at the Hearing unless the Banking Board deems any oral presentation unnecessary.

No later than the date of publication of this Notice, Banking Board Rule MO8 to be considered at the Hearing, together with a statement of basis, specific statutory authority and purpose, and any regulatory analysis if applicable, are available for inspection by any person at the Division's office. Additionally, any material that is incorporated by reference in the Rules that is not copyrighted will be available for public inspection at the Division's office; information regarding publisher and citation to the material will be available for material that is copyrighted.

**SUBMITTED ON BEHALF OF THE
COLORADO STATE BANKING BOARD**

Steven A. Strunk
State Bank Commission





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**STATE BANKING BOARD
RULE MO8
PERTAINING TO TITLE 12, ARTICLE 52, SECTION 203
COLORADO REVISED STATUTES**

STATEMENT OF BASIS, PURPOSE AND SPECIFIC AUTHORITY

Statutory Basis

The promulgation of Banking Board Rule MO8 is necessary to ensure compliance with Section 12-52-203, C.R.S. The passage of House Bill 10-1114 added a new Part 2 to Title 12, Article 52, C.R.S., which necessitates the creation of a new Banking Board Rule MO8, to require the Banking Board to (1) create a form containing a notice of the contents of Section 18-5-309, C.R.S. and other state and federal laws concerning money laundering and, (2) require an agent of a money transmitter licensed under the Colorado Money Transmitters Act to have each employee conducting money transmission services to sign the form created by the Banking Board prior to performing such services or, in lieu of signing the form, receive training on state and federal money laundering laws within 30 days before the employee performs such services. Failure to comply with the provisions of MO8 will result in the individual committing a Class 2 Misdemeanor for the first offense and a Class 1 Misdemeanor for any subsequent offense pursuant to Section 12-52-206, C.R.S.

Specific Purpose of this Rulemaking

To set forth procedures for an employee of an agent conducting money transmission services for a licensed money transmitter to affirm in writing their understanding of state and federal money laundering laws.

On June 17, 2010, the Banking Board approved the emergency filing of promulgated Rule MO8 and directed the Division to commence with formal rulemaking. However, effective August 11, 2010, House Bill 10-1081 went into effect which repealed Section 18-18-408, C.R.S. referenced in House Bill 10-1114 and added a new Section 18-5-309, C.R.S. As a result, the contents of Section 18-18-408, C.R.S., referenced in Section 12-52-203, C.R.S., have been replaced by Section 18-5-309, C.R.S. Therefore, the emergency rule MO8 entitled Employee Notice should be replaced by the new emergency Rule MO8 entitled Employee Money Laundering Affirmation which incorporates the new section of Part 3 to Title 18, Article 5, C.R.S.

In addition, public comment to the emergency Rule MO8 entitled Employee Notice, noted the rule was in contravention of express statutory mandate by requiring agent employee's to sign the Employee Notice form even if they had opted to receive training on money laundering laws. The statute permits an employee to elect to sign the Employee Notice form or, in lieu of signing the form, receive training. The Rule was modified to permit the two methods of ensuring employees understand money laundering laws.



Rulemaking Authority

The promulgation of MO8 is adopted pursuant to the following statutory provisions:

Section 11-102-104, C.R.S., which states

(1) The banking board is the policy-making and rule-making authority for the division of banking and has the power to:

(b) Make, promulgate, alter, amend, or revise reasonable rules as may be necessary for the enforcement and execution of the provisions of the "Money Order Act", article 52 of title 12, C.R.S.

Section 12-52-103.5, C.R.S., which states

The powers, duties, and functions of the banking board and the commissioner contained in article 102 of title 11, C.R.S., and the declaration of policy contained in section 11-101-102, C.R.S., shall apply to the provisions of this article. For the purposes of this section and section 11-102-104, C.R.S., the banking board shall have the same powers, duties, and functions concerning a violation of this article or a rule issued pursuant to this article as the board has concerning a violation of the "Colorado Banking Code", a statute, or a rule issued pursuant to that code.

12-52-113, C.R.S., which states

The banking board may make, promulgate, alter, amend, or revise reasonable rules and regulations as may be necessary for the enforcement and execution of this article.

Section 12-52-202, C.R.S., which states

(1) This Part 2 does not apply to an agent of a business licensed pursuant to Part 1 of this Article to the extent that the agent is selling or adding additional money to stored value issued by the business.

(2) For purposes of this section, "Stored Value" means a card, code, or other device that is issued to a consumer in a specified dollar amount, which may or may not be increased in value, and is redeemable at a single merchant, an affiliated group of merchants, or multiple unaffiliated groups of merchants or usable at automated teller machines.

Section 12-52-203, C.R.S., which states

(1) The Banking Board shall promulgate rules to create a form containing a notice of the contents of Section 18-5-309, C.R.S. and other state and federal laws concerning money laundering.

(2) (a) An agent of a business licensed pursuant to Part 1 of this Article shall require each employee who performs money transmission services to either: (I) understand and sign the form, created under Subsection (1) of this section, affirming knowledge of the money laundering laws prior to the employee performing such services; or (II) receive training that covers the money laundering laws within thirty days before the employee performs such services.

(b) The agent shall maintain a record of each employee along with the signed notice or evidence of training in compliance with paragraph (a) of this Subsection (2) so long as the employee provides such services. The records may be maintained in an electronic or digital format that reproduces the signature on the documents by the agent.

Section 12-52-204, C.R.S., which states

The information sent to the Banking Board under Section 12-52-201 and the records required by Section 12-52-203 shall be open to any law enforcement officer acting within the scope and course of the officer's official duties.

Section 12-52-206, C.R.S., which states

(1) A person who violates this Part 2 commits a Class 2 misdemeanor and, for the second or any subsequent offense, the person commits a Class 1 misdemeanor and shall be punished as provided in Section 18-1.3-501, C.R.S.

(2)) A person who acts as an agent of an unlicensed person required to be licensed by Part 1 of this article knowing the unlicensed person does not hold such license commits a Class 2 misdemeanor and shall be punished as provided in Section 18-1.3-501, C.R.S.