

CHAPTER 217

FINANCIAL INSTITUTIONS

SENATE BILL 99-083

BY SENATORS Owen, Powers, and Tebedo;
also REPRESENTATIVES Berry, Hoppe, Lawrence, McKay, McPherson, Morrison, Pffnner, Spradley, Stengel, and T. Williams.

AN ACT

CONCERNING THE ESTABLISHMENT OF FOREIGN CAPITAL DEPOSITORIES IN COLORADO, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 11, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 37.5
Foreign Capital Depositories

PART 1
GENERAL

11-37.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO FOREIGN CAPITAL DEPOSITORY ACT".

11-37.5-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(a) POLITICAL INSTABILITY, ECONOMIC INSECURITY, AND FINANCIAL RISK OUTSIDE THE UNITED STATES CREATE INCENTIVES FOR THE TRANSFER AND INVESTMENT OF FOREIGN CAPITAL DERIVED FROM LEGITIMATE ESTATES AND BUSINESS ACTIVITIES TO RELATIVELY SAFE PLACES SUCH AS COLORADO;

(b) POLITICAL CONDITIONS IN SOME COUNTRIES ARE CONTRARY TO THE FUNDAMENTAL FREEDOMS AND INDIVIDUAL LIBERTIES CODIFIED IN INTERNATIONAL HUMAN RIGHTS LAW AND CONTAINED IN THE COLORADO CONSTITUTION;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) IT IS IN THE PUBLIC INTEREST OF COLORADO TO ATTRACT LEGALLY DERIVED FOREIGN CAPITAL FOR INVESTMENT, REVENUE ENHANCEMENT, AND OTHER ECONOMIC DEVELOPMENT PURPOSES AS WELL AS TO FACILITATE TAX ABATEMENT FOR RESIDENTS AND BUSINESSES IN THE STATE;

(d) THE GENERAL ASSEMBLY HAS THE AUTHORITY, IN CONNECTION WITH ITS EFFORT TO IMPROVE ECONOMIC CONDITIONS IN THE STATE, TO TREAT FOREIGN PERSONS DIFFERENTLY THAN IT DOES COLORADO CITIZENS WITH RESPECT TO EQUAL PROTECTION OF THE LAW;

(e) BECAUSE THE FEDERAL "INTERNAL REVENUE CODE OF 1986" PROHIBITS COLORADO FROM OFFERING THE TYPE OF TAX SHELTERS TO UNITED STATES CITIZENS THAT ARE AVAILABLE TO THEM IN FOREIGN JURISDICTIONS AND BECAUSE FEW OF THE CONDITIONS PREVALENT IN OTHER COUNTRIES THAT GIVE RISE TO CAPITAL FLIGHT EXIST IN THE UNITED STATES, COLORADO IS BOTH COMPELLED AND RATIONALLY MOTIVATED TO OFFER SPECIALIZED PRIVATE FINANCIAL SERVICES EXCLUSIVELY TO FOREIGN CUSTOMERS;

(f) THE STATE HAS THE COMPETENCE, CAPACITY, AND LEGITIMATE AUTHORITY TO CHARTER AND REGULATE FINANCIAL INSTITUTIONS UNDER THE DUAL BANKING SYSTEM OF THE UNITED STATES;

(g) A PRUDENT BLEND OF FINANCIAL PRIVACY, ASSET PROTECTION, AND PROFITABILITY MAY OFFER FOREIGN DEPOSITORS UNIQUE OPPORTUNITIES TO BUILD AND PRESERVE THEIR WEALTH IN COLORADO;

(h) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROTECT BOTH STATE AND NATIONAL INTERESTS BY PROMOTING LEGAL AND TECHNICAL STANDARDS AND PROCEDURES TO DETER, PREVENT, AND DETECT MONEY LAUNDERING AND OTHER TYPES OF FINANCIAL CRIME.

11-37.5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BANK HOLDING COMPANY" MEANS A COMPANY REGISTERED UNDER THE FEDERAL "BANK HOLDING COMPANY ACT OF 1956", AS AMENDED.

(2) "BOARD" MEANS THE BANKING BOARD CREATED IN SECTION 11-2-102.

(3) "CAPITAL" MEANS CURRENCY THAT IS CONVERTIBLE TO UNITED STATES DOLLARS OR PERSONAL PROPERTY INCLUDING TANGIBLE PERSONAL PROPERTY.

(4) "CASH" MEANS CURRENCY, CASHIER'S CHECKS, MONEY ORDERS, AND OTHER NEGOTIABLE INSTRUMENTS.

(5) "CHARTER" MEANS A CERTIFICATE, ISSUED SUBSTANTIALLY IN ACCORDANCE WITH SECTIONS 11-3-109 AND 11-3-110, AUTHORIZING AN INSTITUTION TO CONDUCT BUSINESS IN COLORADO AS A FOREIGN CAPITAL DEPOSITORY.

(6) "COMMISSIONER" MEANS THE STATE BANK COMMISSIONER APPOINTED AND SERVING PURSUANT TO SECTION 11-2-101 (2).

(7) "CONTROLLING PERSON" MEANS A PERSON WHO HOLDS FIVE PERCENT OR MORE OF THE EQUITY IN A DEPOSITORY OR WHO IS OTHERWISE DETERMINED BY THE BOARD TO EXERCISE CONTROLLING AUTHORITY OVER DECISIONS AFFECTING THE MANAGEMENT AND OPERATION OF THE DEPOSITORY.

(8) "CUSTOMER" MEANS A PERSON WHO IS USING OR HAS USED THE SERVICES OF A FOREIGN CAPITAL DEPOSITORY OR FOR WHOM A FOREIGN CAPITAL DEPOSITORY HAS ACTED AS A FIDUCIARY.

(9) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES OR THE DIVISION OF BANKING ACTING ON THE DEPARTMENT'S BEHALF.

(10) "FOREIGN BANK" MEANS A BANK THAT HAS ITS PRIMARY OFFICE OUTSIDE THE JURISDICTION OF THE UNITED STATES AND IS LICENSED UNDER THE LAWS OF A FOREIGN COUNTRY OR A POLITICAL SUBDIVISION OF A FOREIGN COUNTRY.

(11) "FOREIGN CAPITAL DEPOSITORY" OR "DEPOSITORY" MEANS A FINANCIAL INSTITUTION INCORPORATED IN COLORADO AND CHARTERED BY THE BOARD TO CONDUCT BUSINESS AS A FOREIGN CAPITAL DEPOSITORY IN ACCORDANCE WITH THIS ARTICLE.

(12) "MONEY LAUNDERING" MEANS THE PROCESS THROUGH WHICH THE EXISTENCE, ILLEGAL SOURCE, TRUE OWNERSHIP, OR UNLAWFUL APPLICATION OF ILLICITLY DERIVED FUNDS IS CONCEALED OR DISGUISED TO MAKE THE FUNDS APPEAR LEGITIMATE, THEREBY HELPING TO EVADE DETECTION, PROSECUTION, SEIZURE, OR TAXATION.

(13) "NONRESIDENT ALIEN" MEANS A PERSON WHO IS NOT A CITIZEN OR A RESIDENT OF THE UNITED STATES.

(14) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, ASSOCIATION, TRUST, OR OTHER LEGAL ENTITY.

(15) "SUPERVISORY AGENCY" MEANS ANY OF THE FOLLOWING:

(a) THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEYS OF THE STATE, FOR PURPOSES OF ENFORCING THE CRIMINAL LAWS OF THIS STATE;

(b) THE COMMISSIONER AND THE DEPARTMENT, FOR PURPOSES OF ADMINISTERING AND ENFORCING THIS ARTICLE AND THE "COLORADO BANKING CODE OF 1957", ARTICLES 1 TO 11, 22, AND 23 OF THIS TITLE;

(c) THE BOARD, FOR PURPOSES OF CHARTERING A FOREIGN CAPITAL DEPOSITORY;

(d) THE FEDERAL RESERVE SYSTEM, WHEN THE CHARTERED DEPOSITORY IS A SUBSIDIARY OF A FINANCIAL INSTITUTION DOMICILED OUTSIDE THE JURISDICTION OF THE UNITED STATES, FOR PURPOSES OF EXAMINING A FOREIGN CAPITAL DEPOSITORY;

(e) THE UNITED STATES DEPARTMENT OF THE TREASURY, FOR PURPOSES OF ADMINISTRATION, EXAMINATION, AND ENFORCEMENT OF FEDERAL ANTI-MONEY LAUNDERING LAWS, INCLUDING, WITHOUT LIMITATION, THE FEDERAL "BANK SECRECY

ACT";

(f) THE LEGISLATIVE AUDIT COMMITTEE AND ITS STAFF, FOR PURPOSES OF ADMINISTERING THE LAWS OF THIS STATE RELATING TO THE AUDIT OF STATE AGENCIES AND THE COLLECTION AND DISBURSEMENT OF PUBLIC FUNDS;

(g) THE DEPARTMENT OF REVENUE, FOR PURPOSES OF ADMINISTERING AND ENFORCING LAWS RELATING TO THE COLLECTION OF TAXES OR FEES FROM A FOREIGN CAPITAL DEPOSITORY;

(h) THE COMMISSIONER OF INSURANCE AND THE DIVISION OF INSURANCE, FOR PURPOSES OF ADMINISTERING AND ENFORCING THE LAWS RELATING TO THE REGULATION OF AN INSURER OF ACCOUNTS IN A FOREIGN CAPITAL DEPOSITORY.

(16) "TANGIBLE PERSONAL PROPERTY" INCLUDES PLATINUM, PALLADIUM, GOLD, OR SILVER BULLION OR COINS, PRECIOUS STONES, JEWELRY, WORKS OF ART, FURNISHINGS, AND OTHER OBJECTS OF VALUE THAT ARE NOT LEGAL TENDER.

11-37.5-104. Scope and applicability - construction in harmony with banking law. THIS PART 1 AND PART 2 OF THIS ARTICLE SET FORTH THE TERMS AND CONDITIONS UNDER WHICH A FOREIGN OR DOMESTIC FINANCIAL INSTITUTION MAY DO BUSINESS IN COLORADO AS A STATE-CHARTERED FOREIGN CAPITAL DEPOSITORY. ALL PROVISIONS OF THE "COLORADO BANKING CODE OF 1957", ARTICLES 1 TO 11, 22, AND 23 OF THIS TITLE, SHALL APPLY TO SUCH INSTITUTIONS EXCEPT TO THE EXTENT OF ANY CONFLICT WITH THE PROVISIONS OF THIS ARTICLE, IN WHICH CASE THE PROVISIONS OF THIS ARTICLE SHALL CONTROL.

11-37.5-105. Charter required - misrepresentation cause for disqualification.

(1) A PERSON MAY NOT OPERATE OR CONDUCT BUSINESS AS A DEPOSITORY IN THIS STATE WITHOUT POSSESSING A VALID AND CURRENT CHARTER ISSUED BY THE BOARD.

(2) A DEPOSITORY SHALL POST THE CHARTER CERTIFICATE IN A CONSPICUOUS PLACE AT ITS PRINCIPAL OFFICE IN THIS STATE.

(3) A PERSON WHO IS FOUND BY THE COMMISSIONER TO HAVE FALSELY REPRESENTED TO A CUSTOMER THAT A CHARTER HAD BEEN OBTAINED IS PERMANENTLY DISQUALIFIED FROM OBTAINING A CHARTER.

11-37.5-106. Protection of appellation. A CORPORATION THAT HAS NOT BEEN ISSUED A CHARTER UNDER THE PROVISIONS OF SECTION 11-37.5-109 SHALL NOT TRANSACT BUSINESS UNDER A NAME OR TITLE THAT CONTAINS THE WORDS "FOREIGN", "CAPITAL", AND "DEPOSITORY" IN ANY COMBINATION.

11-37.5-107. Effect of injunction, rule, or order. AN INJUNCTION, RULE, OR ORDER ISSUED UNDER THIS ARTICLE, INCLUDING WITHOUT LIMITATION SECTION 11-37.5-501 OR 11-37.5-502, SUPERSEDES ANY CONFLICTING PROVISION OF THIS ARTICLE OR OF THE "COLORADO BANKING CODE OF 1957", ARTICLES 1 TO 11, 22, AND 23 OF THIS TITLE.

11-37.5-108. Rule-making authority. (1) IN ADDITION TO ANY OTHER AUTHORITY CONFERRED BY LAW, THE BOARD HAS THE AUTHORITY TO, AND SHALL,

PROMULGATE RULES IMPLEMENTING SECTIONS 11-37.5-109, 11-37.5-110, AND 11-37.5-113.

(2) IN ADDITION TO ANY OTHER AUTHORITY CONFERRED BY LAW, THE COMMISSIONER HAS THE AUTHORITY TO, AND SHALL, PROMULGATE RULES TO IMPLEMENT SECTIONS 11-37.5-114, 11-37.5-115, AND 11-37.5-119 AND TO SPECIFY THE CONDITIONS UNDER WHICH A DEPOSITORY MAY BE FOUND TO BE OPERATING IN A MANNER THAT IS UNSAFE OR UNSOUND.

11-37.5-109. Charter eligibility and application requirements. (1) IN ORDER TO LAWFULLY CONDUCT BUSINESS IN COLORADO AS A FOREIGN CAPITAL DEPOSITORY, A PERSON INTENDING TO OWN OR OPERATE A DEPOSITORY SHALL:

(a) OBTAIN A CHARTER FROM THE BOARD THROUGH AN APPLICATION PROCESS ESTABLISHED BY THE COMMISSIONER AND ADMINISTERED BY THE DEPARTMENT;

(b) MAKE AND FILE ARTICLES OF INCORPORATION CONTAINING INFORMATION OF ALL TYPES SPECIFIED IN SECTION 11-3-109 (1) (a), EXCEPT FOR THOSE TYPES OF INFORMATION SPECIFICALLY EXCLUDED BY THE BOARD BY RULE;

(c) SUBMIT AN APPLICATION TO THE BOARD ON A FORM PROVIDED BY THE COMMISSIONER AND ACCOMPANIED BY:

(I) DOCUMENTS CERTIFYING THAT THE IDENTITY OF EACH DIRECTOR, EXECUTIVE OFFICER, AND CONTROLLING PERSON OF THE PROPOSED DEPOSITORY HAS BEEN VERIFIED BY MEANS OF A BACKGROUND CHECK;

(II) A DETAILED, WRITTEN DESCRIPTION OF THE APPLICANT'S PERSONNEL TRAINING AND PREEMPLOYMENT SCREENING PROGRAMS, PHYSICAL AND TECHNOLOGICAL SECURITY SYSTEMS, AND METHODS OF COMPLIANCE WITH APPLICABLE FEDERAL RECORD-KEEPING AND REPORTING LAWS, INCLUDING, WITHOUT LIMITATION, THE FEDERAL "BANK SECRECY ACT" AND ITS IMPLEMENTING REGULATIONS;

(III) A BUSINESS PLAN THAT INCLUDES PROJECTIONS OF COSTS, PROFITABILITY, AND RELEVANT CHANGES IN FINANCIAL MARKETS;

(IV) THE INTENDED LOCATION OF EACH DEPOSITORY OFFICE IN THE STATE;

(V) A DOCUMENT FROM A CERTIFIED PUBLIC ACCOUNTANT CONFIRMING THAT THE APPLICANT HAS FINANCIAL ASSETS IN EXCESS OF LIABILITIES IN AN AMOUNT ESTABLISHED BY THE BOARD BY RULE; AND

(VI) A NONREFUNDABLE CHARTER APPLICATION FEE, SET BY THE BOARD PURSUANT TO SECTION 11-37.5-113, TO BE PAID INTO THE FOREIGN CAPITAL DEPOSITORY ACCOUNT ESTABLISHED IN SECTION 11-37.5-118.

(2) A FOREIGN CAPITAL DEPOSITORY MAY BE A SUBSIDIARY OF A FOREIGN BANK THAT HAS OBTAINED APPROVAL FROM THE FEDERAL RESERVE SYSTEM TO OPERATE IN THE UNITED STATES IN ACCORDANCE WITH THE FEDERAL "FOREIGN BANK SUPERVISION ENHANCEMENT ACT OF 1991".

11-37.5-110. Charter application - grounds for denial. (1) TO SAFEGUARD THE INTERESTS AND THE REPUTATION OF THE STATE, THE BOARD SHALL DENY A CHARTER APPLICATION IF IT FINDS THAT THE APPLICANT PLANNING TO OWN, OPERATE, OR MANAGE THE DEPOSITORY IS NOT OF GOOD CHARACTER OR THAT THE APPLICANT IS NOT FINANCIALLY SOUND.

(2) THE BOARD MAY FIND THAT THE PERSON PLANNING TO OWN, OPERATE, OR MANAGE THE DEPOSITORY IS NOT OF GOOD CHARACTER OR FINANCIAL INTEGRITY IF A DIRECTOR, AN EXECUTIVE OFFICER, OR A CONTROLLING PERSON OF THE APPLICANT HAS:

(a) BEEN CONVICTED OF OR HAS PLEADED GUILTY OR NOLO CONTENDERE TO ANY CRIME INVOLVING FRAUD, THEFT, RACKETEERING, OR MONEY LAUNDERING OR CONSPIRACY TO COMMIT ANY SUCH CRIME, PURSUANT TO THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES, INCLUDING, WITHOUT LIMITATION, THE FEDERAL "BANK SECRECY ACT";

(b) HAD A PROFESSIONAL OR OCCUPATIONAL LICENSE, OR THE AUTHORITY OR PERMISSION TO BE EMPLOYED IN A BANKING, SECURITIES, OR INSURANCE INSTITUTION, DENIED, SUSPENDED, OR REVOKED BASED ON CONDUCT INVOLVING AN ACT OF FRAUD OR DISHONESTY;

(c) WILLFULLY MADE OR CAUSED TO BE MADE FALSE OR MISLEADING STATEMENTS IN AN APPLICATION OR REPORT TO A SUPERVISORY AGENCY OR HAS WILLFULLY OMITTED FACTS REQUIRED IN THE REPORT;

(d) WILLFULLY VIOLATED OR AIDED, ABETTED, COUNSELED, COMMANDED, INDUCED, OR PROCURED THE VIOLATION BY ANOTHER PERSON OF A PROVISION OF SECTION 11-37.5-105 OR 11-37.5-109.

(3) SUBSECTIONS (1) AND (2) OF THIS SECTION ARE NOT EXCLUSIVE OF OTHER GROUNDS ON WHICH THE BOARD MAY DETERMINE THAT AN APPLICANT FOR A CHARTER IS NOT OF GOOD CHARACTER OR FINANCIAL INTEGRITY AND THEREFORE MAY NOT RECEIVE A CHARTER.

(4) THE BOARD MAY AUTHORIZE THE COMMISSIONER TO CONDUCT OR OBTAIN FROM THE COLORADO BUREAU OF INVESTIGATION OR A PRIVATE INVESTIGATIVE SERVICE A BACKGROUND CHECK ON ANY DIRECTOR, EXECUTIVE OFFICER, OR CONTROLLING PERSON OF THE APPLICANT FOR THE PURPOSES OF DETERMINING WHETHER AN APPLICANT IS OF GOOD CHARACTER.

(5) THE BOARD SHALL ADOPT RULES CONCERNING THE METHOD AND PROCESS FOR DETERMINING WHETHER AN APPLICANT FOR A CHARTER IS FINANCIALLY SOUND.

11-37.5-111. Suspension, revocation, and restoration of charter. (1) THE BOARD MAY SUSPEND OR REVOKE THE CHARTER OF A DEPOSITORY IF THE BOARD FINDS THAT THE DEPOSITORY OR ANY DIRECTOR, EXECUTIVE OFFICER, OR CONTROLLING PERSON OF THE DEPOSITORY HAS:

(a) VIOLATED ANY PROVISION OF THIS ARTICLE OR ANY RULE VALIDLY ADOPTED PURSUANT TO THIS ARTICLE OR THE "COLORADO BANKING CODE OF 1957", ARTICLES

1 TO 11, 22, AND 23 OF THIS TITLE;

(b) COMMITTED ANY ACT OR BEEN INVOLVED IN ANY ACTIVITY THAT WOULD BE GROUNDS FOR DENIAL OF A CHARTER UPON INITIAL APPLICATION PURSUANT TO SECTION 11-37.5-110;

(c) FAILED TO COMPLY WITH AN ORDER OF THE COMMISSIONER;

(d) OPERATED IN A MANNER OR CONDITION THAT IS UNSAFE OR UNSOUND;

(e) BECAME INSOLVENT IN THAT THE DEPOSITORY HAS CEASED TO PAY ITS DEBTS IN THE ORDINARY COURSE OF BUSINESS, IS UNABLE TO PAY DEBTS AS THEY COME DUE, OR HAS LIABILITIES THAT EXCEED ITS ASSETS;

(f) FILED A PETITION FOR AN ADJUDICATION OF BANKRUPTCY;

(g) KNOWINGLY MADE A FALSE STATEMENT OR REPORT TO A SUPERVISORY AGENCY;

(h) FAILED TO PAY THE DEPARTMENT OF REVENUE THE FEE, PENALTY, OR INTEREST OWED PURSUANT TO SECTIONS 11-37.5-403 TO 11-37.5-405 BEFORE 5 P.M. ON THE LAST DAY OF THE ELEVENTH MONTH AFTER THE DATE A DEFICIENCY ASSESSMENT IS MAILED PURSUANT TO SECTION 11-37.5-405; OR

(i) IF THE DEPOSITORY IS A SUBSIDIARY OF A FOREIGN BANK HOLDING COMPANY OR ANOTHER TYPE OF FINANCIAL INSTITUTION, HAD ITS OPERATING LICENSE SUSPENDED OR REVOKED IN THE COUNTRY WHERE THE PARENT COMPANY IS DOMICILED.

(2) BEFORE SUSPENDING OR REVOKING A CHARTER, THE BOARD SHALL CONDUCT A HEARING IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

(3) ON THE RECOMMENDATION OF THE DEPARTMENT, THE BOARD MAY REINSTATE A CHARTER THAT HAS BEEN SUSPENDED OR REVOKED IF THE BOARD FINDS THAT THE DEPOSITORY HAS RESTORED ITS FINANCIAL INTEGRITY AND SOUNDNESS.

(4) AT NO TIME DURING OR FOLLOWING THE SUSPENSION, REVOCATION, OR REINSTATEMENT OF A CHARTER MAY A FINANCIAL RECORD PERTAINING TO AN INDIVIDUAL ACCOUNT BE DISCLOSED EXCEPT IN ACCORDANCE WITH RULES FOR THE CONDUCT OF EXAMINATIONS IN SECTION 11-37.5-116 OR IN ACCORDANCE WITH PART 2 OF THIS ARTICLE.

11-37.5-112. Administrative orders by commissioner. (1) IN ADDITION TO OR IN LIEU OF THE BOARD'S SUSPENDING OR REVOKING THE CHARTER ISSUED TO A FOREIGN CAPITAL DEPOSITORY, THE COMMISSIONER MAY:

(a) ISSUE A CEASE AND DESIST ORDER THAT SPECIFIES THE ACTIVITY THAT THE DEPOSITORY MAY NOT UNDERTAKE FOR THE DURATION OF THE ORDER;

(b) REQUIRE A DEPOSITORY TO TAKE ACTION AS DETERMINED BY THE COMMISSIONER; OR

(c) ORDER THE DEPOSITORY TO PAY A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH VIOLATION OR, IN THE CASE OF A CONTINUING VIOLATION, TEN THOUSAND DOLLARS FOR EACH DAY DURING WHICH THE VIOLATION CONTINUES.

(2) ORDERS ISSUED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL BE ISSUED IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

11-37.5-113. Application, charter, and renewal fee. (1) AN APPLICANT FOR A CHARTER SHALL PAY A FEE ESTABLISHED BY THE BOARD BY RULE. THE APPLICATION FEE SHALL BE COMMENSURATE WITH THE COST OF CONDUCTING A BACKGROUND CHECK ON THE PERSON APPLYING FOR THE CHARTER AND ANY OTHER PERSON WHOSE GOOD CHARACTER AND FINANCIAL INTEGRITY ARE RELEVANT TO THE ISSUANCE OF A CHARTER.

(2) A SUCCESSFUL APPLICANT FOR A CHARTER SHALL PAY TO THE DEPARTMENT AN INITIAL CHARTER FEE OF NINETY-SIX THOUSAND DOLLARS, LESS THE AMOUNT PAID FOR THE APPLICATION FEE PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) A DEPOSITORY SHALL PAY AN ANNUAL CHARTER RENEWAL FEE IN AN AMOUNT SET BY THE BOARD BY RULE, NOT TO EXCEED TEN THOUSAND DOLLARS.

(4) FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE FOREIGN CAPITAL DEPOSITORY ACCOUNT ESTABLISHED IN SECTION 11-37.5-118.

11-37.5-114. Regulation and supervision - rules. (1) TO ENSURE THE PRUDENTIAL SUPERVISION OF FOREIGN CAPITAL DEPOSITORIES, THE COMMISSIONER SHALL ADOPT RULES THAT:

(a) DETERMINE THE PROCESSES AND PROCEDURES NECESSARY TO ENSURE THAT THE CONTROLLING PERSONS AND EMPLOYEES AND THE PROCEDURES OF A DEPOSITORY ARE IN COMPLIANCE WITH THIS ARTICLE;

(b) ESTABLISH THE PROCEDURES FOR THE CONDUCT OF EXAMINATIONS OF A DEPOSITORY BY THE DEPARTMENT;

(c) ESTABLISH THE FORM OF SUSPICIOUS ACTIVITY REPORTS AND THE CONDITIONS UNDER WHICH A SUSPICIOUS ACTIVITY REPORT SHALL BE FILED;

(d) REQUIRE A DEPOSITORY TO SUBMIT TO THE COMMISSIONER OR THE DEPARTMENT, UPON REQUEST, A WRITTEN OR ELECTRONIC RECORD OF ANY DEPOSIT, TRANSFER, OR WITHDRAWAL OF CASH FROM THE DEPOSITORY; AND

(e) REQUIRE EACH DEPOSITORY TO FILE AN ANNUAL REPORT DETAILING THE DEPOSITORY'S:

(I) SECURITY MEASURES DESIGNED TO DETER AND PREVENT THEFT, FRAUD, MONEY LAUNDERING, AND CORRUPTION;

(II) PROCEDURES FOR FILING SUSPICIOUS ACTIVITY REPORTS WITH THE UNITED

STATES DEPARTMENT OF THE TREASURY AND FOR KEEPING RECORDS AND FILING REPORTS OF TRANSACTIONS AS REQUIRED BY FEDERAL LAW AND REGULATION TO COMBAT MONEY LAUNDERING AND OTHER CRIMINAL ACTIVITIES;

(III) EMPLOYEE TRAINING PROGRAMS REGARDING DISCLOSURE AND OTHER ASPECTS OF CUSTOMER FINANCIAL PRIVACY AND PROCEDURES AND POLICIES TO PREVENT AND COMBAT MONEY LAUNDERING;

(IV) APPOINTMENT AND RESPONSIBILITIES OF A COMPLIANCE OFFICER WHO HAS DAY-TO-DAY RESPONSIBILITY FOR COMPLIANCE WITH ALL LAWS APPLICABLE TO A FOREIGN CAPITAL DEPOSITORY; AND

(V) (A) APPOINTMENT AND CONDUCT OF AN INDEPENDENT AUDITOR OF THE FOREIGN CAPITAL DEPOSITORY'S COMPLIANCE WITH ALL LAWS AND REGULATIONS APPLICABLE TO A FOREIGN CAPITAL DEPOSITORY. SUCH INDEPENDENT AUDITOR SHALL BE RESPONSIBLE FOR PERFORMING REGULAR COMPLIANCE AUDITS OF THE FOREIGN CAPITAL DEPOSITORY ON A REGULAR BASIS, AT LEAST FOUR TIMES PER YEAR, AND FOR TRANSMITTING THE RESULTS OF SUCH AUDITS TO SENIOR MANAGEMENT; EXCEPT THAT, IN THE AUDITOR'S SOLE DISCRETION, IF IT APPEARS TO THE AUDITOR THAT SUSPICIOUS ACTIVITY OCCURRED WITH THE KNOWLEDGE OR COMPLICITY OF SENIOR MANAGEMENT, THE AUDITOR SHALL TRANSMIT THE RESULTS TO THE DEPARTMENT OR TO SUCH OTHER PERSON AS THE DEPARTMENT DIRECTS.

(B) THE INDEPENDENT AUDITOR SHALL MAKE A SEPARATE ANNUAL REPORT TO THE DEPARTMENT REGARDING THE DISCHARGE OF THE DUTIES ASSIGNED BY SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V), INCLUDING THE PROCEDURES USED AND THE STANDARDS UPON WHICH THE AUDITOR RELIED AND ANY LEGAL OR REGULATORY COMPLIANCE DEFICIENCIES THE AUDITOR NOTED. IN ADDITION, THE INDEPENDENT AUDITOR SHALL MAKE A REPORT TO THE DEPARTMENT AT ANY TIME UPON DISCOVERY OF A SERIOUS LEGAL COMPLIANCE DEFICIENCY AND IS AUTHORIZED TO MAKE A REPORT OF ANY LEGAL COMPLIANCE DEFICIENCY, REGARDLESS OF ITS SEVERITY. THE FOREIGN CAPITAL DEPOSITORY SHALL PROVIDE THE INDEPENDENT AUDITOR FULL ACCESS TO ITS RECORDS, INCLUDING, WITHOUT LIMITATION, FINANCIAL RECORDS AND ALL OTHER MATERIALS RELEVANT TO THE CONDUCT OF THE AUDITOR'S DUTIES.

(2) WITH RESPECT TO AN ACTION CONCERNING THE ISSUANCE, SUSPENSION, OR REVOCATION OF A CHARTER OR AN ACTION TO ENFORCE PART 5 OF THIS ARTICLE, THE COMMISSIONER SHALL ADOPT RULES TO DETERMINE PREHEARING DISCOVERY PROCEDURES, INCLUDING THE TAKING OF DEPOSITIONS AND THE PRODUCTION OF DOCUMENTS.

(3) RULES GOVERNING HEARINGS SHALL PROVIDE FOR THE ISSUANCE OF SUBPOENAS AND THE ADMINISTRATION OF OATHS TO WITNESSES AND PARTIES OR THEIR REPRESENTATIVES. SUCH RULES SHALL APPLY TO BOTH DISCOVERY PROCEDURES AND HEARINGS.

11-37.5-115. Annual fee. A DEPOSITORY SHALL PAY TO THE DEPARTMENT AN ANNUAL FEE ESTABLISHED BY RULE THAT IS COMMENSURATE WITH THE TOTAL PROJECTED COSTS OF THE DEPARTMENT OF REGULATORY AGENCIES IN CONDUCTING EXAMINATIONS OF A DEPOSITORY AND OF THE DEPARTMENT OF REVENUE IN CARRYING

OUT AUDITS PURSUANT TO SECTION 11-37.5-404. THE PROCEEDS OF THE FEE SHALL BE DEPOSITED IN THE FOREIGN CAPITAL DEPOSITORY ACCOUNT ESTABLISHED IN SECTION 11-37.5-118.

11-37.5-116. Examinations. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION, THE DEPARTMENT SHALL:

(a) EXAMINE EACH DEPOSITORY, AT LEAST ONCE PER YEAR, TO:

(I) VERIFY THE DEPOSITORY'S ASSETS AND LIABILITIES;

(II) ASCERTAIN THE ACCURACY OF THE DEPOSITORY'S BOOKS AND RECORDS; AND

(III) DETERMINE WHETHER THE DEPOSITORY'S METHODS OF OPERATION AND CONDUCT OF BUSINESS ARE IN COMPLIANCE WITH APPLICABLE LAWS AND RULES; AND

(b) GIVE EACH DEPOSITORY EXAMINED IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1) A WRITTEN REPORT OF THE EXAMINATION'S FINDINGS. SUCH REPORT SHALL BE FURNISHED TO THE DEPOSITORY NO LATER THAN SIXTY DAYS AFTER THE COMPLETION OF THE EXAMINATION.

(2) A CONTROLLING PERSON OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY SHALL EXHIBIT TO THE DEPARTMENT OR AN EXAMINER FROM THE FEDERAL RESERVE SYSTEM OR THE UNITED STATES DEPARTMENT OF THE TREASURY UPON REQUEST THE BOOKS, RECORDS, AND ACCOUNTS OF THE DEPOSITORY; EXCEPT THAT THE IDENTITY OF A CUSTOMER SHALL NOT BE DISCLOSED TO THE DEPARTMENT OR ANY EXAMINER UNLESS THE DISCLOSURE IS NECESSITATED BY THE DEPARTMENT'S PROCEDURE FOR VERIFYING THAT THE DEPOSITORY'S PROCEDURES TO PREVENT AND COMBAT MONEY LAUNDERING HAVE BEEN IMPLEMENTED.

(3) THE DEPARTMENT MAY ISSUE SUBPOENAS AND ADMINISTER OATHS TO ANY DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY OR TO ANY CLIENT, AGENT, OR OTHER PARTY TO A CONTRACTUAL OR OTHER ARRANGEMENT WITH A FOREIGN CAPITAL DEPOSITORY. IN CASE OF A REFUSAL TO OBEY A SUBPOENA ISSUED BY THE DEPARTMENT, THE REFUSAL MAY BE REPORTED TO THE DISTRICT COURT OF THE DISTRICT IN WHICH THE DEPOSITORY IS LOCATED. THE COURT SHALL ENFORCE OBEDIENCE TO THE SUBPOENA IN THE MANNER PROVIDED BY LAW FOR ENFORCING OBEDIENCE TO THE PROCESS OF THE COURT.

(4) IF A CHARTER IS ISSUED TO A FOREIGN BANK, THE DEPARTMENT MAY CONDUCT AN EXAMINATION OF THE DEPOSITORY EITHER WITH OR WITHOUT THE ASSISTANCE OF PERSONNEL OF THE FEDERAL RESERVE SYSTEM OR THE UNITED STATES DEPARTMENT OF THE TREASURY.

(5) THE DEPARTMENT MAY ACCEPT AS THE EXAMINATION OF A DEPOSITORY REQUIRED BY THIS SECTION THE FINDINGS OR RESULTS OF AN EXAMINATION CONDUCTED BY THE FEDERAL RESERVE SYSTEM OR THE UNITED STATES DEPARTMENT OF THE TREASURY.

(6) A FOREIGN CAPITAL DEPOSITORY SHALL KEEP ITS CORPORATE RECORDS,

FINANCIAL RECORDS, AND BOOKS OF ACCOUNT IN WORDS AND FIGURES USED IN THE ENGLISH LANGUAGE, IN COLORADO, AND IN A FORM SATISFACTORY TO THE DEPARTMENT.

(7) IF A FOREIGN CAPITAL DEPOSITORY IS ISSUED A CHARTER TO MAINTAIN TWO OR MORE OFFICES IN THE STATE, THE DEPOSITORY SHALL DESIGNATE ONE OF ITS OFFICES AS ITS PRIMARY OFFICE FOR THE PURPOSES OF KEEPING CONSOLIDATED RECORDS AND FACILITATING EXAMINATIONS BY THE DEPARTMENT OR BY THE UNITED STATES DEPARTMENT OF THE TREASURY.

11-37.5-117. Special examinations - costs. (1) WHENEVER IN THE JUDGMENT OF THE COMMISSIONER THE CONDITION OF A DEPOSITORY OR THE ACTIONS OF A CUSTOMER NECESSITATE AN EXAMINATION BEYOND THAT REQUIRED BY SECTION 11-37.5-116, THE DEPARTMENT MAY CONDUCT ADDITIONAL EXAMINATIONS AND, IN CONNECTION WITH SUCH ADDITIONAL EXAMINATIONS, MAY CHARGE THE DEPOSITORY:

(a) AN AMOUNT NOT TO EXCEED FOUR HUNDRED DOLLARS A DAY FOR EACH EXAMINER ENGAGED IN THE EXAMINATION OF THE DEPOSITORY;

(b) THE ACTUAL COST OF TRAVEL EXPENSES OF EACH EXAMINER IN THE EVENT THAT TRAVEL OUTSIDE THIS STATE IS DETERMINED NECESSARY BY THE COMMISSIONER;

(c) THE ACTUAL COST OF TRAVEL EXPENSES AND OTHER COSTS OF SPECIALIZED PERSONNEL OR SERVICES IN THE EVENT THAT TRAVEL OUTSIDE THIS STATE OR SPECIAL SERVICES NOT AVAILABLE WITHIN THIS STATE ARE DETERMINED NECESSARY BY THE COMMISSIONER; AND

(d) A REASONABLE AMOUNT TO RECOVER THE ACTUAL COSTS OF COUNSEL AND OTHER DEPARTMENT RESOURCES.

(2) EXAMINATION FEES COLLECTED BY THE DEPARTMENT SHALL BE DEPOSITED IN THE FOREIGN CAPITAL DEPOSITORY ACCOUNT ESTABLISHED IN SECTION 11-37.5-118.

11-37.5-118. Foreign capital depository account. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE FOREIGN CAPITAL DEPOSITORY ACCOUNT. EXCEPT FOR REVENUE DERIVED IN ACCORDANCE WITH SECTIONS 11-37.5-403 TO 11-37.5-405, ALL MONEYS RECEIVED FROM A FOREIGN CAPITAL DEPOSITORY PURSUANT TO THIS ARTICLE SHALL BE DEPOSITED IN THE ACCOUNT.

(2) MONEYS IN THE ACCOUNT MAY BE APPROPRIATED BY THE GENERAL ASSEMBLY TO THE DEPARTMENT SOLELY FOR THE DEPARTMENT'S USE IN MEETING ITS SUPERVISORY AND REGULATORY OBLIGATIONS UNDER SECTIONS 11-37.5-113 TO 11-37.5-117.

11-37.5-119. Reports - contents and restrictions. (1) A DEPOSITORY SHALL MAKE A REPORT TO THE DEPARTMENT IN SUCH MANNER AND AT SUCH TIMES AS REQUIRED BY THE COMMISSIONER.

(2) A REPORT FILED WITH THE DEPARTMENT SHALL:

(a) CONTAIN THE INFORMATION REQUIRED BY RULE; AND

(b) BE VERIFIED BY TWO OF THE DEPOSITORY'S EXECUTIVE OFFICERS. THE VERIFICATION SHALL STATE THAT EACH OF THE OFFICERS MAKING THE VERIFICATION HAS A PERSONAL KNOWLEDGE OF THE MATTERS IN THE REPORT AND THAT EACH OF THEM BELIEVES THAT EACH STATEMENT IN THE REPORT IS TRUE.

(3) A DEPOSITORY SHALL NOT INCLUDE IN THE REPORT ANY FINANCIAL RECORD, AS DEFINED IN SECTION 11-37.5-202 (2), OF ANY CUSTOMER.

(4) THE DEPARTMENT MAY PROVIDE A COPY OF THE REPORT TO ANOTHER SUPERVISORY AGENCY.

11-37.5-120. Record-keeping and reporting - suspicious activity. (1) IN ADDITION TO COMPLYING WITH ALL REQUIREMENTS OF THE FEDERAL "BANK SECRECY ACT", A FOREIGN CAPITAL DEPOSITORY SHALL:

(a) KEEP A WRITTEN OR ELECTRONIC RECORD, FOR AT LEAST FIVE YEARS, OF EACH WIRE TRANSFER OR OTHER ELECTRONIC MEANS OF TRANSFERRING CAPITAL TO THE DEPOSITORY THAT INVOLVES A SUM OF THREE THOUSAND DOLLARS OR MORE; AND

(b) COMPLY WITH FEDERAL REGULATIONS AND RULES OF THE DEPARTMENT CONCERNING THE FORM OF A SUSPICIOUS ACTIVITY REPORT AND THE CONDITIONS UNDER WHICH A SUSPICIOUS ACTIVITY REPORT IS REQUIRED TO BE REPORTED TO A SUPERVISORY AGENCY OR TO THE UNITED STATES DEPARTMENT OF THE TREASURY.

11-37.5-121. Sale or transfer of charter prohibited - penalty. (1) A CHARTER ISSUED BY THE BOARD MAY NOT BE SOLD, TRADED, TRANSFERRED, OR OTHERWISE ASSIGNED TO ANOTHER CORPORATION.

(2) A PERSON WHO ATTEMPTS TO SELL, TRADE, OR TRANSFER A CHARTER OR WHO KNOWINGLY ACCEPTS A CHARTER IN VIOLATION OF SUBSECTION (1) OF THIS SECTION IS SUBJECT TO CIVIL AND CRIMINAL PENALTIES PURSUANT TO SECTIONS 11-37.5-502 AND 11-37.5-503.

11-37.5-122. Dissolution - closing. (1) THE BOARD MAY, UPON A FINDING OF NEGLIGENCE, MISCONDUCT, OR ANY OF THE CONDITIONS SPECIFIED IN SECTION 11-37.5-110 OR 11-37.5-111, DISSOLVE THE CHARTER OF A DEPOSITORY, REMOVE ANY DIRECTORS, EXECUTIVE OFFICERS, OR EMPLOYEES, AND CANCEL ANY CONTRACTUAL OR OTHER ARRANGEMENTS WITH AGENTS, PARTNERS, OR AFFILIATES OF THE DEPOSITORY PRIOR TO THE DISSOLUTION.

(2) THE DEPARTMENT MAY CLOSE A DEPOSITORY AND TAKE POSSESSION OF THE BOOKS, RECORDS, AND ASSETS OF THE DEPOSITORY AND HOLD THEM UNTIL THE DEPOSITORY IS AUTHORIZED BY THE BOARD TO RESUME BUSINESS OR UNTIL IT IS LIQUIDATED IN ACCORDANCE WITH ARTICLE 5 OF THIS TITLE.

(3) EXCEPT IN ACCORDANCE WITH PART 2 OF THIS ARTICLE, AN INDIVIDUAL FINANCIAL RECORD MAY NOT BE DISCLOSED IN THE PROCESS OF DISSOLVING OR CLOSING A DEPOSITORY, AND THE PENALTIES FOR WRONGFUL DISCLOSURE IN PART 2 OF THIS ARTICLE APPLY TO THE BOARD, THE DEPARTMENT, AND THE DEPOSITORY.

(4) A FOREIGN CAPITAL DEPOSITORY MAY NOT CLOSE ITS PRIMARY OFFICE OR CEASE OPERATIONS WITHOUT THE WRITTEN APPROVAL OF THE DEPARTMENT.

(5) VOLUNTARY DISSOLUTION OF A DEPOSITORY SHALL COMPLY WITH THE PROVISIONS OF SECTION 11-5-101.

11-37.5-123. Depository services - allowed and required. (1) A DEPOSITORY MAY:

(a) ACCEPT DEPOSITS IN ANY CURRENCY OR ELECTRONIC FORM CONVERTIBLE TO UNITED STATES DOLLARS;

(b) PROVIDE SAFE DEPOSIT AND OTHER STORAGE SERVICES FOR THE PURPOSE OF PROTECTING THE SECURITY OF A CUSTOMER'S TANGIBLE PERSONAL PROPERTY;

(c) CONVERT CASH DEPOSITS TO PURCHASE ORDERS FOR GOLD, SILVER, PLATINUM, AND OTHER PRECIOUS METALS ON BEHALF OF OR AT THE DIRECTION OF A CUSTOMER;

(d) PURCHASE, SELL, AND PAY INTEREST TO THE CUSTOMER DERIVED FROM TAX-EXEMPT FEDERAL, STATE, COUNTY, OR MUNICIPAL BONDS ON BEHALF OF OR AT THE DIRECTION OF A CUSTOMER;

(e) PROVIDE A CUSTOMER WITH FOREIGN CURRENCY IN EXCHANGE FOR UNITED STATES DOLLARS IN AN EQUIVALENT MONETARY AMOUNT;

(f) EXERCISE TRUST POWERS IF SO AUTHORIZED BY THE BOARD;

(g) ISSUE A DEBIT CARD OR AN AUTOMATIC TELLER MACHINE CARD TO A CUSTOMER;

(h) CHARGE INTEREST IN RELATION TO A CUSTOMER'S USE OF A DEBIT OR AUTOMATIC TELLER MACHINE CARD;

(i) ESTABLISH DIFFERENT TYPES OF DEPOSIT ACCOUNTS FOR CUSTOMERS;

(j) OFFER DEPOSIT OR SAFE DEPOSIT INSURANCE PROVIDED UNDER CONTRACT WITH A FINANCIAL GUARANTY INSURER APPROVED BY THE COMMISSIONER;

(k) CHARGE FEES RELATED TO THE OPENING, MANAGEMENT, AND INSURING OF DEPOSIT ACCOUNTS, THE STORAGE AND MAINTENANCE OF TANGIBLE PERSONAL PROPERTY, THE ESTABLISHMENT AND ADMINISTRATION OF TRUST ACCOUNTS, AND OTHER LAWFUL INVESTMENT, LEGAL, OR FINANCIAL SERVICES;

(l) SET UNDERWRITING STANDARDS FOR EACH TYPE OF ACCOUNT THAT IT OFFERS TO A CUSTOMER; AND

(m) ESTABLISH A MINIMUM DEPOSIT AMOUNT FOR ANY TYPE OF ACCOUNT AS LONG AS THE MINIMUM IS NOT LESS THAN TWO HUNDRED THOUSAND DOLLARS.

(2) A DEPOSITORY MAY, IN ITS DISCRETION, REFUSE AN APPLICATION FOR AN ACCOUNT OF ANY TYPE.

(3) A DEPOSITORY SHALL:

(a) EXERCISE EXTRAORDINARY DILIGENCE IN DETERMINING THE GENUINE IDENTITY OF A CUSTOMER;

(b) PROTECT THE PRIVACY OF EACH CUSTOMER AS PROVIDED IN PART 2 OF THIS ARTICLE;

(c) IN ACCORDANCE WITH PART 3 OF THIS ARTICLE, PROVIDE LEGAL DEFENSE OF A CUSTOMER AT THE CUSTOMER'S REQUEST OR ON THE REQUEST OF THE CUSTOMER'S LEGAL REPRESENTATIVE IN THE EVENT A CIVIL JUDGMENT RENDERED AGAINST THE DEPOSITOR IN A JURISDICTION OUTSIDE THE UNITED STATES IS REGISTERED IN COLORADO;

(d) WITH RESPECT TO PRECIOUS METALS ACCOUNTS IN SECTIONS 11-37.5-126 TO 11-37.5-129, COMPLY WITH THE STATUTORY PROTECTIONS AGAINST SECURITIES FRAUD UNDER ARTICLE 51 OF THIS TITLE;

(e) COMPLY WITH FEDERAL REPORTING AND RECORD-KEEPING REQUIREMENTS AS PROVIDED IN THE "BANK SECRECY ACT", THE "MONEY LAUNDERING CONTROL ACT OF 1986", THE "ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT", AND THE IMPLEMENTING REGULATIONS OF EACH OF THOSE ACTS CONCERNING MONEY LAUNDERING AND OTHER FINANCIAL CRIMES.

11-37.5-124. Depository services - restrictions and prohibitions. (1) A DEPOSITORY SHALL NOT ACCEPT A DEPOSIT:

(a) FROM AN INDIVIDUAL WHO IS A CITIZEN OR A RESIDENT OF THE UNITED STATES;

(b) FROM A CORPORATION, TRUST, OR PARTNERSHIP IF ANY SHAREHOLDER, SETTLOR, MEMBER, BENEFICIARY, OR PARTNER IS A CITIZEN OR A RESIDENT OF THE UNITED STATES;

(c) IN AN AMOUNT VALUED AT LESS THAN TWO HUNDRED THOUSAND DOLLARS IN UNITED STATES DOLLARS.

(2) A DEPOSITORY SHALL NOT:

(a) PROVIDE SERVICES TO ANY CUSTOMER WHO IS NOT A NONRESIDENT ALIEN;

(b) ENGAGE IN LENDING OR ANY OTHER SERVICES REQUIRING ADVANCE APPLICATION TO AND APPROVAL BY THE BOARD UNDER SECTION 11-6-101, EXCEPT:

(I) IN A CASE IN WHICH FIDUCIARY LENDING IS NECESSITATED BY A TRUST OBLIGATION AND THE DEPOSITORY HAS OBTAINED A CERTIFICATE FROM THE DEPARTMENT AUTHORIZING THE DEPOSITORY TO ACT AS A TRUST COMPANY OR THE SUBSIDIARY OF A TRUST COMPANY; OR

(II) IN RELATION TO A PRECIOUS METALS ACCOUNT AS PROVIDED IN SECTIONS 11-37.5-126 TO 11-37.5-129;

(c) TRANSFER TEN THOUSAND DOLLARS OR MORE OF A CUSTOMER'S CASH ON DEPOSIT TO ANOTHER FINANCIAL INSTITUTION INSIDE OR OUTSIDE THE JURISDICTION OF THE UNITED STATES WITHOUT SUBMITTING A RECORD OF THE TRANSACTION TO THE COMMISSIONER THAT INCLUDES THE CUSTOMER'S NAME, LAST-KNOWN ADDRESS, AND, IF THE CUSTOMER IS AN INDIVIDUAL HOLDING A PASSPORT, THE INDIVIDUAL'S PASSPORT NUMBER;

(d) ACCEPT A DEPOSIT FROM A CUSTOMER WHO HAS BEEN CONVICTED OF A STATE OR FEDERAL FELONY IN THE UNITED STATES OR FROM A CORPORATION OF WHICH A CONTROLLING PERSON HAS BEEN CONVICTED OF A STATE OR FEDERAL FELONY IN THE UNITED STATES.

11-37.5-125. Sale or trade of deposit accounts prohibited - transfers allowed.

(1) THE GENERAL ASSEMBLY DOES NOT INTEND TO CREATE OR FACILITATE THE CREATION OF A SECONDARY MARKET FOR DEPOSITORY ACCOUNTS. THEREFORE, EXCEPT FOR THE CONDITION SET FORTH IN SUBSECTION (2) OF THIS SECTION, THE SALE OR TRADE OF A DEPOSIT ACCOUNT OR OF ASSETS HELD IN A SAFE DEPOSIT OR IN SIMILAR STORAGE BY A DEPOSITORY IS PROHIBITED.

(2) A DEPOSITORY MAY PERMIT THE LEGAL TRANSFER OF A DEPOSIT ACCOUNT FROM A CUSTOMER TO THE CUSTOMER'S HEIR, SPOUSE, OR DESIGNATED NEXT OF KIN FOR THE PURPOSES OF ESTATE PRESERVATION AND MAINTENANCE.

11-37.5-126. Precious metals accounts - purpose. (1) THE GENERAL ASSEMBLY ACKNOWLEDGES THAT:

(a) COLORADO IS A SIGNIFICANT PRODUCER OF GOLD, SILVER, MOLYBDENUM, AND OTHER PRECIOUS METALS THAT HAVE DIVERSE USES IN ADDITION TO SERVING AS A STORE OF EXCHANGEABLE VALUE;

(b) MANY NONRESIDENT ALIENS AND FOREIGN CORPORATIONS PLACE GREAT VALUE IN THE SECURITY INHERENT IN PRECIOUS METALS AS A HEDGE AGAINST CURRENCY DEPRECIATION, CURRENCY DEVALUATION, AND GENERAL INFLATION AND PREFER PRECIOUS METALS OVER OTHER TYPES OF INVESTMENTS THAT MAY OFFER A HIGHER OR MORE CERTAIN RATE OF RETURN; AND

(c) HELPING TO ESTABLISH FINANCIAL LINKS BETWEEN CUSTOMERS OF THE DEPOSITORY AND PRODUCERS OF PRECIOUS METALS IS IN THE ECONOMIC INTEREST OF THE STATE.

(2) THE GENERAL ASSEMBLY FURTHER RECOGNIZES ITS RESPONSIBILITY TO HELP DETER MONEY LAUNDERING AND OTHER FINANCIAL CRIME AND THEREFORE ACKNOWLEDGES THAT RESTRICTING THE LIQUIDITY OF A PRECIOUS METALS ACCOUNT WILL REDUCE SIGNIFICANTLY ANY INCENTIVE THERE MAY BE FOR A PERSON TO USE A PRECIOUS METALS ACCOUNT FOR ILLICIT PURPOSES.

11-37.5-127. Definition - precious metals account. FOR THE PURPOSES OF THIS ARTICLE, A "PRECIOUS METALS ACCOUNT" IS A DEPOSITORY ACCOUNT IN WHICH THE DEPOSITORY, UPON INSTRUCTIONS OF A CUSTOMER, EXCHANGES CASH FOR A COMMENSURATELY VALUED AMOUNT OF GOLD, SILVER, AND OTHER PRECIOUS METALS PROCURED BY THE DEPOSITORY FOR THE PRIMARY PURPOSE OF SAFEKEEPING OVER AN

EXTENDED PERIOD OF TIME.

11-37.5-128. Account requirements - provisions. (1) AN AGREEMENT BETWEEN THE DEPOSITORY AND A CUSTOMER TO ESTABLISH A PRECIOUS METALS ACCOUNT SHALL INCLUDE THE FOLLOWING PROVISIONS:

(a) A TERM OF MATURITY THAT IS NOT LESS THAN THIRTY-SIX MONTHS;

(b) A PENALTY FOR EARLY WITHDRAWAL OF AN AMOUNT OF PRECIOUS METALS THAT EXCEEDS TWENTY PERCENT OF THE MONETARY VALUE OF THE TOTAL AMOUNT OF PRECIOUS METALS IN THE ACCOUNT, WITH THE MONETARY VALUE TO BE EQUIVALENT TO THE SPOT MARKET PRICE OF THE PRECIOUS METAL LISTED IN THE "WALL STREET JOURNAL" ON THE DATE OF THE WITHDRAWAL;

(c) A REQUIREMENT THAT THE PRECIOUS METALS PURCHASED BY A CUSTOMER BE DELIVERED TO THE DEPOSITORY WITHIN SEVEN DAYS AFTER VERIFIED PAYMENT OF ANY PART OF THE PURCHASE PRICE.

(2) (a) A PRECIOUS METALS ACCOUNT MAY PROVIDE FOR LIMITED WITHDRAWAL FROM THE ACCOUNT BY MEANS OF A DEBIT CARD OR AN AUTOMATIC TELLER MACHINE CARD AS LONG AS THE TOTAL AMOUNT WITHDRAWN FROM THE ACCOUNT PRIOR TO THE MATURITY DATE ESTABLISHED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION DOES NOT EXCEED TWENTY PERCENT OF THE TOTAL MONETARY VALUE OF THE PRECIOUS METALS IN THE ACCOUNT.

(b) A DEPOSITORY MAY CHARGE A CUSTOMER INTEREST AND A FEE IN RELATION TO A CASH WITHDRAWAL MADE IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2).

11-37.5-129. Termination - settlement. (1) UPON TERMINATION OF A PRECIOUS METALS ACCOUNT, WHETHER AT OR BEFORE THE DATE OF MATURITY, THE TERMS OF SETTLEMENT SHALL ALLOW:

(a) THE DEPOSITORY TO CONVERT THE PRECIOUS METALS TO CURRENCY AT THE SPOT MARKET RATE ON THE DAY OF SETTLEMENT; AND

(b) FOR THE DEPOSITORY'S RIGHT TO DELAY SETTLEMENT FOR NOT MORE THAN FIVE BUSINESS DAYS.

PART 2 PRIVACY PROTECTION

11-37.5-201. Legislative declaration - purpose - financial privacy. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE VIABILITY OF ONE OR MORE FOREIGN CAPITAL DEPOSITORIES IN COLORADO DEPENDS TO A LARGE EXTENT UPON BOTH THE SECURE NATURE OF THE DEPOSITORY AND THE CONFIDENTIAL NATURE OF CUSTOMER ACCOUNTS AND SAFE DEPOSITS IN THE DEPOSITORY AND UPON THE CONFIDENTIAL NATURE OF TRANSACTIONS BETWEEN A CUSTOMER AND A DEPOSITORY. THEREFORE, THE PURPOSE OF THIS PART 2 IS TO CLARIFY AND PROTECT THE CONFIDENTIAL RELATIONSHIP BETWEEN FOREIGN CAPITAL

DEPOSITORIES AND THEIR CUSTOMERS AND TO BALANCE A CUSTOMER'S RIGHT OF PRIVACY WITH THE GOVERNMENTAL INTEREST IN OBTAINING INFORMATION FOR SPECIFIC PURPOSES AND BY SPECIFIED PROCEDURES AS SET FORTH IN THIS PART 2. THE CONFIDENTIAL RELATIONSHIP BETWEEN A FOREIGN CAPITAL DEPOSITORY AND ITS CUSTOMERS IS TO BE PROTECTED BY RESTRICTIONS ON THE DISCLOSURE OF FINANCIAL RECORDS TO SUPERVISORY AGENCIES AND A PROHIBITION AGAINST DISCLOSURE OF FINANCIAL RECORDS TO OTHER STATE AND LOCAL AGENCIES AND TO PRIVATE INDIVIDUALS EXCEPT UNDER SPECIFIED CONDITIONS.

(b) A STATE OFFERING SECURE AND CONFIDENTIAL DEPOSITORY SERVICES TO ITS CUSTOMERS SHALL BE MINDFUL THAT SIGNIFICANT AMOUNTS OF CAPITAL ARE DERIVED FROM OR MOVED FOR ILLEGAL PURPOSES AND THAT THE UNITED STATES AND OTHER JURISDICTIONS HAVE PASSED LAWS AND WORKED DILIGENTLY TO PREVENT MONEY LAUNDERING AND OTHER OFFENSES FROM BEING CONDUCTED AS PART OF OTHERWISE LAWFUL TRANSACTIONS;

(c) IN CHARTERING AND SUPERVISING THE OPERATION OF ONE OR MORE FOREIGN CAPITAL DEPOSITORIES, COLORADO NEEDS TO VIGOROUSLY ENFORCE ITS OWN CRIMINAL LAWS. IT IS ALSO IMPERATIVE THAT COLORADO COOPERATE WITH UNITED STATES LAW ENFORCEMENT AND OTHER AUTHORITIES TO EFFECTIVELY DETER AND, WHEN DETERRENCE FAILS, DETECT, INVESTIGATE, AND PROSECUTE PERPETRATORS OF FINANCIAL CRIMES.

(d) THE PURPOSE OF THIS PART 2 IS NOT TO AVOID THE APPLICATION OF FEDERAL LAWS SUCH AS THE "BANK SECRECY ACT", THE "RIGHT TO FINANCIAL PRIVACY ACT OF 1978", THE "MONEY LAUNDERING CONTROL ACT OF 1986", AND THE "ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT", THAT ARE INTENDED TO PREVENT OR DETER MONEY LAUNDERING AND OTHER FINANCIAL CRIMES WHILE MAINTAINING A DEGREE OF SECRECY OF CUSTOMER BANK ACCOUNTS FROM FEDERAL AGENCIES, BUT RATHER TO APPLY STATE LAW IN THOSE AREAS UNREGULATED BY THESE AND OTHER RELEVANT FEDERAL LAWS. HOWEVER, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, IF THERE IS A CLEAR AND DIRECT CONFLICT BETWEEN THIS PART 2 AND APPLICABLE FEDERAL STATUTES, TREATIES, OR REGULATIONS THAT CANNOT BE RESOLVED BY OTHER MEANS, THEN THE STATE LAW SHOULD BE PREEMPTED IN ORDER TO MAINTAIN THE EFFICACY AND INTEGRITY OF UNITED STATES LAWS INTENDED TO COMBAT FINANCIAL CRIMES.

11-37.5-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) (a) "FINANCIAL RECORD" MEANS:

(I) AN ORIGINAL OR COPY OF A RECORD OR DOCUMENT HELD BY A FOREIGN CAPITAL DEPOSITORY THAT DIRECTLY OR INDIRECTLY PERTAINS TO A CUSTOMER OF THE DEPOSITORY;

(II) INFORMATION CONTAINED IN THE ORIGINAL OR COPY OF THE RECORD OR DOCUMENT; OR

(III) THE NAME OF A CUSTOMER.

(b) A RECORD OR DOCUMENT MAY, FOR THE PURPOSES OF THIS SUBSECTION (1), BE IN A PAPER, ELECTRONIC, OR OTHER FORMAT.

(2) "INVESTIGATION" INCLUDES AN INQUIRY BY A PEACE OFFICER, SHERIFF, OR COUNTY ATTORNEY OR AN INQUIRY MADE FOR THE PURPOSE OF DETERMINING WHETHER THERE HAS BEEN A VIOLATION OF A LAW ENFORCEABLE BY IMPRISONMENT, FINE, OR MONETARY LIABILITY.

(3) "LOCAL AGENCY" INCLUDES A COUNTY, CITY AND COUNTY, CITY, TOWN, OR OTHER LOCAL GOVERNMENT ENTITY.

(4) "STATE AGENCY" MEANS AN OFFICE, DEPARTMENT, DIVISION, BUREAU, BOARD, OR COMMISSION OF STATE GOVERNMENT. "STATE AGENCY" INCLUDES THE GENERAL ASSEMBLY.

(5) "SUBPOENA" INCLUDES A SUBPOENA DUCES TECUM.

11-37.5-203. Request or receipt of records and information prohibited - exceptions - records to be maintained. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION AND SECTIONS 11-37.5-211 AND 11-37.5-212, AN OFFICER, EMPLOYEE, OR AGENT OF A STATE OR LOCAL AGENCY MAY NOT REQUEST OR RECEIVE A COPY OF A FINANCIAL RECORD FROM A FOREIGN CAPITAL DEPOSITORY UNLESS THE FINANCIAL RECORD IS CONSISTENT WITH THE PURPOSE OF ANY INVESTIGATION BY THE STATE OR LOCAL AGENCY, IS DESCRIBED WITH REASONABLE PARTICULARITY, AND, IN ADDITION, AT LEAST ONE OF THE FOLLOWING CONDITIONS IS MET:

(a) THE CUSTOMER HAS AUTHORIZED DISCLOSURE OF THE FINANCIAL RECORD IN ACCORDANCE WITH SECTION 11-37.5-206;

(b) THE FINANCIAL RECORD IS DISCLOSED IN RESPONSE TO AN ADMINISTRATIVE SUBPOENA THAT MEETS THE REQUIREMENTS OF SECTION 11-37.5-207;

(c) THE FINANCIAL RECORD IS DISCLOSED IN RESPONSE TO A SEARCH WARRANT THAT MEETS THE REQUIREMENTS OF SECTION 11-37.5-208;

(d) THE FINANCIAL RECORD IS DISCLOSED IN RESPONSE TO A JUDICIAL SUBPOENA THAT MEETS THE REQUIREMENTS OF SECTION 11-37.5-209; OR

(e) THE FINANCIAL RECORD IS DISCLOSED AS SUPPORTING DOCUMENTATION IN CONNECTION WITH A SUSPICIOUS ACTIVITY REPORT TO THE UNITED STATES DEPARTMENT OF THE TREASURY OR TO ANY AUTHORIZED LAW ENFORCEMENT OFFICER.

(2) NOTHING IN THIS SECTION OR SECTIONS 11-37.5-206 TO 11-37.5-209 REQUIRES A FOREIGN CAPITAL DEPOSITORY TO INQUIRE OR DETERMINE WHETHER A PERSON SEEKING DISCLOSURE OF A FINANCIAL RECORD HAS COMPLIED WITH THE REQUIREMENTS OF THOSE SECTIONS IF THE CUSTOMER AUTHORIZATION, ADMINISTRATIVE SUBPOENA, SEARCH WARRANT, OR JUDICIAL SUBPOENA SERVED UPON OR DELIVERED TO THE DEPOSITORY PURSUANT TO ANY OF THOSE SECTIONS SHOWS COMPLIANCE ON ITS FACE.

(3) (a) A FOREIGN CAPITAL DEPOSITORY SHALL MAINTAIN FOR A PERIOD OF AT LEAST FIVE YEARS A RECORD OF ALL DISCLOSURES BY A DEPOSITORY OF THE FINANCIAL RECORDS OF A CUSTOMER PURSUANT TO THIS PART 2, INCLUDING THE IDENTITY OF THE PERSON EXAMINING THE FINANCIAL RECORDS, THE STATE OR LOCAL AGENCY THAT THE PERSON REPRESENTS, AND A COPY OF THE CUSTOMER AUTHORIZATION, ADMINISTRATIVE SUBPOENA, SEARCH WARRANT, OR JUDICIAL SUBPOENA PROVIDING FOR EXAMINATION OR DISCLOSURE. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), A RECORD OF DISCLOSURES MAINTAINED PURSUANT TO THIS SUBSECTION (3) SHALL BE MADE AVAILABLE TO THE CUSTOMER FOR REVIEW, WITHIN FIVE DAYS AFTER REQUEST, DURING THE DEPOSITORY'S NORMAL BUSINESS HOURS AT THE OFFICE OR BRANCH OF THE DEPOSITORY WHERE THE CUSTOMER'S ACCOUNT OR SAFE DEPOSIT BOX WAS LOCATED WHEN EXAMINED. A PAPER OR ELECTRONIC COPY OF THE RECORD OF DISCLOSURES SHALL BE FURNISHED TO THE CUSTOMER UPON REQUEST.

(b) NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL BE CONSTRUED TO REQUIRE OR AUTHORIZE A FOREIGN CAPITAL DEPOSITORY TO DISCLOSE THE EXISTENCE OF A SUSPICIOUS ACTIVITY REPORT OR ANY INFORMATION CONTAINED IN OR RELEVANT TO A SUSPICIOUS ACTIVITY REPORT, EITHER TO THE SUBJECT OF THE REPORT OR TO ANY OTHER UNAUTHORIZED PERSON.

(4) THIS SECTION DOES NOT PREVENT A STATE OR LOCAL LAW ENFORCEMENT AGENCY FROM INITIATING CONTACT WITH A FOREIGN CAPITAL DEPOSITORY IF THERE IS REASON TO BELIEVE THAT THE DEPOSITORY IS A VICTIM OF A CRIME PERPETRATED BY A CUSTOMER. AFTER CONTACT BY A LAW ENFORCEMENT AGENCY AND PRESENTATION OF SUCH REASONABLE BELIEF, THE FOREIGN CAPITAL DEPOSITORY MAY LAWFULLY DISCLOSE RELEVANT FINANCIAL RECORDS PURSUANT TO SECTION 11-37.5-204 (2).

11-37.5-204. Disclosure of record to agency prohibited - exceptions.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR SECTION 11-37.5-212, NEITHER A FOREIGN CAPITAL DEPOSITORY NOR A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE THEREOF SHALL PROVIDE OR AUTHORIZE ANOTHER PERSON TO PROVIDE A FINANCIAL RECORD TO AN OFFICER, EMPLOYEE, OR AGENT OF A STATE OR LOCAL AGENCY.

(2) THIS SECTION DOES NOT PRECLUDE A FOREIGN CAPITAL DEPOSITORY, IN ITS DISCRETION, FROM INITIATING CONTACT WITH AND DISCLOSING A RELEVANT FINANCIAL RECORD TO A SUPERVISORY AGENCY CONCERNING A SUSPECTED VIOLATION OF STATE OR FEDERAL LAW IF THE DEPOSITORY REASONABLY BELIEVES THAT A VIOLATION OF LAW HAS BEEN COMMITTED. CONVICTION OF OR ADMISSION BY A CUSTOMER OF A CRIME IS CONCLUSIVE ON THE ISSUE OF THE REASONABLE BELIEF OF THE DEPOSITORY.

11-37.5-205. Disclosure of record to private individual prohibited - exceptions.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR IN SECTION 11-37.5-212, NEITHER A FOREIGN CAPITAL DEPOSITORY NOR A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE THEREOF SHALL PROVIDE OR AUTHORIZE ANOTHER PERSON TO PROVIDE A FINANCIAL RECORD TO AN INDIVIDUAL WHO IS NOT AN OFFICER, EMPLOYEE, OR AGENT OF A STATE OR LOCAL AGENCY ACTING PURSUANT TO COLORADO LAW OR LOCAL ORDINANCE OR TO AN OFFICER, EMPLOYEE,

OR AGENT OF THE UNITED STATES ACTING PURSUANT TO FEDERAL LAW.

(2) THIS SECTION DOES NOT PRECLUDE A FOREIGN CAPITAL DEPOSITORY, IN ITS DISCRETION, FROM INITIATING CONTACT WITH AND DISCLOSING A RELEVANT FINANCIAL RECORD TO AN APPROPRIATE STATE, LOCAL, OR FEDERAL AGENCY CONCERNING A SUSPECTED VIOLATION OF STATE OR FEDERAL LAW IF THE DEPOSITORY REASONABLY BELIEVES THAT A VIOLATION OF LAW HAS BEEN COMMITTED. CONVICTION OF OR ADMISSION BY A CUSTOMER OF A CRIME IS CONCLUSIVE ON THE ISSUE OF THE REASONABLE BELIEF OF THE DEPOSITORY.

11-37.5-206. Customer authorization - form - notice to customer. (1) A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY MAY DISCLOSE OR AUTHORIZE ANOTHER TO DISCLOSE A FINANCIAL RECORD, AND AN OFFICER, EMPLOYEE, OR AGENT OF A SUPERVISORY, STATE, OR LOCAL AGENCY MAY OBTAIN A FINANCIAL RECORD IF THE CUSTOMER TO WHOM THE RECORD RELATES HAS AUTHORIZED DISCLOSURE OF THE RECORD ON A FORM PROVIDED BY THE DEPOSITORY THAT:

(a) IS SIGNED AND DATED BY THE CUSTOMER;

(b) AUTHORIZES DISCLOSURE FOR A PERIOD SET FORTH IN THE AUTHORIZATION STATEMENT;

(c) SPECIFIES THE NAME OF THE PERSON, SUPERVISORY AGENCY, STATE AGENCY, OR LOCAL AGENCY TO WHOM OR TO WHICH DISCLOSURE IS AUTHORIZED AND, IF APPLICABLE, THE STATUTORY PURPOSE FOR WHICH THE INFORMATION IS TO BE OBTAINED; AND

(d) IDENTIFIES THE FINANCIAL RECORD AUTHORIZED TO BE DISCLOSED.

(2) A FOREIGN CAPITAL DEPOSITORY MAY NOT REQUIRE A CUSTOMER AUTHORIZATION TO BE SIGNED BY A CUSTOMER AS A CONDITION OF DOING BUSINESS WITH THE DEPOSITORY.

(3) A CUSTOMER MAY REVOKE AN AUTHORIZATION BY WRITTEN NOTICE TO THE FOREIGN CAPITAL DEPOSITORY. THE NOTICE SHALL CONTAIN A COPY OF THE AUTHORIZATION TO WHICH IT RELATES OR CONTAIN THE INFORMATION ORIGINALLY REQUIRED IN THE AUTHORIZATION TO WHICH IT RELATES, SHALL BE SIGNED AND DATED BY THE CUSTOMER, AND SHALL CONTAIN A CLEAR STATEMENT REVOKING THE PREVIOUS AUTHORIZATION.

(4) A SUPERVISORY, STATE, OR LOCAL AGENCY OBTAINING A FINANCIAL RECORD PURSUANT TO A CUSTOMER AUTHORIZATION SHALL NOTIFY THE CUSTOMER IN WRITING OF THE RECEIPT OF THE FINANCIAL RECORD WITHIN THIRTY DAYS AFTER THE AGENCY'S RECEIPT OF THE FINANCIAL RECORD; EXCEPT THAT, BY APPLICATION TO A JUDGE OF A COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE FINANCIAL RECORD IS LOCATED AND UPON A SHOWING OF GOOD CAUSE TO BELIEVE THAT DISCLOSURE WOULD IMPEDE THE INVESTIGATION, THE NOTIFICATION REQUIREMENTS OF THIS SUBSECTION (4) MAY BE EXTENDED BY UP TO NINETY DAYS AT A TIME. A SEPARATE APPLICATION AND HEARING SHALL BE REQUIRED FOR EACH SUCH EXTENSION.

11-37.5-207. Administrative subpoena. (1) A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY MAY DISCLOSE OR AUTHORIZE ANOTHER TO DISCLOSE A FINANCIAL RECORD AND AN OFFICER, EMPLOYEE, OR AGENT OF A SUPERVISORY, STATE, OR LOCAL AGENCY MAY OBTAIN A FINANCIAL RECORD UNDER SECTION 11-37.5-203 (1) (b) PURSUANT TO AN ADMINISTRATIVE SUBPOENA OTHERWISE AUTHORIZED BY LAW AND SERVED UPON THE FOREIGN CAPITAL DEPOSITORY ONLY IF:

(a) THE PERSON ISSUING THE ADMINISTRATIVE SUBPOENA HAS SERVED A COPY OF THE SUBPOENA ON THE CUSTOMER PURSUANT TO RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE;

(b) THE SUBPOENA INCLUDES THE NAME OF THE AGENCY IN WHOSE NAME THE SUBPOENA IS ISSUED AND THE STATUTORY PURPOSE FOR WHICH THE RECORD IS TO BE OBTAINED; AND

(c) TEN DAYS HAVE PASSED AFTER SERVICE OF THE SUBPOENA WITHOUT THE FOREIGN CAPITAL DEPOSITORY OR THE CUSTOMER MOVING TO QUASH THE SUBPOENA.

(2) (a) THE SUPERVISORY, STATE, OR LOCAL AGENCY ISSUING THE ADMINISTRATIVE SUBPOENA MAY NOT SHORTEN OR WAIVE THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION UNLESS AUTHORIZED BY FEDERAL LAW; EXCEPT THAT THE AGENCY MAY PETITION A COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE RECORD IS LOCATED, AND THE COURT, UPON A SHOWING OF A REASONABLE BELIEF THAT A LAW ENFORCEABLE BY THE PETITIONING AGENCY HAS BEEN OR IS ABOUT TO BE VIOLATED, MAY ORDER THAT THE REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION MAY BE WAIVED OR MODIFIED.

(b) THE PETITION MAY BE PRESENTED TO THE COURT IN PERSON OR BY TELEPHONED ORAL STATEMENT, WHICH SHALL BE RECORDED AND TRANSCRIBED. IN THE CASE OF TELEPHONIC PETITION, THE RECORDING OF THE SWORN ORAL STATEMENT AND THE TRANSCRIBED STATEMENT SHALL BE CERTIFIED BY THE JUDGE RECEIVING IT AND SHALL BE FILED WITH THE CLERK OF THE COURT.

(3) A COURT MAY ORDER A DEPOSITORY TO WITHHOLD NOTIFICATION TO A CUSTOMER OF THE RECEIPT OF AN ADMINISTRATIVE SUBPOENA WHEN THE COURT ISSUES AN ORDER PURSUANT TO SUBSECTION (2) OF THIS SECTION AND MAKES A FINDING THAT NOTICE TO THE CUSTOMER BY THE DEPOSITORY WOULD IMPEDE THE INVESTIGATION.

(4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OR (3) OF THIS SECTION, A FOREIGN CAPITAL DEPOSITORY SHALL IMMEDIATELY NOTIFY A CUSTOMER OF THE RECEIPT OF AN ADMINISTRATIVE SUBPOENA FOR A FINANCIAL RECORD OF THAT CUSTOMER.

11-37.5-208. Search warrants. A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY MAY DISCLOSE OR AUTHORIZE ANOTHER TO DISCLOSE A FINANCIAL RECORD AND AN OFFICER, EMPLOYEE, OR AGENT OF A SUPERVISORY, STATE, OR LOCAL AGENCY MAY OBTAIN A FINANCIAL RECORD UNDER SECTION 11-37.5-203 (1) (c) ONLY IF THE OFFICER, EMPLOYEE, OR AGENT LAWFULLY OBTAINS A SEARCH WARRANT. EXAMINATION OF A FINANCIAL

RECORD MAY OCCUR AS SOON AS THE WARRANT IS SERVED UPON THE FOREIGN CAPITAL DEPOSITORY. A FOREIGN CAPITAL DEPOSITORY SHALL IMMEDIATELY NOTIFY A CUSTOMER OF THE RECEIPT OF A SEARCH WARRANT UNLESS A COURT ORDERS THE DEPOSITORY TO WITHHOLD NOTIFICATION TO THE CUSTOMER UPON A WRITTEN FINDING THAT NOTICE WOULD IMPEDE THE INVESTIGATION.

11-37.5-209. Judicial subpoena. (1) A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY MAY DISCLOSE OR AUTHORIZE ANOTHER TO DISCLOSE A FINANCIAL RECORD AND AN OFFICER, EMPLOYEE, OR AGENT OF A SUPERVISORY, STATE, OR LOCAL AGENCY MAY OBTAIN A FINANCIAL RECORD UNDER SECTION 11-37.5-203 (1) (d) PURSUANT TO A JUDICIAL SUBPOENA ONLY IF ONE OR MORE OF THE FOLLOWING HAS OCCURRED:

(a) THE SUBPOENA IS ISSUED AS OTHERWISE AUTHORIZED BY LAW AND SERVED IN COMPLIANCE WITH RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE AND THE REQUIREMENTS OF PARAGRAPH (b), (c), OR (d) OF THIS SUBSECTION (1) HAVE BEEN MET. IN THE EVENT THAT ACTUAL SERVICE ON THE CUSTOMER IS NOT PROHIBITED BUT HAS NOT BEEN MADE PRIOR TO THE TIME THE FINANCIAL RECORD IS REQUIRED TO BE PRODUCED IN RESPONSE TO THE SUBPOENA, THE COURT SHALL, PRIOR TO TURNING OVER A RECORD TO THE AGENCY AND UPON GOOD CAUSE SHOWN, MAKE A FINDING THAT DUE DILIGENCE HAS BEEN EXERCISED BY THE AGENCY IN ITS ATTEMPT TO EFFECT SERVICE UPON THE CUSTOMER.

(b) TEN DAYS HAVE PASSED AFTER SERVICE OF THE SUBPOENA ON THE CUSTOMER AND THE DEPOSITORY WITHOUT THE CUSTOMER OR THE DEPOSITORY HAVING MOVED TO QUASH THE SUBPOENA;

(c) THE SUBPOENA HAS BEEN SERVED UPON THE CUSTOMER AND THE DEPOSITORY, AND A JUDGE IN A JUDICIAL PROCEEDING TO WHICH THE CUSTOMER OR THE DEPOSITORY IS A PARTY RULES THAT THE SUBPOENA SHOULD NOT BE QUASHED. THIS PARAGRAPH (c) IS NOT INTENDED TO PRECLUDE APPELLATE REMEDIES THAT MAY BE AVAILABLE UNDER EXISTING LAW.

(d) THE SUBPOENA HAS BEEN SERVED UPON THE DEPOSITORY, AND A COURT ORDERS THAT SERVICE OF THE SUBPOENA UPON THE CUSTOMER BE DELAYED IN ACCORDANCE WITH THIS SECTION. SERVICE MAY BE DELAYED FOR UP TO NINETY DAYS FROM THE DATE OF ISSUANCE OF THE JUDICIAL SUBPOENA AFTER THE COURT MAKES A FINDING UPON THE RECORD THAT SERVICE UPON THE CUSTOMER WOULD IMPEDE THE INVESTIGATION. THE WITHHOLDING OF SERVICE MAY BE EXTENDED FOR ADDITIONAL NINETY-DAY PERIODS IF A COURT MAKES A FINDING UPON THE RECORD, AT THE TIME OF EACH EXTENSION, THAT SERVICE UPON THE CUSTOMER WOULD IMPEDE THE INVESTIGATION. WHENEVER PRACTICABLE, AN APPLICATION FOR AN EXTENSION OF TIME SHALL BE MADE TO THE JUDGE WHO ISSUED THE JUDICIAL SUBPOENA.

(2) IF TESTIMONY IS TO BE TAKEN CONCERNING A FINANCIAL RECORD OR IF A FINANCIAL RECORD IS TO BE PRODUCED BEFORE A COURT, THE TEN-DAY PERIOD PROVIDED FOR IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION MAY BE SHORTENED BY THE COURT UPON A SHOWING OF GOOD CAUSE. THE COURT SHALL DIRECT THAT ALL REASONABLE MEASURES BE TAKEN TO NOTIFY THE CUSTOMER WITHIN THE SHORTENED TIME PERIOD. THE MOTION TO QUASH THE SUBPOENA SHALL

BE MADE, WHENEVER PRACTICABLE, IN THE JUDICIAL PROCEEDING PENDING BEFORE THE COURT.

(3) A GRAND JURY MAY OBTAIN FINANCIAL RECORDS PURSUANT TO A JUDICIAL SUBPOENA CONCERNING ANY INVESTIGATION WITHIN THE JURISDICTION OF THE GRAND JURY. THE JUDICIAL SUBPOENA SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

11-37.5-210. Grounds for quashing subpoena - duty of depository. (1) A CUSTOMER HAS TEN DAYS AFTER SERVICE OF AN ADMINISTRATIVE OR JUDICIAL SUBPOENA TO FILE A MOTION TO QUASH THE SUBPOENA BEFORE THE ADMINISTRATIVE AGENCY ISSUING THE SUBPOENA OR A COURT WITH JURISDICTION OVER THE SUBPOENA. THE MOTION TO QUASH MAY BE BASED UPON ONE OR MORE OF THE FOLLOWING GROUNDS:

(a) THE SUBPOENA IS OVERBROAD AS TO THE FINANCIAL RECORD SOUGHT;

(b) THE PRODUCTION OR RELEASE OF THE FINANCIAL RECORD WOULD CAUSE AN UNREASONABLE BURDEN OR HARDSHIP UNDER THE CIRCUMSTANCES UPON THE CUSTOMER OR THE DEPOSITORY;

(c) THE INVESTIGATION FOR WHICH THE RECORD IS SOUGHT IS NOT FOR A LAWFULLY AUTHORIZED PURPOSE; OR

(d) THE RECORD SOUGHT IS NOT RELEVANT TO THE INVESTIGATION.

(2) FAILURE OF THE CUSTOMER OR THE DEPOSITORY TO FILE A MOTION TO QUASH THE SUBPOENA BEFORE THE TIME ESTABLISHED FOR THE RETURN OF THE SUBPOENA CONSTITUTES A WAIVER OF THE RIGHT TO OBJECT TO THE RELEASE OR DISCLOSURE OF THE FINANCIAL RECORD.

(3) DURING THE PERIOD FOR THE FILING OF A MOTION TO QUASH AND CONTINUING UNTIL A RULING IS MADE UPON A MOTION TO QUASH, THE DEPOSITORY SHALL, UNLESS PROHIBITED BY THE COURT, MAKE AVAILABLE TO ITS CUSTOMER A COPY OF THE SUBPOENAED FINANCIAL RECORD AND SHALL PRESERVE THE ORIGINAL RECORD WITHOUT ALTERATION.

(4) A COURT OR ADMINISTRATIVE AGENCY MAY HOLD ADDITIONAL, SEPARATE, EX PARTE PROCEEDINGS WITH ANY FEDERAL OR STATE CRIMINAL JUSTICE AGENCY OR ANY SUPERVISORY AGENCY OR PROSECUTOR REGARDING ANY INFORMATION RELEVANT TO A MOTION MADE PURSUANT TO THIS SECTION. AN ADMINISTRATIVE AGENCY MAY SEAL ALL RECORDS CONCERNING SUCH EX PARTE PROCEEDING OR THE FACTS DISCLOSED THEREIN FOR UP TO NINETY DAYS, AND FOR ONE OR MORE SUCCEEDING NINETY-DAY PERIODS OF EXTENSION, UPON A FINDING OF REASONABLE GROUNDS FOR BELIEVING THAT NOTICE OF THE HEARING OR OF THE FACTS DISCLOSED THEREIN, IF DISCLOSED TO THE CUSTOMER OR TO THE FOREIGN CAPITAL DEPOSITORY, WOULD SIGNIFICANTLY IMPEDE THE PROGRESS OF AN EXISTING CRIMINAL INVESTIGATION.

11-37.5-211. Limitations on use of financial record. (1) THE ORIGINAL OR A COPY OF A FINANCIAL RECORD OBTAINED BY A STATE OR LOCAL AGENCY OR ANOTHER

PERSON PURSUANT TO THIS PART 2 SHALL NOT BE USED OR RETAINED IN ANY FORM FOR A PURPOSE OTHER THAN THE STATUTORY PURPOSE FOR WHICH THE RECORD WAS ORIGINALLY OBTAINED. THE STATUTORY PURPOSE SHALL BE DETERMINED WITH REFERENCE TO THE OVERALL GOAL TO BE ACHIEVED, ESPECIALLY IN REGARD TO CIVIL AND CRIMINAL ENFORCEMENT, AND SHALL NOT BE NARROWLY CONSTRUED TO REFER ONLY TO THE STATUTE, RULE, OR OTHER LAW SOUGHT TO BE ENFORCED IN THE PROCEEDING FOR WHICH THE RECORD WAS OBTAINED.

(2) A STATE OR LOCAL AGENCY SHALL NOT PROVIDE A FINANCIAL RECORD OBTAINED PURSUANT TO THIS PART 2 TO ANOTHER STATE OR LOCAL AGENCY UNLESS THE OTHER AGENCY HAS INDEPENDENTLY OBTAINED AUTHORIZATION TO RECEIVE THE FINANCIAL RECORD PURSUANT TO THIS PART 2; EXCEPT THAT THIS SUBSECTION (2) SHALL NOT BE CONSTRUED TO PROHIBIT:

(a) THE TRANSFER BY ONE SUPERVISORY AGENCY THAT OBTAINED A FINANCIAL RECORD PURSUANT TO SECTION 11-37.5-212 (1) (c) TO ANOTHER SUPERVISORY AGENCY IF THAT TRANSFER OTHERWISE COMPLIES WITH SUBSECTION (1) OF THIS SECTION;

(b) THE LAWFUL TRANSFER OF A FINANCIAL RECORD OBTAINED PURSUANT TO SECTION 11-37.5-208 BY ONE CRIMINAL JUSTICE AGENCY TO ANOTHER CRIMINAL JUSTICE AGENCY; OR

(c) THE TRANSFER BY THE COMMISSIONER OR THE DEPARTMENT TO ANOTHER SUPERVISORY AGENCY OR TO A CRIMINAL JUSTICE AGENCY OF INFORMATION, INCLUDING, WITHOUT LIMITATION, FINANCIAL RECORDS, OBTAINED BY THE COMMISSIONER OR THE DEPARTMENT IN THE COURSE OF THEIR DUTIES IF SUCH INFORMATION MAY BE RELEVANT TO A POSSIBLE VIOLATION OF CRIMINAL LAW. THIS PARAGRAPH (c) SHALL NOT BE CONSTRUED TO AUTHORIZE EXAMINATIONS OR INVESTIGATIONS THAT ARE NOT OTHERWISE AUTHORIZED UNDER THIS ARTICLE.

(3) A SUPERVISORY, STATE, OR LOCAL AGENCY OR A COURT OBTAINING A FINANCIAL RECORD BY ADMINISTRATIVE SUBPOENA, SEARCH WARRANT, OR JUDICIAL SUBPOENA SHALL MAKE REASONABLE EFFORTS TO PROTECT THE CONFIDENTIAL NATURE OF A FINANCIAL RECORD WITHOUT HINDERING A LAWFUL INVESTIGATION.

(4) DOCUMENTS OF A SUPERVISORY, STATE, OR LOCAL AGENCY AND DOCUMENTS PRODUCED IN COURT CONTAINING A FINANCIAL RECORD SHALL BE SEALED BY THE AGENCY OR COURT AT THE CONCLUSION OF THE PROCEEDINGS IN ORDER TO PREVENT ACCESS TO THE RECORD AND MAY BE OPENED ONLY FOR GOOD CAUSE SHOWN.

11-37.5-212. Authorized disclosures of financial records. (1) THIS PART 2 DOES NOT PROHIBIT:

(a) DISCLOSURE BY A FOREIGN CAPITAL DEPOSITORY OF A FINANCIAL RECORD THAT IS NOT IDENTIFIED WITH OR IDENTIFIABLE AS BEING DERIVED FROM A FINANCIAL RECORD OF A PARTICULAR CUSTOMER BY NAME;

(b) DISCLOSURE BY A FOREIGN CAPITAL DEPOSITORY TO A DEPARTMENT, AGENCY, OFFICE, BUREAU, OR COMMISSION OF THE UNITED STATES OF A FINANCIAL RECORD WHEN REQUIRED BY FEDERAL STATUTE OR REGULATION OR WHEN REQUIRED

PURSUANT TO THE TERMS OF A TREATY OR OTHER AGREEMENT BETWEEN THE UNITED STATES AND THE GOVERNMENT OF A FOREIGN COUNTRY;

(c) DISCLOSURE OF A FINANCIAL RECORD BY A FOREIGN CAPITAL DEPOSITORY TO A SUPERVISORY AGENCY WHEN THE DISCLOSURE IS CONDUCTED IN RESPONSE TO AN EXERCISE OF THE AGENCY'S SUPERVISORY FUNCTION. THE SCOPE OF AN AGENCY'S SUPERVISORY FUNCTION SHALL BE DETERMINED BY REFERENCE TO STATUTES GRANTING AUTHORITY TO EXAMINE, AUDIT, OR REQUIRE REPORTS CONCERNING A FINANCIAL RECORD OR FOREIGN CAPITAL DEPOSITORY.

(2) WHENEVER THE REQUEST, ORDER, DEMAND, OR OTHER REQUIREMENT FOR DISCLOSURE OF A FINANCIAL RECORD PROHIBITS THE RELEASE TO A CUSTOMER OF THE FACTS OF A DISCLOSURE, A FOREIGN CAPITAL DEPOSITORY SHALL NOT DISCLOSE EITHER THE FACT OR NATURE OF THE REQUEST, ORDER, DEMAND, OR OTHER REQUIREMENT FOR DISCLOSURE OR THE DEPOSITORY'S RESPONSE TO A CUSTOMER OR TO ANY PERSON EXCEPT THE FOLLOWING:

(a) OFFICERS AND EMPLOYEES OF THE DEPOSITORY WHO ARE INVOLVED IN RESPONDING TO THE REQUEST;

(b) ATTORNEYS, AUDITORS, AND REGULATORY AUTHORITIES WHO HAVE A NEED TO KNOW IN ORDER TO PERFORM THEIR DUTIES; AND

(c) PERSONS TO WHOM DISCLOSURE IS REQUIRED BY LEGAL PROCESS.

11-37.5-213. Confidentiality - supervisory agency personnel - penalty for violation. (1) EXCEPT AS REQUIRED BY JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY SECTION 11-37.5-114 AND THIS PART 2, AN EMPLOYEE OF A SUPERVISORY AGENCY WHO CONDUCTS AN EXAMINATION, INVESTIGATION, OR AUDIT OF A DEPOSITORY OR WHO RECEIVES A REPORT OR OTHER INFORMATION ABOUT A DEPOSITORY FROM ANOTHER EMPLOYEE OF A SUPERVISORY AGENCY SHALL NOT DISCLOSE THE IDENTITY OF A CUSTOMER TO ANOTHER PERSON WHO IS NOT OFFICIALLY ASSOCIATED WITH AN EXAMINATION, INVESTIGATION, OR AUDIT OF A DEPOSITORY.

(2) A PERSON WHO KNOWINGLY VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

11-37.5-214. Civil liability for wrongful disclosure of financial record - damages - injunctive relief. (1) A STATE OR LOCAL AGENCY THAT REQUESTS OR RECEIVES A FINANCIAL RECORD IN VIOLATION OF ANY PROVISION OF THIS PART 2 IS LIABLE TO THE CUSTOMER TO WHOM THE RECORD RELATES FOR CIVIL DAMAGES IN THE AMOUNT SET FORTH IN SUBSECTION (4) OF THIS SECTION.

(2) A PERSON WHO IS NOT EMPLOYED BY A SUPERVISORY, STATE, OR LOCAL AGENCY OR BY A FOREIGN CAPITAL DEPOSITORY AND WHO REQUESTS OR RECEIVES A FINANCIAL RECORD IN VIOLATION OF ANY PROVISION OF THIS PART 2 IS LIABLE TO THE CUSTOMER TO WHOM THE RECORD RELATES FOR CIVIL DAMAGES IN THE AMOUNT SET FORTH IN SUBSECTION (4) OF THIS SECTION.

(3) A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A

FOREIGN CAPITAL DEPOSITORY WHO DISCLOSES OR AUTHORIZES ANOTHER TO DISCLOSE A FINANCIAL RECORD IN VIOLATION OF ANY PROVISION OF THIS PART 2 IS LIABLE TO THE CUSTOMER TO WHOM THE RECORD RELATES FOR CIVIL DAMAGES IN THE AMOUNT SET FORTH IN SUBSECTION (4) OF THIS SECTION.

(4) DAMAGES ARE EQUAL TO THE SUM OF THE FOLLOWING:

(a) TEN THOUSAND DOLLARS, WITHOUT REGARD TO THE TYPE OR NUMBER OF RECORDS INVOLVED;

(b) ACTUAL DAMAGES SUSTAINED BY THE CUSTOMER; AND

(c) COSTS INCURRED IN THE ACTION TO SUCCESSFULLY ENFORCE LIABILITY UNDER THIS SECTION, TOGETHER WITH REASONABLE ATTORNEY FEES.

(5) A FOREIGN CAPITAL DEPOSITORY MAY EXERCISE REMEDIES PROVIDED IN THIS SECTION ON BEHALF OF A CUSTOMER AND, IN CONNECTION WITH THE EXERCISE OF THOSE REMEDIES, MAY ACT AS THE REAL PARTY IN INTEREST. DAMAGES RECOVERED BY THE DEPOSITORY SHALL BE DEPOSITED IN AN ACCOUNT OF THE CUSTOMER, BUT A DEPOSITORY MAY RETAIN AMOUNTS RECOVERED FOR ITS COSTS AND REASONABLE ATTORNEY FEES.

(6) THE REMEDIES PROVIDED IN THIS SECTION ARE NOT EXCLUSIVE.

(7) IN ADDITION TO ANY OTHER REMEDY ALLOWED BY LAW, A CUSTOMER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF TO ENFORCE THE PROVISIONS OF THIS PART 2.

11-37.5-215. Unlawful disclosure of financial record - criminal penalties.

(1) A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY WHO DISCLOSES A FINANCIAL RECORD IN VIOLATION OF ANY PROVISION OF THIS PART 2 COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. THIS SUBSECTION (1) IMPOSES STRICT LIABILITY.

(2) A DIRECTOR, EXECUTIVE OFFICER, CONTROLLING PERSON, OR EMPLOYEE OF A FOREIGN CAPITAL DEPOSITORY OR AN OFFICER, EMPLOYEE, OR AGENT OF A STATE OR LOCAL AGENCY WHO KNOWINGLY DISCLOSES A FINANCIAL RECORD IN VIOLATION OF ANY PROVISION OF THIS PART 2 COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-105, C.R.S.

11-37.5-216. Customer waiver invalid. A WAIVER BY A CUSTOMER OF A RIGHT THAT IS NOT AUTHORIZED TO BE WAIVED BY THIS PART 2 IS NOT VALID WHETHER GRANTED WITH OR WITHOUT CONSIDERATION.

11-37.5-217. Limitation of actions. AN ACTION TO ENFORCE A PROVISION OF THIS PART 2 SHALL BE COMMENCED WITHIN THREE YEARS AFTER THE DATE ON WHICH THE VIOLATION OCCURRED.

PART 3
ASSET PROTECTION

11-37.5-301. Legislative declaration - asset protection - purpose and perspective - limitations upon recognition of foreign judgments. (1) THE GENERAL ASSEMBLY UNDERSTANDS THAT ASSET PROTECTION INCLUDES THE ABILITY TO MINIMIZE OR AVOID BOTH THE POTENTIAL FINANCIAL IMPACT AND LOSS OF PRIVACY RESULTING FROM LAWSUITS. THE GENERAL ASSEMBLY ALSO RECOGNIZES THAT ASSET PROTECTION IS A VITAL COMPONENT OF A FOREIGN CAPITAL DEPOSITORY, WHICH IS DESIGNED TO SERVE THE INTERESTS OF INDIVIDUALS WITH HIGH NET WORTH WHO ARE NOT UNITED STATES CITIZENS AND DO NOT RESIDE IN THE UNITED STATES.

(2) THE GENERAL ASSEMBLY FURTHER ACKNOWLEDGES THAT FOREIGN JUDGMENTS RENDERED IN A FOREIGN STATE, UNLIKE JUDGMENTS RENDERED IN OTHER STATES OF THE UNION UNDER THE UNITED STATES CONSTITUTION, ARE NOT ENTITLED BY COLORADO COURTS TO CONCLUSIVE FULL FAITH AND CREDIT UNDER COMMON LAW AND THAT THE PRINCIPLE OF COMITY THAT ENCOURAGES ONE COUNTRY TO EXTEND LEGAL RECOGNITION TO THE JUDICIAL ACTS OF ANOTHER COUNTRY DOES NOT APPLY TO THE RELATIONS BETWEEN COLORADO AND A FOREIGN COUNTRY.

(3) THE "UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT", ARTICLE 62 OF TITLE 13, C.R.S., SIGNIFIES A DEPARTURE FROM COMITY BECAUSE IT CODIFIES THE PRINCIPLES OF COMITY BUT WITH CERTAIN EXCEPTIONS AND MODIFICATIONS. THIS PART 3 ENACTS A FURTHER DEPARTURE FROM COMITY THAT IS INTENDED TO UPHOLD THE STATE'S INTEREST IN EXTENDING TO A CUSTOMER OF A FOREIGN CAPITAL DEPOSITORY THE MAXIMUM AMOUNT OF PRIVACY POSSIBLE WITHIN PRUDENTIAL LIMITS AS WELL AS STATE AND FEDERAL LAW.

(4) THIS PART 3 IS NOT INTENDED TO CIRCUMSCRIBE OR CONFLICT WITH THE PROVISIONS OF ARTICLE 62 OF TITLE 13, C.R.S., EXCEPT IN A CASE IN WHICH A FOREIGN JUDGMENT HAS BEEN OBTAINED AGAINST THE CUSTOMER OF A FOREIGN CAPITAL DEPOSITORY.

(5) FOR THE PURPOSES OF THIS PART 3, THE GENERAL ASSEMBLY DECLARES THAT THE RECOGNITION OF A FOREIGN JUDGMENT PURSUANT TO ARTICLE 62 OF TITLE 13, C.R.S., AND THE EXECUTION OF A FOREIGN JUDGMENT AGAINST A CUSTOMER OF A FOREIGN CAPITAL DEPOSITORY IS REPUGNANT TO THE PUBLIC POLICY OF THIS STATE IF EITHER WOULD:

(a) FACILITATE THE ARBITRARY OR UNLAWFUL INTERFERENCE WITH AN INDIVIDUAL'S PRIVACY IN CONTRAVENTION OF INTERNATIONAL LAW;

(b) UNDERMINE INDIVIDUAL RIGHTS, INCLUDING PRIVATE PROPERTY RIGHTS, PROVIDED FOR IN THE COLORADO CONSTITUTION AND STATE LAW;

(c) STIMULATE OR ENGENDER LAWSUITS MOTIVATED BY GREED OR PECUNIARY SPECULATION AND LACKING A GOOD FAITH ARGUMENT OR OTHER LEGALLY SOUND PURPOSE;

(d) FACILITATE CIVIL PROSECUTION ARISING FROM CLASS OR ETHNIC HATRED AND NURTURED BY A CORRUPT LEGAL SYSTEM; OR

(e) THREATEN THE FINANCIAL STABILITY OF THE DEPOSITORY OR THE STATE BY DISCOURAGING FOREIGN DEPOSITORS AND INVESTORS FROM BECOMING CUSTOMERS

OR BY ENCOURAGING CUSTOMERS TO WITHDRAW THEIR CAPITAL FROM THE DEPOSITORY.

11-37.5-302. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMITY" MEANS THE RECOGNITION OF JUDICIAL ACTS THAT ONE COUNTRY EXTENDS TO ANOTHER AS A MATTER OF CUSTOM, CONVENIENCE, AND EXPEDIENCY.

(2) "FOREIGN JUDGMENT" HAS THE SAME MEANING AS IN SECTION 13-62-102 (2), C.R.S.

(3) "FOREIGN STATE" HAS THE SAME MEANING AS IN SECTION 13-62-102 (1), C.R.S.

11-37.5-303. Defense against enforcement of foreign judgments - depository obligations. (1) A FOREIGN CAPITAL DEPOSITORY SHALL, UNLESS RELIEVED OF THE RESPONSIBILITY BY A WAIVER SIGNED BY A DEPOSITORY CUSTOMER, PROVIDE A CUSTOMER WITH COMPETENT LEGAL COUNSEL AND DEFENSE AGAINST:

(a) THE RECOGNITION IN COLORADO OF A FOREIGN JUDGMENT RENDERED IN A FOREIGN STATE; AND

(b) THE EXECUTION OF A FOREIGN JUDGMENT IN COLORADO PURSUANT TO SECTION 13-62-104, C.R.S., BUT ONLY TO THE EXTENT THAT THE EXECUTION WOULD AFFECT THE CUSTOMER'S ASSETS IN THE DEPOSITORY.

11-37.5-304. Filing fee surcharge. IN ADDITION TO THE NORMAL FILING FEE AND ANY OTHER APPLICABLE FEES, A PERSON SEEKING RECOGNITION OF A FOREIGN JUDGMENT RENDERED IN A FOREIGN STATE AGAINST A CUSTOMER OF THE FOREIGN CAPITAL DEPOSITORY SHALL PAY A SURCHARGE OF TWO THOUSAND FIVE HUNDRED DOLLARS TO THE CLERK OF THE COURT IN WHICH THE JUDGMENT IS FILED.

11-37.5-305. Burden of proof - financial liabilities. (1) A PERSON SEEKING RECOGNITION OF A FOREIGN JUDGMENT BEARS THE BURDEN OF PROVING THAT:

(a) THE JUDGMENT WAS RENDERED UNDER A SYSTEM THAT PROVIDES IMPARTIAL TRIBUNALS OR PROCEDURES THAT ARE COMPATIBLE WITH THE REQUIREMENTS OF DUE PROCESS OF LAW;

(b) THE FOREIGN COURT HAD PERSONAL JURISDICTION OVER THE CUSTOMER WHEN THE JUDGMENT WAS RENDERED; AND

(c) THE FOREIGN COURT HAD JURISDICTION OVER THE SUBJECT MATTER.

(2) THE CUSTOMER OR THE FOREIGN CAPITAL DEPOSITORY ACTING ON BEHALF OF A CUSTOMER BEARS THE BURDEN OF PROVING THAT ANY ONE OF THE GROUNDS FOR NONRECOGNITION PROVIDED FOR IN SECTION 13-62-105 (2), C.R.S., EXISTS.

(3) IF THE COURT FINDS THAT THE PERSON SEEKING RECOGNITION OF THE FOREIGN JUDGMENT FAILS TO PROVE THE JUDGMENT VALID IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, OR IF THE CUSTOMER OR THE DEPOSITORY SUCCEEDS IN PROVING

ANY OF THE GROUNDS FOR NONRECOGNITION PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COURT SHALL NOT RECOGNIZE THE FOREIGN JUDGMENT.

(4) IF THE PERSON SEEKING RECOGNITION OF A JUDGMENT IS UNSUCCESSFUL IN OBTAINING RECOGNITION OF THE JUDGMENT, THAT PERSON SHALL PAY THE COURT COSTS AND ATTORNEY FEES FOR THE PARTIES OPPOSING RECOGNITION OR, IF THE CUSTOMER HAS WAIVED THE DEPOSITORY'S OBLIGATION PROVIDED FOR IN SECTION 11-37.5-303, FOR THE CUSTOMER.

11-37.5-306. Damages - in camera hearing. (1) THE COURT IN WHICH RECOGNITION OF A FOREIGN JUDGMENT IS UNSUCCESSFULLY SOUGHT MAY AWARD DAMAGES AGAINST THE PERSON SEEKING RECOGNITION OF A FOREIGN JUDGMENT TO COMPENSATE A CUSTOMER FOR THE CUSTOMER'S TIME AND EXPENSES INCURRED IN DEFENDING THE ACTION.

(2) THE AMOUNT OF DAMAGES AWARDED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BEAR A REASONABLE RELATIONSHIP TO THE PERSON'S ABILITY TO PAY AND SHALL NOT EXCEED ONE MILLION DOLLARS.

(3) ANY PART OF A HEARING NECESSARY TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES PURSUANT TO THIS PART 3 AND ARTICLE 62 OF TITLE 13, C.R.S., MAY BE HELD IN CAMERA TO PROTECT THE PRIVACY OF ANY OF THE PARTIES.

11-37.5-307. Contingency fee arrangements prohibited. A PERSON SEEKING RECOGNITION OF A FOREIGN JUDGMENT AGAINST A CUSTOMER OF A FOREIGN CAPITAL DEPOSITORY SHALL NOT ENGAGE LEGAL COUNSEL ON A CONTINGENCY FEE BASIS FOR THE PURPOSE OF ATTAINING RECOGNITION OF THE FOREIGN JUDGMENT.

11-37.5-308. Nonrecognition - procedures to protect privacy. (1) THE COURT SHALL, AT THE REQUEST OF A CUSTOMER OR A FOREIGN CAPITAL DEPOSITORY, PROVIDE FOR AN IN CAMERA REVIEW OF THE PERTINENT DOCUMENTS TO PROTECT THE CONFIDENTIAL NATURE OF FINANCIAL RECORDS.

(2) THE COURT MAY PERMIT PUBLIC DISCLOSURE OF A FINANCIAL RECORD OR PROCEEDINGS CLOSED PURSUANT TO SUBSECTION (1) OF THIS SECTION ONLY IF IT FINDS THAT DISCLOSURE IS NECESSARY FOR THE FAIR RESOLUTION OF AN ISSUE BEFORE IT.

(3) DOCUMENTS PRODUCED IN COURT CONTAINING A FINANCIAL RECORD SHALL BE SEALED BY THE COURT AT THE CONCLUSION OF THE PROCEEDINGS TO PREVENT ACCESS TO THE RECORD AND MAY BE OPENED ONLY FOR GOOD CAUSE SHOWN.

PART 4 FEES AND TAXES

11-37.5-401. State revenue from depository - purpose and preference.

(1) THE GENERAL ASSEMBLY RECOGNIZES THAT REVENUE GAINS TO THE STATE AND THE POSSIBILITY OF SUBSEQUENT TAX REDUCTION FOR COLORADO TAXPAYERS ARE AMONG THE MOST SIGNIFICANT REASONS FOR ESTABLISHING A STATUTORY FRAMEWORK FOR THE FOREIGN CAPITAL DEPOSITORY AND THAT A RELATIVELY STEADY, PREDICTABLE FLOW OF REVENUE IS PREFERABLE TO A VOLATILE ONE. THE

GENERAL ASSEMBLY ALSO ACKNOWLEDGES THAT THE DEPOSITORY IS SUBJECT TO COMPETITIVE PRESSURES IN THE INTERNATIONAL FINANCIAL SERVICES MARKET. IT IS THEREFORE IN THE STATE'S INTEREST TO BALANCE REVENUE EXPECTATIONS WITH INCENTIVES THAT WILL ENHANCE THE COMMERCIAL ATTRACTIVENESS AND VIABILITY OF A DEPOSITORY.

(2) THE GENERAL ASSEMBLY RECOGNIZES THE HAZARDS OF FORTUNE THAT MAY BE SUFFERED BY CUSTOMERS OF A DEPOSITORY WHO ARE CITIZENS OR RESIDENTS OF COUNTRIES WITH UNSTABLE OR REPRESSIVE GOVERNMENTS AND RECOGNIZES THAT CAPITAL IN A DEPOSITORY MAY BE ABANDONED AS A CONSEQUENCE OF A CUSTOMER'S DISAPPEARANCE OR UNTIMELY DEATH. IT IS IN THE STATE'S INTEREST TO PROVIDE A DECENT INTERVAL OF TIME BEFORE DETERMINING THAT CAPITAL IS ABANDONED AND, IN KEEPING WITH SUBSECTION (1) OF THIS SECTION, TO ALLOW A DEPOSITORY TO CHARGE A REASONABLE FEE FOR THE MAINTENANCE OF THE ABANDONED CAPITAL PRIOR TO ITS ESCHEAT TO THE STATE.

11-37.5-402. Tax status - exemption guarantees. A TRANSACTION BETWEEN THE DEPOSITORY AND A CUSTOMER THAT INVOLVES TANGIBLE PERSONAL PROPERTY, AS DEFINED IN SECTION 11-37.5-103 (16), IS EXEMPT FROM ALL FORMS OF TAX.

11-37.5-403. State revenue - assessment - collection - distribution. (1) A FOREIGN CAPITAL DEPOSITORY SHALL PAY TO THE DEPARTMENT OF REVENUE ON JUNE 15 AND DECEMBER 15 OF EACH YEAR A FEE THAT IS EQUAL TO THREE-QUARTERS OF ONE PERCENT OF THE TOTAL VALUE OF ASSETS ON DEPOSIT OR IN A SAFE DEPOSIT BOX, RESULTING IN A TOTAL ANNUAL RATE OF ASSESSMENT OF ONE AND ONE-HALF PERCENT. SUCH FEES SHALL BE PAID TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE GENERAL FUND OF THE STATE.

(2) THE BASIS OF THE VALUE ASCRIBED TO EACH ASSET IS:

(a) FOR CURRENCY, THE UNITED STATES DOLLAR EXCHANGE VALUE OF THE CURRENCY ON DEPOSIT ON THE DATE OF ASSESSMENT;

(b) FOR GOLD, SILVER, PLATINUM, AND OTHER PRECIOUS METALS HELD IN PRECIOUS METALS ACCOUNTS, AS DEFINED IN SECTION 11-37.5-127, THE SPOT MARKET PRICE AS PUBLISHED IN THE "WALL STREET JOURNAL" ON THE DATE OF ASSESSMENT; OR

(c) THE MARKET VALUE OF OTHER TANGIBLE PERSONAL PROPERTY HELD IN SAFE DEPOSIT BOXES OR OTHER ACCOUNTS AT THE TIME OF THE ASSESSMENT, AS DETERMINED BY THE DEPOSITORY USING A METHOD APPROVED BY THE COMMISSIONER. THE DEPOSITORY SHALL SUBMIT TO THE DEPARTMENT OF REVENUE WITHIN SIXTY DAYS AFTER THE APPRAISAL A REPORT THAT DOCUMENTS THE METHOD AND CALCULATIONS OF THE APPRAISAL.

11-37.5-404. Revenue audits - charges. (1) THE DEPARTMENT OF REVENUE SHALL CONDUCT AN ANNUAL AUDIT OF EACH FOREIGN CAPITAL DEPOSITORY TO VERIFY THAT INTERNAL FINANCIAL RECORDS OF THE DEPOSITORY COMPLY WITH STATE LAW AND REGULATIONS PERTAINING TO THE DEPOSITORY AND THAT FEES OWED TO THE STATE HAVE BEEN PROPERLY CALCULATED AND PAID ON TIME.

(2) A DEPOSITORY SHALL PAY TO THE DEPARTMENT OF REVENUE THE COST OF AN ANNUAL AUDIT PROVIDED FOR IN SUBSECTION (1) OF THIS SECTION.

(3) THE DEPARTMENT OF REVENUE MAY CHARGE THE DEPOSITORY UP TO FOUR HUNDRED DOLLARS PER DAY FOR EACH AUDITOR INVOLVED IN THE CONDUCT OF AN AUDIT.

11-37.5-405. Deficiency assessment - notice - penalty and interest. (1) IF THE DEPARTMENT OF REVENUE DETERMINES THROUGH AN AUDIT OF A FOREIGN CAPITAL DEPOSITORY THAT THE AMOUNT COLLECTED PURSUANT TO SECTION 11-37.5-403 IS LESS THAN THE AMOUNT OWED BY THE DEPOSITORY, THE DEPARTMENT OF REVENUE SHALL SEND BY CERTIFIED MAIL TO THE DEPOSITORY A NOTICE OF THE DEFICIENCY AND REQUIRE PAYMENT OF THE AMOUNT OWED, PLUS A TEN PERCENT PENALTY, WITHIN SIXTY DAYS AFTER THE DEPOSITORY'S RECEIPT OF THE NOTICE.

(2) THE DEPOSITORY SHALL BEAR THE INTEREST CHARGE ON ANY DEFICIENCY ASSESSMENT ISSUED BY THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION. THE RATE OF INTEREST CHARGED TO THE DEPOSITORY SHALL NOT EXCEED TWELVE PERCENT PER YEAR.

11-37.5-406. Right of appeal. THE DEPARTMENT OF REVENUE SHALL PROVIDE A MEANS FOR APPEAL BY A FOREIGN CAPITAL DEPOSITORY THAT RECEIVES A NOTICE OF DEFICIENCY CONCERNING A FEE, PENALTY, OR INTEREST CHARGED PURSUANT TO SECTION 11-37.5-405. THE DEPARTMENT'S DETERMINATIONS SHALL BE MADE IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

11-37.5-407. Limitation on penalty and interest. AN AMOUNT OF PENALTY OR INTEREST OWED BY THE DEPOSITORY PURSUANT TO SECTION 11-37.5-405 SHALL NOT BE ASSESSED OR COLLECTED WITH RESPECT TO THE YEAR FOR WHICH A SEMIANNUAL FEE IS ASSESSED UNLESS THE NOTICE OF THE ADDITIONAL AMOUNT OWED IS MAILED WITHIN FIVE YEARS AFTER THE DATE THE FEE WAS PAID.

11-37.5-408. Action by attorney general. AN ACTION MAY BE BROUGHT BY THE ATTORNEY GENERAL IN THE NAME OF THE STATE AT THE REQUEST OF THE DEPARTMENT OF REVENUE TO RECOVER THE AMOUNT OF ANY FEES, PENALTIES, AND INTEREST DUE UNDER SECTIONS 11-37.5-403 TO 11-37.5-406.

11-37.5-409. Abandoned capital - disposition - escheat. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ASSETS ON DEPOSIT WITH A FOREIGN CAPITAL DEPOSITORY SHALL BE SUBJECT TO THE "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S. A DEPOSITORY SHALL DISPOSE OF ABANDONED CAPITAL AS PROVIDED IN SAID ARTICLE; EXCEPT THAT:

(a) A NOTICE OF THE PROPERTY PRESUMED ABANDONED SHALL NOT BE PUBLISHED AS PRESCRIBED IN SECTION 38-13-111, C.R.S.;

(b) THE REPORT REQUIRED UNDER SECTION 38-13-110, C.R.S., SHALL NOT BE MADE AVAILABLE FOR PUBLIC INSPECTION; AND

(c) ALL MONEY RECEIVED BY THE DEPARTMENT OF REVENUE AS A CONSEQUENCE

OF THE ABANDONMENT OF CAPITAL IN A DEPOSITORY SHALL BE DEPOSITED IN THE GENERAL FUND.

(2) A FOREIGN CAPITAL DEPOSITORY MAY DEDUCT FROM PROPERTY THAT IS PRESUMED TO BE ABANDONED A CHARGE IMPOSED BY REASON OF THE OWNER'S FAILURE TO CLAIM THE PROPERTY WITHIN A SPECIFIED TIME ONLY IF THERE IS A VALID AND ENFORCEABLE WRITTEN CONTRACT BETWEEN THE DEPOSITORY AND THE OWNER UNDER WHICH THE DEPOSITORY MAY IMPOSE THE CHARGE AND IF THE DEPOSITORY REGULARLY IMPOSES THE CHARGE, WHICH IS NOT REGULARLY REVERSED OR OTHERWISE CANCELED. THE AMOUNT OF THE DEDUCTION IS LIMITED TO AN AMOUNT THAT IS NOT UNCONSCIONABLE.

PART 5 ENFORCEMENT AND PENALTIES

11-37.5-501. Injunctions. THE ATTORNEY GENERAL, AT THE REQUEST OF THE DEPARTMENT, COMMISSIONER, OR BOARD, MAY INSTITUTE AND MAINTAIN IN THE NAME OF THE STATE ACTIONS FOR INJUNCTIVE RELIEF TO ENJOIN VIOLATIONS OF, OR REQUIRE COMPLIANCE WITH, PARTS 1 AND 2 OF THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO SAID PARTS, THE TERMS OR CONDITIONS OF A CHARTER, OR AN ORDER OF THE DEPARTMENT, COMMISSIONER, OR BOARD.

11-37.5-502. Civil penalties. (1) EXCEPT FOR THE PENALTIES FOR WRONGFUL DISCLOSURE PROVIDED FOR IN SECTION 11-37.5-214, A PERSON WHO VIOLATES A PROVISION OF PARTS 1 AND 2 OF THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO SAID PARTS, THE TERMS OR CONDITIONS OF A CHARTER, OR AN ORDER OF THE DEPARTMENT, COMMISSIONER, OR BOARD IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH DAY OF VIOLATION. EACH DAY DURING WHICH SUCH VIOLATION PERSISTS SHALL CONSTITUTE A SEPARATE VIOLATION.

(2) THE DEPARTMENT, COMMISSIONER, OR BOARD MAY INSTITUTE AND MAINTAIN IN THE NAME OF THE STATE ANY ENFORCEMENT PROCEEDINGS UNDER THIS SECTION. UPON REQUEST OF THE DEPARTMENT, COMMISSIONER, OR BOARD, THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY OF THE COUNTY WHERE THE VIOLATION OCCURRED SHALL PETITION THE DISTRICT COURT TO IMPOSE, ASSESS, AND RECOVER THE CIVIL PENALTY.

(3) ACTION UNDER THIS SECTION DOES NOT BAR:

(a) ENFORCEMENT OF PARTS 1 AND 2 OF THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO SAID PARTS, THE TERMS OR CONDITIONS OF A CHARTER, OR AN ORDER OF THE DEPARTMENT, COMMISSIONER, OR BOARD BY INJUNCTION OR OTHER APPROPRIATE REMEDY; OR

(b) ACTION UNDER SECTION 11-37.5-503.

11-37.5-503. Criminal penalties. (1) EXCEPT FOR THE PENALTIES FOR WRONGFUL DISCLOSURE PROVIDED FOR IN SECTION 11-37.5-215, A PERSON WHO KNOWINGLY OPERATES A FOREIGN CAPITAL DEPOSITORY WITHOUT A CHARTER, IN VIOLATION OF THE TERMS OR CONDITIONS OF A CHARTER, OR IN VIOLATION OF PARTS 1 AND 2 OF THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO SAID PARTS, THE

TERMS OR CONDITIONS OF A CHARTER, OR AN ORDER OF THE DEPARTMENT, COMMISSIONER, OR BOARD OR A PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENTS OR REPRESENTATIONS IN AN APPLICATION, REPORT, OR OTHER DOCUMENT FILED OR MAINTAINED AS REQUIRED BY PARTS 1 AND 2 OF THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO SAID PARTS COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. EACH DAY OF VIOLATION CONSTITUTES A SEPARATE VIOLATION.

(2) A PERSON CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE UNDER SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

(3) ACTION UNDER THIS SECTION DOES NOT BAR ENFORCEMENT OF PARTS 1 AND 2 OF THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO SAID PARTS, THE TERMS OR CONDITIONS OF A CHARTER, OR AN ORDER OF THE DEPARTMENT, COMMISSIONER, OR BOARD BY INJUNCTION OR OTHER APPROPRIATE REMEDY.

SECTION 2. Appropriations. (1) In addition to any other appropriation, there is hereby appropriated, out of moneys in the foreign capital depository cash fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 1999, the sum of forty thousand one hundred thirty-eight dollars (\$40,138) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of moneys in the foreign capital depository cash fund not otherwise appropriated, to the department of regulatory agencies, the sum of fifty-five thousand nine hundred eighty-eight dollars (\$55,988), or so much thereof as may be necessary, for the implementation of this act. Of said sum, five thousand eight hundred ninety-three dollars (\$5,893) shall be allocated to the executive director's office, for legal services, for the fiscal year beginning July 1, 1999. Of said sum, fifty thousand ninety-five dollars (\$50,095) and 0.5 FTE shall be allocated to the division of banking.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 1999, the sum of five thousand eight hundred ninety-three dollars (\$5,893), or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies, division of banking, out of the appropriation made in subsection (2) of this section.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 1999