



## **STATEMENT OF NEED AND REASONABLENESS**

Proposed Rules Governing Virtual Currency Customer  
Disclosures, Minnesota Rules, Chapter 2675; Revisor's ID  
Number R-04895

Minnesota Department of Commerce

Financial Institutions Division

January 13, 2025

General information:

1. Availability: The State Register notice, this Statement of Need and Reasonableness (SONAR), and the proposed rule will be available during the public comment period on the Agency's Public Notices website: <https://mn.gov/commerce/business/rulemaking.jsp>.
2. View older rule records at: [Minnesota Rule Statutes](https://www.revisor.mn.gov/rules/status/)  
<https://www.revisor.mn.gov/rules/status/>
3. Agency contact for information, documents, or alternative formats: Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Mark Hastie, Director of Non-Depository Financial Institutions, Minnesota Department of Commerce, 85 7<sup>th</sup> Place East, Suite 280, St. Paul, MN 55101; telephone 651-539-1720; email [mark.hastie@state.mn.us](mailto:mark.hastie@state.mn.us), or use your preferred telecommunications relay service.

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## Acronyms

APA	Administrative Procedures Act
ALJ	Administrative Law Judge
CFR	Code of Federal Regulations
MAT	MN Association of Townships
Minn. R. pt	Minnesota Rules part
Minn. Stat.	Minnesota Statutes
MMB	Minnesota Management and Budget
MN	Minnesota
MORS	MN Office of the Revisor of Statutes
NMLS	Nationwide Multistate Licensing System and Registry
OAH	Office of Administrative Hearings
SONAR	Statement of Need and Reasonableness

# Introduction and Overview

## Introduction and Background

The Minnesota Department of Commerce (“Department”) is proposing rules governing virtual-currency customer disclosures. The rules will determine the time and format for the required customer disclosures related to virtual-currency business activity and additional disclosures that are reasonably necessary to protect Minnesota consumers who engage in these transactions.

The Department is the primary regulatory agency for a wide range of financial institutions that operate in Minnesota or conduct financial transactions with Minnesota consumers. This includes a number of state-chartered and licensed institutions: banks, credit unions, securities, and a group of what are referred to as “non-depository” financial institutions. The regulation of these financial services falls under two divisions with the Department. The Financial Institutions Division, which handles licensing and supervision through examinations; and the Enforcement Division, which conducts investigations related to financial services, which can include civil investigations or criminal investigations via the Commerce Fraud Bureau. Within the Financial Institutions Division, the non-depository financial institutions unit includes licensing and examinations of a wide range of industries within the areas of mortgage, consumer credit, and money services. The money services area includes money transmitters, currency exchange (check cashing), and electronic financial terminals. The enabling statute relevant to this proposed rule concerns the use of virtual currency under the state’s money transmitter statute, Minnesota Statutes, chapter 53B. Persons subject to the licensing requirements of Minnesota Statutes, chapter 53B file both initial and annual renewal applications for money transmitter licenses using the Nationwide Multistate Licensing System and Registry (“NMLS”) and are subject to supervision by both examination or investigation.

In 2023, the Minnesota Legislature passed, and the Governor signed into law changes to the Minnesota Money Transmitters Act, at Minnesota Statutes § 53B.72. The changes include new requirements related to conducting virtual-currency business activity, including required disclosures by licensees when conducting virtual currency business activity. The statute requires the Department to adopt rules related to the time and form of the required disclosures. Following a transition period, current licensees became subject to the new requirements on January 1, 2024. In 2024, the Minnesota Legislature passed, and the Governor signed into law further changes to sections related to the virtual-currency business activity in Minnesota Statutes, chapter 53B. These changes primarily added new requirements for virtual-currency transactions conducted at virtual-currency kiosks. The changes included specific updates to customer disclosures for transactions conducted via virtual-currency kiosks.

The Department published a Request for Comment on September 30, 2024, and accepted comments until November 29, 2024. The Additional Notice Plan included persons on the Department’s rulemaking

list, and was also sent to all licensed money transmitters, as well as several industry associations related to the money transmission industry. The Request for Comment outlined five topics relevant to the subject of the proposed rules.

The draft of the rule text itself has been primarily handled within the Financial Institutions Division, with support and input from the Enforcement Division. Staff from the various relevant units have been able to provide comment or feedback on the potential content of the rule. To the extent that we have received any responses to the Request for Comment, these have been considered and incorporated into the proposed rule draft. The rule draft covers the following topics:

- The point in time that customer disclosures must be given;
- What constitutes a clear and conspicuous manner of disclosure;
- The format required for the disclosures; and
- The acknowledgment and receipt requirements of the disclosures.

## **Statement of General Need**

The statutory authority cited below requires the Department to determine by rule the time and form for virtual-currency business activity required disclosures. These rules are necessary in order to provide specific requirements on how and when licensees must provide the disclosures when conducting virtual-currency business activity with any person.

The proposed rules are intended to specify the point in time that the disclosures must be given, what does it mean for the disclosures to be clear and conspicuous, the layout or format of the disclosures, how customers both acknowledge that they have received the disclosures, and the requirements to provide a receipt at the conclusion of a virtual-currency business activity transaction. They are necessary to ensure that any customer who conducts one of these transactions will receive the required disclosures in a time and format that will fully comply with the requirements laid out in Minnesota Statutes Section 53B.72.

## **Scope of Proposed Amendments**

The following chapters of Minnesota rules are affected by the proposed changes:

- Minnesota Rules Chapter 2675, Financial Institutions

## Statutory Authority

On May 24, 2023, the Governor signed into law, Minnesota Session Laws 2023, chapter 57, Senate File Number 2744. This session law included Article 3 – Financial Institutions. Sections 15 to 61 updated Minnesota Statutes Chapter 53B, including adding new sections 53B.28 through 53B.74. Section 76 of the session law repealed Minnesota Statutes 2022, sections 53B.01 through 53B.27. The law effectively repealed and replaced the Minnesota Money Transmitters’ Act. The new law took effect August 1, 2023, and included a new section 53B.68, which included a transition period that stated at paragraph (a):

“A person licensed in Minnesota to engage in the business of money transmission is not subject to the provisions of this chapter to the extent that this chapter’s provisions conflict with current law or establish new requirements not imposed under current law until the licensee renews the licensee’s current license or for five months after July 1, 2023, whichever is later.”

Minnesota Statutes Sections 53B.69 through 53B.74 related to virtual currency. These sections included section 53B.72, which requires disclosures for licensees engaging in virtual-currency business activity. This section requires the Department to determine by rule the time and form required for disclosures that are the subject of these proposed rules. Because this section established a new requirement not imposed under current law prior to the new law taking effect, licensees were not subject to the requirements under section 53B.72 until January 1, 2024.

Minnesota Statutes Section 14.125 states:

An agency shall publish a notice of intent to adopt rules or a notice of hearing within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed. If the notice is not published within the time limit imposed by this section, the authority for the rules expires. The agency shall not use other law in existence at the time of the expiration of rulemaking authority under this section as authority to adopt, amend, or repeal these rules.

An agency that publishes a notice of intent to adopt rules or a notice of hearing within the time limit specified in this section may subsequently amend or repeal the rules without additional legislative authorization.

The Department has until February 1, 2025, to publish a notice of intent to adopt rules or a notice of hearing for these proposed rules under the authority outlined below in Minnesota Statutes, sections 53B.72, 53B.31, and 45.023. By publishing the notice of intent to adopt these rules before February 1, 2025, the Department has met the statutory time limit requirement to propose and adopt these rules.



The Department's statutory authority to adopt the rules is stated in Minnesota Statutes, section: 53B.72(a), which provides:

“(a) A licensee that engages in virtual currency business activity must provide to a person who uses the licensee's products or services the disclosures required by paragraph (b) and any additional disclosure the commissioner by administrative rule determines reasonably necessary to protect persons. *The commissioner must determine by administrative rule the time and form required for disclosure.* A disclosure required by this section must be made separately from any other information provided by the licensee and in a clear and conspicuous manner in a record the person may keep. A licensee may propose for the commissioner's approval alternate disclosures as more appropriate for the licensee's virtual-currency business activity with or on behalf of persons.” [emphasis added].

53B.31, subdivision 2, which provides:

“Subd. 2. **Administrative authority.** The commissioner is granted broad administrative authority to: (1) administer, interpret, and enforce this chapter; (2) adopt regulations to implement this chapter; and (3) recover the costs incurred to administer and enforce this chapter by imposing and collecting proportionate and equitable fees and costs associated with applications, examinations, investigations, and other actions required to achieve the purpose of this chapter.”

45.023, which provides:

“The commissioner of commerce may adopt, amend, suspend, or repeal rules in accordance with chapter 14, and as otherwise provided by law, whenever necessary or proper in discharging the commissioner's official responsibilities.”

Under these statutes, the Department has the necessary statutory authority to adopt the proposed rules.

## **Public Participation and Stakeholder Involvement**

Consistent with the Administrative Procedures Act (APA), the Department published a Request for Comments in the Minnesota State Register on September 30, 2024. To increase accessibility and opportunity for feedback, the Department created a web page which displayed relevant information on this rulemaking process and provided the opportunity to make comments. The webpage was available from the time the Request for Comments was published until the Department published the Dual Notice of Intent to Adopt Rules.

Additionally, the Department solicited initial feedback on the proposed rules from a variety of organizations that are most likely to be affected by the rule revisions:

- See Additional Notice Plan for list of organizations.

Finally, in accordance with the requirements of Minnesota Statutes, chapter 14, and Minnesota Rules, chapter 1400, the Department sought input and comments from the public, stakeholders, and individuals affected by these rules. These activities are described in detail on pages 24 and 25 of this SONAR.

## Need and Reasonableness of the Amendments

### General Need and Reasonableness

This proposed rule is needed because of the legislative directive to adopt rules specifically around this topic, and the proposed rule is reasonable to balance the overall need for consumer protection in conjunction with industry practices.

### Rule-by-Rule Analysis

#### 2675.8500 DEFINITIONS

“Subpart 1. **Scope.** The terms defined in Minnesota Statutes, chapter 53B, apply to this part and part 2675.8510.”

This subpart is reasonable because referring to appropriate statutory definitions provides the framework for the rule. The subpart is necessary as it is important that licensees understand the scope and relevant definitions from the enabling statute in order to provide clarity on what definitions apply. In this case, appropriate citations to Minnesota Statutes Chapter 53B are relevant.

“Subpart 2. **Establishing a relationship.** “Establishing a relationship” means:

- A. Entering into an initial virtual-currency transaction for, on behalf of, or with a person; or
- B. Entering into virtual-currency kiosk transaction with a new customer.”

This subpart is reasonable because this phrase is an important starting point for governing when virtual-currency transactions will be about to occur with a customer. The subpart is necessary as it explains what it means to establish a relationship with a person when entering into a transaction subject to the disclosures. Item A is reasonable as it related to when a transaction is about to begin, and it is necessary because laying out what establishing a relationship means is critical to the time component of when licensees are required to give disclosures. Limiting this to an “initial” transaction fulfills the intent to ensure customers receive these disclosures before the first time they conduct a transaction with a licensee, while also recognizing that requiring licensees to give the disclosures for every repeat

transaction would be a more costly method for licensees, while still maintaining the consumer protections offered by the disclosures. The timing of initial transactions and new customers is relevant to what disclosures are required in order for licensees and customers to understand when they should expect to both give and receive disclosures.

Item B is reasonable as there are specific requirements related to new customers in the statute, and it is necessary to lay out what establishing a relationship with a customer means in the context of a virtual-currency transaction conducted with a “new customer” at a kiosk. The addition of the definition of “new customer” as it relates to transactions at a kiosk as defined in the update in 2024 to Minnesota Statutes, section 53B.69, subd. 3b still requires licensees to account for the disclosures in Minnesota Statutes, section 53B.72, and therefore this item related to what it means to establish a relationship in the context of a kiosk transaction is reasonable and necessary.

“Subpart 3. **Virtual-currency transaction.** “Virtual-currency transaction” means a transaction conducted or performed by any means that includes virtual-currency business activity.”

This subpart is reasonable to establish the connection between what is defined as “activity” in the statute, and how this activity is conducted in the form of transactions. It is necessary, because while the statute defines “virtual-currency business activity”, the disclosure requirement makes specific reference to virtual-currency business activity as a “transaction” in Minnesota Statutes Section 53B.72 without clarifying what is a “transaction”. This definition provides that clarity so that licensees and customers understand that disclosures and receipt requirements are attendant to the process of conducting virtual currency “transactions”. The statute also provides, in its definition of virtual currency at Minnesota Statutes, section 53B.69, a particular type of transaction that is not considered to be virtual currency. It is reasonable for implementation of the disclosure requirements in practice because “business activity” contemplates this being achieved through transactions, and it is necessary so that licensees and customers understand that these disclosures are attendant to contemplating specific transactions related to virtual-currency business activity. This is the appropriate and necessary time for disclosure requirements to be required.

## **2675.8510 REQUIRED DISCLOSURES**

### **Subpart 1. Time and form.**

**Item A:** “A licensee must make the disclosures required by Minnesota Statutes, section 53B.72, at the time the licensee establishes a relationship to conduct a virtual-currency business activity transaction with a person. A virtual-currency business activity that constitutes a virtual-currency kiosk transaction is subject to the disclosures required under Minnesota Statutes, section 53B.75.”

This item is reasonable as the subject of when disclosures are made is tied to the statutory requirement for the Department to establish rule related to time. This item is necessary in order to clarify the precise time in the process of conducting a transaction at which required disclosures must be given as section 53B.72(a) directs the Department to determine the time that required disclosures will be given. It is reasonable that disclosures have to be given at the point when a customer is in the process of contemplating an actual transaction, and it is necessary to ensure that customers receive the required disclosures at a time in the transaction that they can receive all of the information about the risks of virtual-currency transactions before they go through with completing a transaction.

**Item B:** “The disclosures must be provided to the person in a written notice that is clear, conspicuous, and easily readable. The written notice must be provided in English and in any other predominant language spoken by the licensee’s customers, including at a minimum Spanish, Somali, Hmong, Vietnamese, and Chinese. For the purposes of this part, a clear, conspicuous, and easily readable manners means:”

The opening paragraph of this item is reasonable because the enabling statute requires the Department to consider what is clear and conspicuous, and laying out these requirements is reasonable. It is necessary because lays out the first part of format to ensure that they are clear and conspicuous. The language requirement is reasonable and necessary as it contemplates Minnesota customers with various language backgrounds may conduct these transactions, and this will ensure that format is understandable and clear to all likely customers. The other enumerated languages constitute the five most common languages other than English native to Minnesota residents.

**Sub-item (1):** “any title of any category must be centered, bold, capitalized, and underlined in 18-point type, and”

This sub-item is reasonable in order to create a form that is clear and conspicuous, and is necessary because each category must be separately acknowledged, and so having larger font that is highlighted in this manner will ensure that the clarity and be sufficiently conspicuous to draw a customer’s attention to each category as they review and then acknowledge them one by one.

**Sub-item (2):** “the text of any category must be in 14-point font with a double space between each section.”

This sub-item is reasonable in order to create a form that is clear and conspicuous and it is necessary for the same reasons as sub-item 1, with the addition of double spacing being a reasonable and necessary requirement to ensure the main text of each disclosure is more easily readable when presented in this format.

**Item C:** “The disclosures must be displayed on the screen or virtual-currency kiosk screen used by the person to conduct the transaction and must include a means by which the person acknowledges receipt of each individual disclosure required under item D, in the order specified under item D.

This item is reasonable because having customers review disclosures in the same format as they are using to actually conduct the transaction will ensure that it is set up to acknowledge each category separately in the order they are laid out in the statute, and is necessary to ensure that customers understand each relevant part of the disclosures. It is also necessary to ensure that customers will not be confused by having to conduct different parts of transactions via multiple different screens, and this is a reasonable requirement to minimize confusion.

**Item D and Sub-items D(1)-(9):** “The disclosures must be separated into the following categories as provided for in Minnesota Statutes, section 53B.72, paragraph (b), using the following headings:

- Fees and charges;
- Insurance coverage;
- Irrevocability of transfers and exceptions;
- Transfer or exchange liability, responsibility, and error-resolution disputes;
- Transfer or exchange date and timing;
- Right to stop payment or revoke authorization;
- Right to receive a receipt;
- Right to notice on changes to fee schedule or other terms, conditions, or policies;
- Virtual-currency is not money; and...”

This item and the following sub-items (1) through (9) are reasonable as they summarize the separate paragraphs as laid out in statute, and it is necessary in terms of format in order to ensure disclosures are distinctly laid out to customers by each category as the statute requires, and the headings here summarize in a clear manner the topic of each category that is easy to read. This will allow a customer to understand each step and risk associated with a transaction.

**Item D, sub-item (10):** “the additional disclosure required under Minnesota Statutes, section 53B.75, subdivision 1, paragraph (b), which must be provided separately from the disclosures in subitems (1) to (9), and which also must include the following text:

“IF YOU ARE BEING THREATENED OR TOLD THE TRANSACTION MUST BE COMPLETED QUICKLY, A SCAMMER MIGHT BE ATTEMPTING TO TAKE ADVANTAGE OF YOU.

IF YOU ARE BEING WATCHED, OR TOLD YOU ARE BEING WATCHED, DO NOT COMPLETE A TRANSACTION AND CONTACT LAW ENFORCEMENT IMMEDIATELY”

Item D, subitem (10) is reasonable in order to take into consideration the consumer protection needs related to virtual-currency transaction, and it is necessary in order to highlight some of the unique risks associated with transactions as it relates to potential fraud or mistakes that generally are not recoverable, as well as a warning to customers who are doing this type of transaction under threat or alleged time constraints. The language includes the warning language contained in Minnesota Statutes, section 53B.75 for transactions at kiosks, but this ensures that the type of warnings contemplated for kiosk transactions are also applied to transactions conducted via means other than kiosks. The warning statements are an additional disclosure that the Department had determined is reasonably necessary to protect persons in addition to the time and format requirements, as authorized in Minnesota Statutes Section 53B.72(a).

#### Subpart 2. **Virtual-currency kiosk operator disclosures**

**Item A:** “A licensee that is also a virtual-currency kiosk operator, as defined in Minnesota Statutes, section 53B.69, subdivision 11, must provide the disclosures to the customer and require acknowledgment of those disclosures as required under Minnesota Statutes, section 53B.75, subdivisions 1, 2, and 3.”

This item is reasonable to ensure kiosk transactions are considered within the rule as they are also virtual-currency activity subject to Minnesota Statutes, section 53B.72, and necessary because Minnesota Statutes, chapter 53B was amended in 2024 to add specific protections for transactions conducted at virtual currency kiosks, and so this item is reasonable and necessary to account for those protections when customers may switch between using a kiosk or other means to conduct transactions by clarifying what is still required for kiosk transactions.

**Item B:** “Notwithstanding item A, a customer who conducts virtual-currency transactions by any means other than through a virtual-currency kiosk is considered a new customer under Minnesota Statutes, section 53B.69, subdivision 3b, regardless of the customer’s history of conducting transactions with a licensee prior to transacting at a virtual-currency kiosk.”

This item is reasonable as customers are able to conduct virtual-currency transactions by various methods that need to be accounted for when the same customer conducts them via kiosk and other means, and necessary to distinguish that the specific requirements passed for virtual-currency kiosk transactions are not affected or replaced by the customer of a licensee conducting a transaction with them by other means, and then switching to conducting a transaction with the same licensee at a kiosk for the first time. The legislature passed these specific requirements for kiosk transactions, and they

must still apply to licensees who conduct transactions by multiple means, particularly for new kiosk customers.

**Item C:** “In addition to the disclosure required under Minnesota Statutes, section 53B.75, subdivision 1, paragraph (b), a virtual-currency kiosk operator must provide to a new customer information that describes the process to request a refund under Minnesota Statutes, section 53B.75, subdivision 4.”

This item is reasonable as the refund requirement is a requirement within statute, and necessary to ensure that kiosk operators are also describing the refund process when providing disclosures to new customers, which is a unique feature available to new customers conducting transactions at kiosks.

“Subpart 3. **Acknowledgment of disclosures.** Before completing a transaction, a licensee must ensure that each person who engages in a virtual-currency transaction acknowledges receipt of all disclosures required under the part via confirmation of consent. Upon completing a transaction, the licensee must provide a person with a physical receipt, or a virtual receipt sent to the person’s email address or SMS numbers, containing the information in subpart 4.”

This subpart is reasonable because the form of how disclosures are received is related to ensuring that customer understand the nature of the transaction, and it is necessary because it is designed to make sure customers are fully acknowledging the disclosures with affirmative consent to ensure customers fully understand the transaction they are conducting, but before completion of the transaction, and that customers will receive a receipt for every transaction.

Subpart 4. **Customer receipts.** Upon concluding any transaction, a licensee must provide a receipt containing:

**Item A:** “the information required under Minnesota Statutes, section 53B.72, paragraph (c), and under Minnesota Statutes, section 53B.72, paragraph (d), if the licensee discloses and elects to provide a single, daily confirmation if a licensee performs more than one virtual-currency transaction on that day with or on behalf of a person;”

This item is reasonable to effectuate the statutory requirement for a confirmation that is a receipt, and it is necessary in order to clarify that a “confirmation” under Minnesota Statutes, section 53B.72(c) and (d) is actually a receipt that confirms the information about the transaction once it has been concluded. Ensuring that a confirmation is classified under the receipt requirement is reasonable for business practices and necessary for both licensees and customers to understand what they are receiving when a transaction is concluded.

**Item B:** “the transaction hash and each virtual currency address;”

This item is reasonable because the Department wants to ensure consistency in receipt across transactions conducted by any means, and this information, which is currently listed in statute for kiosk transactions should also be included for non-kiosk transactions. This item is necessary to create this reasonable requirement for consistency across receipts.

**Item C:** “a statement of the licensee’s liability for nondelivery or delayed delivery;”

This item is reasonable to support the statutory requirement, and necessary to ensure that the information provided explains what will happen if there is nondelivery or delayed delivery of virtual currency and what is the threshold for when a licensee will accept this liability, and customers know what to expect in these situations.

**Item D:** “a statement of the licensee’s refund policy; and”

This item is reasonable as refunds are listed as a specific requirement and it is reasonable that any customer is aware of a provider’s refund policy when they conduct business. It is necessary to ensure that the information provided explains what will happen when a potential refund of virtual currency is needed and what is the threshold for when a licensee will have to process a refund, and customers know what to expect in these situations.

**Item E:** “any other information required by Minnesota Statutes, section 53B.56, subdivision 4, in the form required under Minnesota Statutes, section 53B.56, subdivision 3.”

This item is reasonable to ensure a consistent receipt requirement across all forms of money transmission, and necessary because virtual currency licensees are conducting money transmission, and are also subject to the receipt requirements in section 53B.56. Section 53B.69, subdivision 4 includes other requirements, including but not limited to, licensee contact information, NMLS ID, expressing a transaction amount in United States dollars, and the name of the recipient, which are all reasonable and necessary items for all money transmitters.

“Subpart 5. **Receipt form; submission.** A licensee must make available to the commissioner, upon request, the form of receipts the licensee is required to provide to customers under subpart 4.”

This subpart is reasonable to effectuate the Department’s regulatory oversight, and necessary for the Department to assess compliance with this requirement as the receipt requirements in section 53B.69, subdivision 4 and subpart 4 lay out objective elements that the Department can assess both as part of an examination or investigation, but also when reviewing a money transmitter license application. It allows the Department to ensure that licensees are meeting these requirements.



## Regulatory Analysis

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. The sections below quote these factors and then give the Department's response.

### Classes Affected

**A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

This rule will probably affect two classes of persons: (1) Minnesota consumers who conduct virtual-currency transactions subject to Minnesota Statutes, chapter 53B, and (2) licensees subject to Minnesota Statutes, chapter 53B who offer virtual-currency transactions to Minnesota consumers.

Those that will bear the costs of the proposed rule include licensees subject to Minnesota Statutes, chapter 53B who offer virtual-currency transactions to Minnesota consumers.

Those that will benefit from the proposed rule include Minnesota consumers who conduct virtual-currency business activity transactions.

### Department/Agency Costs

**The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

The Department of Commerce will not see any direct costs to the agency for implementation and enforcement of the rule. The Department does not anticipate hiring any new staff as a result of the proposed rule. Compliance with the rule may result in slightly increased examination time to assess compliance with the rule, which is paid for by hourly examination fee charges to licensees. Enforcement investigations related to the issue of disclosures could be directly impacted to the extent that an investigation of potential violations include violations related to compliance with this proposed rule. The clarification the rule provides will create more uniformity in industry practices making it easier for enforcement to evaluate non-conforming practices. There are no probable costs to any other agency related to implementation and enforcement.

As it relates to the anticipated effect on state revenues, a small increase will likely occur in examination fee revenue that is paid to the Financial Institutions Division special revenue fund. This would likely be around 20 hours per year for an extra hour per examination of money transmitters who offer virtual-currency business activity.

## Less Costly or Intrusive Methods

**A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

The cost outlined above of small increases in examination time (which will be offset by examinations fees to cover these costs) is the least costly and least intrusive method to determine that the purposes of the proposed rule are being achieved.

The alternative method described in the next section would be to have applicants submit sample documents or information during the initial licensing application process or to consider having current licensees send in sample documents or information to be reviewed for potential compliance. Because our regulatory examinations already include review for compliance with applicable statutes and rules, adding in the extra step of requiring applicants and all current licensees to send in sample information for review would only increase the burden for applicants/licensees as well as Department licensing staff time that would prove duplicative to both them and the Department. Although the Department does request a number of sample documents as part of its review of licensing applications, the nature of the proposed rule is not well suited to this process because compliance with the proposed rule will best be tested through transaction testing.

## Alternative Methods

**A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**

The Department has considered having licensees provide sample documents and information during the licensing application process to be reviewed as part of our application review. The Department rejected that method in favor of a small increase in examination time to achieve the purpose of the proposed rule for two reasons: (1) the rule will apply primarily to current money transmission licensees who have already gone through the licensing process, and so this would only impact new money transmission applicants if this method were chosen, and (2) examinations are the primary method for assessing regulatory compliance with all applicable laws and regulations, and examinations are able to test compliance with laws and rules based on actual activity as opposed to an applicant sending sample information that has not been used in any transactions.

## Costs to Comply

**The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.**

The costs associated with complying with the rule will be borne by money transmission licensees who offer virtual-currency business activity transactions. Licensees conducting virtual-currency business activity will bear 100% of the cost.

The costs to licensees should be minimal as licensees are already required under section 53B.72 to deliver the disclosures. The rule is limited in scope to outlining the timing and form of licensees ensuring consumers receive disclosures that they are already required to provide, as well as receipt requirements licensees must be provide under section 53B.69. Licensees may have to make minor changes to the format of how they deliver disclosures and provide receipts. The Department received two comments in response to the initial Request for Comment. One was from a money services industry association group, and another from a specific money transmitter licensee who conducts virtual-currency business activity. Neither comment indicated that cost itself would be barrier to complying with potential time and format requirements for these disclosures.

## Costs of Non-Adoption

**The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.**

The probable costs or consequences of not adopting the proposed rules includes: (1) costs – licensees may bear higher costs for compliance with the disclosure requirements without appropriate rules to provide the timing and form that ensure consistent compliance; (2) consequences – if this rule is not adopted, there is a high risk of a patchwork of different and inconsistent methods being used to deliver the required disclosures, which will increase the risk of licensees not being in compliance. Consumers may then be harmed by not receiving disclosures that are complete, or that the method of disclosures may be confusing and risk consumers conducting virtual-currency transactions without understanding all the consequences of these transactions. Additionally, in the absence of this clarifying rule, enforcement may see an increase in litigation costs in the form of contested enforcement actions due to applying arguably ambiguous statutory requirements to non-standardized business practices.

The portion of those costs or consequences borne by identifiable categories of affected parties: (1) costs – 100% borne by money transmitter licensees, and (2) consequences – 50% of consumers who may not

clearly understand the nature of these transactions, and 50% on licensees for non-compliance through potential regulatory actions.

## Differences from Federal Regulations

**An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.**

There are few federal regulations that directly impact the time and form for customer disclosures on all virtual-currency business activity as it relates to the transactions impacted by Minnesota Statutes, chapter 53B and this proposed rule. However, there are requirements related to the federal Electronic Fund Transfers Act, and rules under Regulation E which includes 12 C.F.R. Part 1005, Subpart B – Requirements for Remittance Transfers. The Remittance Transfer Rule only applies to “money” sent from the United States to other countries, and therefore could apply to some virtual currency transactions where “money” is used as part of the transaction. If a virtual-currency business activity transaction would fall under the Remittance Transfer Rule, there are disclosures required under 12 C.F.R. 1005.31. Under 12 C.F.R. 1005.31(a)(1), disclosures must be “clear and conspicuous.” The Remittance Rule states that written and electronic disclosures “...generally must be provided to the sender in writing...(and) may be provided electronically...(and)...generally must be made in a retainable form.” (see 12 C.F.R. 1005.31(a)(2)). The remaining subparts of 12 C.F.R. 1005.31 include both the substantive requirements for remittances (which is not at issue in this proposed rule), but at 12 C.F.R. 1005.31(b)(2) it outlines the receipt requirements, format requirements, and timing. Because these parts of the Remittance Transfer Rule may apply to some transactions covered by the proposed rule, the following section analyses each part:

### Receipts:

The proposed rule requires receipt information under Minnesota Statutes, sections 53B.72(c) and (d), and 53B.56, subds. 3 and 4, as well as additional specific statements on licensee liability for non-delivery or delayed delivery, and their refund policy. See the following table:

12 C.F.R. 1005.31	Proposed Rule	Difference	Need
Date funds available	Date of transaction	Proposed rule focuses on the date the transaction is executed rather than when funds are available	Clarity over when the transactions is executed is especially relevant to virtual-currency related transactions as they

			are sent instantaneously
Name and recipient contact information	Name of recipient	Proposed rule does not contain recipient contact information	If a transaction is subject to the federal rule, then both requirements will apply.
Error and cancellation rights	Disclosures on liability for non-delivery or delayed delivery and refund policy, as well as information on how to file a complaint	Proposed rule would add liability and refund disclosures, as well as how to file a complaint	Proposed rule on disclosures related to non-delivery and refunds is important because the state law has refund requirements, virtual currency is rarely recoverable compared to other types of remittance transfers, and customers need to know how to complain to exercise their statutory rights, including for refunds.
Name, phone number, and website of the provider	Name, NMLS ID, business address, and customer service telephone number	Proposed rule does not list the website, but does require the NMLS ID and business address	The proposed rule requiring the business address is necessary in order to provide customers with the means of communicating with a licensee via mail, which is standard method of communication in addition to other means.

Statement that sender can contact state agency that licenses the provider	Proposed rule does not contain this requirement.	Federal rule covers state agency contact information.	The proposed rule does not have this requirement.
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**Format:**

The following table outlines requirements in the federal Remittance Rule related to format compared to the proposed rule.

<b>12 C.F.R. 1005.31(c)</b>	<b>Proposed Rule</b>	<b>Difference</b>	<b>Need</b>
Grouping – allows some disclosures to be grouped together	Requires the category of each disclosure to be disclosed separately	Proposed rule does not allow grouping of disclosures	Virtual-currency transactions are made instantaneously with almost no ability for any recourse once transferred, and covered transactions under the federal rule are those converted from “money” to virtual currency that are sent to foreign jurisdictions. It is important that customers understand all the risks step by step to minimize mistakes of being victims of fraud for generally irreversible transactions.
Proximity – requires close proximity	Proposed rule requires proximity, including	Proposed rule only differs by laying out the order of the	The order of the disclosures is necessary by category in order to

between certain substantive disclosures	the order of the disclosures.	disclosures in addition to proximity	ensure that customers are separately able to acknowledge all of the substance of each disclosure before completing a transaction.
Prominence and size – provided on front page and those in writing in minimum eight-point font.	Proposed rule requires bold, capitalized, and underlined 18-point font for titles, and 14-point for text that is double-spaced	Proposed rule has more specific requirements for this category.	The larger text size and other elements such as bolding, underlined, or double-spaced are necessary to ensure customers can read and understand the disclosures clearly enough before completing a transaction.
Segregation – the disclosures must be segregated from “everything else”	Proposed rules require separateness between categories	None	N/A

**Timing:**

The following table outlines requirements in the federal Remittance Rule related to timing compared to the proposed rule.

<b>12 C.F.R. 1005.31(e)</b>	<b>Proposed Rule</b>	<b>Difference</b>	<b>Need</b>
Prepayment disclosure – when requested and prior to payment	Before or at the same time a licensee establishes a relationship (entering into a transaction)	None	N/A

Receipt – when payment is made (if via telephone, then mailed or sent within one business day)	Upon completion or conclusion of a transaction.	No substantive difference	N/A
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**Foreign Language:**

The following table outlines requirements in the federal Remittance Rule related to foreign language compared to the proposed rule.

<b>12 C.F.R. 1005.31(g)</b>	<b>Proposed Rule</b>	<b>Difference</b>	<b>Need</b>
Must be in English, and if applicable, in either the foreign language used by a provider to market, or the foreign language used primarily by the sender if that language is used by the provider to market transfers.	Made in English, predominant language of the customer, and must be offered in at least English, Spanish, Somali, Hmong, Vietnamese, and Chinese.	Proposed rule is based on the customer’s language, and requires specific languages to be provided based on the most common languages spoken in Minnesota.	Proposed rule adds to the federal rule to address the need for licensees to ensure that customers based in Minnesota are more likely to receive disclosures in their native language, which will provide less risk of confusion or mistakes when conducting these transactions.

**Cumulative Effect**

**An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.**

The primary objective of this rulemaking is to ensure that the required virtual-currency business activity disclosures are delivered in a time and form that that is clear and conspicuous to customers. The



disclosures are also provided in a time and form that is reasonably necessary for protecting persons who engage in conducting these transactions.

As discussed above, there is one federal rule applicable to a limited set of these transactions. The most recent quarterly call report provided by licensees subject to these disclosures indicates that around 40% of reported virtual currency transactions initiated were U.S. dollar to virtual-currency transactions. The report does not distinguish what number of these transactions were to foreign countries and would therefore be subject to the federal Remittance Transfer Rule.

A clear majority of transactions subject to the proposed rule would only be subject to this proposed rule. For those potentially subject to the federal Remittance Transfer Rule, the addition of this proposed rule would add some extra protections in addition to the federal rule relevant to the time and format of disclosure that would meet the need to provide reasonable protections related to virtual currency transactions not found in the federal rule. The cumulative effect would be incremental but important and necessary.

## **Notice Plan**

Minnesota Statutes, section 14.131, requires that an agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The Department published a Request for Comment on September 30, 2024, that was open for 60 days. The notice was sent to several trade and industry groups related to money service businesses as listed below in the Additional Notice Plan, and it also was sent to all money transmission licensees authorized to conduct virtual-currency business activity.

## **Required Notice**

The Department is required under Minnesota Statutes, chapter 14 to identify and send notice to several groups. The steps the Department will take to meet those statutory requirements are laid out in detail below.

Consistent with Minnesota Statutes, section 14.14, subd. 1a, on the day the Dual Notice is published in the *State Register*, the Department will send via email or U.S. mail a copy of the Dual Notice and the proposed rule to the contacts on the Department's list of all persons who have registered with the Department for the purpose of receiving notice of rule proceedings. There are roughly 75 people on the Department's list of persons who have requested notice via United States Postal Service, and roughly 110 persons who have requested notice of all rule proceedings via email/GovDelivery. The Dual Notice will be sent at least 33 days before the end of the comment period.

Consistent with Minnesota Statutes, section 14.116(b), the Department will send a copy of the Dual Notice, a copy of the proposed rules, and a copy of the SONAR to the chairs and ranking minority party members of the applicable finance and policy committees and the Legislative Coordinating Commission. These documents will be sent at least 33 days before the end of the comment period.

Consistent with Minnesota Statutes, section 14.131, the Department will send a copy of the SONAR to the Legislative Reference Library when the Dual Notice is sent.

Minnesota Statutes, section 14.116(c) requires the Department “make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house of representatives and senate authors of the bill granting the rulemaking authority” if it is within two years of the effective date of the law granting rulemaking authority. The Department will comply with this requirement.

## **Additional Notice**

The Department’s Additional Notice Plan for the Dual Notice will mirror the Additional Notice Plan that was approved for the Department’s Request for Comments on September 17, 2024, by OAH. The Additional Notice Plan includes the following:

- The Department will post the Dual Notice, SONAR, and proposed rules on the Department’s website located here: <https://mn.gov/commerce/business/rulemaking.jsp>
- The Department also intends to send an electronic notice with a hyperlink to electronic copies of the Dual Notice and proposed rules to all current money transmitter licensees.

The Department also intends to send an electronic notice with a hyperlink to electronic copies of the Dual Notice, and proposed rules to the relevant leader or government relations contact person for the following money transmission industry groups:

- Money Services Roundtable
- Electronic Transactions Association
- Money Services Business Association
- Financial Technology Association
- American Fintech Council
- Money Transmitters Regulators Association Industry Advisory Council

Our Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

## **Performance-Based Rules**

In developing this rule, the Department considered and will implement the performance-based standards outlined below to the Department's regulatory objectives, along with flexibility for regulated parties.

The addition of the requirement that the form of receipts be available to the commissioner will ensure that the Department can review sample documents during regulatory reviews in order to assess general compliance with the requirements without the need to have to review every single actual receipt that a licensee issues. This allow the Department to have a sample receipt form that can easily be compared to a representative sampling of transactions during either an examination or investigation.

The rule takes in account the passage of the distinct disclosure requirements that were enacted into law for virtual-currency transactions as kiosks in a manner that ensures a consistent standard for how all virtual-currency business activity disclosures are delivered without duplication for transactions conducted at kiosks. The agency will be able to assess this through review of any sample disclosures or receipts issued by licensees who conduct transactions both at kiosks and through other means.

The clarity of the format for disclosures by font size, underlining, bold and foreign language requirements will allow for both the agency to easily assess compliance and provides clear requirements for the format of disclosures.

## **Consultation with MMB on Local Government Impact**

As required by Minnesota Statutes, section 14.131, the Department will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Department publishes the Dual Notice. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Department will submit a copy of the cover-correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

## **Impact on Local Government Ordinance and Rules**

As required by Minnesota Statutes, section 14.128, subdivision 1, the Department has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Department has determined that they do not because the regulated activity is not licensed or administered in any way by any local government. The license to conduct virtual-currency business activity is governed by and administered at the state level by the Minnesota Department of Commerce.

# Costs of Complying for Small Business or City

## Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Department has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

The Department has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis section of this SONAR on page 18. This was based on comments received during the Request for Comment period where monetary cost was not listed in either comment as a likely barrier to complying with time and form disclosure requirements. Authors, Witnesses, and Exhibits

## Authors

The primary authors of this SONAR are:

Mark Hastie, Director of Non-Depository Financial Institutions, Financial Institutions Division, Minnesota Department of Commerce.

Michael Crow, Senior Director, Financial Institutions Division, Minnesota Department of Commerce.

## Witnesses

If these rules go to a public hearing, the Department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

- Mr. Mark Hastie will testify about process followed in drafting and preparing the rule, as well as offering subject matter testimony about the content of the rule.
- Mr. Michael Crow will testify about the policy and strategic goals of the Department of Commerce in the drafting and issuance of the rule.

## Conclusion

In this SONAR, the Department has established the need for and the reasonableness of each of the proposed amendments to Minnesota Rules, chapter 2675. The Department has provided the necessary

notice and documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.



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Grace Arnold, Commissioner  
Minnesota Department of Commerce

January 13, 2025

Date