

**UNIFORM MONEY SERVICES ACT  
EFFECTIVE – JANUARY 1, 2008**



Published by

**ARKANSAS SECURITIES DEPARTMENT  
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Little Rock, Arkansas 72201**

**23-55-101. Short title. [Effective January 1, 2008]**

This chapter may be cited as the Uniform Money Services Act.

**23-55-102. Definitions.**

In this chapter:

- (1) "Applicant" means a person that files an application for a license under this chapter.
- (2) "Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee.
- (3) "Bank" means an institution organized under federal or state law which:
  - (A) accepts demand deposits or deposits that the depositor may use for payment to third parties and engages in the business of making commercial loans; or
  - (B) engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than \$100,000, and does not engage in the business of making commercial loans.
- (4) "Commissioner" means the Securities Commissioner.
- (5) "Control" means:
  - (A) ownership of, or the power to vote, directly or indirectly, at least 25 percent of a class of voting securities or voting interests of a licensee or person in control of a licensee;
  - (B) power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee; or
  - (C) the power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.
- (6) "Currency exchange" means receipt of revenues from the exchange of money of one government for money of another government.
- (7) "Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.

- (8) "Licensee" means a person licensed under this chapter.
- (9) "Monetary value" means a medium of exchange, whether or not redeemable in money.
- (10) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.
- (11) "Money services" means money transmission, check cashing, or currency exchange.
- (12) "Money transmission" means selling or issuing payment instruments, stored value, or receiving money or monetary value for transmission. The term does not include the provision solely of delivery, online or telecommunications services, or network access.
- (13) "Outstanding," with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee.
- (14) "Payment instrument" means a check, draft, money order, traveler's check, or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.
- (15) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity.
- (16) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (17) "Responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in this State.
- (18) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (19) "Stored value" means monetary value that is evidenced by an electronic record.

- (20) “Unsafe or unsound practice” means a practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such a person which creates the likelihood of material loss, insolvency, or dissipation of the licensee’s assets, or otherwise materially prejudices the interests of its customers.

**23-55-103. Exclusions.**

This chapter does not apply to:

- (1) the United States or a department, agency, or instrumentality thereof;
- (2) money transmission by the United States Postal Service or by a contractor on behalf of the United States Postal Service;
- (3) a state, county, city, or any other governmental agency or governmental subdivision of a State;
- (4) a bank, bank holding company, office of an international banking corporation, branch of a foreign bank, corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. §§ 1861-1867 (Supp. V 1999), or corporation organized under the Edge Act, 12 U.S.C. §§ 611-633 (1994 & Supp. V 1999) under the laws of a State or the United States if it does not issue, sell, or provide payment instruments or stored value through an authorized delegate that is not such a person;
- (5) electronic funds transfer of governmental benefits for a federal, state, country, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a State or governmental subdivision, agency, or instrumentality thereof;
- (6) a board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. §§ 1-25 (1994), or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board;
- (7) a registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant;
- (8) a person that provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from such registration granted under the federal securities laws to the extent of its operation as such a provider;
- (9) an operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers; similar funds transfers;

- (10) a person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer; or
- (11) a credit union regulated and insured by the National Credit Union Association.

**23-55-201. License required.**

- (a) A person may not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person:
  - (1) is licensed under this subchapter or approved to engage in money transmission under § 23-55-203;
  - (2) is an authorized delegate of a person licensed under this subchapter; or
  - (3) is an authorized delegate of a person approved to engage in money transmission under § 23-55-203.
- (b) A license under this subchapter is not transferable or assignable.

**23-55-202. Application for license.**

- (a) In this section, “material litigation” means litigation that according to generally accepted accounting principles is significant to an applicant’s or a licensee’s financial health and would be required to be disclosed in the applicant’s or licensee’s annual audited financial statements, report to shareholders, or similar records.
- (b) A person applying for a license under this subchapter shall do so in a form and in a medium prescribed by the commissioner. The application must state or contain:
  - (1) the legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business;
  - (2) a list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the 10-year period next preceding the submission of the application;
  - (3) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this State;
  - (4) a list of the applicant’s proposed authorized delegates and the locations in this State where the applicant and its authorized delegates propose to engage in money transmission or provide other money services;

- (5) a list of other States in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions, or other disciplinary action taken against the applicant in another State;
  - (6) information concerning any bankruptcy or receivership proceedings affecting the licensee;
  - (7) a sample form of contract for authorized delegates, if applicable, and a sample form of payment instrument or instrument upon which stored value is recorded, if applicable;
  - (8) the name and address of any bank through which the applicant's payment instruments and stored value will be paid;
  - (9) a description of the source of money and credit to be used by the applicant to provide money services; and
  - (10) any other information the commissioner reasonably requires with respect to the applicant.
- (c) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:
- (1) the date of the applicant's incorporation or formation and State or country of incorporation or formation;
  - (2) if applicable, a certificate of good standing from the State or country in which the applicant is incorporated or formed;
  - (3) a brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;
  - (4) the legal name, any fictitious or trade name, all business and residential addresses, and the employment, in the 10-year period next preceding the submission of the application of each executive officer, manager, director, or person that has control, of the applicant;
  - (5) a list of any criminal convictions and material litigation in which any executive officer, manager, director, or person in control of, the applicant has been involved in the 10-year period next preceding the submission of the application;
  - (6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application;

- (7) a copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application;
  - (8) if the applicant is publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission under § 13 of the federal Securities Exchange Act of 1934, 15 U.S. C. § 78m (1994 & Supp. V 1999);
  - (9) if the applicant is a wholly owned subsidiary of:
    - (A) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under § 13 of the federal Securities Exchange Act of 1934, 15 U.S. C. § 78m (1994 & Supp. V 1999); or
    - (B) a corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;
  - (10) if the applicant has a registered agent in this State, the name and address of the applicant's registered agent in this State; and
  - (11) any other information the commissioner reasonably requires with respect to the applicant.
- (d) A nonrefundable application fee of \$1,500 and a license fee of \$750 must accompany an application for a license under this subchapter. The license fee must be refunded if the application is denied.
  - (e) The commissioner may waive one or more requirements of subsections (b) and (c) or permit an applicant to submit other information in lieu of the required information.

**23-55-203. Approval to engage in money transmission when licensed in another state.**

- (a) A person that is licensed to engage in money transmission in at least one other state, with the approval of the commissioner and in accordance with this section, may engage in money transmission and currency exchange in this state without being licensed pursuant to § 23-55-202 if:
  - (1) the state in which the person is licensed has enacted the Uniform Money Services Act or the commissioner determines that the money transmission laws of that state are substantially similar to those imposed by the law of this state;

- (2) the person submits to, and in the form required by, the commissioner:
  - (A) in a record, an application for approval to engage in money transmission and currency exchange in this state without being licensed pursuant to § 23-55-202;
  - (B) a nonrefundable fee of \$1,000; and
  - (C) a certification of license history in the other state.
- (b) When an application for approval under this section is complete, the commissioner shall promptly notify the applicant, in a record, of the date on which the request was determined to be complete and:
  - (1) the commissioner shall approve or deny the request within 120 days after that date; or
  - (2) if the request is not approved or denied within 120 days after that date:
    - (A) the request is approved; and
    - (B) the approval takes effect as of the first business day after expiration of the 120-day period.
    - (C) A person that engages in money transmission and currency exchange in this state pursuant to this section shall comply with the requirements of, and is subject to the sanctions under, § 23-55-601 et seq., § 23-55-701 et seq., and § 23-55-801 et seq., as if the person were licensed pursuant to § 23-55-202.

**23-55-204. Security**

- (a) Except as otherwise provided in subsection (b), a surety bond, letter of credit, or other similar security acceptable to the commissioner in the amount of \$50,000 plus \$10,000 per location, not exceeding a total addition of \$250,000, must accompany an application for a license.
- (b) Security must be in a form satisfactory to the commissioner and payable to the State for the benefit of any claimant against the licensee to secure the faithful performance of the obligations of the licensee with respect to money transmission.
- (c) The aggregate liability on a surety bond may not exceed the principal sum of the bond. A claimant against a licensee may maintain an action on the bond, or the commissioner may maintain an action on behalf of the claimant.

- (d) A surety bond must cover claims for so long as the commissioner specifies, but for at least five years after the licensee ceases to provide money services in this State. However, the commissioner may permit the amount of security to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's payment instruments or stored-value obligations outstanding in this State is reduced. The commissioner may permit a licensee to substitute another form of security acceptable to the commissioner for the security effective at the time the licensee ceases to provide money services in this State.
- (e) In lieu of the security prescribed in this section, an applicant for a license or a licensee may provide security in a form prescribed by the commissioner.
- (f) The commissioner may increase the amount of security required to a maximum of \$1,000,000 if the financial condition of a licensee so requires, as evidenced by reduction of net worth, financial losses, or other relevant criteria.

**23-55-205. Issuance of license.**

- (a) When an application is filed under this subchapter, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The commissioner shall issue a license to an applicant under this subchapter if the commissioner finds that all of the following conditions have been fulfilled:
  - (1) the applicant has complied with §§ 23-55-202, 23-55-204, and 23-55-207; and
  - (2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of, the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission;
- (b) When an application for an original license under this subchapter is complete, the commissioner shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:
  - (1) the commissioner shall approve or deny the application within 120 days after that date; or
  - (2) if the application is not approved or denied within 120 days after that date:
    - (A) the application is deemed approved; and

- (B) the commissioner shall issue the license under this subchapter, to take effect as of the first business day after the expiration of the 120-day period.
- (c) The commissioner may for good cause extend the application period.
- (d) An applicant whose application is denied by the commissioner under this subchapter may appeal, within 30 days after receipt of the notice of the denial, from the denial and request a hearing.

**23-55-206. Renewal of license.**

- (a) A licensee under this subchapter shall pay an annual renewal fee of \$750 no later than 30 days before the anniversary of the issuance of the license or, if the last day is not a business day, on the next business day.
- (b) A licensee under this subchapter shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the commissioner. The renewal report must state or contain:
  - (1) a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee's most recent audited consolidated annual financial statement;
  - (2) the number and monetary amount of payment instruments and stored-value sold by the licensee in this State which have not been included in a renewal report, and the monetary amount of payment instruments and stored value currently outstanding;
  - (3) a description of each material change in information submitted by the licensee in its original license application which has not been reported to the commissioner on any required report;
  - (4) a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in §§ 23-55-701 and 23-55-702;
  - (5) proof that the licensee continues to maintain adequate security as required by § 23-55-204; and
  - (6) a list of the locations in this State where the licensee or an authorized delegate of the licensee engages in money transmission or provides other money services.

- (c) If a licensee does not file a renewal report or pay its renewal fee by the renewal date or any extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of 10 days after the notice is sent, the licensee's license is suspended 10 days after the commissioner sends the notice of suspension. The suspension must be lifted if, within 20 days after its license is suspended, the licensee:
  - (1) files the report and pays the renewal fee; and
  - (2) pays \$100 for each day after suspension that the commissioner did not receive the renewal report and the renewal fee.
- (d) The commissioner for good cause may grant an extension of the renewal date.

**23-55-207. Net worth**

A licensee under this subchapter shall maintain a net worth of at least \$250,000 determined in accordance with generally accepted accounting principles.

**23-55-300. [Reserved]**

**23-55-401. License required**

- (a) A person may not engage in currency exchange or advertise, solicit, or hold itself out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person:
  - (1) is licensed under this subchapter;
  - (2) is licensed for money transmission under § 23-55-201 et seq., or approved to engage in money transmission under § 23-55-203;
  - (3) is an authorized delegate of a person licensed under § 23-55-201 et seq.; or
  - (4) is an authorized delegate of a person approved to engage in money transmission under § 23-55-203.
- (b) A license under this subchapter is not transferable or assignable.

**23-55-402. Application for license.**

- (a) A person applying for a license under this subchapter shall do so in a form and in a medium prescribed by the commissioner. The application must state or contain:

- (1) the legal name and residential and business addresses of the applicant, if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager, and director;
  - (2) the location of the principal office of the applicant;
  - (3) complete addresses of other locations in this State where the applicant proposes to engage in currency exchange or check cashing, including all limited stations and mobile locations;
  - (4) a description of the source of money and credit to be used by the applicant to engage in check cashing and currency exchange; and
  - (5) other information the commissioner reasonably requires with respect to the applicant, but not more than the commissioner may require under § 23-55-201 et seq.
- (b) A nonrefundable application fee of \$1,500 and a license fee of \$750 must accompany an application for a license under this subchapter. The license fee must be refunded if the application is denied.

**23-55-403. Issuance of license.**

- (a) When an application under this subchapter, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The commissioner shall issue a license to an applicant under this subchapter if the commissioner finds that all of the following conditions have been fulfilled:
- (1) the applicant has complied with § 23-55-402; and
  - (2) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant; and the competence, experience, character, and general fitness of the executive officers, managers, directors, and persons in control of, the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.
- (b) When an application for an original license under this subchapter is complete, the commissioner shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:
- (1) the commissioner shall approve or deny the application within 120 days after that date; or
  - (2) if the application is not approved or denied within 120 days after that date:

- (A) the application is deemed approved; and
  - (B) the commissioner shall issue the license under this subchapter, to take effect as of the first business day after expiration of the period.
- (c) The commissioner may for good cause extend the application period.
- (d) An applicant whose application is denied a license by the commissioner under this subchapter may appeal, within 30 days after receipt of the notice of the denial, from the denial and request a hearing.

**23-55-404. Renewal of License.**

- (a) A licensee under the subchapter shall pay a biennial renewal fee of \$750 no later than 30 days before each biennial anniversary of the issuance of the license or, if the last day is not a business day, on the next business day.
- (b) A licensee under this subchapter shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the commissioner. The renewal report must state or contain:
- (1) a description of each material change in information submitted by the licensee in its original license application that has not been reported to the commissioner on any required report; and
  - (2) a list of the locations in this State where the licensee or an authorized delegate of the licensee engages in currency exchange or check cashing, including limited stations and mobile locations.
- (c) If a licensee does not file a renewal report and pay its renewal fee by the renewal date or any extension of time granted by the commissioner, the commissioner shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of 10 days after the notice is sent, the licensee's license is suspended 10 days after the commissioner sends the notice of suspension.
- (d) The commissioner for good cause may grant an extension of the renewal date.

**23-55-501. Relationship between licensee and authorized delegate.**

- (a) In this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.
- (b) A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter. The licensee shall furnish in a record to each authorized delegate policies and procedures sufficient for compliance with this chapter.

- (c) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.
- (d) If a licensee is suspended or revoked or a licensee does not renew its license, the commissioner shall notify all authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, or non-renewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.
- (e) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage under § 23-55-201 et seq. or § 23-55-401 et seq. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission.
- (f) An authorized delegate may not use a subdelegate to conduct money services on behalf of a licensee.

**23-55-502. Unauthorized activities**

A person may not provide money services on behalf of a person not licensed under this chapter. A person that engages in that activity provides money services to the same extent as if the person were a licensee.

**23-55-601. Authority to conduct examinations.**

- (a) The commissioner may conduct an annual examination of a licensee or of any of its authorized delegates upon 45 days' notice in a record to the licensee.
- (b) The commissioner may examine a licensee or its authorized delegate, at any time, without notice, if the commissioner has reason to believe that the licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating this chapter or a rule adopted or an order issued under this chapter.
- (c) If the commissioner concludes that an on-site examination is necessary under subsection (a), the licensee shall pay the reasonable cost of the examination.
- (d) Information obtained during an examination under this chapter may be disclosed only as provided in § 23-55-607.

**23-55-602. Cooperation.**

The commissioner may consult and cooperate with other state money services regulators in enforcing and administering this chapter. They may jointly pursue examinations and take other official action that they are otherwise empowered to take.

### **23-55-603. Reports**

- (a) A licensee shall file with the commissioner within 15 business days any material changes in information provided in a licensee's application as prescribed by the commissioner.
- (b) A licensee shall file with the commissioner within 45 days after the end of each fiscal quarter a current list of all authorized delegates, and locations in this State where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. The licensee shall state the name and street address of each location and authorized delegate.
- (c) A licensee shall file a report with the commissioner within three business days after the licensee has reason to know of the occurrence of any of the following events:
  - (1) the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. §§ 101-110 (1994 & Supp. V. 1999), for bankruptcy or reorganization;
  - (2) the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;
  - (3) the commencement of a proceeding to revoke or suspend its license in a State or country in which the licensee engages in business or is licensed;
  - (4) the cancellation or other impairment of the licensee's bond or other security;
  - (5) a charge or conviction of the licensee or of an executive officer, manager, director, or person in control, of the licensee for a felony; or
  - (6) a charge or conviction of an authorized delegate for a felony.

### **23-55-604. Change of control**

- (a) A licensee shall:
  - (1) give the commissioner notice in a record of a proposed change of control within 15 days after learning of the proposed change of control;
  - (2) request approval of the acquisition; and
  - (3) submit a nonrefundable fee of \$1,000 with the notice.

- (b) After review of a request for approval under subsection (a), the commissioner may require the licensee to provide additional information concerning the proposed persons in control of the licensee. The additional information must be limited to the same types required of the licensee or persons in control of the licensee as part of its original license or renewal application.
- (c) The commissioner shall approve a request for change of control under subsection (a) if, after investigation, the commissioner determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the licensee or person in control of the licensee in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.
- (d) When an application for a change of control under this subchapter is complete, the commissioner shall notify the licensee in a record of the date on which the request was determined to be complete and:
  - (1) the commissioner shall approve or deny the request within 120 days after that date; or
  - (2) if the request is not approved or denied within 120 days after that date:
    - (A) the request is deemed approved; and
    - (B) the commissioner shall permit the change of control under this section, to take effect as of the first business day after expiration of the period.
- (e) The commissioner, by rule of order, may exempt a person from any of the requirements of subsection (a)(2) and (3) if it is in the public interest to do so.
- (f) Subsection (a) does not apply to a public offering of securities.
- (g) Before filing a request for approval to acquire control of a licensee or person in control of a licensee, a person may request in a record a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the commissioner shall enter an order to that effect and the proposed person and transaction is not subject to the requirements of subsections (a) through (c).

**23-55-605. Records.**

- (a) A licensee shall maintain the following records for determining its compliance with this chapter for at least three years:
  - (1) a record of each payment instrument or stored-value obligation sold;

- (2) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
  - (3) bank statements and bank reconciliation records;
  - (4) records of outstanding payment instruments and stored-value obligations;
  - (5) records of each payment instrument and stored-value obligation paid within the three-year period;
  - (6) a list of the last known names and addresses of all of the licensee's authorized delegates; and
  - (7) any other records the commissioner reasonably requires by rule.
- (b) The items specified in subsection (a) may be maintained in any form of record.
  - (c) Records may be maintained outside this State if they are made accessible to the commissioner on seven business-days' notice that is sent in a record.
  - (d) All records maintained by the licensee as required in subsections (a) through (c) are open to inspection by the commissioner pursuant to § 23-55-601.

**23-55-606. Money laundering reports.**

- (a) A licensee and an authorized delegate shall file with the commissioner all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set forth in 31 U.S.C. § 5311 (1994), 31 C.F.R. § 103 (2000) and other federal and state laws pertaining to money laundering.
- (b) The timely filing of a complete and accurate report required under subsection (a) with the appropriate federal agency is compliance with the requirements of subsection (a), unless the commissioner notifies the licensee that reports of this type are not being regularly and comprehensively transmitted by the federal agency to the commissioner.

**23-55-607. Confidentiality.**

- (a) Unless otherwise specified in this section, all information filed with the commissioner shall be available for public inspection under rules promulgated by the commissioner consistent with the state and federal law governing the disclosure of public information.
- (b) Except for reasonably segregable portions of information and records that by law would routinely be made available to a party other than an agency in litigation with the commissioner, the commissioner shall not publish or make available:

- (1) Information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an investigation, examination, or inspection of the books and records of any person;
- (2) Interagency or intra-agency memoranda or letters, including without limitation:
  - (A) Records that reflect discussions between or consideration by the commissioner or members of his or her staff, or both, of any action taken or proposed to be taken by the commissioner or by any members of his or her staff; and
  - (B) Reports, summaries, analyses, conclusions, or any other work product of the commissioner or of attorneys, accountants, analysts, or other members of the commissioner's staff prepared in the course of an:
    - (i) Inspection of the books or records of a person whose affairs are regulated by the commissioner; or
    - (ii) Examination, investigation, or litigation conducted by or on behalf of the commissioner;
- (3) Personnel files, medical files, and similar files if disclosure would constitute a clearly unwarranted invasion of personal privacy, including with limitation:
  - (A) Information concerning all employees of the State Securities Department and all persons subject to regulation by the department; and
  - (B) Personal information reported to the commissioner under the department's rules concerning registration about employees of applicants, licensees, or their agents;
- (4) (A) Investigatory records compiled for law enforcement purposes to the extent that production of the records would:
  - (i) Interfere with enforcement proceedings;
  - (ii) Deprive a person of a right to a fair trial or an impartial adjudication; or
  - (iii) Disclose the identity of a confidential source.(B) The commissioner may also withhold investigatory records that would:

- (i) Constitute an unwarranted invasion of personal privacy;
  - (ii) Disclose investigative techniques and procedures; or
  - (iii) Endanger the life or physical safety of law enforcement personnel.
- (C) As used in this section, “investigatory records” includes:
- (i) All documents, records, transcripts, correspondence, and related memoranda and work products concerning examinations and other investigations and related litigation as authorized by law that pertain to or may disclose the possible violation by any person of any provision of the statutes or rules administered by the commissioner; and
  - (ii) All written communications from or to any person confidentially complaining or otherwise furnishing information about a possible violation, as well as all correspondence and memoranda in connection with the confidential complaint or information;
- (5) Information contained in or related to examinations, operating reports, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, check issuers, money transmitters, money services providers, or money service businesses;
- (6) (A) Financial records of any applicant, licensee, or the agent of an applicant or licensee obtained during or as a result of an examination by the commissioner.
- (B) However, when a record under this subchapter is required to be filed with the commissioner as part of an application for license, annual renewal, or otherwise, the record, including financial statements prepared by certified public accountants, shall be public information unless sections of the information are bound separately and are marked “confidential” by the applicant, licensee, or agent upon filing.
- (C) Information under subsections (b)(6)(B) of this section bound separately and marked “confidential” shall be deemed nonpublic until ten (10) days after the commissioner has given the applicant, licensee, or agent notice that an order will be entered deeming the material public information.

- (D) An applicant, licensee, or agent may seek an injunction from the Pulaski County Circuit Court ordering the commissioner to withhold the information as nonpublic pending a final order from a court of competent jurisdiction if the order of the commissioner under subdivision (b)(6)(C) of this section is appealed under applicable law;
  - (7) Trade secrets obtained from any person; or
  - (8) Any other records that are required to be closed to the public and are not deemed open to public inspection under other law.
- (c) The commissioner may disclose information not otherwise subject to disclosure under subsection (a) to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information; or the commissioner finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee has been given previous notice by the commissioner of its intent to release the information.
  - (d) This section does not prohibit the commissioner from disclosing to the public a list of persons licensed under this chapter or the aggregated financial data concerning those licensees.

**23-55-701. Maintenance of permissible investments.**

- (a) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding payment instruments and stored value obligations issued or sold in all states and money transmitted from all states by the licensee.
- (b) The commissioner, with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The commissioner by rule may prescribe or by order allow other types of investments that the commissioner determines to have a safety substantially equivalent to other permissible investments.
- (c) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored value obligations in the event of bankruptcy or receivership of the licensee.

**23-55-702. Types of permissible investments.**

- (a) Except to the extent otherwise limited by the commissioner pursuant to § 23-55-701, the following investments are permissible under § 23-55-701:

- (1) cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813 (1994 & Supp. V. 1999);
  - (2) banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the Federal Reserve System and is eligible for purchase by a Federal Reserve Bank;
  - (3) an investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;
  - (4) an investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a State or a governmental subdivision, agency, or instrumentality thereof;
  - (5) receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection if the aggregate amount of receivables under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not hold at one time receivables under this paragraph in any one person aggregating more than 10 percent of the licensee's total permissible investments; and
  - (6) a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940, 15 U.S.C. § 80a-1-64 (1994 & Supp. V 1999), and whose portfolio is restricted by the management company's investment policy to investments specified in paragraphs (1) through (4).
- (b) The following investments are permissible under § 23-55-701, but only to the extent specified:
- (1) an interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold investments under this paragraph in any one person aggregating more than 10 percent of the licensee's total permissible investments;
  - (2) a share of a person traded on an a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940, 15 U.S. C. § 80a-1-64 (1994 & Supp. V 1999), and whose portfolio is restricted by the management company's

investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold investments in any one person aggregating more than 10 percent of the licensee's total permissible investments;

- (3) a demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange if the aggregate of the amount of principal and interest outstanding under demand-borrowing agreements under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold principal and interest outstanding under demand-borrowing agreements under this paragraph with any one person aggregating more than 10 percent of the licensee's total permissible investments; and
  - (4) any other investment the commissioner designates, to the extent specified by the commissioner.
- (c) The aggregate of investments under subsection (b) may not exceed 50 percent of the total permissible investments of a licensee calculated in accordance with § 23-55-701.

**23-55-801. Suspension and revocation.**

- (a) The commissioner may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:
  - (1) the licensee violates this chapter or a rule adopted or an order issued under this chapter;
  - (2) the licensee does not cooperate with an examination or investigation by the commissioner;
  - (3) the licensee engages in fraud, intentional misrepresentation, or gross negligence;
  - (4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a rule adopted or an order issued under this chapter, as a result of the licensee's willful misconduct or willful blindness;
  - (5) the competence, experience, character, or general fitness of the licensee, authorized delegate, person in control of a licensee, or responsible person of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;
  - (6) the licensee engages in a unsafe or unsound practice;

- (7) the licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or
  - (8) the licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this chapter.
- (b) In determining whether a licensee is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the person involved.

**23-55-802. Suspension and revocation of authorized delegates.**

- (a) The commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the commissioner finds that:
- (1) the authorized delegate violated this chapter or a rule adopted or an order issued under this chapter;
  - (2) the authorized delegate did not cooperate with an examination or investigation by the commissioner;
  - (3) the authorized delegate engaged in fraud, international misrepresentation, or gross negligence;
  - (4) the authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;
  - (5) the competence, experience, character, or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money services; or
  - (6) the authorized delegate is engaging in an unsafe or unsound practice.
- (b) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the authorized delegate's provision of money services, the magnitude of the loss, the gravity of the violation of this chapter or a rule adopted or order issued under this chapter, and the previous conduct of the authorized delegate.
- (c) An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the commissioner.

**23-55-803. Orders to cease and desist.**

- (a) If the commissioner determines that a violation of this chapter or of a rule adopted or an order issued under this chapter by a licensee or authorized delegate is

likely to cause immediate and irreparable harm to the licensee, its customers, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.

- (b) The commissioner may issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the commissioner.
- (c) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to § 23-55-801 or § 23-55-802.

**23-55-804. Consent orders.**

The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter. A consent order must be signed by the person to whom it is issued or the person's authorized representative, and must indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter or rule adopted or an order issued under this chapter has been violated.

**23-55-805. Civil penalties.**

The commissioner may assess a civil penalty against a person that violates this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed \$1,000 per day for each day the violation is outstanding, plus this State's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees.

**23-55-806. Criminal penalties.**

- (a) A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter, that intentionally makes a false entry or omits a material entry in such a record, or violates any rule promulgated or order issued hereunder is guilty of a Class B felony.
- (b) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives more than \$500.00 in compensation within a 30-day period from this activity is guilty of a Class B felony.
- (c) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives no more than \$500 in compensation within a 30-day period from this activity is guilty of a Class A misdemeanor.

**23-55-807. Unlicensed persons.**

- (a) If the commissioner has reason to believe that a person has violated or is violating § 23-55-201 or § 23-55-401 the commissioner may issue an order to show cause why an order to cease and desist should not issue requiring that the person cease and desist from the violation of § 23-55-201 or § 23-55-401.
- (b) In an emergency, the commissioner may petition the Pulaski County Circuit Court for the issuance of a temporary restraining order ex parte pursuant to the rules of civil procedure.
- (c) An order to cease and desist becomes effective upon service of it upon the person.
- (d) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to §§ 23-55-901 and 23-55-902.

**23-55-808. Receivership.**

- (a)
  - (1) Whenever a licensee has refused or is unable to pay its obligations generally as they become due or whenever it appears to the commissioner that a licensee is in an unsafe or unsound condition, the commissioner, or the Attorney General representing the commissioner, may apply to the Pulaski County Circuit Court or to the circuit court of any county in which the licensee is located for the appointment of a receiver for the licensee. The court may require the receiver to post a bond in such amount as may appear necessary to protect claimants of the licensee.
  - (2) The receiver, subject to the approval of the court, shall take possession of the books, records, and assets of the licensee and shall take such action with respect to employees, agents, or representatives of the licensee or such other action as may be necessary to conserve the assets of the licensee or ensure payment of instruments issued by the licensee pending further disposition of its business as provided by law. The receiver shall sue and defend, compromise, and settle all claims involving the licensee and exercise such powers and duties as may be necessary and consistent with the laws of this state applicable to the appointment of receivers.
  - (3) The receiver, from time to time, but in no event less frequently than once each calendar quarter, shall report to the court with respect to all acts and proceedings in connection with the receivership.

**23-55-901. Administrative proceedings.**

All administrative proceedings under this chapter must be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

### **23-55-902. Hearings.**

Except as otherwise provided in §§ 23-55-206(c), 23-55-404(c), and 23-55-803, and 23-55-807, the commissioner may not suspend or revoke a license, issue an order to cease and desist, suspend or revoke the designation of an authorized delegate, or assess a civil penalty without notice and an opportunity to be heard. The commissioner shall also hold a hearing when requested to do so by an applicant whose application for a license is denied.

### **23-55-1001. Uniformity of application and construction.**

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.

### **23-55-1002. Severability clause.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

### **23-55-1003. Effective date.**

This chapter takes effect January 1, 2008.

### **23-55-1004. [Reserved]**

### **23-55-1005. Savings and transitional provisions.**

- (a) A license issued under the Sale of Checks Act, § 23-41-101 et seq. [repealed effective January 1, 2008], that is in effect immediately before January 1, 2008, remains in force as a license under the Sale of Checks Act, § 23-41-101 et seq. [repealed effective January 1, 2008], until the license's expiration date. Thereafter, the licensee is deemed to have applied for and had received a license under this chapter and must comply with the renewal requirements set forth in this chapter.
- (b) This chapter applies to the provision of money services on or after January 1, 2008. This chapter does not apply to money transmission provided by a licensee who was licensed to provide money transmission under the Sale of Checks Act, § 23-41-101 et seq. [repealed effective January 1, 2008], and whose license remains in force under this section.