

Statutes and Regulations **Money Services**

July 2008



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

DIVISION OF BANKING AND SECURITIES

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**CHAPTER 55.
MONEY SERVICES.**

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**ARTICLE 1.
MONEY TRANSMISSION LICENSES.**

Section

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Sec. 06.55.101. License required. (a) A person may not engage in the business of money transmission or advertise, solicit, or hold the person out as providing money transmission unless the person

- (1) holds a money transmission license; or
 - (2) is an authorized delegate of a person who holds a money transmission license.
- (b) A money transmission license is not transferable or assignable.

Sec. 06.55.102. Application for license. (a) A person applying for a money transmission license shall apply in a form and in a medium prescribed by the department. 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 the applicant's 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 applicant;
- (7) a sample form of contract for authorized delegates, if applicable, and a sample form of payment instrument or instrument on 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 department reasonably requires with respect to the applicant.

(b) If an applicant is a corporation, a limited liability company, a partnership, or another 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 who 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 15 U.S.C. 78m (Securities Exchange Act of 1934);

(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 15 U.S.C. 78m (Securities Exchange Act of 1934); or

(B) a corporation publicly traded outside the United States, a copy of documentation that is similar to the documentation required by (A) of this paragraph and that is 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 department reasonably requires with respect to the applicant.

(c) A nonrefundable application fee and a license fee must accompany an application for a money transmission license. The license fee shall be refunded if the application is denied.

(d) The department may waive a requirement of (a) and (b) of this section or permit an applicant to submit other information instead of the required information.

(e) In this section,

(1) "material litigation" means litigation that, according to generally accepted accounting principles, is significant to an applicant's or a money transmission licensee's financial health and would be required to be disclosed in the applicant's or money transmission licensee's annual audited financial statements, report to shareholders, or similar records;

(2) "money transmission license" does not include an approval under AS 06.55.103.

Sec. 06.55.103. Approval to engage in money transmission when licensed in another state. (a) A person who is licensed to engage in money transmission in at least one other state, with the approval of the department and under this section, may engage in money transmission, currency exchange, or both money transmission and currency exchange in this state without being licensed under AS 06.55.102 if

(1) the state in which the person is licensed has enacted the Uniform Money Services Act or the department determines that the money transmission laws of the state in which the person is licensed are substantially similar to those imposed by this chapter;

(2) the person submits to, and in the form required by, the department

(A) in a record, an application for approval to engage in money transmission, currency exchange, or both money transmission and currency exchange in this state without being licensed under AS 06.55.102;

(B) a nonrefundable application fee;

(C) a fee for the first year of operating with the approval given under this section; this fee shall be refunded if the application is denied; and

(D) a certification of license history in the other state.

(b) Before granting a person approval under this section to engage in money transmission, currency exchange, or both money transmission and currency exchange in this state, the department shall make findings and conclusions as required by regulation.

(c) When an application for approval under this section is complete, the department shall promptly notify the applicant, in a record, of the date on which the request was determined to be complete, and

(1) the department 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.

(d) An applicant whose application under this section is denied by the department may appeal, within 30 days after receipt of the notice of the denial, and request a hearing.

Sec. 06.55.104. Security. (a) Except as otherwise provided in (b) of this section, a surety bond, a letter of credit, or another similar security acceptable to the department in the amount of \$25,000 plus \$5,000 for each location, not exceeding a total addition of \$125,000, must accompany an application for a money transmission license.

(b) Security must be in a form satisfactory to the department and payable to the state for the benefit of a claimant against the money transmission licensee to secure the faithful performance of the obligations of the money transmission 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 money transmission licensee may maintain an action on the bond, or the department may maintain an action on behalf of the claimant.

(d) A surety bond must cover claims for as long as the department specifies, but for at least five years after the money transmission licensee ceases to provide money services in this state. However, the department may permit the amount of security to be reduced or eliminated before the expiration of that time to the extent the amount of the money transmission licensee's payment instruments or stored-value obligations outstanding in this state is reduced. The department may permit a money transmission licensee to substitute another form of security acceptable to the department for the security effective at the time the money transmission licensee ceases to provide money services in this state.

(e) Instead of the security prescribed in this section, an applicant for a money transmission license or a money transmission licensee may provide security in a form prescribed by the department.

(f) The department may increase the amount of security required to a maximum of \$500,000 if the financial condition of a money transmission licensee requires the increase, as evidenced by reduction of net worth, financial losses, or other relevant criteria.

Sec. 06.55.105. Issuance of license. (a) When an application is filed under AS 06.55.102, the department shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The department may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant shall pay. The department shall issue a license to an applicant under AS 06.55.102 if the department finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with AS 06.55.102, 06.55.104, and 06.55.107; and

(2) the financial condition and responsibility, financial and business experience, 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 money transmission license under AS 06.55.102 is complete, the department shall promptly notify the applicant in a record of the date on which the application was determined to be complete, and

(1) the department 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 approved; and

(B) the money transmission license takes effect as of the first business day after expiration of the 120-day period.

(c) The department may for good cause extend the application period.

(d) An applicant whose application under AS 06.55.102 is denied by the department under AS 06.55.101 - 06.55.107 may appeal, within 30 days after receipt of the notice of the denial, and request a hearing.

(e) In this section, "money transmission license" does not include an approval under AS 06.55.103.

Sec. 06.55.106. Renewal of license. (a) A money transmission licensee shall pay an annual renewal fee not later than 30 days before the anniversary of the issuance of the money transmission license or, if the last day is not a business day, on the next business day.

(b) A money transmission licensee shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the department. The renewal report must state or contain

(1) a copy of the money transmission licensee's most recent audited annual financial statement or, if the money transmission licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the money transmission licensee's most recent audited consolidated annual financial statement;

(2) the number and monetary amount of payment instruments and stored value sold by the money transmission licensee in this state that 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 money transmission licensee in its original license application that has not been reported to the department on any required report;

(4) a list of the money transmission licensee's permissible investments and a certification that the money transmission licensee continues to maintain permissible investments according to the requirements set out in AS 06.55.501 and 06.55.502;

(5) proof that the money transmission licensee continues to maintain adequate security as required by AS 06.55.104; and

(6) a list of the locations in this state where the money transmission licensee or an authorized delegate of the money transmission licensee engages in money transmission or provides other money services.

(c) If a money transmission licensee does not file a renewal report or pay its renewal fee by the renewal date or any extension of time granted by the department, the department shall send the money transmission licensee a notice of suspension. Unless the money transmission licensee files the report and pays the renewal fee before expiration of 10 days after the notice is sent, the money transmission licensee's license is suspended 10 days after the department

sends the notice of suspension. The suspension shall be lifted if, within 20 days after its money transmission license is suspended, the money transmission licensee

- (1) files the report and pays the renewal fee; and
- (2) pays a late fee for each day after suspension that the department did not receive the renewal report and the renewal fee.

(d) The department for good cause may grant an extension of the renewal date.

Sec. 06.55.107. Net worth. A money transmission licensee shall maintain a net worth of at least \$25,000 determined under generally accepted accounting principles.

ARTICLE 2. CURRENCY EXCHANGE LICENSES.

Section

- 201. License required**
- 202. Application for license**
- 203. Issuance of license**
- 204. Renewal of license**

Sec. 06.55.201. License required. (a) A person may not engage in currency exchange or advertise, solicit, or hold the person out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person

- (1) holds a currency exchange license;
 - (2) holds a money transmission license; or
 - (3) is an authorized delegate of a person who holds a money transmission license.
- (b) A currency exchange license is not transferable or assignable.

Sec. 06.55.202. Application for license. (a) A person applying for a currency exchange license under AS 06.55.201 - 06.55.204 shall apply in a form and in a medium prescribed by the department. 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) the complete addresses of other locations in this state where the applicant proposes to engage in currency exchange, including all mobile locations;
- (4) a description of the source of money and credit to be used by the applicant to engage in currency exchange; and
- (5) other information the department reasonably requires with respect to the applicant, but not more than the department may require under AS 06.55.101 - 06.55.107.

(b) A nonrefundable application fee and a currency exchange license fee must accompany an application for a currency exchange license. The currency exchange license fee shall be refunded if the application is denied.

Sec. 06.55.203. Issuance of license. (a) When an application for a currency exchange license is filed under AS 06.55.201 - 06.55.204, the department shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The department may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant shall pay. The department shall issue a currency exchange license to an applicant under AS 06.55.201 - 06.55.204 if the department finds that all of the following conditions have been fulfilled:

- (1) the applicant has complied with AS 06.55.202; and
- (2) the financial condition and responsibility, financial and business experience, 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 currency exchange license under AS 06.55.201 - 06.55.204 is complete, the department shall promptly notify the applicant in a record of the date on which the application was determined to be complete, and

- (1) the department 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 approved; and
 - (B) the department shall issue the currency exchange license under AS 06.55.201 - 06.55.204 to take effect as of the first business day after expiration of the period.

(c) The department may for good cause extend the application period.

(d) An applicant whose application is denied by the department under AS 06.55.201 - 06.55.204 may appeal, within 30 days after receipt of the notice of the denial, from the denial and request a hearing.

Sec. 06.55.204. Renewal of license. (a) A currency exchange licensee shall pay a biennial renewal fee not later than 30 days before each biennial anniversary of the issuance of the currency exchange license or, if the last day is not a business day, on the next business day.

(b) A currency exchange licensee under AS 06.55.201 - 06.55.204 shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the department. The renewal report must state or contain

(1) a description of each material change in information submitted by the currency exchange licensee in its original currency exchange license application that has not been reported to the department on any required report; and

(2) a list of the locations in this state where the currency exchange licensee or an authorized delegate of the currency exchange licensee engages in currency exchange, including mobile locations.

(c) If a currency exchange licensee does not file a renewal report and pay its renewal fee by the renewal date or any extension of time granted by the department, the department shall send the currency exchange licensee a notice of suspension. Unless the currency exchange licensee files the report and pays the renewal fee before expiration of 10 days after the notice is sent, the currency exchange license is suspended 10 days after the department sends the notice of suspension.

(d) The department for good cause may grant an extension of the renewal date.

ARTICLE 3. AUTHORIZED DELEGATES.

Section

301. Relationship between licensee and authorized delegate

302. Unauthorized activities

Sec. 06.55.301. Relationship between licensee and authorized delegate. (a) A contract between a money services licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter. The money services licensee shall furnish in a record to each authorized delegate policies and procedures sufficient for compliance with this chapter.

(b) An authorized delegate shall remit all money owing to the money services licensee under the terms of the contract between the money services licensee and the authorized delegate. In this subsection, "remit" means to make direct payments of money to a money services licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the money services licensee.

(c) If a money services license is suspended or revoked or a money services licensee does not renew its money services license, the department shall notify all authorized delegates of the money services licensee whose names are in a record filed with the department of the suspension, revocation, or nonrenewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as an authorized delegate of the money services licensee.

(d) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the money services licensee, except activity in which the authorized delegate is authorized to engage under AS 06.55.101 - 06.55.204. An authorized delegate of a money services licensee holds in trust for the benefit of the money services licensee all money net of fees received from money transmission.

(e) An authorized delegate may not use a subdelegate to conduct money services on behalf of a money services licensee.

Sec. 06.55.302. Unauthorized activities. A person may not act as an authorized delegate for, or otherwise provide money services on behalf of, a person who does not hold a money services license under this chapter.

ARTICLE 4.
EXAMINATIONS, REPORTS, RECORDS.

Section

- 401. Authority to conduct examinations**
- 402. Cooperation**
- 403. Reports**
- 404. Change of control**
- 405. Records**
- 406. Money laundering reports**
- 407. Confidentiality**

Sec. 06.55.401. Authority to conduct examinations. (a) The department may conduct an annual examination of a money services licensee or of any of its authorized delegates upon 45 days' notice in a record to the money services licensee.

(b) The department may examine a money services licensee or its authorized delegate, at any time, without notice, if the department has reason to believe that the money services licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating this chapter or a regulation adopted or an order issued under this chapter.

(c) If the department concludes that an on-site examination is necessary under (a) of this section, the money services 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 AS 06.55.407.

Sec. 06.55.402. Cooperation. The department may consult and cooperate with other state money services regulators in enforcing and administering this chapter. The department and other state money service regulators may jointly pursue examinations and take other official action that they are otherwise empowered to take.

Sec. 06.55.403. Reports. (a) A money services licensee shall file with the department within 15 business days any material changes in information provided in a money services licensee's application as prescribed by the department.

(b) A money services licensee shall file with the department within 45 days after the end of each fiscal quarter a current list of all authorized delegates and locations in this state where the money services licensee or an authorized delegate of the money services licensee provides money services, including mobile locations. The money services licensee shall state the name and street address of each location and authorized delegate.

(c) A money services licensee shall file a report with the department within one business day after the money services licensee has reason to know of the occurrence of any of the following events:

(1) the filing of a petition by or against the money services licensee under 11 U.S.C. 101 - 110 (Bankruptcy Code) for bankruptcy or reorganization;

(2) the filing of a petition by or against the money services 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 money services license in a state or country in which the money services licensee engages in business or is licensed;

(4) the cancellation or other impairment of the money services licensee's bond or other security;

(5) a charge against or conviction of the money services licensee or of an executive officer, manager, director, or person in control of the money services licensee for a felony; or

(6) a charge against or conviction of an authorized delegate for a felony.

Sec. 06.55.404. Change of control. (a) A money services licensee shall

(1) give the department 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 with the notice.

(b) After review of a request for approval under (a) of this section, the department may require the money services licensee to provide additional information concerning the proposed persons in control of the money services licensee. The additional information must be limited to the same types required of the money services licensee or persons in control of the money services licensee as part of its original money services license or renewal application.

(c) The department shall approve a request for change of control under (a) of this section if, after investigation, the department determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the money services licensee or person in control of the money services 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 AS 06.55.401 - 06.55.407 is complete, the department shall notify the money services licensee in a record of the date on which the request was determined to be complete, and

(1) the department 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 department 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 department, by regulation or order, may exempt a person from any of the requirements of (a)(2) and (3) of this section if it is in the public interest to exempt the person.

(f) The provisions of (a) of this section do not apply to a public offering of securities.

(g) Before filing a request for approval to acquire control of a money services licensee or person in control of a money services licensee, a person may request in a record a determination from the department as to whether the person would be considered a person in control of a money services licensee upon consummation of a proposed transaction. If the department determines that the person would not be a person in control of a money services licensee, the department shall enter an order to that effect, and the proposed person and transaction are not subject to the requirements of (a) - (c) of this section.

Sec. 06.55.405. Records. (a) A money services 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 money services licensee's authorized delegates; and

(7) any other records the department reasonably requires by regulation.

(b) The items specified in (a) of this section may be maintained in any form of record.

(c) Records may be maintained outside this state if they are made accessible to the department on seven business days' notice that is sent in a record.

(d) All records maintained by the money services licensee as required in (a) - (c) of this section are open to inspection by the department under AS 06.55.401.

Sec. 06.55.406. Money laundering reports. (a) A money services licensee and an authorized delegate shall file with the attorney general all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set out in 31 U.S.C. 5311, 31 C.F.R. 103, and other federal and state laws pertaining to money laundering.

(b) The timely filing of a complete and accurate report required under (a) of this section with the appropriate federal agency is compliance with the requirements of (a) of this section, unless the department notifies the money services licensee that the attorney general has notified the department that reports of this type are not being regularly and comprehensively transmitted by the federal agency to the attorney general.

Sec. 06.55.407. Confidentiality. (a) Except as otherwise provided in (b) of this section, all information or reports obtained by the department from an applicant, a licensee, or an authorized delegate are confidential and not subject to disclosure under AS 40.25.100 - 40.25.220, including

(1) all information contained in or related to examination, investigation, operating, or condition reports prepared by, on behalf of, or for the use of the department; and

(2) financial statements, balance sheets, and authorized delegate information.

(b) The department may disclose information that is not otherwise subject to disclosure under (a) of this section to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information or if the department finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the money services licensee has been given previous notice by the department of its intent to release the information.

(c) This section does not prohibit the department from disclosing to the public a list of money services licensees or the aggregated financial data concerning those money services licensees.

(d) A money services licensee or an authorized delegate may not disclose to another person financial information provided to the money services licensee or the authorized delegate by a customer except when, and only to the extent that, the disclosure is

(1) authorized in writing by the customer;

(2) required by federal, state, or local law;

(3) required by an order issued by a court or an administrative agency; or

(4) part of the money services transaction ordered by the customer.

(e) In (d) of this section, "financial information" means an individual's social security number, individual taxpayer identification number, account number, credit card account number, debit card account number, personal identification number, payment instrument number, or access code.

ARTICLE 5. PERMISSIBLE INVESTMENTS.

Section

501. Maintenance of permissible investments

502. Types of permissible investments

Sec. 06.55.501. Maintenance of permissible investments. (a) A money services licensee shall maintain at all times permissible investments that have a market value computed under 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 money services licensee.

(b) The department, with respect to any money services 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 department by regulation may prescribe or by order allow other types of investments that the department determines to have a safety substantially equivalent to other permissible investments.

(c) Permissible investments, even if commingled with other assets of the money services licensee, are held in trust for the benefit of the purchasers and holders of the money services licensee's outstanding payment instruments and stored value obligations in the event of bankruptcy or receivership of the money services licensee.

Sec. 06.55.502. Types of permissible investments. (a) Except to the extent otherwise limited by the department under AS 06.55.501, the following investments are permissible under AS 06.55.501:

(1) cash, a certificate of deposit, or a senior debt obligation of an insured depository institution; in this paragraph, "insured depository institution" has the meaning given in 12 U.S.C. 1813 (Federal Deposit Insurance Act);

(2) banker's acceptance or bill of exchange that is eligible for purchase on 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 of the United States, 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 of a state;

(5) receivables that are payable to a money services licensee from its authorized delegates, in the ordinary course of business, under contracts that 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 money services licensee and the money services licensee does not hold at one time receivables under this paragraph in any one person aggregating more than 10 percent of the money services 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 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), and whose portfolio is restricted by the management company's investment policy to investments specified in (1) - (4) of this subsection.

(b) The following investments are permissible under AS 06.55.501, 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 money services licensee and the money services licensee does not at one time hold investments under this paragraph in any one person aggregating more than 10 percent of the money services licensee's total permissible investments;

(2) a share of a person traded on 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 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), 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 money services licensee and the money services licensee does not at one time hold investments in any one person aggregating more than 10 percent of the money services 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 money services licensee and the money services 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 money services licensee's total permissible investments; and

(4) any other investment the department designates, to the extent specified by the department.

(c) The aggregate of investments under (b) of this section may not exceed 50 percent of the total permissible investments of a money services licensee calculated under AS 06.55.501.

ARTICLE 6. ENFORCEMENT.

Section

- 601. Suspension and revocation; receivership**
- 602. Suspension and revocation of authorized delegates**
- 603. Orders to cease and desist**
- 604. Consent orders**
- 605. Civil penalties**
- 606. Criminal penalties**
- 607. Unlicensed persons**

Sec. 06.55.601. Suspension and revocation; receivership. (a) The department may suspend or revoke a money services license, place a money services licensee in receivership, or order a money services licensee to revoke the designation of an authorized delegate if

(1) the money services licensee violates this chapter or a regulation adopted or an order issued under this chapter;

(2) the money services licensee does not cooperate with an examination or investigation by the department;

(3) the money services 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 regulation adopted or an order issued under this chapter, as a result of the money services licensee's wilful misconduct or wilful blindness;

(5) the competence, experience, character, or general fitness of the money services licensee, authorized delegate, person in control of a money services licensee, or responsible person of the money services licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;

(6) the money services licensee engages in an unsafe or unsound practice;

(7) the money services licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or

(8) the money services licensee does not remove an authorized delegate after the department issues and serves upon the money services licensee a final order including a finding that the authorized delegate has violated this chapter.

(b) In determining whether a money services licensee is engaging in an unsafe or unsound practice, the department may consider the size and condition of the money services 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.

Sec. 06.55.602. Suspension and revocation of authorized delegates. (a) The department may issue an order suspending or revoking the designation of an authorized delegate if the department finds that

(1) the authorized delegate violated this chapter or a regulation adopted or an order issued under this chapter;

(2) the authorized delegate did not cooperate with an examination or investigation by the department;

(3) the authorized delegate engaged in fraud, intentional 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 department 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 regulation adopted or order issued under this chapter, and the previous conduct of the authorized delegate.

Sec. 06.55.603. Orders to cease and desist. (a) If the department determines that a violation of this chapter or of a regulation adopted or an order issued under this chapter by a money services licensee or authorized delegate is likely to cause immediate and irreparable harm to the money services licensee, its customers, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the money services licensee, the department may issue an order requiring the money services licensee or authorized delegate to cease and desist from the violation. The order becomes effective on service of it on the money services licensee or authorized delegate.

(b) The department may issue an order against a money services licensee to cease and desist from providing money services through an authorized delegate who is the subject of a separate order by the department.

(c) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding under AS 06.55.601 or 06.55.602.

(d) A money services licensee or an authorized delegate who is served with an order to cease and desist may petition the superior court for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding under AS 06.55.601 or 06.55.602.

(e) An order to cease and desist expires unless the department commences an administrative proceeding under AS 06.55.601 or 06.55.602 within 10 days after it is issued.

Sec. 06.55.604. Consent orders. The department may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a regulation adopted or order issued under this chapter. A consent order shall be signed by the person to whom it is issued or by 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 a regulation adopted or an order issued under this chapter has been violated.

Sec. 06.55.605. Civil penalties. The department may assess a civil penalty against a person who violates this chapter or a regulation adopted or an order issued under this chapter in an amount not to exceed \$1,000 each day for each day the violation is outstanding.

Sec. 06.55.606. Criminal penalties. (a) A person who intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter or who intentionally makes a false entry or omits a material entry in a record filed or required to be maintained under this chapter is guilty of a class C felony.

(b) A person who knowingly engages in an activity for which a money services license is required under this chapter without being licensed as a money services licensee and who receives more than \$500 in compensation within a 30-day period from this activity is guilty of a class C felony.

(c) A person who knowingly engages in an activity for which a money services license is required under this chapter without being licensed as a money services licensee and who receives no more than \$500 in compensation within a 30-day period from this activity is guilty of a class A misdemeanor.

Sec. 06.55.607. Unlicensed persons. (a) If the department has reason to believe that a person has violated or is violating AS 06.55.101 or 06.55.201, the department 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 AS 06.55.101 or 06.55.201.

(b) In an emergency, the department may petition the superior court for the issuance of a temporary restraining order.

(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 under AS 06.55.701 and 06.55.702.

(e) A person who is served with an order to cease and desist for violating AS 06.55.101 or 06.55.201 may petition the superior court for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding under AS 06.55.701 and 06.55.702.

(f) An order to cease and desist expires unless the department commences an administrative proceeding within 10 days after it is issued.

ARTICLE 7. ADMINISTRATIVE PROCEDURES.

Section

701. Administrative proceedings

702. Hearings

703. Investigative powers

Sec. 06.55.701. Administrative proceedings. All administrative proceedings under this chapter shall be conducted under AS 44.62 (Administrative Procedure Act), except that hearings shall be conducted by the office of administrative hearings (AS 44.64.010).

Sec. 06.55.702. Hearings. (a) Except as otherwise provided in AS 06.55.603 and 06.55.607 and in (b) of this section, the department may not suspend or revoke a money services license, place a money services licensee in receivership, 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 department shall also hold a hearing when requested to hold a hearing by an applicant whose application for a money services license is denied.

(b) Under AS 06.55.106(c) and 06.55.204(c), the department may suspend a money services license without a hearing unless the money services licensee requests a hearing.

Sec. 06.55.703. Investigative powers. (a) In its investigations under this chapter, the department may administer oaths or affirmations and, on its own motion or on the request of a party to a proceeding, may subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of material that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of books, documents, and other tangible items, and the identity and location of persons having knowledge of relevant facts or other material reasonably calculated to lead to the discovery of admissible evidence.

(b) If a person fails without a lawful excuse to obey a subpoena, and after reasonable notice to all persons affected by the failure, the department may apply to the superior court for an order compelling the person to obey the subpoena.

ARTICLE 8. MISCELLANEOUS PROVISIONS.

Section

- 801. Uniformity of application and construction**
- 802. Exclusions**
- 810. Notices required**
- 820. Transmission**
- 830. Receipt**
- 840. Refunds**
- 850. Establishment of fees and other charges**
- 890. Definitions**

Sec. 06.55.801. Uniformity of application and construction. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 06.55.802. Exclusions. This chapter does not apply to

- (1) the United States or a department, an agency, or an instrumentality of the United States;
- (2) money transmission by the United States Postal Service or by a contractor on behalf of the United States Postal Service;
- (3) a state, a municipality, a county, or another governmental agency or governmental subdivision of a state;
- (4) a bank, a bank holding company, an office of an international banking corporation, a branch of a foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service Company Act), or a corporation organized under 12 U.S.C. 611 - 633 (Edge Act) 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 who is not a bank, a bank holding company, an office of an international banking corporation, a branch of a foreign bank, a corporation organized under 12 U.S.C. 1861 - 1867 (Bank Service Company Act), or a corporation organized under 12 U.S.C. 611 - 633 (Edge Act) under the laws of a state or the United States;
- (5) electronic funds transfer of governmental benefits for a federal, state, or municipal agency or a state political subdivision by a contractor on behalf of
 - (A) the United States or a department, an agency, or an instrumentality of the United States; or
 - (B) a state, or a department, an agency, or an instrumentality of a state;
- (6) a board of trade or a person who, in the ordinary course of business, provides clearance and settlement services for a board of trade, to the extent of the operation of the person for a board of trade; in this paragraph, "board of trade" means a board of trade designated as a contract market under 7 U.S.C. 1 - 27f (Commodity Exchange Act);
- (7) a registered futures commission merchant under the federal commodities laws, to the extent of the merchant's operation as a registered futures commission merchant under the federal commodities laws;
- (8) a person who provides clearance or settlement services under a registration as a clearing agency or an exemption from the registration granted under the federal securities laws, to the extent of the person's operation as a provider of clearance or settlement services under a registration as a clearing agency or an exemption from the registration granted under the federal securities laws;
- (9) an operator of a payment system to the extent that the operator 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, or similar funds transfers; or

(10) a person registered as a securities broker-dealer under federal or state securities laws, to the extent of the person's operation as a securities broker-dealer under federal or state securities laws.

Sec. 06.55.810. Notices required. (a) A money services licensee shall display a sign at each location where the money services licensee

(1) provides money services under this chapter; and
(2) has not designated an authorized delegate to provide money services on behalf of the money services licensee at the location.

(b) An authorized delegate shall display a sign at each location where the authorized delegate provides money services under this chapter.

(c) The sign required by (a) or (b) of this section shall be displayed at all times in full view of persons visiting the location and shall give the department's address and the department's telephone number for receiving calls regarding complaints and other concerns about money services licensees, authorized delegates, and the money services provided by money services licensees and authorized delegates.

Sec. 06.55.820. Transmission. Within 10 business days after receiving the money or equivalent value for money transmission, unless otherwise ordered by the customer or unless the money transmission licensee has reason to believe a crime has occurred, is occurring, or may occur as a result of the money transmission, a money transmission licensee shall

(1) transmit after the deduction of fees the monetary equivalent of all money or equivalent value received for the money transmission; or

(2) issue instructions making the money or its monetary equivalent available to the person designated by the customer.

Sec. 06.55.830. Receipt. (a) A money transmission licensee who receives money or equivalent value for a money transmission shall provide a receipt to the customer that clearly states the amount of the money or the equivalent value presented by the customer for the money transmission and the total fees charged by the money transmission licensee.

(b) If a money transmission licensee fixes, when the money transmission is initiated, the rate of exchange for a money transmission to be paid in the currency of another government, the receipt provided by (a) of this section must disclose the rate of exchange for the transaction and any limit on the length of time that the payment will be made at that fixed rate of exchange.

(c) If a money transmission licensee does not fix the rate of exchange for a money transmission to be paid in the currency of another government, the receipt provided under (a) of this section must disclose that the rate of exchange for the money transmission will be set when the person designated by the customer to receive the money takes possession of the money.

Sec. 06.55.840. Refunds. Within 10 days after receiving a written request for a refund, a money transmission licensee shall refund to a customer money equal to the money or equivalent value received from the customer for a money transmission, unless

(1) before receiving the written request

(A) the money has been transmitted to the person designated by the customer to receive the money transmission and the person has taken possession of the money; in this section, "transmitted" means made available to the person designated by the customer to receive the money, whether or not the person designated by the customer has taken possession of the money; or

(B) instructions have been given making a monetary equivalent available to the person designated by the customer to receive the money transmission;

(2) the money transmission licensee has reason to believe that a crime has occurred, is occurring, or may occur as a result of transmitting or refunding the money as requested by the customer; or

(3) the money transmission licensee is otherwise prohibited by law from making a refund.

Sec. 06.55.850. Establishment of fees and other charges. (a) The department shall adopt regulations that establish the amount and manner of payment of fees required under this chapter.

(b) The department shall establish fee levels under (a) of this section so that the total amount of fees collected for both money transmission licenses and currency exchange licenses under this chapter approximately equals the department's actual total regulatory costs for both money transmission licenses and currency exchange licenses. The department shall set the fee levels so that the fee levels for both money transmission licenses and currency exchange licenses are the same.

(c) The department shall annually review each fee level to determine whether the regulatory costs are approximately equal to fee collections. If the review indicates that fee collections and regulatory costs are not approximately equal, the department shall calculate fee adjustments and adopt regulations under (a) of this section to implement the adjustments.

(d) In January of each year, the department shall report to the office of management and budget all fee levels and revisions made for the previous year under this section.

(e) In this section,

(1) "fee" means an application fee, a money services license fee, a first-year operation fee under AS 06.55.103(a)(2)(C), a renewal fee, the daily late fee for not submitting a renewal report and paying the renewal fee under AS 06.55.106, investigation costs under AS 06.55.105 and 06.55.203, an examination cost under AS 06.55.401, and a fee for approving a change of control under AS 06.55.404;

(2) "regulatory costs" means the costs of the department that are attributable to regulation of money services licensing under this chapter.

Sec. 06.55.890. Definitions. In AS 06.55.820 - 06.55.840,

(1) "fees" does not include revenue that a money services licensee generates from a money transmission when converting the currency of one government into the currency of another government;

(2) "monetary equivalent" means, for money transmissions that will be redeemed in a currency other than the currency that the customer uses to purchase the money transmission, the amount of money in the currency of the government that the recipient of the money transmission is to receive, as converted at the retail exchange rate offered by the money transmission licensee to the customer for the money transmission;

(3) "money transmission licensee" means a person who holds a money services license and a person who is an authorized delegate.

ARTICLE 9. GENERAL PROVISIONS.

Section

990. Definitions

995. Short title

Sec. 06.55.990. Definitions. In this chapter, unless the context indicates otherwise,

(1) "authorized delegate" means a person whom a money services licensee designates to provide money services on behalf of the money services licensee;

(2) "bank" means an institution organized under federal or state law that

(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;

(3) "control" means

(A) the 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 money services licensee or person in control of a money services licensee;

(B) the power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a money services licensee or person in control of a money services licensee; or

(C) the power to exercise directly or indirectly, a controlling influence over the management or policies of a money services licensee or person in control of a money services licensee;

(4) "currency exchange" means receipt of revenues from the exchange of money of one government for money of another government;

(5) "currency exchange license" means a license under AS 06.55.201 - 06.55.204;

(6) "currency exchange licensee" means a person who holds a currency exchange license;

(7) "department" means the Department of Commerce, Community, and Economic Development;

(8) "executive officer" means a president, a chair of the executive committee, a chief financial officer, a responsible individual, or another individual who performs similar functions; in this paragraph, "responsible individual" means an individual who is employed by a money services licensee and has principal managerial authority over the provision of money services by the money services licensee in this state;

(9) "mobile location" means a vehicle or a movable facility where currency exchange occurs;

(10) "monetary value" means a medium of exchange, whether or not redeemable in money;

(11) "money" means a medium of exchange that is authorized or adopted by the United States or a foreign government, including a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments;

(12) "money services" means money transmission or currency exchange;

(13) "money services license" means a currency exchange license or a money transmission license;

(14) "money services licensee" means a person who holds a currency exchange license or a money transmission license;

(15) "money transmission" means selling or issuing payment instruments or stored value, or receiving money or monetary value for transmission, but does not include the provision solely of delivery, online services, telecommunications services, or network access;

(16) "money transmission license" means a license under AS 06.55.101 - 06.55.107 or an approval under AS 06.55.103;

(17) "money transmission licensee" means a person who holds a money transmission license;

(18) "outstanding" with respect to a payment instrument, means issued or sold by or for the money services licensee and reported as sold but not yet paid by or for the licensee;

(19) "payment instrument" means a check, a draft, a money order, a traveler's check, or another instrument for the transmission or payment of money or monetary value, whether or not negotiable, but does not include a credit card voucher, a letter of credit, or an instrument that is redeemable by the issuer in goods or services;

(20) "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a government, a governmental subdivision, an agency, or an instrumentality, a public corporation, or any other legal or commercial entity;

(21) "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;

(22) "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or insular possession subject to the jurisdiction of the United States;

(23) "stored value" means monetary value that is evidenced by an electronic record;

(24) "unsafe or unsound practice" means a practice or conduct by a money transmission licensee or an authorized delegate of the money transmission licensee if the practice creates the likelihood of material loss, insolvency, or dissipation of the money transmission licensee's assets, or otherwise materially prejudices the interests of the money transmission licensee's customers.

Sec. 06.55.995. Short title. This chapter may be cited as the Alaska Uniform Money Services Act.

**CHAPTER 13.
MONEY SERVICES.**

Article

- 1. Licensing**
(3 AAC 13.010 – 3 AAC 13.060)
- 2. Business Duties and Restrictions**
(3 AAC 13.110 – 3 AAC 13.130)
- 3. Examinations, Reports, and Records**
(3 AAC 13.210 – 3 AAC 13.230)
- 4. Miscellaneous Provisions**
(3 AAC 13.810 – 3 AAC 13.850)
- 5. General Provisions**
(3 AAC 13.910 – 3 AAC 13.990)

**ARTICLE 1.
LICENSING.**

Section

- 10. Money transmission license applications**
- 20. Approval to engage in services under AS 06.55 with a license from another state**
- 30. Security requirement**
- 40. Money services license denial**
- 50. Renewal of approval or money transmission license**
- 60. Renewal of currency exchange license**

3 AAC 13.010. MONEY TRANSMISSION LICENSE APPLICATIONS. (a) A person applying for a money transmission license other than for approval under AS 06.55.103 must submit an application to the department that complies with AS 06.55.102. In addition to the information required by AS 06.55.102, the application must contain a full description of the screening process used by the applicant in selecting an authorized delegate, including a sample of any forms used, and the method used to screen for criminal history.

(b) When processing an application for a money transmission license, the department may waive one or more requirements of (a) of this section or accept substitute information if compliance with the requirement being waived would not assist the department in evaluating the fitness of the applicant to hold the license.

Authority: AS 06.55.102 AS 44.33.020

3 AAC 13.020. APPROVAL TO ENGAGE IN SERVICES UNDER AS 06.55 WITH A LICENSE FROM ANOTHER STATE. (a) A person seeking approval to engage in money transmission or currency exchange activities under AS 06.55.103 without obtaining a license from the department must submit to the department

- (1) the items described in AS 06.55.103(a)(2);
- (2) satisfactory proof that the person holds a license in good standing to engage in money transmissions in at least one other state that has either adopted the Uniform Money Services Act or has money transmission laws that are substantially similar to those of this state;
- (3) satisfactory proof that the person has obtained the security required by AS 06.55.104 and that the security is in force, including the amount and type of any excess coverage provided; and
- (4) a signed release of information that allows the department to obtain information from licensing agencies of other states necessary to verify the person's eligibility to engage in money transmission or currency exchange under AS 06.55.103.

(b) The department will deny approval to offer money transmission or currency exchange services under AS 06.55.103 if

- (1) the person fails to comply with this section or AS 06.55.103;
- (2) the person or any of the person's authorized delegates are the subject of a negative licensing action in any of the states in which the person is licensed;
- (3) the person is not licensed to provide money transmission services in at least one state that has enacted the Uniform Money Services Act or has money transmission laws that are substantially similar to those of this state;
- (4) the department finds that the person would not qualify for a money transmission license under AS 06.55.105(a)(2) or this chapter if the person applied for one;
- (5) the person has not met the security requirements of AS 06.55.104 or the net worth requirement of AS 06.55.107;
- (6) another state has suspended or revoked the person's money transmission license or currency exchange license within the last five years; or

(7) the person knowingly makes a false statement or knowingly submits false information in order to obtain an approval to offer services under AS 06.55.103.

Authority: AS 06.55.103 AS 44.33.020

3 AAC 13.030. SECURITY REQUIREMENT. (a) An applicant for a money transmission license or for approval under AS 06.55.103 must provide, and must maintain at all times, security that satisfies the requirements of AS 06.55.104. The security must secure the faithful performance of the obligations of the money transmission licensee, including its principals, responsible individuals, employees, and authorized delegates, with respect to money transmission. For purposes of this subsection, the obligations of the money transmission licensee are

- (1) its legal obligations to its customers;
- (2) its obligation to comply with AS 06.55, with this chapter, with any order issued under AS 06.55 or this chapter, and with any other applicable law; and
- (3) for a money transmission licensee that engages in currency exchange or advertises, solicits, or holds itself out as providing currency exchange under AS 06.55.201(2) or (3), obligations listed in (1) and (2) of this subsection and related to currency exchange.

(b) If a surety bond is used to satisfy AS 06.55.104, it must be in a form acceptable to the department, issued by a surety company authorized to engage in business in this state and acceptable to the department with an assignment in favor of the department. The surety bond must cover claims for the entire period that the person who is licensed under AS 06.55.105 or is offering services under AS 06.55.103 provides money transmission services in this state and for at least five years after the person ceases to provide those services. The department may require that the surety bond be kept in place for more than five years after the services are no longer provided in the state if the department determines that the surety bond will be needed to satisfy claims against the person after expiration of the five-year period.

- (c) If a letter of credit is used to satisfy the security requirement of AS 06.55.104, it must be
- (1) in a form acceptable to the department;
 - (2) clean and unconditional;
 - (3) irrevocable for a period not less than five years after the person obtaining the letter of credit ceases to provide services in the state; and
 - (4) issued or confirmed by, and payable and presentable at, a financial institution whose deposits are insured by the federal government.

(d) Instead of providing a surety bond or letter of credit, a person may deposit, with a financial institution possessing trust powers that is authorized to conduct a trust business in this state and is acceptable to the department, an aggregate amount of United States currency, certificates of deposit, or other cash equivalents that equals the total amount of the required security. The deposit

- (1) must be held in trust in the name of and be pledged to the department;
- (2) must secure the same obligations as the other security described in (a) of this section; and
- (3) is subject to other conditions and terms the department may reasonably require.

(e) The security remains in effect until canceled. Cancellation may occur only after at least 30 days' written notice to the department. Nothing in this subsection affects any liability incurred or accrued during the period covered by the security. Cancellation of a security used to satisfy the requirements of AS 06.55.104 constitutes grounds for suspension or revocation of a license issued under AS 06.55 or the department's approval to offer services in the state under AS 06.55.103.

(f) If the department at any time reasonably determines that the required security is insecure, deficient in amount, or exhausted in whole or in part, the department will require the money transmission licensee to provide new or additional security to comply with AS 06.55.104 and this section. The department may increase the amount of security required, to a maximum of \$500,000, if the financial condition of a money transmission licensee requires the increase. In determining whether to require new, additional, or increased security, the department may consider one or more of the following criteria:

- (1) significant reduction of net worth;
- (2) financial losses;
- (3) potential losses resulting from violations of AS 06.55 or this chapter;
- (4) the licensee filing for bankruptcy;
- (5) a judicial or administrative finding against the licensee in any state or foreign country based on the conduct of a money services business;
- (6) a licensee, executive officer, board director, person in control, responsible individual, principal or authorized delegate being convicted of a felony;
- (7) any unsafe or unsound practice;
- (8) other events and circumstances that the department considers to impair the ability of the licensee to meet its obligations to its customers.

Authority: AS 06.55.104 AS 44.33.020

3 AAC 13.040. MONEY SERVICES LICENSE DENIAL. (a) Subject to (b) and (c) of this section, the department will deny a money services license application, other than an application for approval under AS 06.55.103, if the department determines that

- (1) the applicant has not submitted all the information required by AS 06.55 or this chapter;
- (2) the application is for a money transmission license and the applicant has not met the security requirements of AS 06.55.104 or the net worth requirement of AS 06.55.107;
- (3) under AS 06.55.105(a)(2) or 06.55.203(a)(2), as applicable, permitting the applicant to engage in money transmission or currency exchange is not in the public interest, as demonstrated by findings that may include one or more of the following:
 - (A) the applicant, an executive officer, a board director, a person in control, or an authorized delegate has been convicted of any felony involving fraud or dishonesty within the past 10 years;
 - (B) the applicant, an executive officer, a board director, a person in control, or an authorized delegate has been convicted of a crime involving a financial transaction within the past 10 years;
 - (C) the applicant, an executive officer, a board director, or a person in control has knowingly falsified any information supplied in connection with the application;
 - (D) the applicant, or any proposed authorized delegate of the applicant, has had an adverse action taken against any license related to providing financial services by a jurisdiction within the United States within the past five years;
 - (E) the applicant has allowed a business under its control to deteriorate to a condition of insolvency determined by the fact that its liabilities exceed its assets or it cannot meet its liabilities as they mature;
- (4) the applicant, or any authorized delegate of the applicant, fails to respond to a request for information from the department;
- (5) the applicant's proposed screening process for selecting authorized delegates will be ineffective in determining the fitness of proposed delegates;
- (6) the applicant has failed to register with the United States Department of Treasury when required to do so by 31 U.S.C. 5330; or
- (7) the applicant, an executive officer, a board director, or a person in control is listed on the specially designated nationals and blocked persons list prepared by the United States Department of Treasury.

(b) Instead of denying an application under (a) of this section, the department may return the application or extend the application period if the department determines that the condition or circumstances that would likely lead to denial may be temporary and resolved satisfactorily within a reasonable period of time. The department may resume processing the application if the department determines that a favorable resolution of the disqualifying condition has occurred.

(c) The department may extend the application period for processing a money services license application if due to staff shortages or encountered problems the department is unable to process the application and complete the investigation mandated by AS 06.55.105(a) or 06.55.203(a) within 120 days after the department receives the complete application.

Authority:	AS 06.55.104	AS 06.55.107	AS 06.55.503
	AS 06.55.105	AS 06.55.203	AS 44.33.020

3 AAC 13.050. RENEWAL OF APPROVAL OR MONEY TRANSMISSION LICENSE. (a) The department may deny renewal of a money transmission license, including an approval under AS 06.55.103, on the same grounds for which the license may be revoked or suspended under AS 06.55.601 or this chapter, including the failure to provide proof of adequate security.

(b) If the money transmission licensee fails to make a timely request for renewal of the license, the department will send a notice of suspension to the licensee at the address most recently provided to the department by the licensee.

(c) The department will extend the date for renewing a money transmission license if the licensee makes a written request for an extension not later than 30 days before the anniversary date of the issuance of the money transmission license and the department finds that the licensee has shown the requested extension of time is reasonably necessary in order to submit the documentation required in AS 06.55.106.

Authority:	AS 06.55.103	AS 06.55.990	AS 44.33.020
	AS 06.55.106		

3 AAC 13.060. RENEWAL OF CURRENCY EXCHANGE LICENSE. (a) The department may deny renewal of a currency exchange license on the same grounds for which the license may be revoked or suspended under AS 06.55.601 or this chapter.

(b) If the currency exchange licensee fails to make a timely request for renewal of the license, the department will send a notice of suspension to the licensee at the address most recently provided to the department by the licensee.

(c) The department will extend the date for renewing a currency exchange license if the licensee makes a written request for an extension not later than 30 days before the anniversary date of the issuance of the currency exchange

license and the department finds that the licensee has shown the requested extension of time is reasonably necessary in order to submit the documentation required in AS 06.55.204.

Authority: AS 06.55.204 AS 44.33.020

**ARTICLE 2.
BUSINESS DUTIES AND RESTRICTIONS.**

Section

110. Conduct of business through authorized delegate

120. Request for approval of change of control

3 AAC 13.110. CONDUCT OF BUSINESS THROUGH AUTHORIZED DELEGATE. (a) A money transmission licensee may conduct business regulated under AS 06.55 through an authorized delegate designated by the money transmission licensee in accordance with AS 06.55 and this chapter.

(b) Before a money transmission licensee is authorized to conduct business through an authorized delegate or allows a person to act as the money transmission licensee's authorized delegate, the money transmission licensee must

(1) adopt, and update as necessary, written policies and procedures sufficient to ensure that the authorized delegate complies with AS 06.55 and this chapter; and

(2) enter into a written contract that complies with AS 06.55.301.

(c) The written contract required by (b)(2) of this section must be signed by the money transmission licensee and the authorized delegate and, at a minimum, must

(1) designate the person signing the contract as the money transmission licensee's authorized delegate with the authority to conduct business regulated under AS 06.55 on behalf of the money transmission licensee;

(2) require the authorized delegate to certify that the delegate is familiar with and agrees to operate in full compliance with AS 06.55 and this chapter, including the requirements of AS 06.55.301(b) for remission of money, the trust and other requirements of AS 06.55.301(d), and the record maintenance requirements of AS 06.55.405 and this chapter;

(3) acknowledge that the authorized delegate consents to examination or investigation by the department;

(4) state that the money transmission licensee is subject to regulation by the department and that, as part of that regulation, the department may suspend or revoke an authorized delegate designation or require the money transmission licensee to terminate an authorized delegate designation; and

(5) acknowledge receipt of the written policies and procedures required under AS 06.55.301(a).

(d) A money transmission licensee must maintain on file with the department a current list of its authorized delegates operating in this state that includes the name and business address of each delegate. The money transmission licensee must update the list within 15 business days after any change in the list.

Authority: AS 06.55.301 AS 06.55.403 AS 44.33.020
AS 06.55.302

3 AAC 13.120. REQUEST FOR APPROVAL OF CHANGE OF CONTROL. (a) A request for approval of change of control required by AS 06.55.404 must include a comprehensive description of the proposed change. The description must set out

(1) the identity of each person acquiring control under the proposed change;

(2) the ownership interest and managerial authority of each person in control under the proposed change; and

(3) for each new person in control under the proposed change, biographical information, including employment history for the immediate previous five years.

(b) Any request under AS 06.55.404(e) for an exemption from any of the requirements of AS 06.55.404(a)(2) and (3) must be received by the department at least 30 days before the proposed change of control, and must set out the grounds on which the request relies.

Authority: AS 06.55.404 AS 44.33.020

**ARTICLE 3.
EXAMINATIONS, REPORTS, AND RECORDS.**

Section

- 210. Authority to conduct examinations and investigations**
- 220. Records**
- 230. Access to confidential information**

3 AAC 13.210. AUTHORITY TO CONDUCT EXAMINATIONS AND INVESTIGATIONS. (a) When the department conducts an on-site investigation under AS 06.55.105(a) or 06.55.203(a) or an examination under AS 06.55.401,

(1) the applicant, money services licensee, or authorized delegate shall provide the department free access to the place of business, books, accounts, safes, and vaults of that person to examine and make copies as necessary;

(2) the department may retain accountants, professionals, or specialists as examiners, auditors, or investigators, to conduct or assist in the conduct of an investigation or examination; and

(3) the applicant, money services licensee, or authorized delegate shall pay the department the hourly fee set out in 3 AAC 13.840 and any expenses required to be paid under 3 AAC 13.850 for each representative of the department who is reasonably necessary to conduct the investigation or examination.

(b) Instead of an on-site investigation under AS 06.55.105(a) or 06.55.203(a) or an examination under AS 06.55.401, the department will accept the audit of a licensed certified public accountant, if

(1) the applicant, money services licensee, or authorized delegate pays the costs of the audit;

(2) the audit is equal in scope to the investigation or examination required by the department;

(3) the licensee provides prior notice in writing that the licensee is having the audit prepared instead of the investigation or examination required by the department; and

(4) the department has given prior written approval for the person to conduct the audit.

Authority: AS 06.55.105 AS 06.55.401 AS 44.33.020
AS 06.55.203

3 AAC 13.220. RECORDS. In addition to the records required to be maintained under AS 06.55.405(a), a money transmission licensee shall maintain a record of money transmittals in accordance with 31 C.F.R. 103.33(f).

Authority: AS 06.55.405 AS 44.33.020

3 AAC 13.230. ACCESS TO CONFIDENTIAL INFORMATION. (a) Before disclosing confidential information under AS 06.55.407(b), the department will send written notice to the applicant, money services licensee, or authorized delegate with a confidentiality interest in the information of the department's intent to release the information. The department will not release the information for at least 14 days following the date of the notice unless the delay would defeat the interests of justice or endanger the public. The applicant, money services licensee, or authorized delegate may request a further delay of release, and the department will grant that request if the person establishes that additional time is required to obtain a judicial order preventing the release, unless granting the extension would defeat the interests of justice or an earlier release is reasonably necessary to protect the public.

(b) The department will not release information made confidential by AS 06.55.407(a) to a representative of a state or federal agency under AS 06.55.407(b) unless an employee of the agency

(1) executes and delivers to the department a written certification that the agency will maintain the confidentiality of the information received from the department; and

(2) has the authority to make that certification on behalf of the state or federal agency.

Authority: AS 06.55.407 AS 44.33.020

**ARTICLE 4.
MISCELLANEOUS PROVISIONS.**

Section

- 810. Additional permissible investments**
- 820. Required office notice**
- 830. Termination of operations**
- 840. Fees**
- 850. Reimbursement of expenses**

3 AAC 13.810. ADDITIONAL PERMISSIBLE INVESTMENTS. In addition to the assets and securities listed in AS 06.55.502, a permissible investment for purposes of AS 06.55 includes

(1) commercial paper within the top three rating categories of a nationally recognized rating service; and

(2) interest-bearing bills, notes, or bonds that bear a rating within the top three rating categories of a nationally recognized rating service.

Authority: AS 06.55.501 AS 06.55.502 AS 44.33.020

3 AAC 13.820. REQUIRED OFFICE NOTICE. The sign required by AS 06.55.810 must utilize a large enough font to be easily read by persons visiting the location where it is displayed.

Authority: AS 06.55.810 AS 44.33.020

3 AAC 13.830. TERMINATION OF OPERATIONS. A money services licensee shall notify the department in writing of its decision to cease operations as a money services licensee or the cessation of operations of any of its authorized delegates within seven days after that decision or cessation.

Authority: AS 44.33.020

3 AAC 13.840. FEES. (a) The following nonrefundable fees are established for services provided under AS 06.55 or this chapter:

- (1) an application fee for a money transmission license, \$500, plus \$100 for each additional location;
- (2) an application fee for approval under AS 06.55.103 to engage in money transmission, currency exchange, or both money transmission and currency exchange when licensed in another state, \$250;
- (3) an annual renewal fee for a money transmission license, including an approval under AS 06.55.103, \$500;
- (4) a biennial renewal fee for a currency exchange license, \$1,000;
- (5) a late fee for each day after suspension that the department does not receive the renewal report and the renewal fee under AS 06.55.106(c)(2), \$10;
- (6) the cost of an on-site investigation under AS 06.55.105(a) or 06.55.203(a) or an examination under AS 06.55.401, \$75 per hour for each representative of the department who is reasonably necessary to conduct the investigation or examination;
- (7) a request for approval of a change in control of a money services licensee, \$500.

(b) The following fees are refundable if the application is denied, are nonrefundable if the application is withdrawn, and are established for the following services:

- (1) license fee for a license under AS 06.55.102 or 06.55.202, \$500 for the initial location and \$50 for each additional location where the applicant or its authorized delegate will provide services;
- (2) a fee for the first year of operating with the approval given under AS 06.55.103, \$500.

Authority: AS 06.55.102 AS 06.55.202 AS 06.55.850
AS 06.55.103 AS 06.55.203 AS 06.55.990
AS 06.55.105 AS 06.55.401 AS 44.33.020
AS 06.55.106 AS 06.55.404

3 AAC 13.850. REIMBURSEMENT OF EXPENSES. When the department conducts an on-site investigation under AS 06.55.105(a) or 06.55.203(a) or an examination under AS 06.55.401, the applicant, money services licensee, or authorized delegate shall pay the actual expenses of required travel, including transportation, lodging, and per diem expense not to exceed the per diem allowance for employees of the state under AS 39.20.110.

Authority: AS 06.55.105 AS 06.55.401 AS 44.33.020
AS 06.55.203

ARTICLE 5. GENERAL PROVISIONS.

Section

- 910. Filing or submission date**
- 920. Name and address changes**
- 990. Definitions**

3 AAC 13.910. FILING OR SUBMISSION DATE. (a) An application for department action under AS 06.55 and this chapter will be considered filed or submitted as of the postmark date of the document. If the document is submitted by a method that does not provide a postmark date, the document will be considered filed or submitted as of the date stamped or otherwise marked on the document when it is received at the department's Juneau office. An electronic filing or submission, if allowed, will be considered filed or submitted at the time the filing or submission is received in electronic form by the department.

(b) For the purposes of this section, "postmark date" means the date of mailing stamped or otherwise marked by the United States Postal Service or other domestic courier service on a document with prepaid postage and correctly addressed to the department's Juneau office.

Authority: AS 44.33.020

Editor's note: *For delivery by United States mail, the address of the department's Juneau office is: Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community, and Economic Development, P.O. Box 110806, Juneau, AK 99811-0806. For hand delivery or delivery by domestic courier service, the address of the department's Juneau office is: Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community, and Economic Development, 333 W. Willoughby Ave., 9th Floor, Juneau, AK 99801.*

3 AAC 13.920. NAME AND ADDRESS CHANGES. (a) A money services licensee shall maintain a current, valid, mailing address on file with the department at all times. The department will use the latest mailing address on file with the department for official communications, notifications, and service of legal process.

(b) A money services licensee shall notify the department, in writing, of a change of mailing address.

(c) If a money services licensee changes its name, the person shall submit to the department within 30 days after the change of name

(1) notification of the change of name, on a form provided by the department that has been completed by the licensee and notarized; and

(2) a copy of the marriage certificate, court document, or other legal document, if applicable, verifying the change of name.

(d) The department will issue a revised license or approval showing the change of name if the money services licensee meets the requirements in (c) of this section.

Authority: AS 06.55.102 AS 06.55.106 AS 44.33.020
AS 06.55.103 AS 06.55.202

3 AAC 13.990. DEFINITIONS. In AS 06.55 and this chapter, unless the context requires otherwise,

(1) "business day" means a day other than Saturday, Sunday, or a state or federal holiday;

(2) "department" means the Department of Commerce, Community, and Economic Development.

Authority: AS 06.55.102 AS 06.55.203 AS 06.55.405
AS 06.55.103 AS 06.55.204 AS 06.55.820
AS 06.55.105 AS 06.55.403 AS 44.33.020
AS 06.55.106 AS 06.55.404