

CHAPTER 13  
Statutory Authority: 1976 Code Sections 35-11-100 et seq.

ARTICLE 4  
MONEY SERVICES

SUBARTICLE 1  
GENERAL PROVISIONS

13-2101. Definitions.

When the terms listed below are used in this Article, or in order to assist in interpreting and complying with the South Carolina Anti-Money Laundering Act, the following definitions shall apply, unless a contrary definition is expressly provided or clearly required by the context, to the extent that they do not conflict with the definitions set forth in the Act:

A. Act. The term “Act” means the South Carolina Anti-Money Laundering Act, Section 35-11-100 et seq., as the same may be codified and amended from time to time.

B. Audited financial statement. The term “audited financial statement” means a financial statement prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant according to generally accepted auditing standards in the United States.

C. Currency Exchange. The term “Currency Exchange” means receipt of revenues from the exchange of money of one government for money of another government, or holding oneself out as able to exchange the money of one government for money of another government. The following do not fall under the definition of currency exchange:

(1) affiliated businesses that engage in currency exchange for a business purpose other than currency exchange;

(2) a person who provides currency exchange services for a person acting primarily for a business, commercial, agricultural, or investment purpose when the currency exchange is incidental to the transaction;

(3) a person who deals in coins or a person who deals in money whose value is primarily determined because it is rare, old, or collectible; and

(4) a person who in the regular course of business chooses to accept from a customer the currency of a country other than the United States in order to complete the sale of a good or service other than currency exchange, that may include cash back to the customer, and does not otherwise trade in currencies or transmit money for compensation or gain.

D. Net Worth. For the purposes of Section 35-11-230, “net worth” shall be determined as tangible net worth, the physical net worth of a licensee calculated by taking a licensee’s assets and subtracting its liabilities and its intangible assets, such as copyrights, patents, intellectual property, and goodwill.

E. NMLS. The term “NMLS” means the Nationwide Multistate Licensing System and Registry.

SUBARTICLE 2  
MONEY TRANSMISSION LICENSES

13-2201. Application for Money Transmission License.

A. All applications for new or renewal licenses must be made through the NMLS, unless otherwise expressly exempted from this requirement by the Commissioner in writing. Any person using the NMLS shall pay all associated costs.

B. An application pursuant to Section 35-11-205 should include the following additional information:

(1) a certificate of authority from the South Carolina Secretary of State to conduct business in this State, or other evidence of the applicant's registration or qualification to do business in this State as a foreign corporation, if incorporated in another state or country;

(2) a copy of the applicant's anti-money laundering compliance program and Bank Secrecy Act policy;

(3) a detailed description of the screening process used by the applicant in selecting authorized delegates, including a sample of any forms used, and the method used to screen for criminal history; and

(4) the applicant, and each Control Person and Executive Officer, shall furnish to the NMLS, together with the required fees:

(a) fingerprints for submission to the Federal Bureau of Investigation and to any other governmental agency or entity authorized to receive such information for a state, national, or international criminal history background check, and authorization for the Commissioner to obtain a criminal history background check; and

(b) authorization for the Commissioner to obtain an independent credit report and credit score from a consumer reporting agency.

C. Incomplete application files will be closed and deemed denied without prejudice, and all fees paid forfeited, when the applicant has not submitted information requested by the Commissioner within forty-five days. The applicant may reapply by submitting a new application package and new application fee.

D. No later than forty-five days after the calendar quarter has ended, licensees shall file the Money Services Businesses Call Report through the NMLS.

#### 13-2202. Application for Approval to Engage in Money Transmission.

A. A person seeking approval to engage in money transmission and currency exchange activities under Section 35-11-210 without obtaining a license from the Commissioner must submit to the Commissioner the following:

(1) the items described in Section 35-11-205(B) and (C), provided however, the Commissioner may waive one or more requirements of subsections (B) a (C) or permit an applicant to submit other information in lieu of the required information;

(2) the items described in Section 35-11-210(A)(2);

(3) evidence 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; and

(4) evidence that the person has obtained the security required by Section 35-11-215 and that the security is in force, including the amount and type of any excess coverage provided;

B. The Commissioner may deny approval to offer money transmission or currency exchange services under Section 35-11-210 if:

(1) the person fails to comply with this section or Section 35-11-210;

(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 Commissioner finds that the person would not qualify for a money transmission license under Section 35-11-220(A)(2) if the person applied for one;

(5) the person has not met the security requirements of Section 35-11-215 or the net worth requirements of Section 35-11-230;

(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 Section 35-11-210.

C. Persons approved pursuant to Section 35-11-210 shall comply with the requirements of Section 35-11-225 regarding renewals.

### SUBARTICLE 3 CURRENCY EXCHANGE LICENSES

13-2301. Application for Currency Exchange License.

A. All applications for new or renewal licenses must be made through the NMLS, unless otherwise expressly exempted from this requirement by the Commissioner in writing. Any person using the NMLS shall pay all associated costs.

B. In an application pursuant to Section 35-11-305, the applicant, and each Control Person and Executive Officer, shall furnish to the NMLS, together with the required fees:

(1) fingerprints for submission to the Federal Bureau of Investigation and to any other governmental agency or entity authorized to receive such information for a state, national, or international criminal history background check, and authorization for the Commissioner to obtain a criminal history background check; and

(2) authorization for the Commissioner to obtain an independent credit report and credit score from a consumer reporting agency.

C. Incomplete application files will be closed and deemed denied without prejudice, and all fees paid forfeited, when the applicant has not submitted information requested by the Commissioner within forty-five days. The applicant may reapply by submitting a new application package and new application fee.

### SUBARTICLE 4 AUTHORIZED DELEGATES (Reserved)

### SUBARTICLE 5 EXAMINATIONS, REPORTS, AND RECORDS

13-2501. Public Records.

A. Unless otherwise specified in Section 35-11-530, information subject to public inspection shall be made available in accordance with Section 30-4-10 et seq.

B. For the purposes of Section 35-11-530(B)(6)(b), the Commissioner considers information to be bound separately and marked as 'confidential' if:

(1) the information is filed through the NMLS and the applicant, licensee, or agent submits to the Commissioner a copy of the New Application Checklist with the requested information designated as confidential; or

(2) the information is filed and marked as 'confidential' by any other method that the Commissioner deems acceptable.

### SUBARTICLE 6 PERMISSIBLE INVESTMENTS (Reserved)

### SUBARTICLE 7 ENFORCEMENT

13-2701. Hearings on Orders of Suspension or Revocation of Authorized Delegates.

A. A person seeking to apply for relief from a suspension or revocation of designation as an authorized delegate pursuant to Section 35-11-705 may request a hearing on the suspension or revocation by filing a written request for a hearing with the Commissioner not later than the fifteenth day after the date the order of suspension or revocation is served on the person.

B. Unless the Commissioner receives a written request for a hearing not later than the fifteenth day after the order of suspension or revocation is served on the person subject to the order, the order of suspension or revocation of designation as an authorized delegate shall be final as to that person on the sixteenth day after the date the order is served on that person.

## SUBARTICLE 8 ADMINISTRATIVE PROCEDURES

### 13-2801. Interpretive Orders.

A. The Commissioner may issue interpretive orders regarding the Act, the regulations issued thereunder, or any other order issued thereunder. Requests for written interpretations shall be in writing. The request must state or contain:

(1) the specific section or subsection of the particular statute, regulation, or order to which the request pertains;

(2) the names of each person and entity involved in the underlying facts;

(3) a description of the particular situation at hand. Requests must not attempt to include every possible type of situation that may arise in the future. The facts and representations must be specific, not general, and contain all relevant facts;

(4) an indication as to why the requesting party thinks a problem exists, the requesting party's opinion on the matter, and the basis of the opinion, to include any relevant legal analysis; and

(5) if the requesting party seeks confidential treatment, a specific request for confidential treatment and the basis for confidential treatment must be submitted with the request.

B. The Commissioner, in his discretion, may decline to issue orders when the requests do not meet the requirements listed in Subsection A above, or when there is deemed to be sufficient guidance existing on the issue at hand.