

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 150

5 By: Senator J. Dismang
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE UNIFORM MONEY SERVICES ACT; AND
9 FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND THE UNIFORM MONEY SERVICES ACT.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code § 23-55-102(12), concerning the definition of
19 "money transmission" under the Uniform Money Services Act, is amended to read
20 as follows:

21 (12)(A) "Money transmission" means selling or issuing payment
22 instruments, stored value, or prepaid access, or receiving money, virtual
23 currency, or monetary value for transmission.

24 (B) "Money transmission" does not include providing
25 delivery services such as courier or package delivery services or acting as a
26 mere conduit for the transmission of data.
27

28 SECTION 2. Arkansas Code § 23-55-102(19), concerning the definition of
29 "stored value" under the Uniform Money Services Act, is amended to read as
30 follows:

31 (19)(A) "Stored value" means monetary value that is evidenced by
32 an electronic record representing a claim against the issuer stored on an
33 electronic or digital medium or device, including without limitation a card,
34 and evidenced by an electronic or digital record, intended and accepted for
35 use as a means of redemption for money or monetary value or payment for goods
36 or services.



1 card transactions, debit card transactions, stored-value transactions,
2 automated clearing house transfers, similar funds transfers, ~~or~~ prepaid
3 access, or virtual currency;
4

5 SECTION 6. Arkansas Code § 23-55-103, concerning exclusions of the
6 Uniform Money Services Act, is amended to add additional subdivisions to read
7 as follows:

8 (12) an agent appointed by a payee to collect and process
9 payment as the agent of the payee, if the agent can demonstrate that:

10 (A) there exists a written agreement between the payee and
11 the agent directing the agent to collect and process payments on behalf of
12 the payee;

13 (B) the payee holds the agent out to the public as
14 accepting payments on behalf of the payee; and

15 (C) payment is treated as received by the payee upon
16 receipt by the agent so that there is no risk of loss to the individual
17 initiating the transaction if the agent fails to remit the funds to the
18 payee;

19 (13) virtual currency or other digital representation of value
20 redeemable exclusively for goods or services and limited to transactions
21 involving a defined merchant, including without limitation a rewards program;

22 (14) a digital representation of value issued by or on behalf of
23 a publisher and used solely within an online game, game platform, or family
24 of games sold by the same publisher or offered on the same game platform; or

25 (15) uses of a virtual distributed ledger system to verify
26 ownership or authenticity in a digital capacity when the virtual currency is
27 not used as a medium of exchange.
28

29 SECTION 7. Arkansas Code § 23-55-202(b), concerning application for a
30 license under the Uniform Money Services Act, is amended to add additional
31 subdivisions to read as follows:

32 (11) the name of a person submitted by the applicant as the
33 responsible individual and information on that person to include:

34 (A) legal name;

35 (B) residential and business addresses;

36 (C) date of birth;

1 as defined in § 12-12-1001.

2 (B) The State Securities Department may only disseminate
3 nonconviction information obtained under this section to a criminal justice
4 agency.

5 (4) This subsection does not apply if an applicant or an
6 applicant’s corporate parent is a publicly traded entity.

7
8 SECTION 9. Arkansas Code § 23-55-205(a), concerning the issuance of
9 licenses under the Uniform Money Services Act, is amended to add an
10 additional subdivision to read as follows:

11 (3) an applicant, an officer, a person who exercises control
12 over the applicant, or a responsible individual shall not be listed on a
13 specially designated nationals and blocked persons list prepared by the
14 United States Department of the Treasury or as an individual or entity
15 designated by the United States Department of State under Exec. Order No.
16 13224, issued on September 23, 2001, 66 Fed. Reg. 49079.

17
18 SECTION 10. Arkansas Code § 23-55-205, concerning the issuance of
19 licenses under the Uniform Money Services Act, is amended to add an
20 additional subsection to read as follows:

21 (f)(1) A money transmitter licensee may surrender a license by
22 providing the commissioner with a written notice of surrender through the
23 automated licensing system approved by the commissioner.

24 (2) The written notice of surrender shall include notice of
25 where the records of the money transmitter licensee will be stored and the
26 name, address, telephone number, and other contact information of a
27 responsible party who is authorized to provide access to the records.

28 (3) The surrender of a license does not reduce or eliminate the
29 civil or criminal liability of a money transmitter licensee arising from acts
30 or omissions occurring before the surrender of the license, including any
31 administrative actions undertaken by the commissioner to revoke or suspend a
32 license, to assess fines, to order payment of restitution, or to exercise any
33 other authority authorized under this chapter.

34
35 SECTION 11. Arkansas Code § 23-55-206(b), concerning a renewal report
36 under the Uniform Money Services Act, is amended to read as follows:

1 (b) A licensee under this article shall submit a renewal report with
2 the renewal fee, in a form prescribed by the commissioner. The renewal report
3 must state or contain:

4 (1) ~~a description of each material change in information~~
5 ~~submitted by the licensee in its original license application which has not~~
6 ~~been reported to the commissioner on any required report;~~

7 ~~(2)~~ a list of the licensee’s permissible investments and a
8 certification that the licensee continues to maintain permissible investments
9 according to the requirements set forth in §§ 23-55-701 and 23-55-702; and

10 ~~(3)~~(2) proof that the licensee continues to maintain an adequate
11 surety bond as required by § 23-55-204.

12
13 SECTION 12. Arkansas Code § 23-55-206(c), concerning renewal of a
14 license under the Uniform Money Services Act, is amended to read as follows:

15 (c) A licensee ~~that does not~~ shall comply with subsections (a) and (b)
16 ~~by December 1 shall pay a late fee of \$250 if the complete renewal~~
17 ~~application is received before the expiration of the license~~ within thirty
18 (30) days of the renewal date.

19
20 SECTION 13. Arkansas Code § 23-55-402(a), concerning the application
21 for a currency exchange license under the Uniform Money Services Act, is
22 amended to add additional subdivisions to read as follows:

23 (6) the name of a person submitted by the applicant as the
24 responsible individual and information on that person to include:

25 (A) legal name;

26 (B) residential and business addresses;

27 (C) date of birth;

28 (D) Social Security number;

29 (E) employment history for the five-year period preceding
30 the submission of the application; and

31 (F) documentation that the proposed responsible individual
32 is a citizen of the United States or has obtained legal immigration status to
33 work in the United States;

34 (7) for the ten-year period preceding the submission of the
35 application, a list of any criminal convictions of the proposed responsible
36 individual of the applicant, any litigation involving the proposed

1 responsible individual relating to the provision of money services, and any
2 material litigation in which the applicant has been involved;

3 (8) a list of other states in which the applicant engages in
4 currency exchange or provides other money services and any license
5 revocations, suspensions, restrictions, or other disciplinary action taken
6 against the applicant in another state;

7 (9) a list of any license revocations, suspensions,
8 restrictions, or other disciplinary action taken against any money services
9 business involving the responsible individual of the applicant; and

10 (10) information concerning any bankruptcy or receivership
11 proceedings involving or affecting the applicant or the responsible
12 individual of the applicant.

13
14 SECTION 14. Arkansas Code § 23-55-404(b), concerning a renewal report
15 under the Uniform Money Services Act, is amended to read as follows:

16 (b) A licensee under this article shall submit a renewal report with
17 the renewal fee, in a form and in a medium prescribed by the commissioner.
18 The renewal report must contain+

19 ~~(1) a description of each material change in information~~
20 ~~submitted by the licensee in its original license application that has not~~
21 ~~been reported to the commissioner on any required report; and~~

22 ~~(2)~~ a list of the locations in this State where the licensee or
23 an authorized delegate of the licensee engages in currency exchange,
24 including limited stations and mobile locations.

25
26 SECTION 15. Arkansas Code § 23-55-501(d), concerning the notice
27 required to be given to authorized delegates if a licensee is suspended,
28 revoked, or fails to renew a license under the Uniform Money Services Act, is
29 amended to read as follows:

30 (d) If a license is suspended or revoked ~~or a licensee does not renew~~
31 ~~its license~~, the commissioner shall notify all authorized delegates of the
32 licensee whose names are in a record filed with the commissioner of the
33 suspension, revocation, or non-renewal. After notice is sent or publication
34 is made, an authorized delegate shall immediately cease to provide money
35 services as a delegate of the licensee.

1 SECTION 16. Arkansas Code § 23-55-601(c)(1), concerning the authority
 2 of the Securities Commissioner to conduct examinations and investigations
 3 under the Uniform Money Services Act, is amended to read as follows:

4 (c)(1) The licensee, applicant, or person subject to licensing under
 5 this chapter shall pay a fee for each examination, not to exceed one hundred
 6 fifty dollars (\$150) per examiner for each day or for part of a day during
 7 which the examiner is ~~absent from the office of the commissioner for the~~
 8 ~~purpose of~~ conducting the examination.

9
 10 SECTION 17. Arkansas Code § 23-55-603(e), concerning the reports
 11 required under the Uniform Money Services Act, is amended to read as follows:

12 (e) A licensee shall file with the commissioner within 45 days after
 13 the end of each calendar quarter, in a form acceptable to the commissioner, a
 14 report of the number and monetary amount of payment instruments, stored-
 15 value, ~~and~~ prepaid access, and virtual currency sold by the licensee in this
 16 State for that quarter, and the monetary amount of payment instruments,
 17 stored-value, ~~and~~ prepaid access, and virtual currency currently outstanding.

18
 19 SECTION 18. Arkansas Code § 23-55-604(g), concerning a change of
 20 control under the Uniform Money Services Act, is repealed.

21 ~~(g) Before filing a request for approval to acquire control of a~~
 22 ~~licensee or person in control of a licensee, a person may request in a record~~
 23 ~~a determination from the commissioner as to whether the person would be~~
 24 ~~considered a person in control of a licensee upon consummation of a proposed~~
 25 ~~transaction. If the commissioner determines that the person would not be a~~
 26 ~~person in control of a licensee, the commissioner shall enter an order to~~
 27 ~~that effect and the proposed person and transaction is not subject to the~~
 28 ~~requirements of subsections (a) through (c).~~

29
 30 SECTION 19. Arkansas Code § 23-55-605(a), concerning the records under
 31 the Uniform Money Services Act, is amended to read as follows:

32 (a) A licensee shall maintain the following records for determining
 33 its compliance with this chapter for at least ~~three~~ five years:

34 (1) a record of each payment instrument, ~~or~~ stored-value,
 35 virtual currency, or prepaid access obligation sold;

36 (2) a general ledger posted at least monthly containing all

- 1 asset, liability, capital, income, and expense accounts;
- 2 (3) bank statements and bank reconciliation records;
- 3 (4) records of outstanding payment instruments and stored-value
- 4 and prepaid access obligations;
- 5 (5) records of each payment instrument, ~~and~~ stored-value,
- 6 virtual currency, and prepaid access obligation paid within the ~~three-year~~
- 7 five-year period;
- 8 (6) a list of the last known names and addresses of all of the
- 9 licensee’s authorized delegates; and
- 10 (7) any other records the commissioner reasonably requires by
- 11 rule.

12

13 SECTION 20. Arkansas Code Title 23, Chapter 55, Subchapter 6, is

14 amended to add an additional section to read as follows:

15 23-55-609. Policy and procedure – Physical security and cybersecurity.

16 (a) A money transmitter or currency exchanger licensed or required to

17 be licensed under this chapter shall establish, implement, update, and

18 enforce written physical security and cybersecurity policies and procedures

19 reasonably designed to ensure the confidentiality, integrity, and

20 availability of physical and electronic records and information.

21 (b) A policy or procedure described in subsection (a) of this section

22 shall be tailored to the size and sophistication of the money transmitter or

23 currency exchanger.

24 (c) The Securities Commissioner may impose additional conditions by

25 rule or order to clarify the requirements of a policy or procedure described

26 in subsection (a) of this section.

27

28 SECTION 21. Arkansas Code § 23-55-701 is amended to read as follows:

29 23-55-701. Maintenance of permissible investments.

30 (a) A licensee shall maintain at all times permissible investments

31 that have a market value computed in accordance with generally accepted

32 accounting principles or international financial reporting standards of not

33 less than the aggregate amount of all of its outstanding payment instruments

34 and stored value and prepaid access obligations issued or sold in all states

35 and money transmitted from all states by the licensee.

36 (b) A licensee transmitting virtual currency shall hold like-kind

1 virtual currency of the same volume as that held by the licensee but which is
 2 obligated to consumers in lieu of the permissible investments required in
 3 subsection (a).

4 (c) A licensee conducting activities as described in subsections (a)
 5 and (b) shall maintain applicable levels and types of permissible investments
 6 as described in subsections (a) and (b).

7 (d) The commissioner, with respect to any licensees, may limit the
 8 extent to which a type of investment within a class of permissible
 9 investments may be considered a permissible investment, except for money and
 10 certificates of deposit issued by a bank. The commissioner by rule may
 11 prescribe or by order allow other types of investments that the commissioner
 12 determines to have a safety substantially equivalent to other permissible
 13 investments.

14 ~~(e)~~(e) Permissible investments, even if commingled with other assets
 15 of the licensee, are held in trust for the benefit of the purchasers and
 16 holders of the licensee’s outstanding payment instruments and stored value
 17 and prepaid access obligations in the event of bankruptcy or receivership of
 18 the licensee.

19

20 SECTION 22. Arkansas Code § 23-55-702 is amended to read as follows:

21 23-55-702. Types of permissible investments.

22 (a) Except to the extent otherwise limited by the commissioner
 23 pursuant to § 23-55-701, the following investments are permissible under §
 24 23-55-701:

25 (1) cash;

26 (2) a bank receivable or credit card receivable;

27 (3) a savings deposit, a demand deposit, a certificate of
 28 deposit, or senior debt obligation of an insured depository institution, as
 29 defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813
 30 (1994 & Supp. V 1999);

31 ~~(2) banker’s acceptance or bill of exchange that is eligible for~~
 32 ~~purchase upon endorsement by a member bank of the Federal Reserve System and~~
 33 ~~is eligible for purchase by a Federal Reserve Bank;~~

34 ~~(3) an investment bearing a rating of one of the three highest~~
 35 ~~grades as defined by a nationally recognized organization that rates~~
 36 ~~securities;~~

1 (4) an investment security that is an obligation of the United
 2 States or a department, agency, or instrumentality thereof; an investment in
 3 an obligation that is guaranteed fully as to principal and interest by the
 4 United States; or an investment in an obligation of a State or a governmental
 5 subdivision, agency, or instrumentality thereof; and

6 (5) receivables that are payable to a licensee from its
 7 authorized delegates, in the ordinary course of business, pursuant to
 8 ~~contracts which are not past due or doubtful of collection if the aggregate~~
 9 ~~amount of receivables under this paragraph does not exceed 20 percent of the~~
 10 ~~total permissible investments of a licensee and the licensee does not hold at~~
 11 ~~one time receivables under this paragraph in any one person aggregating more~~
 12 ~~than 10 percent of the licensee's total permissible investments that are less~~
 13 ~~than seven days old; and~~

14 ~~(6) a share or a certificate issued by an open-end management~~
 15 ~~investment company that is registered with the United States Securities and~~
 16 ~~Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. §~~
 17 ~~80a-1-64 (1994 & Supp. V 1999), and whose portfolio is restricted by the~~
 18 ~~management company's investment policy to investments specified in paragraphs~~
 19 ~~(1) through (4).~~

20 (b) The following investments are permissible under § 23-55-701, ~~but~~
 21 ~~only to the extent specified if an investment does not exceed 30 percent of:~~

22 (1) a short-term investment that is not longer than six months
 23 bearing a rating of one of the three highest grades as defined by a
 24 nationally recognized organization that rates securities;

25 (2) commercial paper; and

26 (3) an interest-bearing bill, note, bond, or debenture of a
 27 person whose equity shares are traded on a national securities exchange or on
 28 a national over-the-counter market, ~~if the aggregate of investments under~~
 29 ~~this paragraph does not exceed 20 percent of the total permissible~~
 30 ~~investments of a licensee and the licensee does not at one time hold~~
 31 ~~investments under this paragraph in any one person aggregating more than 10~~
 32 ~~percent of the licensee's total permissible investments;.~~

33 ~~(2) a share of a person traded on a national securities exchange~~
 34 ~~or a national over-the-counter market or a share or a certificate issued by~~
 35 ~~an open-end management investment company that is registered with the United~~
 36 ~~States Securities and Exchange Commission under the Investment Company Act of~~

1 1940, 15 U.S.C. § 80a-1-64 (1994 & Supp. V 1999), and whose portfolio is
2 restricted by the management company's investment policy to shares of a
3 person traded on a national securities exchange or a national over the
4 counter market, if the aggregate of investments under this paragraph does not
5 exceed 20 percent of the total permissible investments of a licensee and the
6 licensee does not at one time hold investments in any one person aggregating
7 more than 10 percent of the licensee's total permissible investments;

8 (3) a demand borrowing agreement made to a corporation or a
9 subsidiary of a corporation whose securities are traded on a national
10 securities exchange if the aggregate of the amount of principal and interest
11 outstanding under demand borrowing agreements under this paragraph does not
12 exceed 20 percent of the total permissible investments of a licensee and the
13 licensee does not at one time hold principal and interest outstanding under
14 demand borrowing agreements under this paragraph with any one person
15 aggregating more than 10 percent of the licensee's total permissible
16 investments; and

17 (c) A savings deposit, a demand deposit, or a certificate of deposit
18 at a foreign depository is permissible under § 23-55-701 if the investment
19 does not exceed 10 percent.

20 (4)(d) any Any other investment is permissible under § 23-55-701 if
21 the commissioner designates, to the extent specified by the commissioner.

22 (e)(e) The aggregate of investments under subsection (b) subsections
23 (b)-(d) may not exceed 50 percent of the total permissible investments of a
24 licensee calculated in accordance with § 23-55-701.

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