

Modernization of Money Transmission Laws

Alert

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While all states except Montana currently require licensure at the state level for entities seeking to act as a money transmitter, generally defined as an intermediary receiving money or monetary value for transmission to third parties or selling or issuing payment instruments or stored value, the licensing framework across states has historically varied widely.

The Conference of State Bank Supervisors (CSBS) has sought to change that pattern in recent years by encouraging state legislatures and banking departments to modernize and unify the state licensing framework nationwide.

At the mid-year point in 2023, we are now seeing the fruit of CSBS' efforts when it first put forth the Model Money Transmission Modernization Act ([MMTMA](#)) for consideration by state legislatures in 2021. To date, seven states (Arizona, Indiana, Iowa, Minnesota, Texas, Tennessee and North Dakota), have enacted legislation repealing and replacing their existing money transmission acts with the MMTMA. In addition, at least 10 states, including most recently Georgia and Nevada have enacted legislation revising provisions of their existing money transmission acts in accordance with the MMTMA.

As states' legislative sessions continue in 2023, numerous states have legislation pending that would incorporate at least some provisions of the MMTMA into their existing money transmission acts.

The MMTMA follows other strides state banking departments have made in recent years to increase efficiency for money transmitter licensees operating in multiple jurisdictions or nationwide with both the licensing and ongoing supervision process, via implementation of the common Nationwide Multistate Licensing System (NMLS) as well as joint state examinations of licensees.

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Highlights of the MMTMA

The MMTMA seeks to bring consistency to several aspects of states' money transmission laws, including the definition of what constitutes money transmission requiring licensure.

Under the MMTMA, a person is prohibited from engaging in money transmission or advertising, soliciting, or holding themselves out as providing money transmission services unless the person is licensed or qualifies for an exemption. "Money transmission" is defined as:

- Selling or issuing payment instruments or stored value to a person located in the state; or
- Receiving money for transmission from a person located in the state.

Exemptions under the MMTMA include certain exemptions which exist today under some, but not all, states' money transmission laws, notably:

- A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, under certain conditions set forth in the MMTMA.
- A person expressly appointed as a third party service provider to or agent of an entity that is exempt (such as a bank) also under certain conditions set forth in the MMTMA.

Other provisions of the MMTMA that we have seen multiple states adopt include:

- Changes in calculation of tangible net worth requirements and calculation of surety bond amounts.
- Standardization of permissible investments deemed to be of sufficient liquidity and quality.
- Licensing requirements, including new definitions of what constitutes "control" of the entity, such that a person or entity must provide specified information to the regulatory authority.
- Provisions relating to timely transmission of funds.
- Requirements regarding provision of transaction receipts to senders.
- Customer refund requirements.
- Adoption of requirements for entities engaged in virtual currency business activities, including exchanging, transferring, storing or administering virtual currency.

Access a copy of the [MMTMA](#).

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