BANKS AND TRUST COMPANIES (MONEY TRANSMISSION BUSINESS) REGULATIONS

S.I. 30/2008
23 of 2010
S.I. 29/2011
S.I. 55/2016

(SECTION 24)

[Commencement 6th May, 2008]

The Governor of the Central Bank of The Bahamas in exercise of the powers conferred by section 24 of the Banks and Trust Companies Regulation Act makes the following regulations —

Citation.

1. These regulations may be cited as the Banks and Trust Companies (Money Transmission Business) Regulations.

Interpretation.

2. In these Regulations —

"the Act" means the Banks and Trust Companies Regulation Act. Ch. 316.

Application for licence.
23 of 2010, s. 16.

3. (1) Any person making application to the Central Bank for a licence to carry on the business of providing money transmission services as a Money Transmission Service Provider shall supply to the Central Bank the following —

(a) where the applicant is a company, the information, documents and particulars relating to the applicant set out in paragraphs 1(1), 2(1) and 3 through 7 of the Schedule to the Banks and Trust Companies (Licence Application) Regulations, 2002; and

(b) in the case of individuals applying as a group for approval to carryon the business of providing money transmission services, the information, documents and particulars relating to group applicants set out in paragraphs 1(2), 2(2), 3-7 of the Schedule to the Banks and Trust Companies (Licence Application) Regulations, 2002:

Provided that where application for a licence to carry-on the business of providing money transmission services is made by a group of individuals pursuant to subregulation (1)(b), the group shall be comprised of not less than five individuals.

(2) In the case of a person engaged in the business of providing money transmission services prior to the commencement of these Regulations, such person shall within three months from the date of the coming into force of these regulations make application to the Central Bank pursuant to regulation 3 for a Money Transmission Service Provider's licence. *23 of 2010, s. 16.*

Approval and conditions for grant of licence.

4. (1) The Central Bank may grant a licence to any person to carry on the business of providing money transmission services subject to such terms and conditions, if any, as the Central Bank considers necessary.

23 of 2010, s. 16.

23 of 2010, s. 16.

(2) The Central Bank shall in determining whether or not to grant a licence, take into account the following —

(a) whether the applicant is a fit and proper person to carry on the business of providing money transmission services;

(b) the business record and experience of the applicant;

(c) the nature and sufficiency of the financial resources of the applicant to provide continuing financial support for the money transmission business;

(d) the soundness and feasibility of the business plan;

(e) whether the applicant. if an individual is resident in The Bahamas or, if a company, is incorporated under the Companies Act;

Ch. 308.

(f) whether those who will operate the money transmission business will do so responsibly and whether such persons have the character, competence and experience for operating a money transmission business;

(g) whether the applicant will have adequate insurance coverage for the proposed money transmission business;

(h) the best interests of the financial system in The Bahamas.

23 of 2010, s. 16.

(3) Whenever the Central Bank considers it to be in the public interest, he may refuse to grant a licence.

Minimum capital requirement.

5. (1) A licensed Money Transmission Service Provider shall have and maintain throughout the duration of its operations a minimum capital of $50,000.00 or such other sum as the Central Bank may require.

23 of 2010, s. 16.

23 of 2010, s. 16.

(2) Every licensed Money Transmission Service Provider shall maintain insurance coverage of such amount with respect to its money transmission business as the Central Bank may require, having regard to the volume of the business.

23 of 2010, s. 16.

(3) Every Money Transmission Service Provider shall have the accounts of its money transmission business audited annually or at such other times as the Central Bank may require,

by an auditor, who shall be a chartered accountant, or a certified public accountant, approved by the Central Bank.

(4) The audited accounts shall be forwarded to the Inspector within three months of the end of the financial year of the Money Transmission Service Provider's business, unless prior written approval for an extension has been granted by the Central Bank. *23 of 2010, s. 16.*

(5) A Money Transmission Service Provider may, appoint a person by agreement in writing as its Money Transmission Agent with the authority to provide money transmission services on behalf of the Money Transmission Service Provider.

6. (1) No person shall act as a Money Transmission Agent unless that person has first registered with the Central Bank. Requirements for money transmission agents.

(2) Every Money Transmission Agent shall upon registration with the Central Bank, supply the Governor with the following —

(a) their name and address;

(b) a copy of the written agreement between the Money Transmission Service Provider and the proposed Money Transmission Agent; and

(c) such other information and documents as the Central Bank may require. *23 of 2010, s. 16.*

(3) The Central Bank may register a Money Transmission Agent subject to such terms and conditions, if any, as the Governor considers necessary. *23 of 2010, s. 16.*

(4) The Central Bank shall, in determining whether to register any Money Transmission Agent, take into account — *23 of 2010, s. 16.*

(a) whether the proposed Money Transmission Agent is a fit and proper person to provide money transmission services;

(b) whether the proposed Money Transmission Agent has entered into a suitable written agreement to provide money transmission services on behalf of the Money Transmission Service Provider;

(c) the professional reputation and experience of the proposed Money Transmission Agent;

(d) whether the proposed Money Transmission Agent, if an individual is resident in The Bahamas or, if a company, is incorporated under the Companies Act; and Ch. 308.

(e) the best interests of the financial system in The Bahamas.

23 of 2010, s. 16.

(5) Whenever the Central Bank considers it to be in the public interest, he may refuse to register a Money Transmission Agent.

Schedule.

7. The provisions of the Schedule shall have effect for the payment of the fees in respect of the matters mentioned in that Schedule and all such fees shall be payable to the Treasurer and placed in the Consolidated Fund, provided that all such fees shall be collected and paid by the Money Transmission Service Providers on behalf of their Money Transmission Agents.

Compliance measures.

8. Every Money Transmission Service Provider and Money Transmission Agent shall —

Ch. 368.

(a) comply with the provisions of the Financial Transactions Reporting Act;

Ch. 368.

(b) verify the identity of each and every client in accordance with the provisions of the Financial Transactions Reporting Regulations;

Ch. 360.

(c) comply with the provisions of the Exchange Control Regulations Act and the Exchange Control Regulations; and

23 of 2010, s. 16.

(d) maintain its head office or its registered office in The Bahamas and shall not without the prior written approval of the Central Bank establish outside of The Bahamas such head office or registered office.

9. (1) Every Money Transmission Service Provider shall make, keep and preserve the following books, accounts and other records for a period of five years —

(a) a record of each payment instrument sold;

(b) a general ledger, posted at least once per month. containing all assets. liabilities, capital, income and expense accounts;

(c) settlement sheets received from its money transmission agents;

(d) bank statements and bank reconciliation records:

(e) records of outstanding payment instruments:

(f) records of each payment instrument paid within the five year period; and

(g) a list of the names and addresses of all of its money transmission agents.

(2) Books, accounts and other records required to be maintained under sub-regulation (1) of this regulation shall be maintained in the English language in written form or so as to enable the records to be readily accessible and readily convertible into written form in the English language.

Non-application.

10. (1) These Regulations do not apply to a bank or trust company licensed under the Act.

(2) For the avoidance of doubt, where a bank or trust company licensed under the Act appoints a Money Transmission Agent pursuant to sub-regulation 5(5), and the Agent is not itself a bank or trust company licensed under the Act, that Agent shall be subject to the provisions of these Regulations.

Offence.

11. Any person who contravenes regulation 6(1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

S.I. 55/2016.

12. *Repealed*.

23 of 2010, s. 16.

13. The Central Bank may, if he thinks fit, exempt a Money Transmission Service Provider or a Money Transmission Agent from any of the provisions of these Regulations.

S.I. 29/2011.

SCHEDULE (Regulation 7)

The following shall be fees under these Regulations, that is to say —

	Matters in respect of which fee is payable	**Amount of fee $**
(a)	Registration as Money Transmission Agent	300
(b)	Continuance in being on the first day of January in any year as a Money Transmission Agent as mentioned in sub-paragraph (a) of this paragraph.	300
S.I. 29/2011. (c)	Location Fee (applicable to each location of Money Transmission Agent)	250.