

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 26.
BANKS AND OTHER FINANCIAL
INSTITUTIONS.

CHAPTER 10.
MONEY TRANSMISSIONS.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 10. MONEY TRANSMISSIONS.

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CHAPTER 10. MONEY TRANSMISSIONS.

§ 26-1001. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Applicant" means a person filing an application for a license under this chapter.
- (2) "Authorized delegate" means an entity designated by the licensee under the provisions of this chapter to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.
- (3) "Control" means ownership of, or the power to vote, 25% or more of the outstanding voting securities of a licensee or controlling person. For purposes of determining the percentage of a licensee controlled by any person, there shall be aggregated with the person's interest the interest of any other person controlled by such person or by any spouse, parent, or child of such person.
- (4) "Controlling person" means any person in control of a licensee.
- (5) "Electronic Instrument" means a card or other tangible object for the transmission or payment of money (A) which contains a microprocessor chip, magnetic stripe, or other means for the storage of information; (B) that is prefunded; and (C) for which the value is decremented upon each use. It does not include a card or other tangible object that is redeemable by the issuer in the issuer's goods or services.
- (6) "Executive Officer" means the licensee's president, chairman of the executive committee, senior officer responsible for the licensee's business, chief financial officer, or any other persons who perform similar functions.
- (7) "Key shareholder" means any person, or group of persons acting in concert, who owns 25% or more of any voting class of an applicant's stock.
- (8) "Licensee" means a person licensed under this chapter.
- (9) "Material litigation" means any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in that entity's annual audited financial statements, report to shareholders, or similar document.
- (10) "Money transmission" means the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or transmitting money within the United States, or to locations abroad, by any and all means, including but not limited to payment instrument, wire, facsimile, or electronic transfer.
- (11) "Outstanding payment instrument" means any payment instrument issued by the licensee which:
 - (A) Has been sold in the United States directly by the licensee, sold by an authorized delegate of the licensee in the United States, or which has been reported to the licensee as having been sold; and
 - (B) Has not yet been paid for by the licensee.
- (12) "Payment instrument" means any written or electronic check, draft, money order, travelers check, or other electronic or written instrument or order for the transmission or payment of money which is sold or issued to one or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit, or any instrument which is redeemable by the issuer in goods or services.
- (13) "Permissible investments" means:
 - (A) Cash;
 - (B) Certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;
 - (C) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the Federal

Reserve system;

(D) Any investment bearing a rating of one of the 3 highest grades, as defined by a nationally recognized organization that rates such securities;

(E) Investment securities that are obligations of the United States, its agencies, or instrumentalities; or obligations that are guaranteed fully as to principal and interest of the United States; or any obligations of any state, municipality, or any political subdivision thereof;

(F) Shares in a money market mutual fund; interest-bearing bills, notes or bonds; debentures or stock traded on any national securities exchange or on a national over-the-counter market; mutual funds primarily composed of such securities; a mutual fund composed of one or more permissible investments as set forth herein;

(G) Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;

(H) Receivables which are due to a licensee from its authorized delegates pursuant to a contract described in § 26-1016 which are not past due or doubtful of collection; or

(I) any other investments or security device approved by the Superintendent.

(14) "Remit" means either to:

(A) Make direct payment of the funds to the licensee or its representatives authorized to receive these funds; or

(B) Deposit the funds in a bank, credit union, savings and loan association, or other similar financial institution in an account specified by the licensee.

(15) "Superintendent" means the Superintendent of the Office of Banking and Financial Institutions.

(July 18, 2000, D.C. Law 13-140, § 2, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 13-140, the "Money Transmitters Act of 2000," was introduced in Council and assigned Bill No. 13-367, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on March 7, 2000, and April 4, 2000, respectively. Signed by the Mayor on April 20, 2000, it was assigned Act No. 13-322 and transmitted to both Houses of Congress for its review. D.C. Law 13-140 became effective on July 18, 2000.

§ 26-1002. LICENSE REQUIRED.

(a) After the effective date of this chapter, no person shall engage in the business of money transmission without obtaining a license issued by the Superintendent under § 26-1009, except as provided in subsection (d) of this section and in § 26-1003.

(b) A licensee may conduct its business in the District of Columbia at one or more locations, directly or indirectly owned by the licensee, or through one or more authorized delegates, or both, pursuant to the single license granted to the licensee.

(c) Except as provided in § 26-1012, a license issued pursuant to this chapter shall not be transferable or assignable.

(d) Any person engaged in selling payment instruments pursuant to a license issued under Chapter 31 of Title 47 of the District of Columbia Official Code on the effective date of this chapter may continue to engage in selling payment instruments without a license issued under this chapter until the Superintendent has acted upon such person's application for a license; provided, that the application is filed within 90 day of the effective date of this chapter.

(July 18, 2000, D.C. Law 13-140, § 3, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1003. EXEMPTIONS.

(a) This chapter shall not apply to:

(1) The United States or any department, agency, or instrumentality thereof;

(2) The United States Post Office;

(3) The District of Columbia government;

(4) Banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks, or mutual banks organized under the laws of any state, the District of Columbia or the United States; provided, that they do not issue or sell payment instruments through authorized delegates who are not banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks, or mutual banks; or

(5) The provision of electronic transfer of government benefits for any federal or District of Columbia governmental agency as defined in Federal Reserve Board Regulation E or by a contractor for and on behalf of the United States, or any department, agency or instrumentality thereof, or the District of Columbia government.

(b) Authorized delegates of a licensee, acting within the scope of authority conferred by a written contract as described in § 26-1016 shall not be required to obtain a license pursuant to this chapter.

(July 18, 2000, D.C. Law 13-140, § 4, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1004. LICENSE QUALIFICATIONS.

(a) Each licensee under this chapter shall at all times have a net worth of not less than \$100,000, calculated in accordance with generally accepted accounting principles. Licensees engaging in money transmission at more than one location or through authorized delegates shall have an additional net worth of \$50,000 per location or authorized delegate located in the District of Columbia, as applicable. The maximum net worth required for all locations shall not exceed \$500,000.

(b) Every corporate applicant, at the time of filing of an application for a license under this chapter and at all times after a license is issued, shall be in good standing in the state of its incorporation. All non-corporate applicants shall, at the time of the filing of an application for a license under this chapter and at all times after a license is issued, be registered or qualified to do business in the District of Columbia.

(July 18, 2000, D.C. Law 13-140, § 5, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1005. PERMISSIBLE INVESTMENTS AND STATUTORY TRUST.

(a) Each licensee under this chapter shall at all times possess permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee in the United States. This requirement may be waived by the Superintendent if the dollar volume of a licensee's outstanding payment instruments does not exceed the bond or other security devices posted by the licensee pursuant to § 26- 1007.

(b) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments in the event of the bankruptcy of the licensee.

(July 18, 2000, D.C. Law 13-140, § 6, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1006. LICENSE APPLICATION.

(a) Each application for a license shall be made in writing, under oath, and in a form prescribed by the Superintendent.

(b) For all applicants, each application shall contain:

- (1) The exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business, and the location of the applicant's business records;
 - (2) The history of the applicant's material litigation and criminal convictions for the 5 year period prior to the date of the application;
 - (3) A description of the activities conducted by the applicant and a history of operations;
 - (4) A description of the business activities in which the applicant seeks to be engaged in the District of Columbia;
 - (5) A list identifying the applicant's proposed authorized delegates in the District of Columbia, if any, at the time of the filing of the license application;
 - (6) A sample authorized delegate contract, if applicable;
 - (7) A sample form of payment instrument, if applicable;
 - (8) The location or locations at which the applicant and its authorized delegates, if any, propose to conduct the licensed activities in the District of Columbia; and
 - (9) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which such payment instruments will be payable.
- (c) If the applicant is a corporation, the applicant shall also provide:
- (1) The date of the applicant's incorporation and state of incorporation;
 - (2) A certificate of good standing from the state in which the applicant was incorporated;
 - (3) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange;
 - (4) The name, business and residence address, and employment history for the 5 years prior to the date of the application of the applicant's executive officers and the officer or managers who will be in charge of the applicant's activities to be licensed hereunder;
 - (5) The name, business and residence address, and employment history for the 5 years prior to the date of the application of any key shareholder of the applicant;
 - (6) The history of material litigation and criminal convictions for the 5 years prior to the date of the application of every executive officer or key shareholder of the applicant;
 - (7) A copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position, and, if available, the applicant's audited financial statements for the immediately preceding 2 year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding 2 year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior 3 years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision; and
 - (8) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.
- (d) If the applicant is not a corporation, the applicant shall also provide:
- (1) The name, business and residence address, personal financial statement, and employment history for the 5 years prior to the date of the application of:
 - (A) Each principal of the applicant; and
 - (B) Any other person or persons who will be in charge of the applicant's activities to be licensed under this chapter;
 - (2) The date of the applicant's registration or qualification to do business in the District of Columbia;
 - (3) The history of material litigation and criminal convictions for the 5 years prior to the date of the application for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities; and
 - (4) Copies of the applicant's audited financial statements, including balance sheet, statement of income or loss, and statement of changes in financial position, for the current year and, if available, for the immediately preceding 2 years.
- (e) The Superintendent is authorized, for good cause shown, to waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its

license application in lieu of the information required by this section.

(July 18, 2000, D.C. Law 13-140, § 7, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1007. BOND OR OTHER SECURITY DEVICE.

(a) Each application must be accompanied by a surety bond, irrevocable letter of credit, or such other similar security device acceptable to the Superintendent in the amount of \$50,000. If the applicant proposes to engage in business at more than one location, through authorized delegates or otherwise, then the amount of the security device will be increased by \$10,000 per location. The maximum amount of the security device required for all locations shall not exceed \$250,000. The security device shall be in a form satisfactory to the Superintendent and shall run to the District of Columbia for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee in respect to the receipt, handling, transmission, or payment of money in connection with the sale and issuance of payment instruments or transmission of money. In the case of a bond, the aggregate liability of the surety shall not exceed the principal sum of the bond. Claimants against the licensee may themselves bring suit directly on the security device or the Superintendent may, through the Office of the Corporation Counsel, bring suit on behalf of such claimants, either in one action or in successive actions.

(b)(1) In lieu of the security device, or of any portion of the principal thereof required by subsection (a) of this section, the licensee may deposit with the Superintendent, or with such banks in the District of Columbia as the licensee may designate and the Superintendent may approve cash, interest-bearing stocks and bonds, notes, debentures or other obligations:

(A) Of the United States;

(B) Of any agency or instrumentality of the United States;

(C) Guaranteed by the United States;

(D) Of the District of Columbia; or

(E) Guaranteed by the District of Columbia, in an aggregate amount, based upon the lower of principal amount or market value of not less than the amount of the security device or portion thereof.

(2) The securities or cash referenced in paragraph (1) of this subsection shall be held and shall secure the obligations in the same manner as the security device, but the depositor shall be entitled to receive all interest and dividends thereon.

(3) The licensee may, on the written order of the Superintendent, for good cause shown, substitute other securities for those deposited.

(c) The security device shall be held for 5 years after the licensee ceases money transmission operations in the District of Columbia. Notwithstanding this provision, the Superintendent may permit the security device to be reduced or eliminated prior to that time to the extent that the amount of the licensee's payment instruments outstanding in the District of Columbia are reduced. The Superintendent may also permit a licensee to substitute a letter of credit or such other form of security device acceptable to the Superintendent for the security device in place at the time the licensee ceases money transmission operations in the District of Columbia.

(July 18, 2000, D.C. Law 13-140, § 8, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1008. APPLICATION FEE.

Each application must be accompanied by a non-refundable application fee in the amount of \$500, plus \$25 for each location in the District of Columbia. The maximum amount of application fees required for all locations shall not exceed \$2,500. The application fee shall also constitute the license fee for the applicant's first year of activities if the license is granted.

(July 18, 2000, D.C. Law 13-140, § 9, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

For Law 13-140, see notes following § 26-1001.

§ 26-1009. ISSUANCE OF LICENSE.

(a) Upon the filing of a complete application, the Superintendent shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant. The Superintendent may conduct an on-site investigation of the applicant, the reasonable cost of which shall be borne by the applicant. If the Superintendent finds that:

- (1) The applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community;
- (2) The applicant has fulfilled the requirements imposed by this chapter; and
- (3) The applicant has paid the required license fee, the Superintendent shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in the District of Columbia for a term of one year. If these requirements have not been met, the Superintendent shall deny the application in writing and set forth the reasons for the denial.

(b) The Superintendent shall approve or deny every application for an original license within 120 days from the date a complete application is submitted, which period may be extended by the written consent of the applicant. The Superintendent shall notify the applicant of the date when the application is deemed complete. In the absence of approval or denial of the application, or consent to the extension of the 120 day period, the application is deemed approved and the Superintendent shall issue the license effective as of the first day after the 120 day or extended period has elapsed.

(c) Any applicant aggrieved by a denial issued by the Superintendent under this section may at any time within 30 days after the date of receipt of written notice of the denial contest the denial by serving a response on the Superintendent. The Superintendent shall set a date for a hearing not later than 60 days after service of the response, unless a later date is set with the consent of the denied applicant.

(July 18, 2000, D.C. Law 13-140, § 10, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1010. RENEWAL OF LICENSE AND ANNUAL REPORT.

(a) The annual fee for renewal of a license shall be \$500, plus \$25 for each location in the District of Columbia, but not to exceed a maximum aggregate amount of \$2,500. The renewal term of a license shall be one calendar year.

(b) The renewal fee shall be accompanied by a report, in a form prescribed by rule by the Superintendent, which form shall be sent by the Superintendent to each licensee no later than 3 months immediately preceding December 31 of each year. The licensee must include in its annual renewal report:

- (1) A copy of its most recent audited consolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity and statement of changes in financial position, or, in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;
- (2) The number of payment instruments sold by the licensee in the District of Columbia, the dollar amount of those instruments, and the dollar amount of those instruments currently outstanding for the most recent quarter for which data is available prior to the date of the filing of the renewal application, but in no event more than 120 days prior to the renewal date;
- (3) Any material changes to any of the information submitted by the licensee on its original application which have not previously been reported to the Superintendent on any other report required to be filed under this chapter;
- (4) A list of the licensee's permissible investments; and
- (5) A list of the locations within the District of Columbia at which business regulated by this chapter is being conducted by either the licensee or its authorized delegate.

(July 18, 2000, D.C. Law 13-140, § 11, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

For Law 13-140, see notes following § 26-1001.

§ 26-1011. SPECIAL REPORTING REQUIREMENTS.

Within 15 days of the occurrence of any of the events listed below, a licensee shall file a written report with the Superintendent describing the event and its expected impact on the licensee's activities in the District:

- (1) The filing for bankruptcy or reorganization by the licensee;
- (2) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensees' money transmission activities;
- (3) Any felony indictment of the licensee or any of its key officers or directors related to money transmission activities; or
- (4) Any felony conviction of the licensee or any of its key officers or directors related to money transmission activities.

(July 18, 2000, D.C. Law 13-140, § 12, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1012. CHANGES IN CONTROL OF A LICENSEE.

(a) Except as provided in this section, no person shall directly or indirectly acquire control of a licensee without the prior written approval of the Superintendent. In order to obtain approval, a person shall:

- (1) Notify the Superintendent 30 days in advance of the proposed change in control of a licensee;
- (2) File an application with the Superintendent in such form as the Superintendent may prescribe;
- (3) Deliver such other information to the Superintendent as the Superintendent may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, officers, principals, and members, and of any proposed new directors, officers, principals, or members of the licensee; and
- (4) Pay an application fee in the amount that the Superintendent shall prescribe.

(b) The Superintendent shall deny the application to acquire control of a licensee if the Superintendent finds that the acquisition of control is contrary to law or that disapproval is reasonably necessary to protect the interest of the public. In making that determination, the Superintendent shall consider the following:

- (1) Whether the financial condition of the person who seeks to acquire control might jeopardize the financial condition of the business or the interests of the public in the conduct of the business regulated under this chapter; and
- (2) Whether the financial responsibility, character, competence, experience, integrity, and general fitness of the applicant, and if applicable, its directors, officers, principals, and members and any proposed new directors, officers, principals, and members warrant the belief that the business will not be operated efficiently and fairly and in accordance with the law and that it would not be in the interests of the public to permit that person to control the licensee.

(c) The Superintendent shall grant or deny the application within 60 days after the date when a completed application, accompanied by the required filing fee, is filed, unless the period is extended by order of the Superintendent reciting the reasons for the extension. If the application is denied, the Superintendent shall notify the applicant of the denial and the reasons for the denial.

(d) The provisions of this section shall not apply to a person who purchases a controlling amount of shares on a national stock exchange of a publicly held licensee until the licensee has actual notice of the purchase. Within 5 days of actual notice, the licensee shall notify the Superintendent in writing of the purchase. The person who acquires control shall comply with subsections (a)(2) through (4) of this section.

(e) Whenever control of a licensee is acquired or exercised in violation of this section, the license of the licensee shall be deemed revoked as of the date of the unlawful acquisition of control. Such licensee, or its controlling person, shall surrender the license to the Superintendent on demand.

(f) Nothing in this section shall prohibit a person from negotiating or entering into agreements subject to the condition that the acquisition of control will not be effective until approved by the Superintendent.

(July 18, 2000, D.C. Law 13-140, § 13, 47 DCR 3431.)

For Law 13-140, see notes following § 26-1001.

§ 26-1013. EXAMINATIONS.

(a) The Superintendent may in his discretion conduct an on-site examination of a licensee upon 45 days written notice to the licensee. The licensee shall pay all reasonably incurred costs of the examination. The on-site examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state. The Superintendent, in lieu of an on-site examination, may accept the examination report of an agency of another state; or a report prepared by an independent accounting firm; and reports so accepted shall be considered for all purposes as an official report of the Superintendent.

(b) The Superintendent may (1) request financial data from a licensee in addition to that required under § 26-1010 or (2) conduct an on-site examination of a licensee, authorized delegate or location of a licensee within the District of Columbia without prior notice to the authorized delegate or licensee if the Superintendent has a reasonable basis to believe that the licensee or authorized delegate is not in compliance with this chapter. When the Superintendent examines an authorized delegate's operations, the authorized delegate shall pay all reasonably incurred costs of the examination. When the Superintendent examines a licensee's location within the District of Columbia, the licensee shall pay all reasonably incurred costs of the examination.

(July 18, 2000, D.C. Law 13-140, § 14, 47 DCR 3431.)

For Law 13-140, see notes following § 26-1001.

§ 26-1014. MAINTENANCE OF RECORDS.

(a) Each licensee, shall make, keep and preserve the following books, accounts and other records for a period of 3 years:

- (1) A record of each payment instrument sold;
- (2) A general ledger containing all assets, liability, capital, income and expense accounts, which general ledger shall be posted at least monthly;
- (3) Settlement sheets received from authorized delegates;
- (4) Bank statements and bank reconciliation records;
- (5) Records of outstanding payment instruments;
- (6) Records of each payment instrument paid within the 3 year period;
- (7) A list of the names and addresses of all of the licensee's authorized delegates; and
- (8) Records it is required to maintain pursuant to 31 C.F.R. Part 103.

(b) Maintenance of such documents as are required by this section in a photographic, electronic, or other similar form shall constitute compliance with this section.

(c) Records may be maintained at a location other than within the District of Columbia so long as they are made accessible to the Superintendent within 7 days of written notice by the Superintendent.

(July 18, 2000, D.C. Law 13-140, § 15, 47 DCR 3431.)

For Law 13-140, see notes following § 26-1001.

§ 26-1015. SUSPENSION OR REVOCATION OF LICENSES.

After notice and hearing, the Superintendent may suspend or revoke a licensee's license if the Superintendent finds that:

- (1) Any fact or condition exists that, if it had existed at the time when the licensee applied for its license, would have been grounds for denying the application;

- (2) The licensee's net worth becomes inadequate and the licensee, after 10 days written notice from the Superintendent, fails to take such steps as the Superintendent deems necessary to remedy such deficiency;
- (3) The licensee knowingly violates any material provision of this chapter or any rule or order validly promulgated by the Superintendent under authority of this chapter;
- (4) The licensee is conducting its business in an unsafe or unsound manner;
- (5) The licensee is insolvent;
- (6) The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;
- (7) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy;
- (8) The licensee refuses to permit the Superintendent to make any examination authorized by this chapter;
- (9) The licensee willfully fails to make any report required by this chapter; or
- (10) The licensee has willfully violated any provision of the regulations set forth at 31 C.F.R. Part 103.

(July 18, 2000, D.C. Law 13-140, § 16, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1016. AUTHORIZED DELEGATE CONTRACTS.

A Licensee which purposes to conduct licensed activities through an authorized delegate shall authorize each delegate to operate pursuant to an express written contract appointing the person as its delegate with authority to engage in money transmission on behalf of the licensee.

(July 18, 2000, D.C. Law 13-140, § 17, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1017. AUTHORIZED DELEGATE CONDUCT.

(a) An authorizing delegate shall not make any fraudulent or false statement or misrepresentation to a licensee or to the Superintendent.

(b) All money transmission or sale or issuance of payment instrument activities conducted by authorized delegates shall be strictly in accordance with the licensee's written procedures provided to the authorized delegate.

(c) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate. An authorized delegate who fails to remit all money owing to a licensee within the time required shall be liable to the licensee for treble damages. The Superintendent shall have the discretion to set, by regulation, the maximum remittance time.

(d) An authorized delegate is deemed to consent to inspection by the Superintendent, with or without prior notice to the licensee or authorized delegate, of the books and records of the authorized delegate when the Superintendent has a reasonable basis to believe that the licensee or authorized delegate is not in compliance with this chapter.

(e) An authorized delegate is under a duty to act only as authorized under the contract with the licensee. An authorized delegate who exceeds its authority is subject to cancellation of its contract and further disciplinary action by the Superintendent.

(f) All funds, less fees, received by an authorized delegate of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized delegate for transmission shall, from the time such funds are received by such authorized delegate until such time when the funds or an equivalent amount are remitted by the authorized delegate to the licensee, constitute trust funds owned by and belonging to the licensee. If an authorized delegate commingles any such funds with any other funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the

licensee.

(g) An authorized delegate shall report to the licensee the theft or loss of payment instruments within 24 hours from the time it knew or should have known of the theft or loss.

(July 18, 2000, D.C. Law 13-140, § 18, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1018. REVOCATION OR SUSPENSION OF AUTHORIZED DELEGATES.

(a) If, after notice and a hearing, the Superintendent finds that an authorized delegate of a licensee or any director, officer, employee, or controlling person of the authorized delegate (1) has violated any provision of this chapter or of any rule or regulation or order issued under this chapter, (2) has engaged or participated in any unsafe or unsound act with respect to the business of selling or issuing payment instruments of the licensee or the business of money transmission, (3) has willfully violated any provision of the regulations set forth in 31 C.F.R. Part 103, or (4) has made, or caused to be made in any application or report filed with the Superintendent or in any proceeding before the Superintendent, any statement which was at the time and in the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein, the Superintendent may issue an order suspending or barring the authorized delegate from continuing to be, or becoming, an authorized delegate of any licensee during the period for which the order is in effect. Upon issuance of the order, the licensee shall terminate its relationship with the authorized delegate according to the terms of the order.

(b) An authorized delegate to whom an order is issued under this section may apply to the Superintendent to modify or rescind such order. The Superintendent shall not grant such application unless the Superintendent finds that it is in the public interest to do so and that it is reasonable to believe that such person will, if such person is permitted to resume being an authorized delegate of a licensee, comply with all applicable provisions of this chapter and of any regulation or order issued under this chapter.

(July 18, 2000, D.C. Law 13-140, § 19, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1019. LICENSEE LIABILITY.

The liability of a licensee to any person for a money transmission conducted by the licensee, or an authorized delegate of the licensee, on behalf of the person shall be limited to the amount of money transmitted or the face amount of the payment instrument purchased.

(July 18, 2000, D.C. Law 13-140, § 20, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1020. HEARINGS AND PROCEDURES.

The provisions of subchapter I of Chapter 5 of Title 2 shall apply to any hearing afforded pursuant to this chapter.

(July 18, 2000, D.C. Law 13-140, § 21, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1021. CIVIL PENALTIES.

(a) Any person who violates any provision of this chapter, any rule or regulation or order issued or promulgated pursuant to this chapter, or any order of the Superintendent directed to that person, shall be liable for a penalty of not more than \$1,000 for each violation.

(b) The Corporation Counsel may bring proceedings to recover all amounts due to the District under this section.

(c) The Superintendent, in the exercise of his reasonable judgment, is authorized to compromise, settle, and collect civil penalties with or from any person for violations of any provision of this chapter, or of any rule, regulation or order issued or promulgated pursuant to this chapter.

(July 18, 2000, D.C. Law 13-140, § 22, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1022. ENFORCEMENT.

(a) The Superintendent may institute an administrative cease and desist proceeding if the Superintendent determines that a licensee or person required to have a license under this chapter or an authorized delegate has violated, is violating, or is about to violate any provision of this chapter or any rule, regulation or order imposed by the Superintendent, or written agreement entered into with the Superintendent pursuant to this chapter.

(b)(1) A cease and desist proceeding shall be initiated by the issuance of a notice of charges which shall contain a statement of facts describing the alleged violations.

(2) The notice of charges shall set a date, time, and place at which a hearing will be held to determine whether a cease and desist order should be issued against a licensee or person required to have a license. The hearing date shall be no earlier than 30 days and no later than 60 days, after the date of service of the notice, unless otherwise prescribed by the Superintendent or the hearing officer.

(c) A cease and desist order may require the person licensed, or required to be licensed, or authorized delegate to cease and desist the violation.

(d) The Superintendent may issue and serve upon the licensee, or person required to be licensed, or authorized delegate a final cease and desist order if:

(1) The licensee or person or authorized delegate agrees to settle the proceeding by consenting to the order as negotiated by the Superintendent, prior to the commencement of the hearing;

(2) The licensee or person or authorized delegate served with the notice of charges fails to appear at the hearing, in which case the licensee or person or authorized delegate shall be deemed to have consented to the order as issued; or

(3) Substantial evidence in the hearing record supports the determination of the Superintendent that the violation or violations specified in the notice of charges has transpired.

(e) A final cease and desist order shall become effective 10 days after the service of the order in accordance with subsection (d) of this section, except that a final cease and desist order which has been issued upon consent shall become effective upon the date specified in the order. A final cease and desist order shall remain in effect until it is stayed, modified, terminated, or set aside by the Superintendent or a reviewing court.

(July 18, 2000, D.C. Law 13-140, § 23, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1023. CRIMINAL PENALTIES.

(a) Any person who knowingly and willfully violates any provision of this chapter for which a penalty is not specifically provided shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than \$5,000, or imprisoned for more than 1 year, or both.

(b) Any person who knowingly and willfully makes a material, false statement in any document filed or required to be filed under this chapter with the intent to deceive the recipient of the document shall be guilty of a felony and, on conviction thereof, shall be fined not more than \$10,000, or imprisoned for not more than 3 years, or both.

(c) Any person who engages in the business of money transmission without a license as provided herein shall be guilty of a felony and, on conviction thereof, shall be fined not more than \$25,000, or imprisoned for not more than 5 years, or both.

(July 18, 2000, D.C. Law 13-140, § 24, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1024. PROMULGATION OF RULES.

The Superintendent is authorized to promulgate rules and regulations to implement this chapter.

(July 18, 2000, D.C. Law 13-140, § 25, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1025. CONSENT TO JURISDICTION.

Any licensee, authorized delegate, or other person who knowingly engages in business activities that are regulated under this chapter, with or without filing an application, is deemed to have consented to the jurisdiction of the courts of the District of Columbia for all actions arising under this chapter.

(July 18, 2000, D.C. Law 13-140, § 26, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1026. MULTIPLE LICENSES.

Any person licensed under this chapter shall not be required to obtain a separate license to engage in cashing of checks in the District of Columbia under Chapter 3 of this title.

(July 18, 2000, D.C. Law 13-140, § 27, 47 DCR 3431.)

HISTORICAL AND STATUTORY NOTES

Temporary Amendments of Section

Section 13 of D.C. Law 12-210 and § 201 of D.C. Law 13-57 (46 DCR 8894) each added sections designated as §§ 26-1301 to 26-1306 [1981 Ed.], relating to data match requirements for financial institutions. Section 15(b) of D.C. Law 12-210 and § 401(b) of D.C. Law 13-57 each provide that their respective act shall expire after 225 days of its having taken effect.

Section 15(b) of D.C. Law 12-210 and § 401(b) of D.C. Law 13-57 each provide that their respective act shall expire after 225 days of having taken effect.

Emergency Act Amendments

For temporary addition of a new Chapter 13 of Title 26, comprised of §§ 26-1301 through 26-1306 [1981 Ed.], see § 12(a)-(f) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, November 10, 1998, 45 DCR 6110), § 12(a)-(f) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, February 2, 1999, 45 DCR 8495), and § 12(a)-(f) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary (90-day) addition of §§ 26-1301 to 26-1306 [1981 Ed.], see § 201(a) to (f) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1999 (D.C. Act 13-126, August 4, 1999, 46 DCR 6606).

For temporary (90-day) addition of §§ 26-1301 to 26-1306 [1981 Ed.], see § 201(a) to (f) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1999 (D.C. Act 13-177, November 2, 1999, 46 DCR 9678).

For temporary (90-day) addition of §§ 26-1301 to 26-1306 [1981 Ed.], see § 201(a) to (f) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-241, January 11, 2000, 47 DCR 581).

Legislative History of Laws

For Law 13-140, see notes following § 26-1001.

§ 26-1027. RECEIPTS.

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

(b) If the 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 subsection (a) of this section shall 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 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 subsection (a) of this section shall 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.

(d) For the purposes of this section:

(1) Money is deemed to have been transmitted when it is available to the person designated by the customer, whether or not the designated person has taken possession of the money.

(2) The term "fees" shall not include revenue that a licensee or its authorized delegate generates, in connection with a money transmission, in converting the money of the government into the money of another government.

(July 18, 2000, D.C. Law 13-140, § 27a, as added Mar. 12, 2011, D.C. Law 18-315, § 3, 57 DCR 12412.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-315, see notes under § 26-317.