

**WAC 208-690-010 Definitions.** What definitions are applicable to these rules? The definitions in RCW 19.230.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

"Act" means the Uniform Money Services Act, chapter 19.230 RCW.

"Advertise, advertising, or advertising material" means any form of sales or promotional materials used in connection with the business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; internet pages, social media pages, instant messages, or electronic bulletin boards.

"AML compliance officer" means the individual(s) employed by the licensee designated to implement the anti-money laundering (AML) program.

"Audited financial statement" means a statement prepared by an independent accountant according to generally accepted accounting principles.

"Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee. A person that is exempt from licensing under this chapter cannot have an authorized delegate. An authorized delegate must only perform the contractual duties as authorized by the licensee in the contract between the licensee and the authorized delegate.

"Bill payment" service means a type of money transmission when an intermediary accepts funds from a consumer for transmission to a merchant for payment on a consumer's account. The intermediary may or may not charge a fee for this service.

"Corporate foreign exchange services" means a type of money transmission where an intermediary accepts money or its equivalent value from a business, by way of contract, to transmit, deliver, or instruct to be delivered the money or its equivalent value to another location. The intermediary may or may not charge a fee for this service.

"Department" means the department of financial institutions.

"Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.

"Funds" means money or its equivalent value.

"Material litigation" means the same as in RCW 19.230.010.

"Money transmission" means receiving money or its equivalent value to transmit, deliver, or instruct to be delivered the money or its equivalent value to another location, inside or outside the United States, by any means including, but not limited to, by wire, facsimile, or electronic transfer. Money transmission does not include the provision solely of connection services to the internet, telecommunications services, or network access. Money transmission includes selling, issuing, or acting as an intermediary for open-loop stored value devices and payment instruments, but not closed-loop stored value devices.

"NMLS" means a multistate licensing system developed and maintained by the Conference of State Bank Supervisors for licensing and registration.

"Payment instrument" means a check, draft, money order, or traveler's check for the transmission or payment of money or its equivalent value, whether or not negotiable. Payment instrument does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

"Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership, company, corporation, or association, or the owner of a sole proprietorship.

"Quarterly report" means a report that provides a current list of all licensed locations and authorized delegates providing money services to persons in Washington and their information including, the name, address, and e-mail address, if available.

"RCW" means the *Revised Code of Washington*.

"Stored value" means the recognition of value or credit stored on a device. Stored value is either open loop, meaning the value is redeemable at multiple, unaffiliated merchants or service providers, or closed loop meaning the value is primarily intended to be redeemed for a limited universe of goods, intangibles, services, or other items provided by the issuer of the stored value, its affiliates, or others involved in transactions functionally related to the issuer or its affiliates.

"Stored value device" means a card or other device that electronically stores or provides access to funds and is available for transferring the funds or value to others.

"Subdelegate" means a person that provides money services on behalf of an authorized delegate without having a direct contractual relationship with a licensee.

"Tangible net worth" means the physical 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.

"Unsafe or unsound practice" means a practice or conduct by a person licensed or required to be licensed by the act to provide money services, or an authorized delegate of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the financial condition of the licensee or the interests of its customers.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-014 How does the department interpret the definitions in RCW 19.230.010?** (1) "Currency exchange." For purposes of RCW 19.230.010 (8)(b), "investment" means an investment ((in the)) that is not money of a government ((is not exempt because the currency exchange is not incidental to the transaction)).

(2) "Responsible individual." The responsible individual must:

(a) Be a citizen of the United States or have legal immigration status to work in the United States;

(b) Hold W-2 employee status with the licensee;

(c) Be knowledgeable of the laws and rules implementing the act;

and

(d) Be responsible for the company's compliance with applicable state and federal laws, rules and regulations.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-015 What are some activities that are exempt from the act?** (1) The issuance, sale, use, redemption, or exchange of closed-loop stored value devices.

(2) ~~((The issuance, sale, use, redemption, or exchange of payment instruments by a person licensed under the Check Cashers and Sellers Act, chapter 31.45 RCW.~~

~~(3))~~) The issuance or sale of open-loop stored value devices when the value on the devices are covered by federal deposit insurance immediately upon sale or issue. See the Federal Deposit Insurance Corporation (FDIC) Financial Institution Letter 129-2008 dated November 13, 2008, to determine if the underlying funds of stored value devices are covered by FDIC insurance immediately upon sale or issue.

~~((4))~~) (3) See also RCW 19.230.020.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

**WAC 208-690-020 Voluntary license application.** ~~((May I apply for and receive a license under this chapter even though I am exempt from licensing?))~~ (1) Any person otherwise exempt from licensing under the provisions of the act may voluntarily submit an application to the director for a money transmitter or currency exchange license. The director shall review such application and may grant or deny licenses to such applicants upon the same grounds and subject to payment of the same fees as are applicable to persons required to be licensed.

(2) Upon receipt of a license under this section, the licensee is required to maintain a valid license and is subject to all the provisions of the act and these rules until the license is surrendered or revoked.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-030 License application. What must I do to apply for a license?** You must file:

(1) A completed application in a form and in a medium prescribed by the director through the NMLS. The application must contain:

(a) The legal name, business address, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business;

(b) The legal name, residential and business address, date of birth, Social Security number, employment history for the five-year

period preceding the submission of the application of the applicant's proposed responsible individual, and documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States. In addition, the applicant must provide the fingerprints of the proposed responsible individual and a personal credit report from a recognized independent credit reporting agency on the proposed responsible individual;

(c) For the ten-year period preceding submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(d) A description of any money services previously provided by the applicant and the money services the applicant seeks to provide in this state;

(e) A list of the applicant's proposed authorized delegates including the business name and any additional names by which the business may be known, the business address and name of the primary contact person for each authorized delegate, and the locations in this state where the applicant and its authorized delegates propose to engage in the provision of money services;

(f) A list of other states in which the applicant is licensed to engage in money transmission, or provide other money services, and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(g) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual;

(h) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(i) A sample form of the contract for authorized delegates, if applicable;

(j) A description of the source of money and credit to be used by the applicant to provide money services;

(k) A full 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

(l) Identification of the bank account established for the business including, but not limited to, the bank name, address, account number, and account type.

(2) If the applicant is a corporation, limited liability company, partnership, or other entity, the applicant must also provide:

(a) The date of the applicant's incorporation or formation and the state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, Social Security number, and employment history in the ten-year period preceding the submission of the application for each executive officer, board director, AML compliance officer or other person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the fingerprints of each executive officer, board director, AML compliance officer or other person that has control of the applicant;

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in the ten-year period preceding the submission of the application in which any executive officer, board director, AML compliance officer or other person in control of the applicant has been involved;

(g) A copy of the applicant's audited financial statements for the most recent fiscal year or, if the applicant is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and in each case, if available, for the two-year period preceding the submission of the application;

(h) A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period preceding the submission of the application;

(i) If the applicant is publicly traded, a copy of the most recent report filed with the United States Securities and Exchange Commission under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m);

(j) If the applicant is a wholly owned subsidiary of:

(i) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m); or

(ii) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(k) If the applicant has a registered agent in this state, the name and address of the applicant's registered agent in this state.

(3) If the application is for money transmission, a surety bond as required by WAC 208-690-040 or an assignment of a certificate of deposit, as required by WAC 208-690-045.

(4) An application fee as prescribed by WAC 208-690-130(1). The application fee is not refundable.

(5) An ~~((initial))~~ additional license fee as prescribed by WAC 208-690-130(2). ~~((The initial license fee will be refunded if the license application is denied.))~~

(6) If the application is for money transmission, a certification that the applicant's investment portfolio, if maintained as permissible investments for outstanding transmission liabilities, includes only the permissible investments under RCW 19.230.200 and 19.230.210.

The director may waive one or more requirements ~~((of subsection (1) or (2)))~~ of this section or permit an applicant to submit other information in lieu of the required information.

**WAC 208-690-035 Authorized delegates. What are the rules I must comply with when I have authorized delegates?**

~~((1))~~ (1) Only a licensee may designate an authorized delegate. ~~((A person that is exempt or excluded from licensing under RCW 19.230.020 cannot have an authorized delegate.))~~

~~((2))~~ (2) A person accepting consumers' funds for transmission through an exempt or excluded entity under RCW 19.230.020 is a money transmitter and must be licensed under the act.

~~((3))~~ (3) An authorized delegate, or any other person exempt or excluded from the licensing requirements of chapter 19.230 RCW, cannot have an authorized delegate.

~~((4))~~ (4) Any person you designate to provide money services on your behalf is an authorized delegate, regardless of whether that person would be exempt or excluded from the application of chapter 19.230 RCW if they provided money services on their own behalf.

~~((5))~~ (5) Your authorized delegates must be physically located in the state of Washington unless you have received prior approval from the director to designate an authorized delegate physically located outside of the state of Washington.

~~((6))~~ (6) An authorized delegate must not advertise or provide money services under its own name without an equally prominent display of the licensee's name, in close proximity, on all advertising, including web sites. An authorized delegate must not use its name alone when advertising money services provided on behalf of the licensee.

~~((7))~~ (7) The licensee has supervisory authority over the actions of the authorized delegate when providing services on behalf of the licensee. The department may take action against a licensee for any actions by the authorized delegate in violation of the act or rules.

~~((8))~~ (8) A written contract between you and an authorized delegate must contain, among all the other contract provisions, provisions with language substantially similar to the following:

(a) The authorized delegate must operate in full compliance with chapter 19.230 RCW and the rules adopted under this chapter.

(b) The authorized delegate is prohibited from using subdelegates or conducting business from locations not authorized by the department.

(c) A description of the specific money services you authorize the delegate to perform on your behalf.

~~((9))~~ (9) The authorized delegate may only conduct activities authorized by you in the written agreement, unless the authorized delegate is also a licensee.

~~((10))~~ (10) You may contract with another licensee to use that other licensee's existing authorized delegates to load funds onto your existing open-loop stored value cards. If the shared authorized delegate sells new open-loop stored value cards for you, you must add the authorized delegate to your authorized delegate roster.

~~((11))~~ (11) You must maintain your authorized delegate agreements and contracts with other licensees to share existing authorized delegates as part of your books and records pursuant to RCW 19.230.170 and make them available to the department upon request. (12) The authorized delegate must include the licensee's name along with the other applicable requirements of RCW 19.230.330(2) on any disclosures or receipts for business services.

(11) The licensee's bond covers the actions of the authorized delegate.

(12) You must maintain your authorized delegate agreements and contracts with other licensees to share existing authorized delegates as part of your books and records pursuant to RCW 19.230.170 and make them available to the department upon request.

#### NEW SECTION

**WAC 208-690-036 Authorized delegate advertising.** An authorized delegate must not advertise or provide money services under its own name without an equally prominent display of the licensee's name, in close proximity, on all advertising, including web sites. An authorized delegate must not use its name alone when advertising money services provided on behalf of the licensee.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

#### **WAC 208-690-040 Surety bond. What are the bonding requirements?**

(1) You must continuously maintain a surety bond as required by RCW 19.230.050, issued by a company authorized to do surety business in this state, as a surety. The surety may not be a wholly owned subsidiary or affiliate of the applicant or licensee.

(2) The penal sum of the bond must be calculated quarterly during the first year of licensing and thereafter annually. The calculation must be based on the previous twelve months' money transmission and payment instrument dollar volume. The bond amount must be calculated at ten thousand dollars for every one million dollars of money transmission and payment instrument dollar volume. The minimum surety bond amount is ten thousand dollars. The maximum surety bond amount is five hundred fifty thousand dollars.

(3) The initial bond amount will be ten thousand dollars and must be reevaluated based on the schedule set forth in subsection (2) of this section.

(4) The bond must be held for at least five years after the date the licensee violates the chapter or the licensee ceases to provide money services in this state, whichever is longer.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

**WAC 208-690-045 Alternatives to the surety bond. May I hold a certificate of deposit instead of the bond?** In lieu of the surety bond required under WAC 208-690-040, an applicant or licensee may substitute an assignment of a certificate of deposit in favor of the director in a form provided by the director. The certificate of deposit must be issued by a financial institution in the state of Washington

whose shares or deposits are insured by an agency of the government of the United States. The depositor is entitled to receive all interest and dividends on the certificate of deposit. The assignment of a certificate of deposit will be held for at least five years after the date when a replacement security instrument is filed with the director, or at least five years after the date the licensee violates the chapter or the ((money transmitter)) licensee ceases to provide money services in this state, whichever is longer.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-050 Increase of ((security)) surety bond or alternative.** Will ((DFI)) the department ever require ((me to)) an increase in the amount of ((security I hold)) the surety bond or alternative?

The director may increase the amount of ((security required)) the surety bond or alternative, to a maximum of one million dollars, if the financial condition of a money transmitter licensee so requires. The director may consider, without limitation, the following criteria:

- (1) Significant reduction of net worth.
- (2) Financial losses.
- (3) Potential losses resulting from violations of chapter 19.230 RCW, or these rules.
- (4) Licensee filing for bankruptcy.
- (5) The initiation of any proceedings against the licensee in any state, by any federal agency, or in any foreign country. This includes the filing of material litigation.
- (6) The filing of a state or federal criminal charge against the licensee, person in control, responsible individual, executive officer, board director, AML compliance officer, employee, authorized delegate or principal, based on conduct related to providing money services or money laundering.
- (7) A licensee, executive officer, board director, AML compliance officer, other person in control, responsible individual, principal or authorized delegate being convicted of a crime.
- (8) Any unsafe or unsound practice.
- (9) A judicial or administrative finding against a money transmitter licensee under chapter 19.86 RCW, or an examination report finding that the money transmitter licensee engaged in an unfair or deceptive act or practice in the conduct of its business.
- (10) The nature and volume of the projected or established business activities.
- (11) Other events and circumstances that, in the judgment of the director, impair the ability of the licensee to meet its obligations to its money services customers.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-060 Tangible net worth.** **What are the rules for my tangible net worth requirements?**



(1) A money transmitter applicant or licensee must demonstrate and maintain ((a)) tangible net worth ((calculated at ten thousand dollars for every one million dollars of total company wide money transmission and payment instrument dollar volume over the previous twelve months)) as set forth in subsection (2) of this section. The minimum tangible net worth is ten thousand dollars; the maximum required amount is three million dollars.

(2) The minimum tangible net worth is:

(a) Fifty thousand dollars if the company-wide money transmission and payment instrument volume is zero to five million dollars for the previous twelve months.

(b) One percent of the total company-wide money transmission and payment instrument dollar volume over the previous twelve months, up to a maximum required amount of three million dollars, if the company-wide money transmission and payment instrument volume is over five million dollars for the previous twelve months.

(c) One hundred thousand dollars if the company transmits or holds virtual currency.

(d) The director may allow a net worth of ten thousand dollars if the director determines it is warranted under the circumstances. The applicant or licensee must provide the information required by the director to make that determination.

(3) The director may increase the amounts specified in subsection (2) of this section up to a maximum of three million dollars if the director determines that a higher net worth is necessary to achieve the purposes of this chapter based on the:

(a) Nature and volume of the projected or established business activities;

(b) Amount, nature, quality, and liquidity of the company's assets;

(c) Amount and nature of the company's liabilities;

(d) History of the company's operations and prospects for earning and retaining income;

(e) Quality of the company's operations;

(f) Quality of the company's management;

(g) Nature and quality of the company's principals, responsible individuals, and persons in control;

(h) History of the company's compliance with applicable state and federal law; and

(i) Any other factor the director considers relevant.

(4) Determinations of tangible net worth must be made according to generally accepted accounting principles.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-070 License denial. When may ((DFI)) the department deny my license application?**

(1) Director may deny a money services license if the director determines that:

(a) The application is incomplete;

(b) The surety bond or net worth requirements of WAC 208-690-040 through 208-690-060 have not been met;

(c) The general fitness and character requirements of RCW 19.230.070 or 19.230.100 have not been met as demonstrated by findings including, but not limited to, the following:

(i) The applicant, an executive officer, proposed responsible individual, board director, AML compliance officer, other person in control or authorized delegate has been convicted of any felony within the past ten years;

(ii) The applicant, an executive officer, proposed responsible individual, board director, AML compliance officer, other person in control or authorized delegate has been convicted of a crime involving a financial transaction within the past ten years;

(iii) The applicant, an executive officer, proposed responsible individual, board director, AML compliance officer or other person in control has criminal, civil, or administrative charges issued against him/them in any jurisdiction for violations relating to a financial transaction(s) within the past ten years;

(iv) The applicant, an executive officer, proposed responsible individual, board director, AML compliance officer or other person in control has falsified any information supplied in connection with the application;

(v) The applicant, or any proposed authorized delegate thereof, has had an adverse action taken against any business license related to providing financial services by a jurisdiction within the United States within the past five years;

(vi) The applicant has allowed a business under its control to deteriorate to a condition of insolvency determined by the fact that its liabilities exceed its assets or it cannot meet its liabilities as they mature;

(d) The applicant, or any authorized delegate thereof, fails to respond to a request for information from the director;

(e) The description of the screening process used by the applicant in selecting authorized delegates supplied by the applicant describes a process that is ineffective in determining the fitness of proposed authorized delegates;

(f) The applicant has failed to register with the United States Department of the Treasury as required by 31 U.S.C. Section 5330;

(g) The applicant, an executive officer, proposed responsible individual, board director, AML compliance officer or other person in control is listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury as a potential threat to commit terrorist acts or to finance terrorist acts.

(2) In lieu of denying an application as authorized by any of the findings in subsection (1) of this section, the director may issue a conditional license, return the application, or extend the review period if the director determines that the condition or circumstances that would likely lead to denial may be temporary and resolved satisfactorily within a reasonable period of time. The director may resume processing the application if the director determines that a favorable resolution of the disqualifying condition has occurred.

~~((3) The director may revoke or suspend a license and issue an order to cease and desist operations as a money services licensee if:~~

~~(a) Another jurisdiction initiates an adverse action against the money services license of the licensee; or~~

~~(b) Upon finding the existence of any condition or fact that would have led to denial of a license if known by the director during the processing of the application.))~~

NEW SECTION

**WAC 208-690-071 Other license actions. When may the department take other action against my license?** The director may revoke or suspend a license and issue an order to cease and desist operations as a money services licensee if:

(1) Another jurisdiction initiates an adverse action against the money services license of the licensee;

(2) Upon finding the existence of any condition or fact that would have led to denial of a license if known by the director during the processing of the application; or

(3) The licensee violates the act.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-075 ((Transaction)) Books and records.** ((~~Must I keep records compliant with federal law in addition to keeping them for Washington law? Yes.~~)) (1) In addition to the records required to be retained under RCW 19.230.170, you must keep records in compliance with federal law. You must maintain a record of money transmittals in accordance with applicable sections of Financial Recordkeeping and Reporting of Currency and Foreign Transactions, Title 31, Code of Federal Regulations, Part 103, as now appearing or hereafter amended.

(2) Abandoned records. If records are not maintained as required, the licensee is responsible for the costs of collection, storage, conversion to electronic format, or proper destruction of the records.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-080 Audited annual financial statement. When must I provide audited financial statements?**

(1) You are required to have an audited financial statement prepared annually by a licensed or certified individual or firm in accordance with generally accepted accounting principles. The financials must be submitted prior to or with the annual assessment. The financials may be submitted through the NMLS.

(2) Applicants with no business operations prior to application must submit a copy of unconsolidated financial statements for the current fiscal year, whether audited or not. Audited annual financial statements are required in all future years of operation.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-085 Permissible investments.** (~~((How do I structure permissible investments?))~~) (1) You must maintain permissible investment levels pursuant to RCW 19.230.200 (~~(and 19.230.210)~~).

(2) In addition to the permissible investments allowed in RCW 19.230.210(2), a permissible investment may also include receivables from banks or credit cards.

(3) Monthly reports about permissible investments must include the monthly calculation of the average outstanding daily transmission liability.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-090 Annual report and annual assessment. What are the annual report and assessment requirements?** Every licensee must submit a completed annual report and annual license assessment fee prescribed by WAC 208-690-140. The completed report and the fee must be received in the department office no later than 5:00 p.m. July 1, or 5:00 p.m. the next business day if July 1 is not a business day. A form for the preparation of the annual report and license assessment will be made available by the department by electronic transmission or mailed upon request. The report must include the following:

(1) If the licensee is a money transmitter, a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent company.

(2) A list of current authorized delegates in a form and in a medium prescribed by the director.

(3) If the licensee is a money transmitter, a certification that the licensee's investment portfolio includes only permissible investments under RCW 19.230.200 and 19.230.210 and covers average outstanding daily liability.

(4) If the licensee is a money transmitter, proof that the licensee has an adequate surety bond or assignment of a certificate of deposit and net worth as required by WAC 208-690-040 through 208-690-060.

(5) A description of each material change, as defined by WAC 208-690-110, which has not been previously reported to the director.

(6) The annual report and assessment may be submitted through the NMLS.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-100 Is there a penalty for not filing my annual report and annual assessment on time?** (1) If you fail to submit the re-

quired annual report and annual assessment fee by July 1, each year, the director may suspend your license and assess a late fee. The late fee is ten percent of the annual assessment if paid thirty or fewer days late and twenty-five percent of the annual assessment if paid more than thirty days late. If your license has been suspended under this section and you submit a completed annual report, the annual assessment and the late fee to the department office no later than 5:00 p.m., thirty calendar days after the original due date, the license suspension may be removed. If the delay extends past thirty days, your license has expired effective thirty-one days after the original due date.

(2) The director may reinstate an expired license under this section if, within (~~forty-five~~) twenty days after the original due date, you:

(a) File the complete annual report and pay both the annual license assessment and the late fee; and

(b) You or your delegates did not engage in providing money services during the period the license was expired.

(3) If any of the deadlines in this section occur on a day that is not a business day, the deadline shall be the next business day.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-110 Report of material change. What must I report to ((DFI)) the department if something about my business changes?** Material changes described in this section must be reported to the director through the NMLS within thirty business days of the occurrence of the change. "Material change" means any change that is not trivial, and that, if not reported, would cause an investigation or examination to be misled or delayed. Such changes include, but are not limited to:

(1) A change of the physical and/or mailing address;

(2) A change of the responsible individual, AML compliance officer, executive officers or board members, or other person in control;

(3) A change of the licensee's name or DBA (doing business as);

(4) A change in the location where the records of the licensee that are required to be retained under RCW 19.230.170 are kept;

(5) The obtaining, revocation or surrender of a money services license in any other jurisdiction;

(6) The conviction of the licensee, an executive officer, responsible individual, board director, AML compliance officer, principal, or other person in control of a misdemeanor or gross misdemeanor involving a financial transaction;

(7) A change in your business bank account including its closure or a change in the location or identity of the bank holding the account; (~~and~~)

(8) Any change in the business plan from that submitted at application; and

(9) Other similar activities or events affecting the business or executive officers or other persons in control.

(10) Other. Within forty-five days of a data breach you must notify the director in writing. This notification requirement may change based on directives or recommendations from law enforcement. See also WAC 208-690-270.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-112 Other reports. What events about my business must I report to ~~((DFI))~~ the department?** You must file a report with the director within one business day after you have reason to know of the occurrence of any of the following events:

(1) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, under the United States Bankruptcy Code (11 U.S.C. 101-110) for bankruptcy or reorganization;

(2) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of creditors;

(3) The commencement of a proceeding to revoke, suspend, restrict, or condition its license, or otherwise discipline or sanction the licensee, in a state or country in which the licensee engages in business or is licensed;

(4) The filing of any material litigation against the licensee or any authorized delegate of the licensee;

(5) The cancellation or other impairment of the licensee's bond or other security;

(6) A charge or conviction of the licensee or of an executive officer, responsible individual, board director, principal, AML compliance officer or other person in control of the licensee, for a felony; or

(7) A charge or conviction of an authorized delegate for a felony.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-120 Quarterly reports—~~((Deletion of authorized delegates, locations Address or name change))~~ Changes to business information. When must I ~~((notify DFI of certain changes to information about))~~ file a quarterly report to notify the department of changes in my business?**

(1) Within forty-five days after the end of each fiscal quarter you must file with the director a quarterly report, in a form prescribed by the director:

(a) Any change in the e-mail address or business address of locations where you provide money services, including mobile locations;

(b) Any addition or deletion of locations where you provide money services, including mobile locations;

~~((b))~~ (c) Any change in the name or trade name (DBA or doing business as), e-mail address, or business address of an existing authorized delegate;

~~((e))~~ (d) Any additions or deletions from your roster of authorized delegates; and

~~((d))~~ (e) The fee required by WAC 208-690-150.

(2) If there is no change in your roster of authorized delegates or locations where money services are provided, or no changes in the name or trade name (DBA or doing business as) or business address of any authorized delegate during a fiscal quarter, no report is required.

NEW SECTION

**WAC 208-690-125 Records disposal.** Licensees must have written policies and procedures for the destruction of records, including electronic records, when the retention period ends. The destruction of records must be accomplished so that the information cannot be reconstructed or read. The destruction of consumer credit report information must also comply with the federal disposal rule at 16 C.F.R. 682.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

**WAC 208-690-130 License fees. What are the fees I must pay to get a license?** You must pay the following fees:

- (1) A ~~((license))~~ application fee of one thousand dollars.
- (2) An additional ~~((license))~~ fee of one hundred dollars for each additional location where you or an authorized delegate will provide money services, up to a maximum of five thousand dollars.
- (3) The license fee in subsection (1) of this section may be partially refundable if the application is withdrawn or denied.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-140 How is the annual assessment calculated and when is the annual assessment due?** (1) The annual assessment is calculated by multiplying 0.0004 by the previous year's adjusted Washington volume of money transmission, currency exchange, stored value sales, and payment instrument sales, with a minimum assessment of one thousand dollars and a maximum assessment of one hundred thousand dollars.

~~((a))~~ For purposes of this section, "adjusted Washington volume" means:

~~((i))~~ (a) For money transmission, ninety-five percent of all funds transmitted;

~~((ii))~~ (b) For currency exchange, five percent of all currency exchanged;

~~((iii))~~ (c) For stored value sales, ninety-five percent of all funds loaded onto open-loop stored value devices; ~~((and~~

~~((iv))~~ (d) For payment instrument sales, seventy percent of the first ten million dollars of payment instrument sales, twenty percent of the volume over ten million through five hundred million dollars, and one percent of any amount over five hundred million dollars~~((-~~

~~(b) For the assessment paid on the adjusted Washington volume for 2009 and 2010, any examination fees (excluding actual travel expenses) paid to the department during those years will be subtracted from the total amount owed); and~~

(e) For corporate foreign exchange services, twenty-five percent of all funds transmitted.

(2) The annual assessment is due no later than 5:00 p.m. July 1st each year or the next business day if July 1st is not a business day.

AMENDATORY SECTION (Amending WSR 10-20-123, filed 10/5/10, effective 11/5/10)

**WAC 208-690-170 Investigation and examination fees. What fees will I be charged if ((DFI)) the department investigates or examines my business?**

(1) The director will collect fees of seventy-five dollars per hour for investigations(~~(, including, but not limited to, the following services:~~

~~(a) The review and attendant investigation of:~~

~~(i) Changes in control changes in the responsible individual;~~

~~(ii) Changes in the identity or location of authorized delegates;~~

and

~~(iii) Other material changes.~~

~~(b) The review and attendant investigation of permissible investments)) and examinations.~~

(2) The licensee, applicant or person subject to licensing under this chapter who is the subject of an examination or investigation must pay the actual expenses of required out-of-state travel including, but not limited to, travel, lodging and per diem expense.

(3) Investigation and examination fees are separate, distinct from, and in addition to transaction fees imposed by WAC 208-690-150.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-180 Authority to conduct examinations and investigations.** (1) **When may ((DFI)) the department examine or investigate my business?** For the purposes of discovering violations of chapter 19.230 RCW or these rules, discovering unsafe and unsound practices, or securing information lawfully required under chapter 19.230 RCW, the director may at any time, either personally or by designee, investigate or examine your business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in your business or authorized delegates, and of every person who is engaged in the business of providing money services, whether the person acts or claims to act under or without the authority of chapter 19.230 RCW. For these purposes, the director or designated representative must have free access to the offices and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons. The director may require the attendance of and examine under oath all persons whose testimony may be re-



quired about the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, documents, records, files and any other information the director or designated person declares is relevant to the inquiry. The director may require the production of original books, accounts, papers, documents, records, files, and other information; may require that such original books, accounts, papers, documents, records, files, and other information be copied; or make copies himself or herself or by designee of such original books, accounts, papers, documents, records, files, or other information. If the director determines that there is a danger that original records may be destroyed, altered, or removed to deny access, or hinder an examination or investigation, or that original documents are necessary for the preparation of a criminal referral, the director may take possession of originals of any items described in this section, regardless of the source of such items. Originals and copies taken by the director may be held, returned, or forwarded to other regulatory or law enforcement officials as determined necessary by the director. The director or designated person may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the books, accounts, papers, documents, records, files, or other information.

(2) The licensee, applicant, or person subject to licensing under this chapter must pay the cost of examinations and investigations as specified in RCW 19.230.320 and WAC 208-690-170.

(3) Information obtained during an examination or investigation under these rules may be disclosed only as provided in RCW 19.230.190.

(4) The director may retain attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators, to conduct or assist in the conduct or examinations or investigations. The cost of these services must be borne by the person who is the subject of the examination or investigation.

AMENDATORY SECTION (Amending WSR 13-24-021, filed 11/22/13, effective 1/1/14)

**WAC 208-690-200 What documentation must I provide to consumers to be in compliance with RCW 19.230.330(2)?** (1) For general money transmission transactions, the receipt must include your name, physical or mailing address, and phone number in addition to the fee and exchange rate disclosure information as required by RCW 19.230.330(2). A web site address may be used in lieu of a physical or mailing address for transactions conducted solely over the internet.

(2) For stored value transactions the receipt may include the name, address, and telephone number of the authorized delegate, provided that your contact information is provided in or on the stored value device packaging or on the stored value device itself.

(3) For bill payment transactions, the receipt may include the name, address, and telephone number of the authorized delegate; provided your name accompanies the authorized delegate's information on the receipt.

(4) For electronic funds transfers at an electronic terminal, the receipt must include the amount of the transfer, date the transfer is initiated, the type of transfer, a number or code that identifies the

consumer's account, the terminal location, and the name of any third party to or from whom funds are transferred.

**PART H  
LICENSEE REQUIREMENTS AND RESTRICTIONS**

NEW SECTION

**WAC 208-690-210 In addition to the Uniform Money Services Act, what other laws do I have to comply with?** You must ensure you are in compliance with all applicable state and federal laws, rules, and regulations.

NEW SECTION

**WAC 208-690-220 Restrictions on business name.** The director may deny a request for a proposed business name or trade name if the name is similar to a currently existing licensee name, contains the word bank or any derivative of the word bank, or is otherwise deceptive.

NEW SECTION

**WAC 208-690-230 May I advertise using a name other than that named on my license?** Yes. You may use a trade name or other name under which you will do business if it has been previously approved by the department. You may not advertise or provide money services under the trade name or other name without an equally prominent display of the name on your license. You must also use the NMLS number.

NEW SECTION

**WAC 208-690-240 Cyber security program.** Each licensee shall establish and maintain an effective cyber security program to ensure the availability and functionality of the licensee's electronic systems and to protect those systems and any sensitive data stored on those systems from unauthorized access, use, or tampering.

NEW SECTION

**WAC 208-690-250 Information security program required by the federal Safeguards Rule implementing the Gramm-Leach-Bliley Act.** (1) Generally, applicants and licensees must have a written program appropriate to the company's size and complexity, the activity conducted, and the sensitivity of information at issue. The program must ensure the information's security and confidentiality, protect against anticipated threats or hazards to the security or integrity of the information, and protect against unauthorized access to or use of the information.

(2) The information security plan must be maintained as part of your books and records.

(3) For more information access the FTC web site on the Safeguards Rule at: <https://www.ftc.gov/tips-advice/business-center/guidance/financial-institutions-customer-information-complying> and see 16 C.F.R. 314.

NEW SECTION

**WAC 208-690-260 Consumer financial information privacy under the Gramm-Leach-Bliley Act (Regulation P).** Licensees must comply with Regulation P.

(1) At a minimum, licensees may have to provide consumers with notices regarding their privacy policies. These notices describe whether and how the licensee shares consumers' nonpublic personal information, including personally identifiable financial information, with other entities; and

(2) See Regulation P at 12 C.F.R. 1016 for the required details.

NEW SECTION

**WAC 208-690-270 Notice to consumers of data breach.** If the licensee's data is compromised, the licensee may be subject to chapter 19.255 RCW and may have to provide notices to consumers whose information was acquired. Under certain circumstances notice of the breach may also be required by the attorney general's office.

NEW SECTION

**WAC 208-690-280 Business resumption plan.** Licensees must have a written plan that details the company's response and recovery to any event that results in damage to or destruction of books and records. The plan must be maintained as part of the licensee's books and records.