

Client Alert

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South Carolina's Money Transmission Law Comes into Effect

By Sean Ruff, Adam J. Fleisher, and Jennifer S. Talbert

Yesterday, the Office of the South Carolina Attorney General (“AG”) issued a [press release](#) announcing that it has created a Money Services Division (“Division”) within the AG’s office and that, effective May 14, the Division is accepting applications for licensure under South Carolina’s money transmission law. This law, officially known as the South Carolina Anti-Money Laundering Act (“Act”), will formally take effect on May 25, the date the regulations promulgated to implement the Act are scheduled to be published in final form in the State Register. This will occur nearly two years after the Act’s passage on June 9, 2016.

The AG and the Division have explained that entities engaging in money transmission in South Carolina as of May 25 (i.e., the effective date of the Act) may continue operating as long as they submit a licensing application to the Division by June 29, 2018. Once an application is submitted, the entity will be able to continue to operate during the period of licensing review.

For purposes of the Act, as indicated by the licensing application [checklist](#) now available through the Nationwide Mortgage Licensing System (NMLS), “money transmission” is defined to include “selling or issuing payment instruments, stored value or receiving money or monetary value for transmission.” Any entity “engaging in the business of money transmission or advertising, soliciting, or holding itself out as providing money transmission” must obtain a license. The Division has also issued FAQs on the Act and its implementation, which are available [here](#). The Act does not include an express exemption for “payment processing” or entities operating as an “agent of the payee.” (For more on that particular issue, see our previous Client Alerts [here](#) and [here](#).)

The NMLS checklist should be largely familiar to current money transmitter licensees. It includes now-standard NMLS requirements such as AML policies, a business plan, and a flow of funds. With respect to state-specific requirements, the initial application and license fee is \$2,250 total, and the required surety bond amount is \$50,000 plus an additional \$10,000 for each authorized delegate location, up to \$250,000 total.¹ There is also an annual fee of \$0.25 per authorized agent location up to a maximum of \$25,000 per year. Individual control persons will be required to authorize a criminal background check and credit report through NMLS, though there are also specific instructions for background checks for control persons who have not resided in the United States for at least the last five years.

Finally, the checklist indicates that training on South Carolina’s adoption and use of NMLS for licensing money transmitters will be offered to licensees on May 22. The training will “include an overview of the resources

¹ The Division is also providing for a “Transition to NMLS” (the checklist is available [here](#)) for “[c]ompanies who are licensed to engage in money transmission in a state that has enacted the Uniform Money Services Act.” Such eligible companies are “permitted to submit a license transition request pursuant to SC Code 35-11-210 (A)” based on the specific instructions provided in this checklist. The actual NMLS requirements appear to be the same as for a “new” applicant, though the initial fees are only \$1,000.

Client Alert

available, licensing requirements checklists that should be reviewed, and a demonstration of tasks that must be completed in NMLS.” More information is included in the checklist itself.

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When the law officially takes effect on May 25, Montana will be the only state without a law specifically regulating money transmission activity.

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Client Alert

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