

Checklist

Major Issues Which Need to be Decided Concerning Uniform Money Services Businesses Act (“UMSBA”)

I. Definitions (Section 1-102)

1. Definition of Check casher (Section 1-102(3))

- (a) Does the current definition of check casher achieve the goal of excluding those retailers and entities which provide a de minimis level of check cashing which is incidental to their main business?
- (b) Are further revisions necessary?

2. Definition of Control (Section 1-102(5))

The Drafting Committee needs to make a choice between Alternatives 1 and 2.

3. Definition of Engage in the business (Section 1-102(9))

This is a new definition that was suggested by an Observer. Should this definition be retained and if so, should a frequency of more than 10 times per year be used as the threshold for determines whether a person engages in money services business? How does one tell how early in the year it applies?

4. Definition of Money transmitter (Section 1-102(18))

- (a) Should the definition encompass and subsume the definition of payment instrument seller?
- (b) Should the definition encompass and subsume the definition of stored value provider?

5. Definition of Stored value instrument (Section 1-102(26))

- (a) Does the current definition appropriately cover the scope of those entities which should be licensed?
- (b) Does the current definition include the appropriate types of exclusions (e.g., for entities that are regulated by federal or state banking regulators)?

6. Definition of Stored value provider (Section 1-102(27))

Do we need a definition of stored value provider given that the term payment instrument included stored value instrument and payment instrument seller would include selling stored value instruments?

7. Definition of Unsafe and unsound (Section 1-102(30))

Should this entire definition be moved into substantive provisions of the USMBA?

II. Exclusions (Section 104)

Should any additional entities be excluded from the scope of the USMBA?

III. Licensing of Money Transmitters, Payment Instrument Sellers and Stored Value Providers

1. Licensing of Stored Value Providers (Part 2 generally)

Should the licensing requirements for stored value providers be altered in any way?

2. What type of bond requirements are appropriate? (Section 202 – Security)

- Alternative 1:

\$10,000 per location not to exceed \$250,000

- Alternative 2:

\$25,000 for 5 or fewer authorized delegates and locations; Additional \$5,000 per authorized delegate and locations in between 20-200 to a maximum of \$250,000; Additional \$5,000 for each delegate and location in excess of 200 to a maximum of \$500,000

3. Net Worth (Section 206)

Is the current net worth provision satisfactory with respect to the dollar amounts of \$100,000 for per licensee plus an additional \$10,000 for each location or authorized delegate engaged in money services business -- to a maximum of \$500,000?

IV. Licensing of Check Cashers and Currency Exchangers (Part 3)

1. Carve out for check cashers and currency exchangers who are authorized delegates (Section 3-301(a))

Should the USMBA continue to include an exemption from licensing for check cashers or currency exchangers who are authorized delegates of money transmitters, stored value providers, and payment instrument sellers?

2. Should much of the reporting requirements for this category of licensees be left to rulemaking? (Section 3-301)

3. Net Worth (Section 3-305)

- (a) Is a de minimis net worth requirement necessary?
- (b) If yes, is the recommended amount of liquid assets of at least \$10,000 for each location plus \$2,500 per each mobile location or limited facility sufficient?

V. Recordkeeping (Part 5)

1. Reports (Section 503)

Is the list of required reports sufficient? Specifically, is the list of extraordinary events which trigger reporting requirements sufficient (e.g., bankruptcy, cancellation of security device, etc)?

2. Change of Control (Section 504)

- (a) Should this provision be included in the recordkeeping segment of the USMBA or moved elsewhere?
- (b) Is the procedure for pre-acquisition notification of change in control appropriate?
- (c) If not, what alternative procedures might be preferable for notifying the superintendent and giving him a chance to review the proposed change in control?

3. Records (Section 505 and 506)

- (a) Should the Superintendent require the licensee to maintain its records for 3 years or for longer?
- (b) Is a separate provision necessary for transaction records?

4. Money Laundering Reports (Section 507)

- (a) Should the USMBA adopt relevant provisions of the President's Commission on Model State Drug Laws Model Financial Transaction Reporting Act?
- (b) Alternatively, should the USMBA include other similar type of money laundering reporting provisions from existing state statutes (e.g. Georgia)?
- (c) Alternatively, should the USMBA not include provisions requiring the licensee to comply with federal Bank Secrecy Act and instead simply make reference to alternative legislation (e.g., the Model Financial Transaction Reporting Act) in the comments to the USMBA?

5. Confidentiality (Section 509)

Is the confidentiality provision too restrictive with respect to with which agencies the superintendent may share licensee information?

VI. Permissible Investments (Part 6)

1. Does the Committee prefer Alternative 1 or 2 with respect to defining the scope of eligible investments?
2. Assuming the Committee prefers one of the 2 alternatives, are there further modifications that should be made with respect to the types of eligible investments permitted?

VII. Enforcement Provisions (Part 7)

1. General Cease and Desist, Revocation and Suspension Authority (Section 701)

Is the list of grounds for which the superintendent may issue a cease and desist order and/or revoke or suspend a license sufficient?

2. Authorized Delegates: Cease and Desist (Section 702)
 - (a) Is the list of grounds for which the superintendent may issue a cease and desist order against either the licensee or its authorized delegate (based on the conduct of the authorized delegate) sufficient?
 - (b) Which is preferable with respect to the responsibility of the licensee for the conduct of the authorized delegate 702(b) Alternative 1 or 702(b) Alternative 2?
 - (c) Does subsection (b) belong in Section 702 generally (as opposed to being included in Part 4 which defines the relationship between the licensee and its authorized delegates)?

3. Temporary Orders to Cease and Desist (Section 703)

- (a) Should the USMBA include such a provision which allows the superintendent to take temporary action in the absence of notice and hearing?
- (b) If yes, are the circumstances under which the superintendent may exercise such a temporary authority satisfactory?

4. Civil Penalties (Section 705)

How should the superintendent be able to assess a civil penalty -- by going to a court (as suggested in current subsection (b)) or through an administrative hearing procedure?

VIII. Administrative Procedures (Part 8)

Does the hearing provision in Section 802 appear consistent with the other provisions dealing with notice and hearing throughout the USMBA?