



TEXAS DEPARTMENT OF BANKING

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SUPERVISORY MEMORANDUM – 1023

December 7, 2016

TO: All Money Services Businesses License Holders
FROM: Charles G. Cooper, Commissioner
SUBJECT: Examination Frequency Policy for Money Services Businesses

BACKGROUND

The examination frequency policy communicated through this Memorandum represents an update and revision to the examination frequency system which was originally implemented on September 1, 2006, and was last revised on December 12, 2011.

OVERVIEW

Section 151.601(b)(1) of the Texas Finance Code (Finance Code) provides that MSB license holders may be examined annually or as the Department may reasonably require. After careful thought and consideration of several factors and issues relating to our examination process and the MSBs we regulate, we have determined that expanding the 18-month risk-based examination frequency schedule for MSBs is prudent and justified. In our view, expanding the 18-month policy by removing the volume of business conducted by an entity risk factor from the examination frequency policy does not jeopardize consumer protection and instead provides for a more efficient use of the Department's examination staff resources. Also, a more inclusive 18-month examination cycle assists in reducing the regulatory burden for qualifying well managed license holders.

When the 18-month risk-based examination frequency schedule was originally implemented, the two key risk factors considered in determining the criteria and basis for the examination frequency policy included the volume of business conducted by the entity, and the entity's prior examination rating. In addition, in assessing risk, consideration was also given to whether the entity maintains a currency exchange or money transmission license.

However, since the implementation of the 18-month risk-based examination frequency, the Department has determined that the utilization of the volume of business conducted by the entity as a risk factor is not necessary. Specifically, Departmental examinations have not revealed that entities with higher volume of business pose a higher risk to Texas consumers. As a result, the volume of business conducted by an entity factor is removed from the tables shown in Attachments A and B.

In general, as depicted by the tables shown as Attachments A and B, currency exchangers who receive marginal or less than satisfactory ratings will be examined every 12 months. Currency exchanger licensees that receive satisfactory ratings for two consecutive examinations will receive an examination every 18 months. With respect to money transmitters, in general, those that receive marginal or less than satisfactory ratings will be examined every twelve months and money transmitters who receive a “strong” and “satisfactory” rating for two consecutive examinations will be examined once every 18 months.

License holders rated “unsatisfactory” or “poor” will also receive a limited scope examination within six months. The limited scope examination will be conducted to assess corrective action and compliance with applicable statutes with respect to the prior examination findings. A new rating will not be assigned until the next full scope examination.

ADDITIONAL QUALIFIERS AND INFORMATION APPLICABLE TO ALL LICENSE HOLDERS

A license holder that qualifies for an extended examination frequency may be excluded from the program if additional circumstances arise relating to changes in financial condition, management practices, business models, regulatory compliance, or any other issue which could significantly impact the overall condition of the license holder. Additionally, any license holder that is subject to a formal administrative action issued by our Department and/or has filed a change of control application within the prior 24 month period which our Department determines has resulted in a substantive change in the daily oversight of the day-to-day operations of the business will be excluded from the 18-month cycle until such action is no longer in effect or until the license holder has complied with the requirements of the administrative action; and the Department has performed at least one on-site examination of the entity since the approval of the change of control application. As a matter of practice, all examinations will be conducted on-site and off-site examinations will only be conducted in circumstances when deemed appropriate. As an example, new license holders that have no transaction activity in Texas may be examined off-site to reduce time and travel costs for the license holder and for the Department.

Attachment A**Examination Frequency Guide for Currency Exchange License Holders**

Uniform Rating*	Full Scope Exam Frequency
Last two examination ratings must be a 1 or 2	18 months
Most current examination rating is 3, 4, or 5	12 months
Most current examination rating is 4 or 5	6 months (limited exam) / 12 months (full scope exam)
New Licensee with no previous examination or rating	6 months
Licensee with only one examination and with a rating of 1, 2, or 3	12 months

*Ratings only issued at full scope examination.

Attachment B**Examination Frequency Guide for Money Transmission License Holders**

Uniform Rating*	Full Scope Exam Frequency
Last two examination ratings must be a 1 or 2	18 months
Most current examination rating 3, 4, or 5	12 months
Most current examination rating is 4 or 5	6 months (limited exam) / 12 months (full scope exam)
New Licensee with no previous examination or rating	6 months
Licensee with only one examination and with a rating of 1, 2, or 3	12 months

*Ratings only issued at full scope examination.