



TEXAS DEPARTMENT OF BANKING

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SUPERVISORY MEMORANDUM – 1024

September 1, 2020

TO: Money Service Businesses Licensees

FROM: Charles G. Cooper, Banking Commissioner

SUBJECT: Accepting Money Services Businesses (MSBs) Reports of Examination (ROEs) of Other State Agencies

BACKGROUND

Section 151.601(b)(1) of the Texas Finance Code (Finance Code) provides that MSB license holders may be examined annually or as the commissioner may reasonably require. Currently, depending on various factors outlined in the Department of Banking's (Department) Supervisory Memorandum 1023 – Examination Frequency Policy for MSBs, when performing Departmental examinations of our licensed MSBs, a 12-month, 18-month, or 24-month examination schedule is followed.

However, Section 151.601(b)(4) of the Finance Code provides that the commissioner may accept the examination report of another state agency or an agency of another state or of the federal government, or a report prepared by an independent accounting firm, which on being accepted is considered for all purposes as an official report of the commissioner.

Chapter 151 of the Finance Code explicitly gives the commissioner the authority to accept MSB report of examinations (ROE) of other states. The ability to accept another state's ROE avoids unnecessary regulatory duplication, facilitates the process of supervision and examination with the least regulatory burden to multi-state institutions, promotes an efficient regulatory system, and fosters effective coordination and communication among states. This Memorandum establishes the Department's general criteria and other conditions necessary to accept the ROE of another state.

GENERAL CRITERIA

In order for the Department to accept an MSB ROE from another state's regulatory agency, the MSB license holder must meet the following conditions:

1. Has received an overall rating of a "1" or "2" at the last examination conducted by the Department;

2. Has been licensed by the Department for not less than two years;
3. Has no outstanding or pending formal or informal administrative or regulatory actions;
4. Has not had more than a 25% increase in the number of authorized Texas delegates and/or locations in the preceding calendar year;
5. Has not had more than a 25% increase in Texas transaction volume resulting from a new business model or service within the preceding calendar year;
6. Has not experienced a change of control within the last 12 months resulting in significant changes in executive officers, managers, directors, trustees, or other persons overseeing the day-to-day decisions and operations of license holder; and
7. Has demonstrated compliance with the following provisions of the Finance Code as of the most recent required filing of the MSB license with the Department:
 - §151.307 - Net Worth
 - §151.308 - Security
 - §151.309 - Permissible Investments

CONDITIONS OF ACCEPTANCE OF OTHER STATES MSB ROES

In order for the Department to accept an MSB ROE from another state, the following conditions must be met:

1. The MSB ROE start date must not be more than 12-months prior to the Department's examination due date;
2. The examining state must have executed the Money Transmitter Regulators Association (MTRA) Cooperative Interstate Examination Agreement or the Nationwide Cooperative Agreement for MSB Supervision;
3. The examination by the other state must have been considered "full-scope," preferably conducted on-site, and include an evaluation of the MSB license holder's anti-money laundering policies and procedures and overall financial condition;
4. The ROE must not reveal significant regulatory concerns pertaining to management practices, financial conditions, business models, or other areas that could adversely impact the overall condition of the MSB license holder;
5. The results of the ROE must demonstrate that the MSB license holder would have received a comparable rating of a "1" or "2" as defined by the Department's Supervisory Memorandum 1022 - Examination Rating System for MSBs.

PROCEDURES FOR ACCEPTANCE

The ability and eligibility of accepting ROEs from other state agencies will be evaluated prior to scheduling an examination of a money transmitter license holder licensed in multiple states. The decision process will include the following steps:

- Determine which MSB license holders qualify based on the general criteria and other conditions listed above;

- Review the list of examinations performed by MTRA and Multi-State MSB Examination Taskforce (MMET) member states;
- Request a copy of the ROE from the MTRA/MMET member state;
- Review the ROE from the MTRA/MMET member state for acceptability and compliance with the general criteria and other conditions listed above; and,
- Provide a written recommendation and supporting documentation for acceptance of the MTRA/MMET member state ROE to the Director of the Non-Depository Supervision Division (NDS).

DEPARTMENT OVERSIGHT

The Department reserves the right to conduct any examination it deems necessary and appropriate even if the above general criteria and other conditions have been met. Additionally, if an MSB ROE is accepted from another state, the Department may still find it necessary to perform Texas delegate visitations or other limited off-site reviews and to report any findings from such visitations or reviews to the licensee.

If it is determined through a thorough risk based analysis that acceptance of another state's ROE of a licensee that does not meet one or more of the general criteria and/or other conditions listed above, the Director of NDS may waive certain general criteria and other conditions as long as it is appropriate and in the best interest of the Department, consumers, and the licensee. The Director must provide a detailed summary of the circumstances that warrant deviation from the general criteria and other conditions listed above.

CONCLUSION

The Department believes that having the ability to accept other state's MSB ROEs will provide for enhanced utilization of examination resources, reduced expenses, and reduce the regulatory burden to the MSB license holder. The Department believes these goals can be achieved while still fulfilling our oversight responsibility and not jeopardizing consumer protection or hampering the needs of law enforcement.