



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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INDUSTRY NOTICE 2023-03

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Texas Legislature Passes Legislation Impacting Money Services Businesses

New legislation was passed by the 88th Texas Legislature that will impact Texas licensed money services businesses (MSBs) effective September 1, 2023. The new legislation includes Senate Bill (SB) 895, referred to as the Money Services Modernization Act (MSMA), and House Bill (HB) 1666, which implements new regulations relating to the commingling of funds by digital asset service providers. A brief summary of each bill and the effect on MSBs doing business in Texas is provided below.

SB 895 – MONEY SERVICES MODERNIZATION ACT

Currently, the Department regulates MSBs under Chapter 151 of the Texas Finance Code (Finance Code), which was adopted in 2005. Effective September 1, the MSMA, which was based upon the Model Money Transmission Modernization Act (Model Law), will repeal and replace Chapter 151 of the Finance Code with Chapter 152 of the Finance Code. The Department was a significant contributor in developing the Model Law in coordination with the Conference of State Bank Supervisors (CSBS).

Money transmission (MT) license holders operating in multiple states have long been subject to state-specific regulation and regulatory oversight that varies by state. The MSMA creates a common regulatory baseline to promote a stronger multi-state networked supervision approach. The MSMA reduces regulatory burden by harmonizing regulations across state lines and bringing states in alignment with a single set of nationwide standards and requirements in the licensing, regulation, and supervision of money transmitters.

While the MSMA conforms substantially to the Department's current regulatory framework, it now provides a clear set of standards to harmonize regulations across states. Examples include common standards for permissible investments (Section 152.355), tangible net worth (Section 152.351), as well as the security (Section 152.352), to strengthen the safety and soundness of MT license holders.

IMPLEMENTATION PHASE

An MT license issued under Chapter 151 of the Finance Code that is in effect on September 1, 2023, remains in force under Chapter 152 of the Finance Code. However, MT license holders must comply with all requirements to maintain a license outlined in Chapter 152 of the Finance Code by September 1, 2024.

Chapter 152 also repeals and replaces statutes under Chapter 151 relating to currency exchanges. However, no material changes were introduced for Texas licensed currency exchangers.

All Texas MSB license holders are advised to review the [MSMA](#) to ensure compliance with the new law.

HB 1666 – DIGITAL ASSET SERVICE PROVIDERS

HB 1666 sets out new regulations relating to the commingling of funds by Digital Asset Service Providers (DASPs) as defined under Section 160.001(6) of the Finance Code. Impacted license holders are DASPs doing business in Texas that hold a MT license with the Department and either serve more than 500 digital asset customers in Texas or have at least \$10 million in customer funds. Among other things, HB 1666 implements the following requirements to qualifying DASPs:

- ❖ Prohibit DASPs from commingling customer funds with funds belonging to the provider;
- ❖ Requires a provider to maintain reserves in an amount sufficient to fulfill all obligations due to customers;
- ❖ File an annual report (DASP annual report) with the Department not later than the 90th day after the end of each fiscal year of your entity. For example, if your fiscal year ends December 31, 2023, your DASP annual report will be due by no later than March 30, 2024;
- ❖ Create a plan to allow each digital asset customer to view, at least quarterly, an accounting of any outstanding liabilities owed to the digital asset customer and the digital asset customer's digital assets that are held in custody by the DASP; and
- ❖ Obtain an attestation by an auditor of outstanding customer assets held and the aforementioned plan.

Texas MSB license holders that meet the definition of a DASP are advised to review [HB 1666](#) to ensure that they comply with the new law.

The DASP annual report must be submitted via mail or email to:

Texas Department of Banking
ATTN: Non-Depository Supervision Division
2601 North Lamar Blvd.
Austin, Texas 78705-4294

Electronic Mail: msb@dob.texas.gov

Questions regarding this matter should be directed to the Non-Depository Supervision Division via [email](#) or at (512) 475-1291.