ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER M104

MONEY SERVICES BUSINESS ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—
Act 9/2014, in force 30 October 2014

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MONEY SERVICES BUSINESS ACT

PART 1

PRELIMINARY

Interpretation

1. (1) In this Act, unless the context otherwise requires—

"affiliate", in relation to a licensee, means—

(a) a company which is or has at any relevant time been—

(i) a holding company or subsidiary of the licensee,

(ii) a subsidiary of a holding company of the licensee, or

(iii) a holding company of a holding company or a subsidiary of a subsidiary of the licensee;

(b) any company or firm over which the licensee has control;

(c) any company or firm over which the licensee and any person associated with the licensee has control;

(d) any company or firm which has common ownership with the licensee; or

(e) any company or firm which has the same beneficial owner and share common management and interlinked businesses with the licensee;

"applicant" means the person applying for a license under section 5;

"Central Bank" means the Eastern Caribbean Central Bank established under Article 3 of the Eastern Caribbean Central Bank Agreement 1983;

"Court" means the High Court;

"designated licensee" means a licensee who has been designated as a funds transfer system under the Payment System Act;

"financial year", in relation to a licensee, means a period of not more than 12 months for which the audited financial statements of a licensee is prepared in accordance with this Act;

"licence" means a Money Services Business Licence granted under section 5(4)(a)(i);

"licensee" means a person holding a licence under this Act;

"Minister" means the Minister responsible for finance;

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"money services business" means—

(a) the business of providing, as a primary business, any one or more of the following—

(i) transmission of money or monetary value in any form,

(ii) cheque cashing,

(iii) currency exchange,

(iv) the issuance, sale or redemption of money orders or traveller's cheques, and

(v) any other services the Minister may specify by notice published in the *Gazette*; or

(b) the business of operating as an agent or a franchise holder of any of the businesses mentioned in paragraph (a);

"net worth" means excess assets over liabilities as presented under international accounting standards subject to adjustment for non-admitted assets as determined by the Authority;

"significant shareholder" means a person who either alone or with an affiliate or related or connected person, is entitled to exercise or control 10 percent or more of the voting power at any general meeting of the licensee or another company of which the licensee is a subsidiary.

(2) For the purposes of this Act, the Financial Services Commission established under section 2 of the Financial Services Commission Act is designated the Authority under this Act.

Application

2. (1) This Act does not apply to—

(a) a bank licensed under the Banking Act[*] or an offshore bank licensed under the Trust Companies and Offshore Banking Act unless such bank is operating as an agent or a franchise holder of a money services business;
(Act 9/2014, s. 2)

(b) the Central Bank;

(c) an organisation licensed as a clearing agency under the Securities Act;

(d) an operator of a clearing house or funds transfer system.

(2) This Act does not apply to or affect the validity of any money services business transaction in existence at the date of the commencement of this Act.

(3) A money services business which is licensed under this Act is not required to be licensed under the Trades, Businesses, Occupations and Professions Licensing Act[†].

[*] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.
[†] Licensing of Businesses Act, 2021 (Act 24/2021) *repealed* the Trades, Businesses, Occupations and Professions Licensing Act, R.S.A. c. T40.

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PART 2

LICENCES

Requirement for licence

3. (1) Subject to subsections (2) and (5), a person shall not carry on money services business in Anguilla unless that person holds a licence in accordance with this Act.

(2) A person who immediately before 16 July 2009 was carrying on money services business, shall upon that date be deemed to be duly licensed under this Act for a period of 4 months, or such other period as the Authority approves and shall require a licence in order to carry on money services business after the expiry of that period.

(3) A person holding funds which that person has obtained by conducting money services business without being in possession of a licence granted under this Act shall settle its obligations in accordance with regulations issued by the Minister.

(4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

(5) The Minister may by regulations exempt any person from the licence requirement contained in subsection (1) if—

(a) that person is a local government body or agency;

(b) it is considered that the exemption would be beneficial to the economic needs of Anguilla.

Classes of licences

4. (1) There shall be several classes of licences as specified in Schedule 1, which may be applied for and granted subject to the provisions of this Act.

(2) The several classes of licences issued under this Act shall authorise the holders, for the period specified in the licence, to carry on money services business as specified under this section and not otherwise—

(a) a Class A licence permits the holder to carry on any or all of the following businesses—

(i) transmission of money or monetary value in any form,

(ii) the issuance, sale or redemption of money orders or traveller's cheques,

(iii) cheque cashing,

(iv) currency exchange;

(b) a Class B licence permits the holder to carry on any or all of the following businesses—

(i) the issuance, sale or redemption of money orders or traveller's cheques,

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(ii) cheque cashing,

(iii) currency exchange;

(c) a Class C licence permits the holder to carry on the business of cheque cashing;

(d) a Class D licence permits the holder to carry on the business of currency exchange.

Application for licence, formalities and considerations

5. (1) In order to obtain a licence as a money services business, a person shall apply in writing to the Authority and submit the documents and other information specified in Schedule 2 and pay the application fee prescribed in Schedule 4.

(2) In considering an application for a licence, the Authority shall conduct such investigation as it may deem necessary to ascertain—

(a) the validity of the documents submitted in accordance with Schedule 2;

(b) the financial condition and history of the applicant;

(c) the nature of the business of the applicant;

(d) the experience of the persons who are to constitute the management of the applicant;

(e) the source of initial capital of the applicant; and

(f) the convenience and needs of the community to be served by the granting of the licence.

(3) In considering an application for a Class A or Class B licence, the Authority shall, in addition to the matters specified in subsection (2), take into consideration the adequacy of capital structure and the earning prospects of the applicant.

(4) Within a reasonable time of its receipt of an application for a licence, the Authority shall—

(a) if it is satisfied that the application is in order and that the applicant is a fit and proper person to be licensed to conduct money services business and that it can fulfil the obligations of a licensee under this Act—

(i) approve the application and issue a licence to the applicant in the form set out in Schedule 3, subject to the applicant paying the prescribed licence fee set out in Schedule 4 and making the prescribed statutory deposit in accordance with section 7, and subject to such other terms, conditions and restrictions as the Authority considers necessary, and

(ii) on issuing the licence to the applicant submit a copy of the licence to the Central Bank and recommend to the Central Bank that the licensee be designated in accordance with section 10 of the Payment System Act; or

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(b) if the Authority is of the opinion that it would be undesirable in the public interest to grant the licence or that the applicant is not a fit and proper person to be licensed to conduct money services business, refuse to grant the licence and shall inform the applicant of the refusal.

(5) In considering whether an applicant is a fit and proper person to be licensed, the Authority—

(a) shall have regard, in respect of each of its executive management, directors, officers and significant shareholders to their—

(i) financial status,

(ii) educational or other qualifications or experience having regard to the nature of the application,

(iii) ability to perform his proposed functions efficiently, honestly and fairly, and

(iv) reputation, character, financial integrity and reliability; and

(b) may take into account any matter relating to—

(i) any person who is or is to be employed by, or associated with, the applicant for the purposes of the business to which the application relates,

(ii) any person who will be acting as a principal or representative in relation to such business, and

(iii) any officer, director or significant shareholder of the applicant, any other company or firm in the same group of companies or to any director or officer of any such company or firm.

(6) For the purposes of this section, the Authority may have regard to any information in its possession, whether furnished by the applicant or not.

(7) A licence to carry on money services business under this Act is not transferable.

(8) The Authority may at any time vary or repeal the conditions or, as the case may be, any restrictions it imposed pursuant to paragraph (4)(a).

(9) The Minister may amend or replace Schedule 1, 2 or 4 by regulations and the amendment or replacement shall be published in the *Gazette*.

Alteration of facts disclosed in application

6. An applicant shall forthwith give written notice to the Authority of—

(a) any proposed alteration to information supplied to the Authority in relation to the application, made or occurring while the application is pending a decision by the Authority; or

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(b) any event which the applicant knows affects or may affect information supplied to the Authority in relation to the application in a material respect, which occurs while the application is pending a decision by the Authority.

(Am. in L.R. 15/12/2010)

Adequacy of capital

7. (1) A licensee shall maintain adequate capital in such form and based on such formula as the Minister may by regulations prescribe.

(2) Every licensee shall make a statutory deposit of a portion of the prescribed capital referred to in subsection (1) with the Authority to be held in trust in an interest bearing account with a bank or other financial institution approved by the Authority for the benefit of holders of outstanding payment instruments, in the event that that licensee becomes bankrupt or for any other reason is unable to meet its contractual obligations to its customers.

(3) Every trust referred to in subsection (2) shall be created by trust deed.

(4) The Authority shall retain the statutory deposit for a period of at least 6 months after the licensee ceases to carry on money services business in Anguilla subject to any court order made in respect of the deposit.

(5) Where there is a deficiency in the prescribed capital, the Authority shall require the licensee to present a plan that is satisfactory to the Authority to reconstitute its capital within 30 days or such longer period as may be determined by the Authority.

(6) Where the licensee—

(a) fails to present a satisfactory plan pursuant to subsection (5); or

(b) fails to implement a plan presented pursuant to subsection (5);

the Authority shall take such remedial action as it deems necessary in accordance with section 37.

(7) The requirements of this section shall not apply to the holder of a Class C or Class D licence.

(8) The Minister may by regulations exempt any other licensee from the requirements of this section.

Period of licence and licence fee

8. (1) Every licensee shall pay the prescribed annual licence fee set out in Schedule 4 according to the classification of the licence.

(2) A licence to carry on money services business is valid from the date of first issue to the 31st day of December of that year and is renewable each year on payment, on or before the 15th day of January, of the prescribed annual fee.

(3) All licence fees paid under this Act shall be payable to the Authority.

(Act 9/2014, s. 3)

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Authorisation of location and approval of new business premises

9. (1) A licence granted under this Act authorises the licensee to carry on money services business in Anguilla at the place of business designated in the licence and at such other place as the Authority may authorise in writing.

(2) No licensee shall—

(a) open a new place of business or change the location of an existing place of business in Anguilla without the prior approval of the Authority; or

(b) close an existing place of business in Anguilla without having given 30 days prior written notification to the Authority.

(3) No licensee shall open a place of business elsewhere than in Anguilla without the prior written approval of the Authority.

(4) No licensee shall close a place of business outside of Anguilla without having given 21 days prior written notification to the Authority.

Display of licence certificate

10. A licensee shall display or cause to be displayed a copy of its licence certificate granted under this Act in a conspicuous place in the public part of any place of business of the licensee.

Restrictions of names likely to mislead

11. (1) No licensee shall be granted or continue to hold a licence under a name which—

(a) is identical to that of any company, firm or business, whether within Anguilla or not, or that so nearly resembles that name as to be misleading;

(b) falsely suggests the patronage of or connection with some person or Minister, whether within Anguilla or not;

(c) falsely suggests that the money services business—

(i) has a special status in relation to or derived from the Government,

(ii) has the official backing of or acts on behalf of the Government or any department, branch, agency or organ of the Government, or of any officer of Government, or

(iii) is recognised in Anguilla as a national or central money services business.

(2) The Authority may refuse to grant a licence to or revoke the licence of a person who contravenes subsection (1).

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

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12. (1) No person, other than a person exempted under section 3, shall—

(a) use any English or foreign word in the description or title under which the person carries on business within Anguilla, representing that that person is carrying on money services business;

(b) make any representation in any billhead, letter, letterhead, circular, paper, notice or advertisement or in any other manner that that person is carrying on money services business within Anguilla; or

(c) in any manner solicit or receive money from any person for the purpose of carrying on money services business within Anguilla.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

Actions of fundamental change requiring approval

13. Unless the written approval of the Authority is first obtained, no licensee shall—

(a) change its name;

(b) change its principal office;

(c) transfer the whole or any substantial part of its assets or liabilities in Anguilla other than in the ordinary course of its business; or

(d) enter into a merger or consolidation within Anguilla.

Change in directorship

14. (1) A licensee must, no less than 30 days prior to the proposed date of appointment of a director or other senior officer—

(a) submit to the Authority a completed Form B set out in Schedule 2 and the prescribed application form in respect of each proposed appointee; and

(b) obtain approval of the Authority for appointment of the proposed appointee as director or other senior officer.

(2) Upon receipt of the completed Form B set out in Schedule 2 and the prescribed application form, the Authority shall conduct an investigation to determine whether the proposed appointee satisfies the fit and proper criteria established under section 5(5).

(3) Within 15 days of the receipt of the completed Form B set out in Schedule 2 and the prescribed application form in respect of each appointee, the Authority shall—

(a) approve the appointment of the proposed appointee to the proposed post and notify the licensee; or

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(b) inform the licensee that the proposed appointee does not satisfy the fit and proper criteria and refuse approval for appointment of the proposed appointee to the proposed post.

(4) Notwithstanding subsection (1), where prior notification of the appointment of a proposed appointee as director or other senior officer of a licensee is not possible, the licensee—

(a) may appoint the proposed appointee as director or, as the case may be, other senior officer conditional on the approval of the Authority in accordance with subsection (3); and

(b) shall, within 5 days of such appointment, submit to the Authority the forms required under subsection (1) and a letter specifying the reasons for the appointment of the proposed appointee without prior approval.

PART 3

AUDIT, INFORMATION AND EXAMINATION

Annual audit, report and publication of financial statements and results

15. (1) A licensee shall appoint annually an auditor who must be a chartered accountant, a certified public accountant, a member of the Institute of Chartered Accountants of the Eastern Caribbean or some other professionally qualified accountant, satisfactory to the Authority whose duties shall be to examine the books and records of the licensee and to make a report on its annual financial statements and financial position, including any of the following duties as may, from time to time, be imposed on the auditor by the licensee at the request of the Authority—

(a) to submit such additional information in relation to the audit of the licensee as the Authority considers necessary;

(b) to carry out any other examination or establish any procedure in any particular case;

(c) to submit a report on any of the matters referred to in sub-paragraphs (i) and (ii);

(d) to submit a report on the financial and accounting systems and risk management controls of the licensee;

(e) to provide an opinion on whether suitable measures to counter money laundering and to combat the financing of terrorism have been adopted by the licensee and are being implemented in accordance with the applicable laws.

(2) A licensee shall, within 3 months of the end of every financial year, forward to the Authority the audited financial statements referred to in subsection (1) unless prior written approval for an extension has been granted by the Authority.

(3) The audited financial statements referred to in subsection (1) shall cover a period of not more than 18 months beginning on the date the licensee was incorporated, or if the licensee has previously prepared audited financial statements, beginning at the end of the period covered by the most recent audited financial statements.

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(4) A designated licensee shall submit audited financial statements annually to the Central Bank in accordance with the provisions of the Payment System Act and shall submit a copy of such audited financial statements to the Authority.

(5) A licensee shall remunerate the auditor in respect of the discharge by the auditor of all or any of the duties set out in subsection (1).

(6) If an auditor, in the course of the performance of the duties of an auditor, is satisfied that—

(a) there has been a serious breach of or non-compliance with the provisions of this Act or any regulations, notice, order, guidelines or directions issued under this Act; or

(b) there is evidence—

(i) that a criminal offence involving fraud or other dishonesty may have been committed, or

(ii) of any suspicious transaction as defined in the Anti-Money Laundering Regulations;

the auditor shall immediately report the matter to the licensee and the Authority.

(7) The Authority may request copies of reports submitted to the licensee by both its internal and external auditors.

(8) An auditor shall report to the Authority any matter which the auditor is required to report on any licensee to any investigative, regulatory or other institution, simultaneously with its report to that institution.

(9) A licensee who fails to secure compliance with a request made by the Authority respecting a duty described in subsections (1)(a) to (e) commits an offence and is liable on summary conviction to a fine of $50,000 for each such failure.

(10) If a licensee fails to appoint an auditor satisfactory to the Authority, the Authority may appoint an auditor for such licensee. The remuneration of the auditor so appointed shall be determined by the Authority and paid by the licensee.

(11) The Authority may appoint an auditor to conduct an independent audit of a licensee, in accordance with the instructions of the Authority, and to report to the Authority the findings or results of such audit.

(12) No auditor shall be liable for breach of any duty solely by reason of compliance with the provisions of subsection (1), (6) or (8) or any other request for information by the Authority.

(13) No person who has an interest in the licensee otherwise than as a customer or is a director, manager, secretary, employee or agent of the licensee is eligible for appointment as auditor for a licensee.

(Act 9/2014, s. 4(a))

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(14) Any person appointed as the auditor of a licensee who, after an appointment, acquires any interest in a licensee, or becomes a director, manager, secretary, employee or agent of a licensee shall immediately cease to be the auditor of the licensee.

(Am. in L.R. 15/12/2010)

(15) The Minister may by regulations—

(a) exempt any licensee or any class of licensee from the audit requirement referred to in subsection (1);

(b) waive the audit requirement referred to in subsection (1) in respect of any licensee or any class of licensee; or

(Act 9/2014, s. 4(b))

(16) The Authority may, at any time, cause to be conducted an audit of any licensee or any class of licensee in respect of which the audit requirement is exempted or waived under subsection (15).

(Act 9/2014, s. 4(c))

Notice of termination of auditor's appointment

16. A licensee must notify the Authority in writing of its intention—

(a) to terminate the appointment of its auditor; or

(b) not to reappoint its auditor for a new term;

and state the reasons for its decision in such notification.

Accounting records and systems of business control

17. (1) A licensee must, in accordance with this section, in respect of its money services business—

(a) keep accounting records; and

(b) establish and maintain systems—

(i) of internal control and record keeping, and

(ii) for inspection and report.

(2) The systems of control, inspection and report shall ensure that the money services business is so conducted and its records so kept that—

(a) the information necessary to enable the directors and the business to discharge their duties and functions is sufficiently accurate, and is available with sufficient regularity or as needed and with sufficient promptness, for those purposes; and

(b) the information obtained by or furnished to the Authority under this Act or for the purposes of this Act is sufficiently accurate for the purpose for which it is obtained or furnished.

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(3) A licensee shall institute procedures to ensure that its accounting records and systems of business control comply with the AML/CFT obligations.

(Act 9/2014, s. 5(a))

(4) For the purposes of this section "AML/CFT obligations" means the obligations of the licensee as a service provider as specified in the Anti-Money Laundering and Terrorist Financing Regulations.

(Act 9/2014, s. 5(b))

Returns

18. (1) The holder of a Class A or Class B licence must, in the format provided by the Authority, file quarterly returns with the Authority within 15 days of the end of every quarter, along with a written declaration that the information set out in the application for the licence remains correct and gives a full and fair picture of its money services business.

(2) The holder of a Class A or Class B licence must maintain a list of agents, and must within 15 days of the end of every financial year, file the list with the Authority.

(Act 9/2014, s. 6)

(3) The holder of a Class C or Class D licence must, within 15 days of the end of every financial year, file an annual return with the Authority along with a written declaration that the information set out in the application for the licence remains correct and gives a full and fair picture of its money services business.

(4) A designated licensee must submit a copy of its returns to the Central Bank within the stipulated time.

(5) A licensee who fails to file the returns within the time stipulated in subsection (1) or (3) commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

Extension of time for providing information

19. At the request of a licensee, the Authority may extend, from time to time, any period within which such licensee is, in accordance with the provisions of this Act, obliged to furnish any document or information.

Retention of records

20. (1) Every licensee shall retain, for a period of at least 5 years from the date of creation of each particular record, all records created and obtained by it during the course of operation and administration of its money services business and, in particular, records of each transaction executed by it, records of each outstanding transaction, bank reconciliation records and bank statements received.

(2) The retention of records under subsection (1) may be effected by electronic means.

Examination by Authority

21. (1) The Authority, shall examine or cause an examination to be made of each licensee, from time to time or whenever in its judgment such examination is necessary or expedient, in order to

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determine that such licensee is in a sound financial condition and that the requirements of this Act have been complied with in the conduct of its business.

(2) For the purpose of determining the condition of a licensee and its compliance with this Act, the Authority may at any time examine or cause an examination to be made of any affiliate of the licensee in Anguilla to the same extent that an examination may be made of the licensee.

(3) The Authority may assess a licensee for the reasonable expenses of conducting an examination under subsection (1) or (2).

(4) The Authority shall forward, to the licensee, copies of balance sheets, statements and reports on the results of any examination.

(5) A licensee who refuses to make available for examination any books, accounts or records after having been requested to do so by the Authority commits an offence and is liable on summary conviction to a fine of $50,000 or imprisonment for a term of 2 years or to both.

Confidential information

22. No person who has acquired knowledge in his capacity as director, manager, secretary, officer, employee or agent of any licensee or as its auditor or receiver or official liquidator or as director, officer, employee or agent of the Authority, shall disclose to any other person or any governmental authority the identity, assets, liabilities, transactions or other information in respect of a customer of the licensee except—

(a) with the written authorisation of such customer or of his heirs or legal personal representatives;

(b) for the purpose of the performance of his duties within the scope of his employment in conformity with the provisions of this Act;

(c) when lawfully required to make disclosure by any court of competent jurisdiction within Anguilla; or

(d) under the provisions of any law of Anguilla.

Exchange of information

23. (1) Notwithstanding section 22 but subject to subsection (2), the Authority may—

(a) share any information received or any report prepared by it in the performance of its duties under this Act, with the Central Bank or any foreign authority responsible for the supervision or regulation of affiliates of a licensee, or for maintaining the integrity of the financial system on a reciprocal basis; or

(b) provide access to the information referred to in paragraph (a) to any officer of the Central Bank or a foreign authority responsible for the supervision or regulation of affiliates of a licensee in order to assess the safety and soundness of an affiliate on a reciprocal basis.

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(2) The sharing or provision of information by the Authority under subsection (1) is subject to—

(a) any agreement of confidentiality or Memorandum of Understanding between the Authority and the Central Bank or foreign authority; and

(b) any law on the protection of confidential information.

PART 4

SEGREGATED ACCOUNTS, BANKRUPTCY OR INSOLVENCY OF LICENSEE

Segregated Accounts

24. (1) A licensee on receipt of funds from a payor customer shall immediately and irrevocably segregate the amount intended for transmission or delivery to the payee customer exclusively for the purpose of the proper payment of the funds in due course to the payee customer.

(2) Any funds which are not delivered or transmitted to the payee customer by or on behalf of the licensee shall be a first charge on the assets of a bankrupt or otherwise insolvent licensee and shall be—

(a) repaid to the payor customer; or

(b) paid to the payee customer;

by the licensee, receiver, liquidator or administrator out of the segregated account to which the funds were placed or were deemed to have been placed.

Bankruptcy or insolvency of licensee

25. (1) Where bankruptcy or insolvency proceedings are instituted against a licensee, the licensee must notify the Authority, as soon as practicable, after the bankruptcy or insolvency proceedings are instituted against it.

(2) A person does not contravene subsection (1) if the person took reasonable steps to comply with that subsection.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50,000.

Utilisation of deposits, etc.

26. (1) Notwithstanding anything to the contrary in the Bankruptcy Act or the Companies Act[‡], any funds delivered to a licensee by or on behalf of a customer, prior to the issue of any bankruptcy, winding-up or receivership order against that licensee, shall be utilised by the licensee, receiver or liquidator solely to discharge the licensee's contractual obligations to the customer.

[‡] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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(2) Notwithstanding anything to the contrary in the Bankruptcy Act or the Companies Act[§], if a licensee goes into bankruptcy, receivership or is wound up, any provision contained in a written agreement between that licensee and a customer is binding upon the liquidator, receiver or administrator in respect of any payment or settlement obligation.

(3) A person who contravenes any provision of subsection (1) commits an offence and is liable on summary conviction to a fine of $50,000.

PART 5

ABANDONED PROPERTY

Abandoned Property

27. (1) Subject to subsection (2), the following items which are held or owing by a licensee shall be presumed to be abandoned—

(a) any funds paid in Anguilla toward the purchase of shares or other interests in a licensee, together with any interest or dividend, but excluding any lawful charges;

(b) any sum payable on written instruments issued in Anguilla on which a licensee is directly liable; or

(c) any sum delivered to the licensee for transmittal to a person in Anguilla or in another jurisdiction for and on behalf of a payee.

(2) The items enumerated in subsection (1) shall not be presumed to be abandoned if the owner has, within 2 years of the date of deposit, payment of funds or issuance of instruments, as the case may be—

(a) communicated in writing with the licensee concerning any such item; or

(b) otherwise indicated an interest in any such item as evidenced by a memorandum concerning the item and written by the licensee.

Report, publication and disposal of abandoned property

28. (1) A licensee who holds any of the items enumerated in section 27 shall, within 90 days after the end of its financial year, report such holdings to the Authority, and subsequently pay or deliver to the Authority all property presumed to be abandoned and listed in the report in accordance with regulations issued by the Minister.

(2) Upon paying or delivering such property identified in subsection (1) into the custody of the Authority, a licensee is relieved of all liability to the extent of the value of the property for any claim in that respect.

(3) Within 30 days after the end of its financial year, but before the filing of the report to the Authority required by subsection (1), a licensee shall publish in the *Gazette* and a newspaper circulating in Anguilla the name of the owner and particulars concerning the property presumed to be

[§] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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abandoned and shall mail a notice to the owner at his last known address containing particulars concerning the property.

Sale and handling of proceeds of sale of abandoned property

29. (1) A licensee may sell at public sale all property other than money presumed to be abandoned after the expiration of 60 days from the date of publication or mailing required by section 28(3), whichever is later, following such advertisement of the sale as the Authority may prescribe.

(2) A purchaser of such property shall receive title to the property free from all claims of the prior owner or holder and from all persons claiming through or under the prior owner or holder.

(3) A licensee shall deposit with the Authority the proceeds of the sale of property in accordance with subsection (1) less all reasonable costs incurred by it in connection with the sale, mailing of notices, and service as it may deem appropriate to assure the prompt payment of claims which may subsequently be made and approved by the Authority.

(4) Any property remaining unsold shall be delivered to the Authority and shall be disposed of by the Authority in such manner as the Authority may direct.

(Act 9/2014, s. 7)

Claims on abandoned property

30. (1) Any person claiming an interest in any property which has been paid to, or delivered into the custody of the Authority or in the proceeds from the sale of such property, may file a claim with the Authority and, after an appropriate hearing the decision of which shall be communicated to the claimant and made a public record, the Authority may deliver up the property or, as the case may be, make payment.

(2) Any person aggrieved by a decision of the Authority in respect of a claim filed pursuant to subsection (1) may commence an action in the Court to establish his claim within 30 days following the decision of the Authority.

Penalties for failure to file abandoned property report

31. **(**1**)** A licensee shall not wilfully fail to file the report or to pay or deliver property presumed to be abandoned into the custody of the Authority in accordance with section 28(1) or 29(4).

(2) A licensee who contravenes subsection (1) commits an offence, and the licensee and each of its directors are liable on summary conviction to a fine of $1,000 or to imprisonment for a term of 3 months or to both.

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PART 6

ENFORCEMENT

Revocation and termination of licence

32. (1) The Authority may revoke any licence to carry on money services business in Anguilla if the licensee—

(a) fails to commence operations within a period of 3 months following the granting of the licence;

(b) fails to comply with the conditions or restrictions of its licence;

(c) is in breach of any of the provisions of this Act which is applicable to it;

(d) ceases to carry on money services business in Anguilla for a period in excess of 10 months;

(e) is conducting its affairs in a manner detrimental to the public interest or to the interest of its customers;

(f) goes into liquidation or is wound up or otherwise dissolved; or

(g) by reason of any other circumstances, is no longer a fit and proper person to hold a licence.

(2) The Authority shall terminate a licence at the request of the licensee.

(3) Before revoking a licence under subsection (1), the Authority shall give the licensee concerned notice in writing of its intention to do so, specifying the grounds upon which it proposes to make the revocation. The notice shall require the licensee to submit to the Authority, within a specified period being not less than 30 days, a statement of objections to the making of the revocation and thereafter, the Authority shall advise the licensee of its decision.

(4) Notice under subsection (3) shall be served at the licensee's last known address and shall be published in the *Gazette* or in any local newspaper.

(5) If the licensee is aggrieved by any decision made under subsection (1), that licensee may appeal to the Court within 14 days of such decision, setting out the grounds of such appeal, and the Court may revoke or confirm that decision.

(6) Where a licence to carry on money services business in Anguilla has been revoked, the Authority shall, without prejudice to the advice given pursuant to subsection (3) and as soon as possible after such revocation, cause—

(a) a notice of the revocation to be published in the *Gazette* and a newspaper circulating in Anguilla; and

(b) such other steps to be taken as are deemed to be necessary to inform the public of such revocation.

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Suspension of licence

33. (1) The Authority may, if it thinks it necessary—

(a) as a matter of urgency for the protection of the public; or

(b) as a result of any investigation under this Act or regulations made under this Act;

suspend a licence granted under this Act for such period, or until the occurrence of an event, as the Authority considers appropriate.

(2) A person whose licence is suspended under this Act shall be notified accordingly by the Authority and shall, for the purpose of this Act, be deemed not to be licensed from the date of notification of the suspension.

(3) Notice under subsection (2) shall be served at the licensee's last known address and shall be published in the *Gazette* or in any local newspaper.

(4) If any licensee is aggrieved by any decision made under subsection (1), that licensee may, within 14 days of such decision, appeal to the Court setting out the grounds of such appeal, and the Court may revoke or confirm the decision.

Persons carrying on money services business without licence

34. (1) If the Authority has reasonable cause to suspect that—

(a) any person is carrying on money services business without a licence granted under this Act; and

(b) evidence of contravention of section 3(1) is to be found on any premises in Anguilla;

the Authority may lay an information on oath before a Magistrate as regards its suspicions.

(2) Upon filing of the information in subsection (1), the Magistrate may by warrant authorise an officer of the Authority named in the warrant to enter and search the premises referred to in that subsection with a police officer and seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash as may be found on the premises relating to the conduct of money services business, to ascertain whether the person is carrying on money services business without a licence.

(3) The warrant may authorise—

(a) the Authority to detain the books, accounts, records, vouchers and other documents, cheques, securities and any cash for a period not exceeding 30 days;

(b) the officer to make copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash; and

(c) the Authority to retain copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash.

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(4) The person authorised by a warrant to search any premises may—

(a) seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash found on the premises, or in the possession of any person described in paragraph (b), if he has reasonable grounds for believing that any of such books, accounts, records, vouchers and other documents, cheques, securities and any cash relate to the conduct of money services business on the premises; and

(b) search every person who is found on the premises, or has recently left or is about to enter the premises, whom he has reasonable grounds to believe is in possession of any books, accounts, records, vouchers and other documents, cheques, securities and any cash in respect of the conduct of money services business on the premises.

(5) No person shall, in pursuance of any warrant issued under this section, be searched by an officer of the opposite sex.

(6) Where under this section a person has the power to enter any premises, he may if necessary use reasonable force to enter the premises.

(7) A person who obstructs the Authority or any other person in the exercise of any powers conferred under this section commits an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 6 months or to both.

Appointment of receiver

35. (1) Without prejudice to section 3(1), where a person is found to be conducting money services business without a licence, the Authority may apply to the Court for the appointment of a receiver to liquidate the business.

(Am. in L.R. 15/12/2010)

(2) Before applying for the appointment of a receiver under subsection (1), the Authority shall give the person concerned notice in writing of its intention to do so and shall require the person to comply with the requirements of this Act within a specified period being not less than 30 days and thereafter the Authority shall advise the person of its decision.

Authority may apply to Court to preserve customers' interests

36. (1) The Authority may, in a case where a licensee or a person who has at any time been a licensee is being wound up voluntarily, apply to the Court if the Authority considers that the winding up is not being conducted in the best interests of the licensee's customers or creditors, and the Court shall make any order it considers appropriate.

(2) If it appears to the Authority that there is reasonable ground for suspecting that an offence against this Act has been or is being committed by any person, the Authority may, with the approval of the Court, take any action it considers necessary, in the interest of the person's customers or creditors, to preserve any assets held by that person.

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Powers of the Authority in respect of licensees

37. (1) Whenever the Authority is of the opinion that—

(a) a licensee is or appears likely to become unable to meet its obligations as they fall due;

(b) a licensee is carrying on business in a manner detrimental to the public interest or the interest of its customers or creditors;

(c) a licensee has contravened this Act;

(d) a licensee has failed to comply with a condition of its licence;

(e) there has been or is, on the part of a licensee or its directors, a failure to satisfy any one or more of the criteria of prudent management set out in section 40;

(f) a licensee, director, manager, secretary or other officer concerned in the management of a licensee refuses to cooperate with the Authority in the performance of its functions under section 39;

(g) a licensee is carrying on business in an unlawful manner;

(h) a licensee has failed to maintain the prescribed capital; or

(i) a licensee is violating any law, regulation or guideline to which the licensee or person is subject;

the Authority may take one or more of the measures set out in subsection (2).

(2) Without prejudice to sections 32 and 33, the measures that the Authority may take in pursuance of subsection (1) are as follows—

(a) impose conditions, or further conditions, as the case may be, upon the licensee and may amend or revoke any of the conditions;

(b) require the suspension or removal of a director or officer of the licensee;

(c) at the expense of the licensee, appoint a person to advise the licensee on the proper conduct of its affairs and to report to the Authority within 3 months of the date of his appointment, or any extension of appointment and at such intervals as the Authority may require;

(d) at the expense of the licensee, appoint a person to assume control of the licensee's affairs who shall have all the powers of a person appointed as a receiver or manager under the Bankruptcy Act, and who shall report to the Authority within 3 months of the date of his appointment or any extension of appointment and at such intervals as the Authority may require;

(e) require a licensee to take, refrain from or discontinue any action as the Authority considers necessary;

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(f) revoke the licence.

(3) The Authority may, on receipt of a report under subsection (2)—

(a) revoke the appointment of the person appointed under paragraph (2)(c) or (d);

(b) extend the period of appointment of a person appointed under paragraph (2)(c) or (d);

(c) subject to any conditions that the Authority may impose, allow the licensee to reorganise its affairs in a manner approved by the Authority; or

(d) revoke the licence.

(4) The Authority must comply with the procedures established in sections 32(3), (4), (5) and (6) if it decides to revoke a licence pursuant to paragraph (2)(f) or (3)(d).

(5) If any licensee is aggrieved by any decision made under subsection (2), that licensee may appeal to the High Court within 14 days of such decision, setting out the grounds of such appeal, and the High Court may revoke or confirm the decision.

Transactions effected prior to suspension or revocation of licence

38. The suspension or revocation of a license under this Act does not void or affect any agreement, transaction or arrangement relating to a provision of money services business entered into by the licensee before the suspension or revocation of the licence and does not affect any right, obligation, or liability arising under any such agreement, transaction or arrangement.

Powers and duties of the Authority

39. (1) The Authority shall ensure the proper administration of this Act and, without limiting the generality of the foregoing, the Authority shall—

(a) maintain a general review of money services business practice in Anguilla;

(b) whenever it thinks fit, examine the affairs or business of any licensee carrying on business within Anguilla for the purpose of satisfying itself that this Act has been or is being complied with and that the licensee is in a sound financial position and is managing its business in a prudent manner;

(c) assist in the investigation of any offence against the laws of Anguilla which it has reasonable grounds to believe has or may have been committed by a licensee or by any of its directors or officers in their capacity as directors or officers;

(d) examine returns and audited financial statements furnished and forwarded to it under sections 18 and 15, and report on such returns and statements to the Minister whenever it thinks fit;

(e) require or perform consolidated supervision of affiliates whenever it thinks fit; and

(f) cooperate with and facilitate the Central Bank in consolidated supervision of designated licensees.

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(2) In the performance of its functions under this Act, the Authority is entitled at all reasonable times—

(a) to have access to the premises, books, records, vouchers, documents, cash and securities of any licensee;

(b) to remove and make copies of any books, records, vouchers and documents found on the premises of a licensee;

(c) to request the information, matter or thing from any person who it has reasonable grounds to believe is carrying on money services business in contravention of section 4(1); and

(d) to call upon the manager of the licensee or any similar person, or an officer designated by either of them, for any information or explanation that the Authority may require for the purpose of enabling it to perform its functions under this Act;

and the information requested under this subsection shall be provided in such form as the Authority may require.

(3) A person who fails to comply with a requirement under subsection (2) by the Authority commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

Criteria of prudent management

40. (1) For the purpose of section 39(1)(b), the criteria of prudent management are as follows—

(a) maintenance of—

(i) adequate reserves and other capital resources in amounts which may be prescribed by the Minister,

(ii) adequate assets in liquid form in amounts which may be prescribed by the Minister,

(iii) a system for managing and containing risks to the net worth of the licensee's business and risks to its net income, whether arising from fluctuations in interest or exchange rates or from other factors,

(iv) the requisite accounting records,

(v) systems of internal control and record keeping, and

(vi) systems for inspection and report;

(b) management conducted with prudence and integrity by a sufficient number of persons, having regard to the range and scale of the business, who are fit and proper to be directors or, as the case may be, officers of the licensee in accordance with the criteria established under section 5(5); and

(c) conduct of the licensee's business with adequate professional skills.

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Management's duty of compliance with the Act

41. A director, manager, secretary or other officer concerned in the management of a licensee who fails to take all reasonable steps to secure compliance by the licensee with this Act commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

False or misleading information

42. A licensee, director or an officer of a licensee who knowingly or wilfully supplies false or misleading information to the Authority commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

Removal and disqualification of officers

43. (1) Any person who is a director, manager or other officer concerned with the management of a licensee shall cease to hold office upon—

(a) notification by the management team of the licensee of a finding by two-thirds of its members of the person's permanent incapacity or serious neglect of, or misconduct in, office;

(b) the person being declared bankrupt or compounding with, or suspending payment to, his creditors;

(c) the person's conviction in a court of law of any offence involving fraud or dishonesty;

(d) the person being sentenced for an offence involving a term of imprisonment of 6 months or more or in default of a payment of a fine; or

(e) the person being deemed not to be fit and proper in accordance with the criteria established under section 5(5).

(2) Where the licence of a licensee has been revoked, no person who has been a director of, or directly or indirectly concerned in the management of, that licensee shall, without the approval of the Authority, act or continue to act as a director, or be directly or indirectly concerned in the management of any licensee.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

Offences by officers of corporate bodies

44. (1) Where an offence under this Act has been committed by a body of persons which is—

(a) a body corporate, society or other body of persons, every person who at the time of the commission of the offence was a director, manager, secretary or other officer of the body corporate, society or other body of persons as well as that body corporate, society or other body of persons commits the offence;

(b) a partnership or firm, every partner of the partnership or firm as well as that partnership or firm commits the offence;

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and each is liable to be proceeded against and punished accordingly.

(2) No person referred to in subsection (1) shall be convicted of an offence under that subsection where he proves that—

(a) the act constituting the offence took place without his knowledge or consent; or

(b) he exercised all due diligence to prevent the commission of the offence.

General penalty

45. A person who contravenes any provision or requirement of this Act or Regulations for which no penalty is specifically created or provided commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 2 years or to both.

(Act 9/2014, s. 8)

PART 7

IMMUNITIES, REGULATIONS AND GUIDELINES

Immunity

46. Neither the Authority nor an employee of the Authority shall be liable for anything done or omitted in the discharge or purported discharge of their functions under this Act unless it is shown that the act or omission was in bad faith.

Prudential guidelines

47. The Authority in administering the provisions of this Act may issue prudential guidelines and related orders and, without limiting the generality of the foregoing, the Authority may issue prudential guidelines and related orders respecting—

(a) policies, practices and procedures for evaluating the quality of assets;

(b) policies, procedures and systems for identifying, monitoring and controlling transfer risk, market risk, operational risk and such other risks as the Authority shall specify;

(c) corporate governance;

(d) auditors;

(e) procedures to be adopted by licensees and the Authority; and

(f) anti-money laundering and combating the financing of terrorism matters.

Regulations

48. The Minister may make regulations for giving effect to the provisions of this Act, including regulations respecting any or all of the following—

(a) the form of advertising by licensees;

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(b) registers and records to be kept under this Act;

(c) forms to be used by licensees;

(d) fees payable under this Act.

Citation

49. This Act may be cited as the Money Services Business Act, Revised Statutes of Anguilla, Chapter M104.

SCHEDULE 1

(Section 4)

CLASSES OF LICENCE

Class of Licence	**Description of Licence**
Class A	Money Transmission
Class B	Issuance, Sale and Redemption of Payment Instruments
Class C	Cheque Cashing
Class D	Currency Exchange.

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SCHEDULE 2

(Section 5)

INFORMATION TO BE CONTAINED IN AND TO ACCOMPANY AN APPLICATION FOR THE GRANT OF A LICENCE

FORM 1

1. The name and address of the money services business in respect of which the licence is sought.

2. The name and address of the applicant.

3. The type of money services business the applicant proposes to conduct.

4. The source and quantum of funds for initial capital or acquisition of the money services business.

5. The address of the principal office of the applicant and of the address of the registered office, if different.

6. If the applicant is a corporation, limited liability company, partnership or other entity the applicant must provide—

(a) the date and place of incorporation or formation and a copy of the memorandum and articles of association, Act, charter, partnership agreement or other instrument constituting and defining the constitution of the applicant verified by a declaration made by one of its directors or partners or its secretary; and

(b) a brief description of the structure or organisation of the applicant including any parent or subsidiary of the applicant.

7. The name and address of each person who—

(a) owns or controls the money services business;

(b) is a director or officer of the money services business;

(c) is an agent of the applicant;

(d) otherwise participates in the conduct of the affairs of the money services business.

8. The following information is also required from the named persons in section 7 and each significant shareholder—

(a) legal name and any alias and residential address;

(b) occupation (over the previous 5 years) and business address;

(c) date of birth;

(d) citizenship;

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(e) social security number;

(f) passport number;

(g) two character references, a police or other certificate satisfactory to the Authority that the person has not been convicted of a serious crime or any offence involving dishonesty.

9. The name and address of any depository institution at which a transaction account is maintained for the purposes of the money services business.

10. Where appropriate, a statement in writing in a form acceptable to the Authority from the body responsible for the administration of the laws relating to money services businesses and the supervision of the businesses in the country in which the applicant or its parent company is incorporated, stipulating that such body has no objection to the application being made.

11. If the applicant is a company the following information is required, where applicable—

(a) the annual accounts for the 2 years period immediately preceding the date of the application, of each significant shareholder which is a body corporate, together with similar accounts for the parent body, if any, of each of the bodies corporate or the annual accounts for the current year, in the case of a body corporate which is in existence for less than 2 years;

(b) two or more references verifying the good financial standing of each significant shareholder who is a natural person;

(c) the name and address of its proposed auditor;

(d) a statement giving the date for the drawing up of the annual accounts of the applicant;

(e) confirmation in writing under the hand of the presiding officer of the applicant and the presiding officer of its parent body, if any, that they concur in the making of the application;

(f) 3 business references of which at least one shall be from a bank;

(g) a detailed business plan, containing details of the current money services business activities, if any, of the applicant and its proposed activities if the licence applied for is granted, including—

(i) the reasons for applying for the licence,

(ii) the business aims of the applicant in respect of the money services business and its potential client base,

(iii) a detailed statement setting out its proposed initial assets and its proposed assets and expected liabilities at the end of each of the 2 years next succeeding the date of such grant together with an estimate of expected income,

(iv) particulars of its management structure and personnel,

(v) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each company constitutes an asset of the applicant,

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(vi) a chart showing the relationship to its subsidiaries and affiliates and any holding company,

(vii) a brief description of each of its subsidiaries and affiliates, and

(viii) details of the identified economic needs that the applicant intends to meet, growth prospects in that service area over the next 5 years, the exact nature and source of capital financing to be made available to the company for start-up and ongoing operations;

(h) details of the applicant's proposals for establishing and maintaining, in respect of the money services business, systems of control, inspection and report, if the licence applied for is granted;

(i) in the case of a company incorporated outside Anguilla, the name and address of the supervisory or regulatory authority responsible for the supervision of each of the applicant's agents operating outside Anguilla.

12. If the applicant is a franchise holder, the contract and any other documents relating to the operation of the franchise is required.

13. General requirements—

(a) the applicant must submit a description of any money services business, other than that which is the subject of the application, previously or currently engaged in by the applicant;

(b) the applicant must submit completed copies of a Personal Questionnaire for each executive officer, director and significant shareholder;

(c) the applicant must submit copies of the applicant's audited financial statements.

14. Any other information requested by the Authority.

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FORM 2

PERSONAL QUESTIONNAIRE

[FIT AND PROPER TEST]

PART A

NAME: .....

PREVIOUS NAMES (IF ANY): .....

ALIASES: ..... DATE OF BIRTH: .....

CITIZENSHIP: .....

PLACE OF BIRTH:.....

SOCIAL SECURITY NUMBER: .....

PASSPORT NUMBER: .....

ADDRESS (Home & Business): .....

.....

OCCUPATION: .....

1. Have you at any time been charged or convicted of any offence (excluding minor road traffic offences) by a civil, criminal or military court? If so, please give details of charge, and if convicted, the date of conviction and full particulars of the offence and the penalty imposed.

.....

.....

2. Have you ever been the subject of investigation or disciplinary procedures, or censured or disciplined by any professional body to which you belong or have belonged? If so, give particulars.

.....

.....

3. Have you ever been refused entry to any profession or vocation? If so, give particulars.

.....

4. Have you ever been dismissed or requested to resign from any office or employment? If so, give particulars.

.....

.....

5. Have you ever been censured, disciplined by, or made the subject of a court order at the instigation of—

(a) any regulatory authority?

(b) any officially appointed enquiry?

(c) any other established body concerned with the regulation of a relevant activity (as described in the glossary at the end of this Part of this form) ? If so, give particulars.

.....

.....

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6. In connection with the formation or management of any corporation, have you been adjudged by a court civilly or criminally liable for any fraud, misfeasance or other misconduct towards that corporation or any member of the corporation? If so, give particulars.

.....

.....

7. In connection with the formation or management of any corporation have you been disqualified by a court from being a director or from acting in the management or conduct of the affairs of any corporation? If so, give particulars.

.....

.....

8. Have you ever—

(a) been adjudged bankrupt by a court in any jurisdiction?

(b) had a receiving order made against you?

(c) had your estate sequestrated?

(d) entered into a deed of arrangement, or other composition or arrangement with your creditors?

If so, give particulars.

.....

.....

9. Has a bankruptcy petition ever been served on you? If pending, give details of the circumstances and if not pending, how was the matter resolved?

.....

.....

10. Have you, your company or your employer, previously dealt on a regular basis with any person carrying on a relevant activity (as described in the glossary at the end of Part B of this form) who has, to your knowledge at any time, indicated that he is unwilling to effect further transactions with you, your company or your employer, by reason of any act or omission by you? If so, give particulars.

.....

.....

11. Will you be actively engaged in the business or the entity to which this application relates and devote the major portion of your time to it?

.....

.....

———————

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PART B

RELATED OR OTHER INTEREST

1. Are you a director of any company, partnership, corporate body or any other business organisation engaged in money services business? If so, state—

(a) name of company, corporation or legal entity;

(b) nature of business;

(c) date of commencement of directorship;

(d) whether or not employed on service contract (e.g. managing directorship) in any case.

2. Have you been a director of a deposit taking institution, credit extending institution, other financial service provider, any other limited company or corporation other than those stated in the previous questions? If so, state—

(a) name of company, corporation or legal entity;

(b) nature of business;

(c) date of commencement of directorship;

(d) date of cessation of directorship.

3. Are you or have you been engaged—

(a) in partnership? or

(b) in business as a principal on your own account?

If so, give particulars.

.....

.....

4. Are you a beneficial owner of any controlling interest in any unlisted private or public company? If so, give particulars.

.....

.....

5. Have you ever been a director of, or directly concerned with the management of a bank or other financial institution—

(a) that has been wound up by a court?

(b) the licence of which has been revoked?

(c) which has been placed in receivership?

(d) which has entered into a composition with its creditors?

(e) whose business had been adjudged to have been conducted imprudently or fraudulently?

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(f) which has failed to meet the solvency requirements prescribed by law?

If so, give particulars.

.....

.....

6. Have you ever been a director, or been directly concerned with the management or conduct of affairs of any company which has gone into liquidation, whilst you were, or within one year of your being a director, or so concerned? If so, give details of the circumstances including the following—

(a) name of company;

(b) name of liquidator;

(c) address of liquidator.

7. Have you ever been concerned with the management or conduct of affairs of any corporation which, by reason of any matter relating to a time when you were so concerned, has been censured or disciplined by—

(a) any regulatory authority?

(b) any official appointed enquiry?

(c) any other body concerned with regulation of a relevant activity?

If so, give particulars.

.....

.....

8. Do you (in your personal capacity or through any entity controlled by you) have outstanding debt of any amount 60 or more days in arrears? If so, state the following—

(a) form

(b) amount

(c) source

(d) maturity date

9. Has any person, firm or company guaranteed the indebtedness? If so, give particulars (see previous question).

.....

.....

10. Are you at present guaranteeing the debts and obligations of any third parties? If so, give particulars.

.....

I,…….……. certify that all the statements contained in this questionnaire are true, accurate and fair to the best of my knowledge and belief.

……
Signature

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AUDITED FINANCIAL STATEMENTS

1. If the applicant is a business that was in existence and operating prior to the date of application, copies of audited financial statements (balance sheet, profit and loss, auditor's report and notes to accounts) for the 5 consecutive years immediately preceding its application, except however that where such applicant has been functioning for less than 5 years, a copy of its audited financial statements for each year it has been in operation shall be sufficient.

2. Where item 1 is not applicable the opening balance sheet, (audited).

3. Operating projections for the proposed licensee's first 5 years of business. This should include balance sheet, income statement and cash flow projections prepared in an acceptable accounting format. Details of any financial or economic assumptions on which these projections are based should be clearly indicated.

4. Where applicant is a subsidiary or affiliate of another company, submit in addition to item 1 or 2, audited financial statements of the parent company and all other connected companies.

GLOSSARY

"connected", in relation to a company, means two or more companies or groups of companies with interests which are so interrelated that they should be considered as a single unit;

"corporation" means a body corporate, incorporated in Anguilla or elsewhere;

"relevant activity" means—

(a) banking, finance, insurance, money-lending, money management, debt-financing, hire purchase financing, leasing or other financial activities;

(b) dealing in securities; or

(c) providing investment or financial advice and management.

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SCHEDULE 3

(Section 5)

FORM OF LICENCE

ANGUILLA

MONEY SERVICES BUSINESS ACT

LICENCE

No .....

……..…….. is licensed under the Money Services Business Act to carry on the business of *[money transmission/issuance, sale and redemption of payment instruments/cheque cashing/currency exchange]* * within Anguilla subject to the following conditions/restrictions:

……..……..

……..……...

……

……..……..

The licensee shall forthwith notify the Authority of any change in the information supplied in the application for this licence.

……

Granted this …….. day of ……, 20……. .
at The Valley, Anguilla

……
Authority

* *Delete as necessary*

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SCHEDULE 4

(Sections 5 and 8)

FEES

Class of Licence	**Description of Licence**	**Fees**	
		Application Fee	**Annual Licence Fee**
Class A	Money Transmission; Issuance, Sale or Redemption of Money Orders or Traveller's Cheques; Cheque Cashing; Currency Exchange	US$500	US$1,500
Class B	Issuance, Sale or Redemption of Money Orders or Traveller's Cheques; Cheque Cashing; Currency Exchange	US$500	US$1,000
Class C	Cheque Cashing	US$500	US$1,000
Class D	Currency Exchange	US$500	US$1,000.

(Act 9/2014, s. 9)

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