

Michigan Office of Financial and Insurance Regulation (OFIR)

Regulations Affecting Money Services
Businesses

IRS/BSA Seminar
Dimondale, MI
September 20, 2011





Department Overview

- Under the Federal Financial Services Act of 1999, Michigan became the first state to coordinate the regulatory efforts of the insurance, financial institutions, and securities industries.
- The Department is a **self-funded** (dedicated-funds) agency that is entirely supported by fees paid by the institutions that are regulated and supervised by the Department.



Welcome to the Office of Financial and Insurance Regulation (OFIR)

- OFIR is the State of Michigan agency responsible for regulating Michigan's depository financial industries including consumer finance, financial institutions, insurance and securities.
- The agency consists of over 350 professionals dedicated to protecting Michigan consumers by ensuring the companies that it regulates are financially solvent, follow state and federal law, and are entitled to public confidence.

OFIR Consists of Twelve Divisions

- ▶ Administration Services Division
- ▶ Bank and Trust Division
- ▶ Consumer Credit Division
- ▶ Consumer Services Division
- ▶ Credit Union Division
- ▶ Enterprise Monitoring Division
- ▶ Health Plans Division
- ▶ **Licensing and Product Review Division**
Deputy Commissioner – Jean Boven
- ▶ Office of General Counsel
- ▶ Policy Division
- ▶ Securities Division
- ▶ Supervisory Affairs and Insurance Monitoring Division





Statutes Administered by the Consumer Finance Section include:

- PA 161 of 1988 – Consumer Financial Services Act
- PA 379 of 1984 – Credit Card Arrangements Act
- PA 148 of 1975 – Debt Management Act
- PA 244 of 2005 – Deferred Presentment Service Transactions Act
- PA 218 of 1956 – Insurance Code of 1956 –
Premium Finance Companies
- **PA 250 of 2006 – Money Transmission Services Act**
- PA 75 of 2009 – Mortgage Loan Originator
Licensing Act
- PA 173 of 1987 – Mortgage Brokers, Lenders, and Servicers
Licensing Act
- PA 27 of 1950 – Motor Vehicle Sales Finance Act
- PA 21 of 1939 – Regulatory Loan Act
- PA 125 of 1981 – Secondary Mortgage Loan Act

OFIR Consumer Finance 2011 Number Of Licensees

NUMBER OF LICENSEES AS OF SEPTEMBER 7, 2011 PROGRAM	2011
Credit Card	2
Consumer Financial Services	16
Debt Management	39
Deferred Presentment	651
Money Transmission	51
Mortgages – 1st	598
Mortgages – 2nd	221
Motor Vehicle – Installment Seller	1614
Motor Vehicle – Sales Finance	621
Premium Financing Loan	61
Regulatory Loan	27
TOTAL	3901

CONSUMER FINANCE SECTION
Jean Boven, Deputy Commissioner
Mark W. Weigold, Director

Examination Unit –

Consists of 11 Staff Members

Karen Tingley, Manager

tingleyk@michigan.gov

Licensing Unit –

Consists of 8 Staff Members

Pam Baker, Manager

bakerp1@michigan.gov



Money Services Businesses (MSBs) Requiring Licensing in Michigan

OFIR does not specifically license or regulate MSB's – however, certain MSB's may be licensed and regulated by OFIR.

OFIR's regulatory oversight is limited to the activities requiring licensure, therefore, OFIR only regulates MSB activity of:

- Money Transmitters



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The Money Transmission Services Act provides for the licensing and regulation of money transmission in the state of Michigan. Money transmission includes the selling or issuing of payment instruments or stored value devices or receiving money or monetary value for transmission. A money transmission licensee is required to demonstrate and maintain a minimum net worth of \$100,000 up to a maximum of \$1,500,000. Net worth and surety bond amounts are determined based on the number of locations and authorized delegates operated by the licensee.



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Record Keeping:

- A licensee shall keep its books, accounts, and records satisfactory to the department for each transaction for at least three (3) years from the transaction date.
- A licensee shall keep its books, accounts, and records separate from those of any other type of business and in a manner that reflects the order of the licensee's transactions.
- A record or records of payment instruments sold.





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A payment instrument is:

- (1) a check;
- (2) a draft;
- (3) a money order;
- (4) a traveler's check;
- (5) a stored value card, other than a closed system stored value card; or
- (6) an instrument or written order for the transmission or payment of money; sold or issued to one (1) or more persons, whether such instrument is negotiable.



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Onsite Examinations and Money

Transmitter Financial Analysis:

- The department may examine the books, accounts, and records of a licensee and may make investigations to determine compliance.
- OFIR may conduct an onsite examination of a licensee or an authorized delegate of a licensee.
- It is required that Money Transmitter licensees provide financial information annually at renewal.



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- OFIR Examination Procedures are based upon Michigan specific statutory requirements and the Money Transmitter Regulators Association (MTRA) Joint Examination Program. The MTRA program was developed from the Federal Financial Institutions Examination Council (FFIEC) BSA/AML Examination Manual. The FFIEC BSA/AML Examination Manual is also used to supplement MTRA Exam Program procedures in certain conditions.
- Website for FFIEC Exam Manual is:
http://www.ffiec.gov/bsa_aml_infobase/pages_manual/manual_online.htm



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- Authorized Delegates (Agents) of Money Transmitters licensed in Michigan are included within the examination of the licensee.
- Authorized Delegates are subject to the MTSA and must comply with all requirements of the Act and cooperate in the examination process.



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- As an “agent” of another entity through which MT products are offered (i.e. stored value cards, bill payment services, money order sales), the “agent” should verify that the entity is licensed as a Money Transmitter. If this entity is licensed, the agent is exempt from licensure.
- However, if the entity is not licensed, the “agent” is conducting unlicensed activity.



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Violations and Penalties:

Money Transmission Services Act - Act 250 of 2006

- 487.1041 Revoking license; revoking designation of Authorized Delegate – Sec. 41
 - Engages in fraud or intentional misrepresentation
 - Does not grant access to its books and records
 - Engages in unsafe or unsound practices
- 487.1042 Violations; penalties; restitution – Sec. 42
 - Misrepresentation, fraud and unlicensed activity are considered felony violations subject to fines of not more than \$100,000 or up to 5 years imprisonment, or both
- 487.1046 Civil fine \$10,000 per day fine – Sec. 46
- 487.1047 Prohibition if convicted of money laundering, fraud, etc. – Sec. 47





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Preventing Violations:

- Licensed entities are subject to periodic examinations to determine compliance with the statutes corresponding to their business type. As examiners discover violations they try to determine the cause and obtain assurance from the licensees that future transactions will be in compliance.
- Preventing violations is considered to be as significant as citing violations for remedies.



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Anti-Money Laundering Investigations:

- The Department will to the extent authorized or required investigate potential violations of, and enforce compliance with, federal money laundering statutes or regulations. We may refer federal violations to FinCEN.





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Compliance with Money Laundering Laws:

A licensee shall comply with all federal money laundering statutes and regulations, including the following:

- (1) The Bank Secrecy Act (31 U.S.C. 5311 et seq.)
- (2) The USA Patriot Act of 2001 (P.L. 107-56)
- (3) Office of Foreign Assets Control (OFAC) (31 CFR 500 et seq.)
- (4) Any regulations, policies, or reporting requirements established by the Financial Crimes Enforcement Network of the United States Department of the Treasury.





Questions and Answers

Answers are based on Director Weigold's views and are not necessarily the views of the Department.





Location Information:

Regular business hours are
8:00 am to 5:00 pm

611 West Ottawa 3rd Floor
Lansing, MI 48933





Website Information:

- General information is also available on our website at: <http://www.michigan.gov/ofir>
- In addition, a list of the licensed entities may be found on our website. Click on “Who we Regulate” in the upper left hand corner; then choose “Consumer Finance” and scroll down for the type of institution desired. Clicking on the type of institution will result in a list of all licensed/registered entities.





Contact Information:

OFIR Consumer Hotline for
individuals who wish to speak
with staff members

(877) 999-6442

