Section 406.1. Introduction
This Part contains regulations relating to the transmission of money by licensees and their agents under article XIII-B of the Banking Law. For purposes of this Part, the business of transmission of money will be divided into three categories: the issuance and sale of travelers checks to the public, the sale and issuance of money orders to the public, and the transmission of money on behalf of the public by any and all other means or manner including but not limited to transmissions within this country or to locations abroad by wire, check, draft, facsimile or courier. Although a number of the subdivisions of this Part apply to all licensees and their agents and subagents, other subdivisions apply exclusively to those transmission activities that fall within the scope of the third category of transmission. As provided in Banking Law, section 641, the provisions contained in this Part shall not apply to an agent of a payee as defined in section 406.2(a) of this Part. Only agents of a payee which do not engage in any money transmission activities other than as an agent of a payee are exempt from the provisions of this Part.

Section 406.2. Definitions
For purposes of this Part:
(a) The term money transmission shall include all instruments sold or issued including travelers checks, money orders, checks, drafts, orders, wire or electronic transfers, facsimile transfers and shipments by courier for the transmission or payment of money.
(b) The term travelers check means an instrument for the payment of money which:
(1) is designated on its face by the term travelers check or by any similar term or spelling or is commonly known and marketed as a travelers check, and not by the term money order or by any substantially similar term; and
(2)
(i) if issued in United States currency, is in the sum of $10 or a multiple thereof, if less than $100, or in the sum of $100 or a whole multiple thereof; or
(ii) if issued in any foreign currency, is in an even denomination of such currency; and
(3) contains a provision for a specimen signature of the purchaser to be completed at the time of purchase; and
(4) contains a provision for a counter-signature of the purchaser to be completed at the time of negotiation.
(c) The term money order means an instrument for the payment of money (whether or not negotiable) which:
(1) is designated on its face by the term money order or by any similar term or is commonly...
known and marketed as a money order, and not also by the term travelers check, official check, cashiers check, bank check or by any substantially similar term; and
(2) is customarily subject to a dollar limit stated on its face which has been set by the drawer; and
(3) requires the purchaser to sign its name, provide its address and to fill in the name of the payee.
(d) The terms person, licensee and check shall have the respective meanings specified in Banking Law, section 640.
(e) The terms agent and subagent means any person designated or appointed by the licensee to engage in money transmission at locations other than an office of the licensee as provided in Banking Law, section 648, but does not include licensed cashers of checks which act as agents of licensed money transmitters under applicable regulations.
(f) The term corporate licensee shall include any licensee, wherever organized, which is a corporation or association, having written articles of incorporation or association, but shall not include a partnership.
(g) The term principal officer means chairman of the board, president, chairman of the executive committee, executive vice-president, comptroller, and any other persons who perform similar functions.
(h) The term principal stockholder means any person (or group of persons acting in concert) who is the beneficial owner of 25 percent or more of outstanding voting shares of any class.
(i) The term control shall have the meaning specified in Banking Law, section 652-a.
(j) The terms fund, holder(s), New York instrument(s), New York traveler's check(s), purchaser(s) and uninsured money transmitter shall have the respective meanings specified in Banking Law, section 653.
(k) Notwithstanding the foregoing definitions, no person who issues or delivers a check, draft or other instrument or document for the transmission or payment of money or which evidences an obligation for the transmission or payment of money, shall be deemed to have issued or sold such check, draft, instrument or document, within the meaning of section 653(6), (9) or 640(4) of the Banking Law if such check, draft instrument or document:
(1) is sold or issued in connection with a loan or extension of credit other than a loan or extension of credit to purchase a money order or New York traveler's check; or
(2) is sold or issued to effect a withdrawal or transfer of funds from a credit balance maintained with the seller or issuer; or
(3) evidences or relates to a credit balance; or
(4) evidences an obligation of a banking institution insured by a Federal insuring agency; or
(5) evidences an obligation arising out of a letter of credit, borrowing or similar type of financing or arising out of the purchase or sale of securities; or
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(6) is denominated in and arises out of a transaction involving a currency other than U.S. dollars, if the person purchasing such check, draft, instrument or document is engaged in the business of purchasing or selling such currency; or
(7) effects a transfer of funds between, among, or by order of banking institutions and clearinghouses, or is transferred in connection with the collection of such check, draft, instrument or document.

(l) The term agent of a payee means any person authorized by a payee to receive funds on behalf of the payee and to deliver such funds received from the payor to the payee.

Section 406.3. Conduct of business
(a) Every licensee engaged in money transmission, except one engaged exclusively in the sale or issuance of travelers checks and/or money orders, shall post and at all times display in full public view, at both its principal office and at each branch office in this State, where the general public is admitted and money transmission is carried out, a sign or signs in the English language and in any other predominant language spoken by the customers of the licensee each of which sign shall be no less than 20 inches wide and 12 inches high with letters at least one-half inch in height indicating the following:
(1) the name and principal address of the licensee, the type of transmission activity the licensee is authorized to engage in, and a telephone number established by the licensee to answer questions and register complaints; and
(2) that the licensee is licensed and regulated by the New York State Banking Department and that unresolved consumer complaints may be mailed to the New York State Banking Department, Consumer Services Division, as set forth in section 1.1 of Supervisory Policy G 1 of this Title.
(b) Every licensee engaged in money transmission in this State, except one engaged exclusively in the sale or issuance of travelers checks and/or money orders, shall affix a notice on the front window or entrance door of its principal office and at each branch office in this State, where the general public is admitted and money transmission activities are carried out indicating the following information:
(1) the name of the licensee; and
(2) the statement that the licensee is “Licensed as a Money Transmitter by the Banking Department of the State of New York.” Each such notice shall be no less than four inches by six inches.
(c) No licensee shall sell or issue any travelers check, money order, check, draft, or other instrument or order for the transmission or payment of money in or from this State unless the name of the licensee as maker, drawer, acceptor or otherwise as obligor shall clearly appear on the face of the instrument.
(d) No licensee shall engage in money transmission directly or through the use of agents in New York without having filed within 10 days of adoption the form of payment instrument with the superintendent. All internationally payable instruments or receipts
Section 406.4. Agents and subagents of money transmitters
(a) Each licensee must submit to the superintendent as of the close of business on December 31, 1989 a written description of the licensee's general procedures by which it intends to enter into agency contracts to engage in money transmission in this State. This description must include the licensee's policies and procedures and other details regarding the following matters:
(1) a brief summary of the proposed money transmission activities to be engaged in by the agents and subagents and a description of how money is to be transferred to the beneficiaries and an undertaking by the licensee to assume responsibility for consumer losses incurred through an agent's unauthorized activities or as a result of violations of any laws or regulations; and
(2) the number of agents and subagents and projected sales volume for travelers checks, money orders and all other transmission instruments sold; and
(3) the procedures for agent and subagent selection including the method of ascertaining the agent's and subagent's credit standing; and
(4) the procedures that agents and subagents shall follow relating to:
(i) recordkeeping;
(ii) safeguarding travelers checks, money orders and all other instruments or orders for the transmission or payment of money;
(iii) remittance of proceeds of sales of travelers checks, money orders and all other instruments or orders for transmission or for payment of money sold to the public (i.e., time within which such proceeds are required to be remitted to the licensee, and
remittance procedures);
(iv) reporting procedures to be followed by agents and subagents when reporting to the licensee the sale of travelers checks, money orders and all other instruments or orders for the transmission or payment of money sold to the public including but not limited to the time within which such sales are to be reported to the licensee, and procedures for reporting such sales; and
(5) copies of any documentation which the licensee will require its agents and subagents to furnish the public in connection with the money transmission activities including but not limited to samples of travelers checks, money orders and all other instruments or orders for the transmission or payment of money sold, including forms and receipts; and
(6) procedures for distributing policies and procedures pertaining to agents and subagents and licensee's program to assure agent's and subagent's compliance; and
(7) compensation arrangement with agent and subagent; and
(8) bonding and insurance of agents and subagents; and
(9) the licensee's policy relating to loans to and investment in agents and subagents except loans and investments made by a regulated financial institution in the ordinary course of its business; and
(10) in the case of money transmissions other than by sale of money orders and travelers checks, the names and addresses of correspondents used to make delivery of money to beneficiaries; and
(11) such other information, and documentation as the superintendent may require.
Such information is to be provided within 45 days of December 31, 1989 and at such other times as the superintendent may require.
(b) In addition, each licensee shall submit to the superintendent as of the close of business on December 31, 1989 the following information:
(1) a listing in alphabetical order of its agents and subagents in this State showing their full names and addresses and licensee assigned identification number(s) if grouped by the category of transmission activity the licensee has authorized the agent and subagent to conduct on its behalf; and
(2) a specimen copy of the agency contract between the licensee and its agents and subagents including all attachments, amendments and supplements. Such information is to be provided within 45 days of December 31, 1989 and at such other times as the superintendent may require.
(c) Upon any change in any material aspect of a licensee's policies and procedures, including but not limited to the items enumerated under paragraphs (a)(3) through (11) of this section, the licensee shall file with the superintendent a written description of the change within 10 days of implementation.
(d) 
(1) Every agent and subagent, other than a bank, which is engaged in money transmission,
except one engaged exclusively in the sale or issuance of travelers checks and/or money orders, shall post and at all times display in full public view, at both its principal office and at each branch office in this State a sign or signs in the English language and in any other predominant language spoken by its customers. Each sign shall be no less than 20 inches wide and 12 inches high with letters at least one-half inch in height prominently indicating the following:

(i) name, address and telephone number of the principal office of the agent and subagent and the type of money transmission activity which the agent and subagent has been authorized to conduct by the licensee; and

(ii) name and address of the licensee; and a telephone number established by the licensee to answer questions and register complaints; and

(iii) that the licensee is licensed and regulated by the New York State Banking Department and that unresolved consumer complaints may be mailed to the New York State Banking Department, Consumer Services Division, as set forth in section 1.1 of Supervisory Policy G 1 of this Title.

Every agent or subagents, other than a bank, which is engaged in money transmission, except one engaged exclusively in the sale or issuance of travelers checks and/or money orders, shall be provided by the licensee with a notice no less than four inches by six inches to publicly display on the agent’s and subagent’s front window or entrance door containing the following information:

(i) the name of the licensee; and

(ii) the statement that the licensee is “Licensed as a Money Transmitter by the Banking Department of the State of New York”; and

(iii) its designation of the agent to act in such capacity.

(e) A receipt, or other evidence of acceptance of funds shall be given to every person who utilizes an agent and subagent of a licensee to transfer money. The receipt issued by the agent and subagent of the licensee shall contain the information required in section 406.3(f) of this Part and the following information:

(1) that the licensee is liable for the nondelivery or delayed delivery;

(2) the refund policy of the licensee;

(3) the dollar amount of transmission; and

(4) the fee charged.

Section 406.5. Agency contracts

(a) All written contracts between licensees and agents and subagents entered into after the effective date of this Part shall provide the following:

(1) a description of the category or categories of money transmission activity the licensee is authorized to lawfully engage in under its license which it may do through an agent and subagent; and

(2) a prohibition in the licensee’s agents and subagents acting on behalf of the consumer
as a courier for the transmission of money which activity requires licensing as a money transmitter and a requirement that all money orders sold may not be retained by the agent and subagent but must be given to the purchasers of the instruments for their own delivery to the beneficiary; and

(3) an acknowledgment that the superintendent reserves the right to inspect, with or without prior notice to the licensee or agent and subagent(s), the books and records of agent and subagent(s) of the licensee and that the expenses incurred in making any such inspection shall be borne by the licensee; and

(4) that agents and subagents shall not sell any travelers check, money order or other money transmission instrument in this State unless the name of the licensee shall clearly appear on the face of the instrument and the licensee shall not condition its engagement as obligor under the payment instrument upon the remittance of the proceeds of sale from the agent and subagent; and

(5) that agents and subagents shall not sell any travelers check, money order or other money transmission instrument in this State, unless the agent and subagent has provided the superintendent with a written and irrevocable consent to examine, have access to, and retain copies of all of its books and records, wherever maintained, relating to these activities; and

(6) that agents and subagents in this State are under a duty to act only as authorized under the agency contract and that an agent and subagent who exceeds its authority is subject to cancellation of the agency contract and may result in further disciplinary action against the licensee by the superintendent.

(b) For each contract entered into prior to the effective date of this Part, a rider containing paragraphs (a)(1)-(6) of this section shall be sent by each licensee to each of its agents and subagents in New York within 45 days of the effective date of this Part.

Section 406.6. Advertising and solicitation

(a) No licensee or agent or subagent engaged in money transmission, except one engaged exclusively in the sale or issuance of travelers checks and/or money orders, shall advertise its money transmission services without including the name of the licensee and the legend that such licensee is “Licensed as a Money Transmitter by the Banking Department of the State of New York.”

(b) No licensee or agent and subagent who sells or issues travelers checks or money orders in this State shall advertise its business in New York without including the legend: “Licensed as a Money Transmitter by the Banking Department of the State of New York.”

(c) Every licensee and designated agent and subagent shall maintain a complete file of its advertisements (including commercial scripts of all radio and television broadcasts) for examination by the superintendent for a period of at least two years from the date of publication.
(d) The legend required in subdivisions (a) and (b) of this section shall apply only to advertising in New York State.

Section 406.7. Examinations
The superintendent shall have the power to examine any licensee at any time when in the judgment of the superintendent such examination is necessary or advisable to determine:
(a) the financial condition of the licensee;
(b) the safety and soundness of the conduct of its business;
(c) the policies of its management;
(d) whether the requirements of law have been complied with in the administration of its affairs;
(e) whether the licensee has policies and procedures sufficient to control the activities of any authorized agents; and
(f) such other matters, as the superintendent may determine, including but not limited to any activities of the licensee outside this State if in the opinion of the superintendent such activities may affect the licensee's money transmission business in this State.

Section 406.8. Revocation; possession
(a) Licenses granted under article XIII-B of the Banking Law may be revoked for the grounds specified in section 642 of the Banking Law after notice and hearing conducted in accordance with the State Administrative Procedure Act and Banking Department regulations.
(b) The superintendent may take possession of the business and property of any licensee as provided in article XIII-A of the Banking Law for the reasons stated therein.

Section 406.9. Books and records
(a) Each licensee shall make, keep and preserve its books and records in such form, in such manner and for such time as is in accordance with generally accepted accounting principles and in a condition which will allow the superintendent to determine whether the licensee and agent and subagent is complying with article XIII-B of the Banking Law. Preservation by photographic reproduction or in photographic form shall constitute compliance with the requirements of this Part.
(b) The books and records maintained by each licensee and agent shall include:
(1) a daily record of instruments sold by date;
(2) a general ledger containing all asset, liability, capital, income and expense accounts which general ledger shall be posted at least monthly;
(3) remittance reports received from agents and subagents;
(4) bank statements and bank reconciliation records which shall be kept for three years;
(5) outstanding money transmission instruments by year of sale shall be maintained for
at least five years after the time which such instruments have been deemed, under the
Abandoned Property Law, to be abandoned property;
(6) each money transmission instrument paid for a period of three years after the date
of payment;
(7) a list of the names and addresses of all the agents who sell or issue its money
transmission instruments and copies of its agency agreements thereunder.
(c) Every licensee shall:
(1) maintain the records relating to its money transmission instruments in New York; or
(2) provide the superintendent with a written and irrevocable authorization to examine,
have access to, and retain copies of all its books and records, wherever maintained,
relating to its money transmission instruments.
(d) Each licensee or agent and subagent which is engaged in any form of money
transmission, as defined in section 406.2(a) of this Part, including any engaged
exclusively in the sale or issuance of travelers checks and/or money orders, shall comply
with Federal Bank Secrecy Act Regulations as set forth in 31 CFR part 103.28.

Section 406.10. Reports
Each licensee shall file the following reports giving such information as may be required
by the superintendent concerning its business and operations.
(a) Reports of locations. A licensee engaging in money transmission in this State,
either directly or through agents and subagents shall file with the superintendent, in
connection with its application for license or license renewal, a statement showing the
number of such locations within this State and the number of such locations elsewhere
in the United States as of 30 days preceding such filing.
(b) Financial reports. Every licensee shall file with the superintendent quarterly financial
statements within 45 days following the close of the licensee's fiscal quarter and an
annual financial statement, audited by an independent certified public accountant, within
120 days following the close of the licensee's fiscal year. Such financial statements
shall include a balance sheet, a profit and loss statement, and a statement of retained
earnings.
(c) Reports of misconduct. Every licensee shall submit a report to the superintendent
immediately upon the discovery of any of the events listed in Part 300 of the
superintendent's regulations. Such report shall be submitted as set forth in Part 300.
(d) Reports of business. Every licensee shall submit a report to the superintendent within
45 days following the close of each calendar quarter reflecting in dollars the monthly
sales of travelers checks, money orders, checks, drafts, wire or electronic transfers or
other instruments or orders for the transmission or payment of money in or from this
State by the licensee and its agents and subagents and the aggregate monthly sales of
such instruments sold elsewhere in the United States by the licensee and its agents and
subagents during the previous calendar quarter. Sales of money orders, travelers checks

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and all other such instruments sold should be reported separately for each instrument. In addition at the end of every calendar quarter every licensee should report the amount of the permissive investments (as defined in section 640.9 of the Banking Law) it holds and the amount of its outstanding liabilities reported separately for travelers checks, money orders and all other such instruments sold.

Section 406.11. Changes in control; reports; applications
(a) As required under Banking Law, section 652-a, no person may acquire direct or indirect control (as defined in said section) of a licensee without the prior approval of the superintendent. In addition, an unauthorized acquisition of control may result in the voiding of the license to engage in the business of money transmission as provided therein.
(b) Without limiting the responsibilities of persons seeking to acquire control of licensees to make application to the superintendent under section 652-a of the Banking Law and subdivisions (d) and (e) of this section, licensees shall be required to report to the superintendent the following information within five days of the date the licensee becomes aware of such information:
(1) the name and residence of each person (or each member of a group of persons acting in concert) who becomes an owner of 10 percent or more of the outstanding shares of any class (voting or nonvoting) of the licensee; and
(2) the name and residence of each person who is to become a partner, director or principal officer of the licensee.
(c) Within 10 days after any principal officer of a licensee shall be appointed, the licensee shall, with respect to said officer, cause to be filed with the superintendent the information contained in subdivision (e) of this section.
(d) Prior to acquiring direct or indirect control (as defined in section 652-a of the Banking Law) of a licensee, the proposed acquirer shall make application for approval of the superintendent, said application to contain the information described in subdivision (e) of this section.
(e)
(1) Name and address of the applicant, if an individual or, if a partnership, of its partners or, if a corporation or association, of the directors, trustees and principal officers thereof and of any stockholder owning 10 percent or more of the outstanding shares of any class (voting or nonvoting) of the licensee and a description of the present employment or occupation and of all previous employment or occupation during the preceding 15 years (including a statement as to whether during such period the applicant has been discharged from employment, and if so, for what reason); and
(2) a description of:
(i) any criminal action brought against the applicant;
(ii) any civil action brought against the applicant (excluding any civil action in which the
amount in controversy was less than $25,000 or which terminated more than 15 years previously and excluding any domestic relations action); (iii) any proceeding brought to declare the applicant bankrupt; (iv) any such criminal or civil action brought against, or proceeding to declare bankrupt, any partnership, corporation or association, other than the licensee, of which at the time the applicant was a partner, principal stockholder or principal officer, and the disposition of such action or proceeding; and (3) whether the applicant or any partnership, corporation or association of which at the time the applicant was a partner, principal stockholder, director or principal officer has applied for a license in this State or any other state to engage in money transmission, the disposition of such application, and if such license was granted, whether it was ever suspended, revoked or its renewal refused; and (4) the number (if any) of shares of each class of stock of the licensee and the amount (if any) of obligations (in excess of $5,000) of the licensee of which the applicant intends to be beneficial owner immediately after the transaction to which the report relates; and (5) a description of any other partnership, corporation or association (excluding any corporation or association organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual) of which the applicant is partner, principal stockholder, or principal officer; and (6) any other information the superintendent may require. 

(f) Obligation to inform. Every corporate licensee shall inform in writing every person (and every member of any group of persons acting in concert) who to the licensee's knowledge is a principal stockholder of the licensee of the reporting requirements under this Part.

Section 406.12. Additional reporting
As required under Banking Law, section 643.2 the licensee shall give notice to the superintendent by registered or certified mail of any action which shall be brought against the licensee and of any judgment which shall be entered against the licensee by such purchaser or holder of a New York instrument or a New York traveler's check, with details sufficient to identify the action or judgment, within 10 days after the commencement of any such action or notice to the licensee of entry of any such judgment. In addition every licensee shall, immediately after the occurrence of the event becomes known to the licensee, advise the superintendent in writing of: (a) any criminal or civil action (excluding any civil action in which the amount in controversy is less than $25,000 and excluding any domestic relations action) brought against the licensee or any proceeding to declare the licensee bankrupt, and of any
Section 406.13. Provision for corporate surety bonds
(a) Every person licensed to transmit money pursuant to Banking Law, section 641, shall file with the superintendent one or more corporate surety bonds, in form satisfactory to the superintendent in such principal amount as the superintendent shall have determined. Such corporate surety bond shall be issued by a bonding company or insurance company authorized to do business in this State.
(b) One such bond shall be in favor of the superintendent for the protection of the purchasers and holders of New York instruments sold by the licensee. The principal amount of such bond shall be not less than $500,000 and it shall contain substantially the following language:

“The proceeds of this bond shall constitute a trust fund for the exclusive benefit of the purchasers and holders of the licensee’s New York instruments. In the event of the insolvency or bankruptcy of the licensee, the proceeds of the bond shall be paid to the superintendent forthwith for disposition in accordance with the applicable provisions of the Banking Law; provided, however, if any New York instruments have been assigned to the fund, the proceeds of the bond shall constitute a trust fund for the benefit of, and shall be payable to, the fund to the extent of such assignment. As used herein, the terms “New York instruments”, “fund”, “purchasers,” and “holders” shall have the meanings ascribed to them in section 653 of the Banking Law.”
(c) If the licensee engages in the sale of New York traveler’s checks, such licensee shall file with the superintendent a separate bond. Said bond shall be in favor of the superintendent for the protection of the purchasers and holders of New York traveler’s checks sold by the licensee. The principal amount of such bond shall not be less than $750,000 and it shall contain substantially the following language:

“The proceeds of this bond shall constitute a trust fund for the exclusive benefit of the purchasers and holders of the licensee’s New York traveler’s checks. In the event of the insolvency or bankruptcy of the licensee, the proceeds of the bond shall be paid to the superintendent forthwith for disposition in accordance with applicable provisions of the Banking Law. As used herein, the terms “New York Traveler’s checks”, “purchasers” and “holders” shall have the meanings ascribed to them in section 653 of the Banking Law.”
Section 406.14. Deposit of securities
A licensee who in lieu of filing a corporate surety bond elects to deposit securities pursuant to Banking Law, section 643(3), shall execute with the depository bank, trust company or national bank a deposit agreement in form satisfactory to the superintendent. An executed copy of this deposit agreement shall be filed with the superintendent.

Section 406.15. Payments by uninsured money transmitters to fund
Upon receipt of notice of assessment issued pursuant to section 657 of the Banking Law, each uninsured money transmitter shall provide the superintendent, as administrator of the State Transmitter of Money Fund, within such reasonable time as shall have been specified in such notice, a statement certified by an executive officer, showing the dollar amounts of the New York instruments issued by the uninsured money transmitter that were outstanding at the end of each calendar quarter for the calendar year preceding that in which the assessment is made, and the average of said amount. (Said average shall consist of the quotient obtained when dividing the sum of such amounts by the number of calendar quarters involved.) Upon receipt of such statement, the superintendent shall notify the uninsured money transmitter of the percentage of said average constituting the assessment, and the uninsured money transmitter shall forthwith pay the resulting assessment to the superintendent. Said percentage shall be uniform as to all uninsured money transmitters. In no event shall the total amount assessed in any one year against any uninsured money transmitter pursuant to section 657 of the Banking Law exceed two per centum of the New York instruments of such uninsured money transmitter, which were outstanding at the end of the calendar year preceding the year in which such assessments were made or $125,000, whichever is less.

Section 406.16. Communications
It is requested that licensees direct their Banking Department correspondence, reports, notices, statements and applications to the Licensed Financial Services Division of the Banking Department at the address set forth in section 1.1 of Supervisory Policy G 1 of this Title.