

# ARIZONA MONEY TRANSMITTERS

## SAFEGUARDS PROTECT CONSUMERS USING LICENSED MONEY TRANSMITTERS

Arizona Money Transmitters<sup>1</sup> are licensed and supervised by the Arizona Department of Financial Institutions. Money Transmitters that would otherwise need a license may be accepted to enter the Attorney General’s Regulatory Sandbox Program to test “innovative” products and services.<sup>2</sup>

### Companies Licensed as Money Transmitters in Arizona

Licensed money transmitters include wire transfer companies that accept funds from their customers and deliver that money to a recipient, such as Western Union or MoneyGram. Others provide wallet services for consumers, such as PayPal and Square, Inc of California. Specialized services include JPay, Inc. which handles funds sent electronically to prisoners in Arizona facilities. Prepaid card companies are licensed as money transmitters, including Green Dot Corporation, netSpend Corporation, American Express Prepaid Card Manager, and CheckFreePay Corporation.

A company that handles payments for cannabis stores, 36money, LLC, is a licensed money transmitter and settles transactions with customers using the Dash blockchain. Bill payment companies and applications include AvidXchange, Inc. and Alipay, as well as U.S. Payments, LLC in Tulsa, which provides kiosks to retail locations to accept payments. National cryptocurrency exchanges licensed in Arizona include bitFlyer USA, Inc.; Bitsy, Inc.; bittrex, Inc.; Chime Inc.; Circle Internet Financial, Inc.; Coinbase, Inc.; CoinX, Inc.; and CoinZoom, Inc.

**Money Transmitters required to be licensed:** Arizona’s Money Transmitter law A.R.S. § 6-1201(11) defines a “money transmitter” according to the activities performed, such as “Sells or issues payment instruments,” “Engages in the business of receiving money for the transmission of or transmitting money,” “Engages in the business of exchanging payment instruments or money into any form of money or payment instrument,” and “Engages in the business of receiving money for obligors for the purpose of paying that obligor’s bills, invoices or accounts.”

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<sup>1</sup> Ariz. Rev. Stat. Ann. §§ A.R.S. 6-1200 *et. seq.* at <https://www.azleg.gov/arsDetail/?title=6>, See Chapter 12

<sup>2</sup> <https://www.azag.gov/fintech>

A company is also a money transmitter if it “Meets the definition of a bank, financial agency or financial institution as prescribed by 31 United States Code section 5312 or 31 Code of Federal Regulations section 1010.100.”

### **Arizona Department of Financial Institutions Money Transmitter Licensees**

As of February 2019, the Arizona Department of Financial Institutions licensed 145 companies as Money Transmitters with 214 licensed locations. Of those licensed locations, only 12 of the companies list headquarters in Arizona although several out-of-state licensees have branches located in the state.<sup>3</sup>

#### **The Largest Money Transmitters by number of licensed locations are:**

|   |      |
|---|------|
| Dolex Dollar Express, Inc.                    | (34) |
| U.S. Payments, LLC                            | (12) |
| Continental Exchange Solutions Inc. #1 and #2 | (8)  |
| Keefe Commissary Network, LLC                 | (8)  |
| Western Union companies                       | (4)  |

Large national and international money transmitters typically have one license in Arizona, such as Apple Payments Inc.; Facebook Payments Inc.; Google Payment Corp. #2; Green Dot Corporation; Microsoft Payments, Inc.; MoneyGram Payment Systems, Inc.; netSpend Corporation; and PayPal, Inc.

### **Sandbox Money Transmitter**

The Attorney General has admitted one money transmitter to the Regulatory Sandbox Program. The Omni Mobile, Inc. product description posted on the OAG Fintech website: “A financial service platform implementing an array of avante garde technologies to improve today’s payment systems through the utilization of direct ACH payments through OM’s centralized wallet infrastructure.” The OM Cash product will be tested at the Westward Look Wyndham Grand Resort and Spa in Tucson.<sup>4</sup>

The “sandbox” law permits money transmitters to make individual transactions up to \$2,500 and an aggregate of \$25,000 money transmitter transactions, per consumer, to a total of 10,000 consumers during the two-year trial period. If a money transmitter participant is judged to be well financed, it can provide services for up to 17,500 consumers with individual transactions up to \$15,000 and a total aggregate of \$50,000 per consumer.<sup>5</sup>

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<sup>3</sup> Look up Money Transmitters (MT) on the master list at <https://dfi.az.gov/licensee-lookup>

<sup>4</sup> <https://www.azag.gov/press-release/arizona-accepts-first-participant-fintech-sandbox>

<sup>5</sup> A.R.S. §§ 41-5605(B)(4), 41-5605(B)(2) and 41-5605(C)(1).

## Money Transmitter Licensing by the Department of Financial Institutions

Licensing by AZDFI is handled electronically through the NMLS online portal. See the page at <https://dfi.az.gov/money-transmitters-dfi> for AZDFI Money Transmitter licensing.

Application fees for Money Transmitter licensing are set by law at \$1,500 plus \$25 for each branch office and authorized delegate to a maximum of \$4,500. Annual renewal fees are \$500 per company plus \$25 for each branch or authorized delegate.<sup>6</sup> The Attorney General charges \$500 for companies, including Money Transmitters, to apply to enter the Regulatory Sandbox Program.

### Safety and Soundness Requirements for Licensed Arizona Money Transmitters

Arizona requires licensed money transmitters to meet several financial standards to ensure they stand behind the funds they hold, transmit, or convert for consumers. These safety and soundness requirements include:

**Bond Requirement.** The size of the bond depends on the number of authorized delegates and locations, starting at \$25,000 for five or fewer. For a company with more than five delegates/locations and up to twenty, the bond is \$100,000, with an additional \$5,000 for each delegate/location more than 20 but fewer than 201. The maximum bond is \$500,000. (§ 6-1205)

**Net Worth Requirement.** At least \$100,000 in net worth maintained, plus an additional net worth of \$50,000 for each location or authorized delegate located in Arizona up to a maximum \$500,000. (§ 6-1205.1)

**Permissible Investments.** These are either market value of not less than the aggregate amount of all of its outstanding payment instruments or a net carrying value of not less than the aggregate amount of all of its outstanding payment instruments, provided the market value of investments is at least 95 percent of net carrying value. The Superintendent of DFI may limit or set rules on types of investments. "Permissible investments" are defined in § 6-1201(14) as money on hand or on deposit in the name of the licensee; certificates of deposit or other debt instruments of a bank, savings and loan association or credit union; bills of exchange or time drafts drawn on a bank; commercial paper with a high rating; securities or obligations backed by a government entity; stocks and bonds with a high rating; and any receivable due the licensee from its authorized delegate under a contract with limits. (§ 6-1212)

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<sup>6</sup> Ariz. Rev. State. Ann. §§ 6-126 (A) (29) and (C)(9). <https://www.azleg.gov/ars/6/00126.htm>

**Liability of Licensees.** “Each licensee is liable for the payment of all moneys covered by payment instruments that it sells or issues in any form in this state...” (§ 6-1214)

**Money Laundering Provisions.** Arizona law at § 6-1241 requires reports by licensed money transmitters to the Attorney General of transactions of \$5,000 or more if the transmitter has reason to know or suspect that the activity involves funds from illegal activities or has no apparent business or lawful purpose. Suspicious Activity Reports must be filed for transactions of \$10,00 or more. The transmitter must keep customer information for any transaction of \$1,000 or more, including name, social security or taxpayer identification number, verified photographic identification, occupation, residential address, and customer’s signature. Section 6-1242 authorizes the Attorney General to conduct investigations into money laundering and failure to file a required report.

### **No Safety and Soundness Requirements for Sandbox Money Transmitters**

The Arizona Regulatory Sandbox law does not require that sandbox participants that would otherwise be required to be licensed as money transmitters comply with any Money Transmitter law provisions if admitted to the “sandbox.” The law permits sandbox money transmitters to handle up to \$250,000,000 in transactions (10,000 consumers x \$25,000 total transactions per consumer) and for “financially sound” money transmitters in the sandbox \$875,000,000 in transactions (17,500 consumers x \$50,000 total transactions) without any required protections.

The Attorney General has the authority to require individual sandbox participants to comply with state law. Public interest organizations requested the Attorney General to use his discretion to require sandbox transmitters to comply with the safety and soundness laws that apply to licensees. Alternatively, he was urged to issue a warning that there were no protections for funds held and transmitted by money transmitters in the “sandbox.”<sup>7</sup> It is not known if the sole money transmitter in the “sandbox” meets any of the money transmitter safety requirements since the Attorney General denied a Public Records request asking for records on required compliance with Arizona laws or required disclosure of safety protections.

The Attorney General does not commit to requiring money transmitters in the sandbox to comply with the safety and soundness requirements that apply to licensed money transmitters. From the FAQs<sup>8</sup> on the Fintech page at the Attorney General’s website:

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<sup>7</sup> Letter to Arizona Attorney General re Regulatory Sandbox Program, July 24, 2018 at <https://nomoreloansharksaz.org/gallery/2018-07-24%20ag%20letter%20-%20re%20az%20regulatory%20sandbox%20implementation.pdf>

<sup>8</sup> <https://www.azag.gov/fintech/faq>

Do I need a bond or minimum net worth to be admitted for testing products or services as a money transmitter?

“There is no set minimum bond or net worth requirement; however, each applicant must demonstrate that consumers will be protected for the duration of the test. **Applicants are free to propose a bond** as a method of ensuring consumer protection. The Attorney General’s Office will review applications on a case by case basis...” Emphasis added.

The Attorney General apparently envisions money transmitters seeking admission to the sandbox with **zero financial assets on hand**. Also from the FAQs on the Fintech page at the Attorney General’s website:

By what criteria does the Attorney General evaluate applications?

“In sum, the Attorney General evaluates applications holistically to determine the applicant’s ability to conduct a test that does not place undue risk on consumers. In reviewing the applications, the Attorney General may consider factors including: capitalization; insurance or bonds and their terms; compliance or legal support; accounting practices; cash on hand; and the number and expertise of active advisors and key personnel. Lacking in one or more of these areas is not necessarily dispositive against being admitted. For example, **if a money transmitter business has little to no cash on hand, but has a substantial bond**, then the Attorney General’s Office may consider that arrangement sufficient to protect consumers in light of the overall plan presented by an applicant.” Emphasis added.

### **2019 Arizona Legislature Fails to Protect Consumers**

HB 2177, sponsored by Rep. Weinger, amended the Regulatory Sandbox law to expand participation to companies that do not need to be licensed, to remove the cap on consumers while a participant seeks a license, and to permit money transmitters in the sandbox to test products with consumers who are not Arizonans. Companies applying to enter the Sandbox no longer need to propose an innovative product or service, just apply to test an “innovation.” The bill did not add in the safety and soundness provisions of the Money Transmitter law as requested by consumer and community organizations.

In the last week of March 2019, both the William E. Morris Institution for Justice, and the Southwest Center for Economic Integrity, sent letters<sup>9</sup> to the Governor with a request to veto HB 2177. The Governor signed the bill into law on Monday, April 1<sup>st</sup>, 2019.

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<sup>9</sup> <https://www.nomoreloansharksaz.org/Letters/>