



# Breaking Into Jail

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Asure's Playbook for Building a Portfolio of State Money Transmission Licenses

Presented by Chris W. Bell



2024 Asure Reseller Partner Conference



# Speaker Introduction



## Chris W. Bell (J.D., 2016)

### *VP & Regulatory Compliance Counsel*

As a specialist in money transmission and banking laws and regulations, Chris joined the Asure family in March 2022. Chris oversees Asure's state licensing initiatives and consults on Asure's AML/BSA and NACHA compliance programs.

### *Previous Experience:*

Former Associate General Counsel with the Texas Department of Banking.

Former Assistant General Counsel with the Texas Bankers Association.

# Legal Disclaimer

**The information provided during this presentation does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available as part of this presentation are for general informational purposes only.**

**Please consult your legal counsel to evaluate your legal and regulatory risks.**



# Key Things to Remember



- Asure's experience will differ from yours based on your particular facts and circumstances.
- The regulatory landscape in this area is constantly evolving. Ensure you keep up with the latest developments in the states where you operate.
- Licensing is a state-by-state endeavor. Read the state's law and not just the Model Act. How one state interprets the same text in a law may differ from another.
- You will be seeing sections of the Model Act today. The wording in the brackets is optional and may be included by a state.

# Session Agenda

**01**

Setting the Table

**02**

Prudential Standards

**03**

AML/BSA

**04**

Build Your File

**05**

Applying for a License

**06**

Q&A



# Setting the Table

# Where are we doing business?

## Where are your clients and where are you making payments?

"Money transmission" means any of the following: ... (3) Receiving money for transmission from a person located in this state.

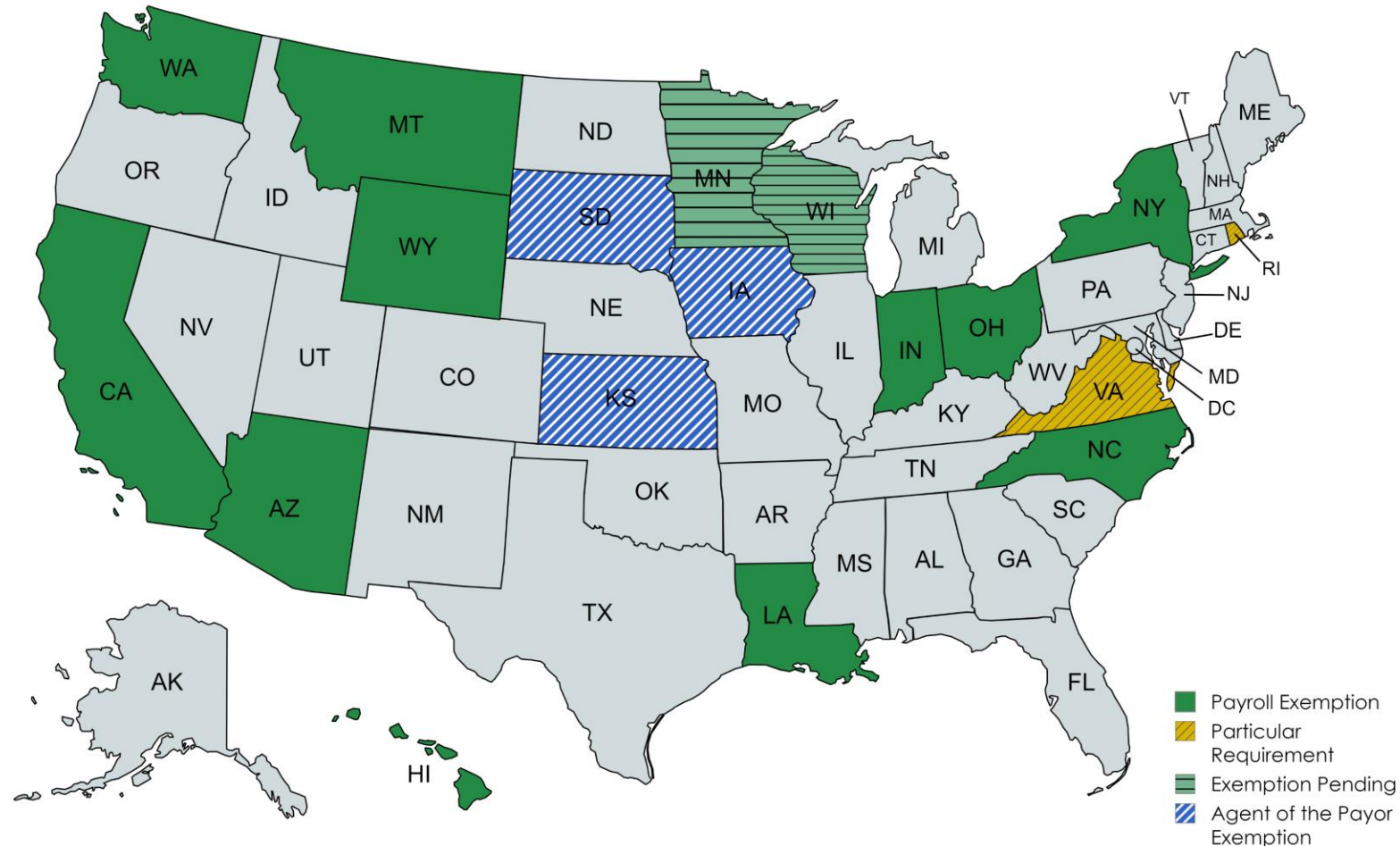
"In this state" means at a physical location within this state for a transaction requested in person. For a transaction requested electronically or by phone, the provider of money transmission may determine if the person requesting the transaction is "in this state" by relying on other information provided by the person regarding the location of the individual's residential address or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have that indicate such location, including but not limited to an address associated with an account.



## Do you have clients that are sole proprietors or general partnerships?

# Make Your Map

- Review the law in the states where you are operating for clear exemptions for payroll companies. Keep up-to-date with <https://www.csbs.org/csbs-money-transmission-modernization-act-mtma>.







Most states use the Nationwide Multistate Licensing System & Registry (NMLS) to manage the licensing process for money transmitters.

You will need to create profiles for your company and your Key Individuals. For instructions on creating profiles, visit <https://mortgage.nationwidelicensingsystem.org/slr/resources/sitepages/GettingStartedStateCo.aspx>.

The New Application Checklists for the states that use NMLS are available on the State Licensing page in the NMLS Resource Center. Visit <https://mortgage.nationwidelicensingsystem.org/slr/SitePages/default.aspx>.

The MSB Call Report is the method for filing quarterly reports for most states. A few states have separate reporting requirements.

NMLS also facilitates the annual renewal of licenses.

# Key Individuals

- "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee.
- Some states have other requirements.
  - **All persons who, directly or indirectly, have the right to vote 10% or more of a class of voting security or power to sell or direct the sale thereof.**
  - **Members of the applicant's governing body, including Board of Directors.**
  - **Executive Officers** – must include at a minimum all individuals who perform, regardless of title, the functions of chief executive officer (CEO), chief financial officer (CFO), chief operations officer (COO), chief compliance officer (CCO), chief information/technology officer (CIO/CTO), bank secrecy act officer (BSA), and other similar positions. An applicant that fails to provide individuals with the aforementioned designations will be deemed incomplete.



# Reporting Calibration

## Monthly

- Impound reporting (# and \$) broken down by state

## Quarterly

- Financial Statement (unaudited)
- Financial Condition
- State-specific Transactions
- Company-wide Transactions
- Permissible Investments

## Annually

- Financial Statement (audited)
- State-specific information



# Prior Unlicensed Activity

- You will be asked about any activity you conducted before applying for a money transmission.
- Be prepared to discuss when you started to conduct the activity.
- Be able to show the activity (number and dollar amount of transactions) broken down by month or quarter.
- Be prepared to show what fees you collected based on the unlicensed activity. The more specific you can get with this calculation and disclosure, the better off you will be.
- State laws allow banking regulators to charge large penalties for unlicensed activity, but these penalties can be negotiated. Some states have mitigated our penalties because we voluntarily applied for licenses.





# Prudential Standards

# Prudential Standards

**Net Worth:** “A licensee under this [Act] shall maintain at all times a tangible net worth of the greater of \$100,000 or 3 percent of total assets for the first \$100 million, 2 percent of additional assets for \$100 million to \$1 billion, and 0.5 percent of additional assets for over \$1 billion.”

“**Tangible net worth** shall mean the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.”

## Permissible Investments (PI)

Amount: market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of all outstanding money transmission obligations

Types: Act specifies types. Generally, cash equivalents

**Surety Bonds:** “The amount of the required security shall be: (1) the greater of [\$100,000] or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this state calculated for the most recently completed three-month period, up to a maximum of [\$500,000]; [ or(2) [in the event that the licensee's tangible net worth exceeds [10]% of total assets, the licensee shall maintain a surety bond of [\$100,000.]]

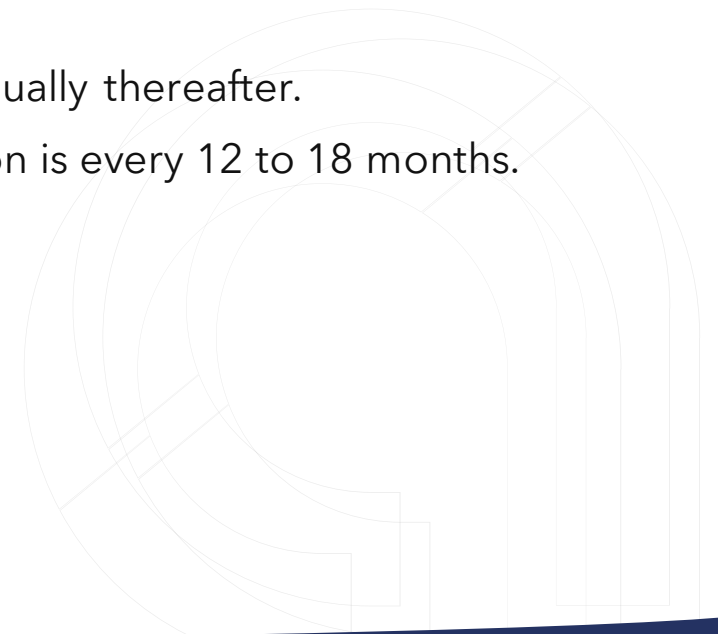




# AML/BSA

# AML/BSA Program

- You must appoint an AML/BSA Compliance Officer.
- The AML/BSA program must be in writing.
- The AML/BSA program must have policies, procedures, and internal controls to perform the following functions:
  - (A) Verifying customer identification (screening);
  - (B) Filing Reports (CTRs and SARs);
  - (C) Creating and retaining records;
  - (D) Responding to law enforcement requests.
- You must have an AML/BSA training program. Train your staff at onboarding and annually thereafter.
- Arrange independent testing of your AML/BSA compliance program. The expectation is every 12 to 18 months.







# Build Your File

# Your Company

- Formation Documents
- Proof of EIN
- Organization Chart
- Management Chart
- Foreign Qualifications / Assumed Name Filings
- Registered Agents
- Tax Filing Registrations
- Certificate of Insurance
- Client List



# Policies

- AML/BSA Policy
- Privacy Policy
- Complaint Policy
- Fraud Policy



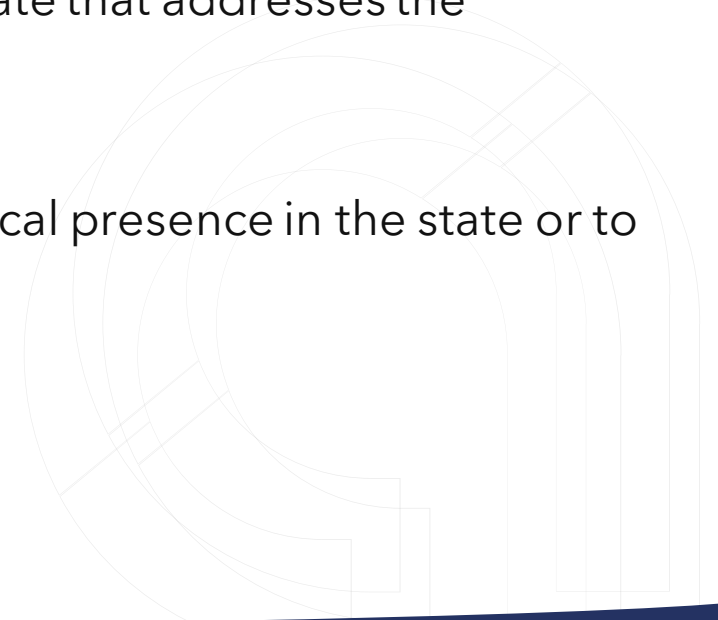
# Follow the Money

- Funds Flow Diagram
- Bank Account List
- Trust Account Authorizations
- Receipt Sample



# Authorized Delegates

- **"Authorized delegate"** means a person a licensee designates to transmit money on the licensee's behalf. States also refer to these authorized delegates as agents.
- Not all states allow authorized delegates.
- If you use authorized delegates, you must have a written agreement template that addresses the requirements of the state's laws.
- Some states (e.g., Vermont) require an authorized delegate to have a physical presence in the state or to get their own licenses.



# Your People

Gather the following information for each key individual:

- Employment History
- Residence History
- Resume
- Copy of ID
- Passport-Sized Photos
- Personal Financial Statements [Negotiate the use of one form.]
- State Background Check Authorizations
- Tax Certification Letters

Arrange for fingerprinting for each key individual, making sure to get the instructions from each state.



# Applying for a License

# NMLS Application Process

- Link the accounts of your key individuals (MU2) to your company account.
- Have your key individuals grant access rights to the criminal background results for the appropriate states.
- Complete the Company Filing (MU1).
- Upload the appropriate documents for both the company and the key individuals.
- Send the application to the key individuals for attestation.
- Attest and submit the application.
- Regulators will generally create license items in NMLS for you to address application deficiencies.





# Applying Outside of NMLS

- **Florida:** <https://flofr.gov/sitePages/MoneyTransmitters.htm>
- **New Jersey:** <https://www.nj.gov/dobi/banklicensing/formontrans.html>



# Recap

01

## Setting the Table

- Mapping out your territory
- Creating NMLS profiles
- Gathering your data

02

## Prudential Standards

- Tangible Net Worth
- Surety Bonds
- Permissible Investments

03

## AML/BSA

- Pillars of an MSB AML/BSA program

04

## Build Your File

- Gathering documents
- Ensuring you have the right policies in place

05

## Applying for a License

- NMLS Application Process
- Applying Outside of NMLS



# Q & A



# Thank You!

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