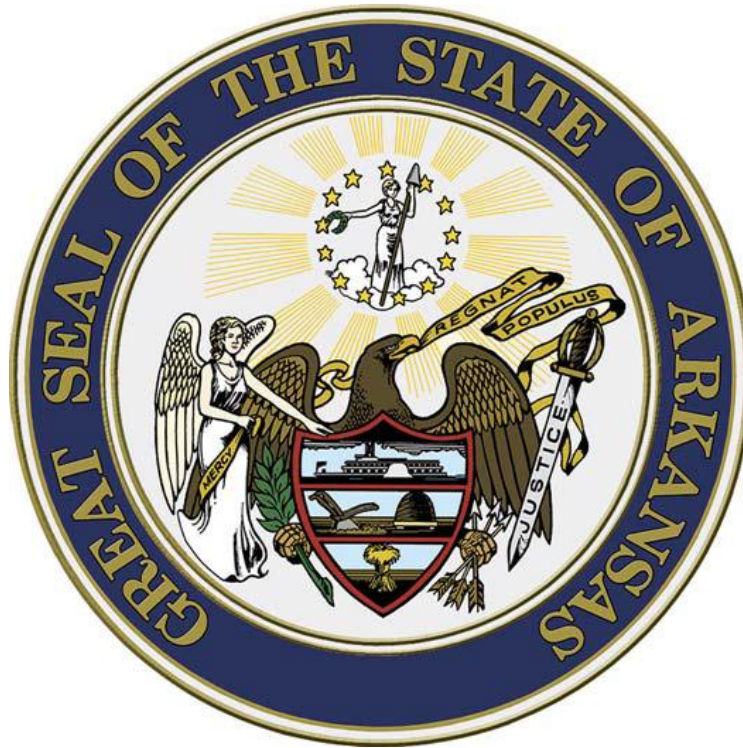


# **MONEY SERVICES RULES**

**EFFECTIVE – February 2, 2020**



**ARKANSAS SECURITIES DEPARTMENT  
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SUITE 402  
LITTLE ROCK, AR 72202**

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**Title 23. Public Utilities and Regulated Industries**  
**Chapter II. State Securities Department, Department of Commerce**  
**Part 302. Money Service Rules**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows: “Money Services Rules[,] Effective February 2, 2020”.

**Subpart 1. General Provisions**

**23 CAR § 302-101. Definitions.**

When the terms listed below are used in the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq., any rules or forms promulgated under the Uniform Money Services Act, or any order of the Securities Commissioner under the Uniform Money Services Act, the following definitions shall apply, unless a contrary definition is expressly provided or clearly required by the context, to the extent that they do not conflict with the definitions set forth in the Uniform Money Services Act:

- (1) “**Act**” means the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq., as the same may be codified and amended from time to time;
- (2) “**Applicant**” means a person who submits an application for a money transmission or currency exchange license in Arkansas;
- (3) “**Application**” means the form prescribed by the Securities Commissioner for filing in connection with obtaining either a money transmission license or currency exchange license in Arkansas, including all amendments, papers, documents, and exhibits incidental thereto;
- (4) (A) “**Audited financial statement**” means a financial statement prepared in accordance with generally accepted accounting principles and audited by an independent accountant according to generally accepted auditing standards in the United States or for a company formed outside the United States.  
  
(B) “**Audited financial statement**” means a financial statement prepared in accordance with international financial reporting standards promulgated by the International Financial Reporting Standards Foundation and the International Accounting Standards Board;
- (5) “**Commissioner**” means the Securities Commissioner and includes the Security Commissioner’s designees;
- (6) (A) “**Currency exchange**” means:

- (i) Exchanging the money of one (1) government for money of another government; or
  - (ii) Holding oneself out as able to exchange the money of one (1) government for money of another government.
- (B) The following persons are not considered currency exchangers:
  - (i) Affiliated businesses that engage in currency exchange for a business purpose other than currency exchange;
  - (ii) A person who provides currency exchange services for a person acting primarily for a business, commercial, agricultural, or investment purpose when the currency exchange is incidental to the transaction;
  - (iii) A person who deals in coins or a person who deals in money, the value of which is primarily determined because it is rare, old, or collectible; and
  - (iv) A person who in the regular course of business chooses to accept from a customer the currency of a country other than the United States in order to complete the sale of a good or service other than currency exchange, that may include cash back to the customer, and does not otherwise trade in currencies or transmit money for compensation or gain;
- (7) **“Department”** means the State Securities Department;
- (8) **“Engaged in the business of money services”**, unless otherwise provided, includes any person:
  - (A) Who holds himself or herself out as being:
    - (i) A currency dealer or exchanger;
    - (ii) An issuer of traveler’s checks, money orders, prepaid access, or stored value; or
    - (iii) A seller or redeemer of traveler’s checks, money orders, prepaid access, or stored value; or

- (B) Who receives money or monetary value for the purpose of transmitting said money or monetary value using a system outside that of a conventional financial institution;
- (9)
  - (A) **“Medium of exchange”** connotes that the value is accepted by a larger group than the two (2) parties to the change.
  - (B) Therefore, no monetary value, as that term is defined in the Uniform Money Services Act, would exist if the product (i.e., gift certificate) or payment mechanism (i.e., universal payment card) is only accepted by one (1) merchant;
- (10)
  - (A) **“Money transmission”** means:
    - (i) Selling or issuing:
      - (a) Payment instruments;
      - (b) Stored value;
      - (c) Prepaid access; or
    - (ii) Receiving money or monetary value for transmission.
  - (B) The term excludes entities that provide delivery services, e.g., courier or package delivery services, and entities that act as mere conduits for the transmission of data, e.g., internet service providers.
  - (C) The term does, however, include the following:
    - (i) A bill payer service, except that the term does not include a service that transfers money or monetary value directly from a purchaser to a creditor of the purchaser or to an agent of the creditor; and
    - (ii) Any informal money transfer system engaged in as a business for, or network of persons who engage as a business in, facilitating the transfer between persons who engage as a business in, facilitating the transfer of money outside the conventional financial institutions system to a location within or outside the United States;

- (11) **“Nationwide Multistate Licensing System (NMLS)”** means the automated licensing system developed and maintained by the Conference of State Bank Supervisors for the licensing and registration of:
- (A) Money transmitters;
  - (B) Agents of money transmitters; and
  - (C) Currency exchangers;
- (12) **“Prepaid access”** means access to funds or the value of funds that have been paid in advance and can be retrieved or transferred at some point in the future through an electronic device or vehicle, such as a:
- (A) Card;
  - (B) Code;
  - (C) Electronic serial number;
  - (D) Mobile identification number; or
  - (E) Personal identification number;
- (13) **“Principal”** means any person who:
- (A) Controls, directly or indirectly through one (1) or more intermediaries, alone or in concert with others, a twenty-five percent (25%) or greater interest in a:
    - (i) Partnership;
    - (ii) Company;
    - (iii) Corporation; or
    - (iv) Association; or
  - (B) The owner of a sole proprietorship; and
- (14) **“Staff”** means the staff of the State Securities Department.

**Authority.** Arkansas Code § 23-55-104.

### **23 CAR § 302-102. Exclusions.**

Upon the staff's request, the person seeking to qualify for the exclusion codified at Arkansas Code § 23-55-103(4) must submit:

- (1) A general description of its business plan;
- (2) A letter, signed by a duly authorized officer of the bank, bank holding company, office of the international banking corporation, branch of a foreign bank, corporation organized pursuant to the Bank Service Company Act, 12 U.S.C. §§ 1861-1867, or corporation organized under the Edge Act, 12 U.S.C. § 611-631, confirming that the institution, branch, or agency:
  - (A) Assumes all legal responsibility in the State of Arkansas for satisfying the money services obligations owed to Arkansas purchasers of the money transmission services upon receipt of the purchaser's money or monetary value by the person or the person's agents; and
  - (B) Assumes all risk of loss that a purchaser may suffer as a result of the failure of the person or one of the person's agents to transmit the purchaser's funds to the entity;
- (3) An executed agreement between:
  - (A) The person and the bank;
  - (B) Bank holding company;
  - (C) Office of the international banking corporation;
  - (D) Branch of a foreign bank;
  - (E) Corporation organized pursuant to the Bank Service Corporation Act; or
  - (F) Corporation organized under the Edge Act that:
    - (i) Includes terms consistent with the statements contained in the letter described in subdivision (2)(F)(ii); and
    - (ii) Appoints the person as the agent of the bank, bank holding company, office of the international banking



corporation, branch of a foreign bank, corporation organized pursuant to the Bank Service Corporation Act, or corporation organized under the Edge Act, sets out the limits of the person's authority, and includes the person's agreement to act only within the scope of that authority; and

- (4) Any other information the staff reasonably requests.

**Authority.** Arkansas Code § 23-55-104.

## **Subpart 2. Money Transmission Licenses**

### **23 CAR § 302-201. License required.**

For purposes of this subpart:

- (1) A person engages in the business of money transmission if the person:
  - (A) Conducts money transmission:
    - (i) For persons located in this state; or
    - (ii) From a physical location in this state for persons located outside this state; and
  - (B) Receives compensation or expects to receive compensation, directly or indirectly, for conducting the transmissions; and
- (2) A person engaging in the business of money transmission shall be presumed to solicit, advertise, or hold itself out as a person that engages in the business of money transmission in this state if the person fails to provide a disclaimer listing either the states in which it is licensed or the states in which it is not licensed.

**Authority.** Arkansas Code § 23-55-104.

### **23 CAR § 302-202. Application for license.**

- (a) **Additional information.**
  - (1) The staff will review the application and, as authorized by Arkansas Code § 23-55-205, investigate the applicant and all related facts to determine if

the applicant possesses the qualifications and satisfies the requirements for the license.

- (2) At any time during the review and investigation process, the State Securities Department may require such information as the staff considers necessary to evaluate the application, including opinion of counsel or an opinion, review, or audited financials prepared by a certified public accountant.
- (3) It is the applicant's responsibility to provide or cause to be provided all the information the department requires.

(b) **Extension of time.**

- (1) The Securities Commissioner may give the applicant a thirty-day extension to submit the additional information requested if the department receives a written extension request from the applicant within ten (10) days of the staff's request for additional information.
- (2)
  - (A) Upon a finding of good cause, the commissioner may give the applicant an additional extension if the department receives a written request and sworn affidavits to support the claimed facts before the expiration of the thirty-day period described above.
  - (B) The request must explain in detail the reasons the extension is needed.
  - (C) The commissioner will notify the applicant of the decision by letter mailed via regular mail to the address provided by the applicant on or before the tenth day after the date the department receives the request.
- (3)
  - (A) In this part, "good cause" means that the applicant acted diligently and took the steps reasonably necessary to enable the applicant to file the required information in a timely manner, but that circumstances beyond the applicant's control prevented it from doing so.
  - (B) Good cause cannot be based upon ignorance of the law or facts that could have been learned through the exercise of due diligence or failure to take the actions necessary to ensure timely and complete filing and payment.

(c) **Abandoned application.**

- (1) If the applicant fails to provide any and all additional information required within the specified timeframe, the commissioner may determine the application to be abandoned, without prejudice to an applicant's rights to file a new application.
  - (2) The applicant will be notified that the application is considered abandoned.
  - (3) The commissioner's determination may not be appealed.
  - (4) The department will not refund the fee paid in connection with the abandoned application.
- (d) **Forms and instructions.** Pursuant to the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq., the commissioner designates NMLS to:
- (1) Receive and store filings;
  - (2) Collect related fees from applicants and licensees; and
  - (3) Facilitate communication with applicants and licensees on behalf of the commissioner.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-203. [Reserved].**

**23 CAR § 302-204. Surety bond.**

- (a) **\$10,000 bond.**
  - (1) Each application must be accompanied by a surety bond acceptable to the Securities Commissioner in the amount of ten thousand dollars (\$10,000).
  - (2) After the initial calendar year of licensure, a licensee shall maintain a surety bond of:
    - (A) Ten thousand dollars (\$10,000) if the licensee's annualized money transmissions in Arkansas are not more than five hundred thousand dollars (\$500,000);

- (B) Fifty thousand dollars (\$50,000) if the licensee's annualized money transmissions in Arkansas are greater than five hundred thousand dollars (\$500,000) but not more than five million dollars (\$5,000,000);
  - (C) One hundred thousand dollars (\$100,000) if the licensee's annualized money transmissions in Arkansas are greater than five million dollars (\$5,000,000) but not more than twenty-five million dollars (\$25,000,000);
  - (D) Two hundred thousand dollars (\$200,000) if the licensee's annualized money transmissions in Arkansas are greater than twenty-five million dollars (\$25,000,000) but not more than seventy-five million dollars (\$75,000,000); or
  - (E) Three hundred thousand dollars (\$300,000) if the licensee's annualized money transmissions in Arkansas are greater than seventy-five million dollars (\$75,000,000).
- (3) "Annualized money transmission" means the money transmission, payment instrument, and stored value dollar volume in Arkansas during the prior calendar year.
- (4)
  - (A) If an increase in surety bond is required, the surety bond must be increased by March 31.
  - (B) Failure to maintain the proper surety bond amount shall be grounds for discipline under the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq.
- (b)
  - (1) The commissioner may increase the amount of surety bond required, to a maximum of one million dollars (\$1,000,000), if the financial condition of a money transmitter licensee so requires.
  - (2) The commissioner may consider, without limitation, the following criteria:
    - (A) Significant reduction of net worth;
    - (B) Financial losses;
    - (C) Potential losses resulting from the Uniform Money Services Act or this part;

- (D) Licensee filing for bankruptcy;
- (E) The initiation of any proceedings against the licensee in any state or foreign country;
- (F) The filing of a state or federal criminal charge against the licensee, person in control, responsible individual, executive officer, board director, employee, authorized delegate or principal, based on conduct related to providing money services or money laundering;
- (G) A licensee, executive officer, board director, person in control, responsible individual, principal, or authorized delegate being convicted of a crime.
- (H) Any unsafe or unsound practice;
- (I) A judicial or administrative finding against a money transmitter licensee under the Uniform Money Services Act or an examination report finding that the money transmitter licensee engaged in an unfair or deceptive act or practice in the conduct of its business; and
- (J) Other events and circumstances that, in the judgment of the commissioner, impair the ability of the licensee to meet its obligations to its money services customers.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-205. Issuance of license.**

- (a) The Securities Commissioner may consider the following factors, without limitation, in determining whether an applicant has fulfilled the conditions for a license codified in Arkansas Code § 23-55-205(a)(2):
  - (1) Whether the applicant, an executive officer, proposed responsible person, board director, person in control, or authorized delegate:
    - (A) Has been convicted of any felony within the past ten (10) years;
    - (B) Has been convicted of a crime involving a financial transaction or fraud within the past ten (10) years;

- (C) Has criminal, civil, or administrative charges issued against him or her or them in any jurisdiction for violations relating to a financial transaction or transactions or fraud within the past ten (10) years;
  - (D) Is the subject of an order, including any denial, suspension, or revocation of authority to engage in a regulated activity by any other state or federal authority to which the person is, has been, or has sought to be subject, entered within the past ten (10) years, including, but not limited to, the money service industry; or
  - (E) Has falsified any information supplied in connection with the application;
- (2) Whether the applicant, or any proposed authorized delegate thereof, has had an adverse action taken against any business license related to providing financial services by a jurisdiction within the United States within the past ten (10) years;
- (3) Whether the applicant has allowed a business under its control to deteriorate to a condition of insolvency determined by the fact that its liabilities exceed its assets or it cannot meet its liabilities as they mature;
- (4) Whether the applicant, or any authorized delegate thereof, failed to respond to a request for information from the commissioner;
- (5) Whether the description of the screening process used by the applicant in selecting authorized delegates supplied by the applicant describes a process that is ineffective in determining the fitness of proposed authorized delegates;
- (6) Whether the applicant has failed to register with the United States Department of the Treasury as required by 31 U.S.C. § 5330; and
- (7) Whether the applicant, an executive officer, proposed responsible individual, board director, or person in control is listed on the specially designated nationals and blocked persons list prepared by the United States Department of the Treasury as a potential threat to commit terrorist acts or to finance terrorist acts.
- (b) (1) In lieu of denying an application as authorized by any of the findings in subsection (a) of this section, the commissioner may return the application or extend the review period if the commissioner determines that the condition or circumstances that would likely lead to denial may

be temporary and resolved satisfactorily within a reasonable period of time.

- (2) The commissioner may resume processing the application if the commissioner determines that a favorable resolution of the disqualifying condition has occurred.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-206. Renewal of license.**

**(a) Extension of time.**

- (1) Compliance with Arkansas Code § 23-55-206(a) is necessary for the State Securities Department to orderly and efficiently administer and enforce the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq.
- (2) However, Arkansas Code § 23-55-206(d) authorizes the Securities Commissioner to allow the licensee to file or complete the filing of its renewal report at a date later than required for good cause.
- (3) The licensee has the burden to demonstrate good cause.

**(b) Good cause**

- (1) In this part, “good cause” means that the licensee acted diligently and took the steps reasonably necessary to enable the licensee to file the complete renewal report and pay the renewal fee in a timely manner, but that circumstances beyond the licensee’s control prevented it from doing so.
- (2) The licensee is expected to know and comply with the requirements of Arkansas Code § 23-55-206(a) and (b).
- (3)
  - (A) Good cause cannot be based upon ignorance of the law or facts that could have been learned through the exercise of due diligence or failure to take the actions necessary to ensure timely and complete filing and payment.
  - (B) For example, the licensee should know the time and information requirements necessary to obtain an audited financial statement.

- (4) The inability or failure of the licensee's accountant to timely produce an audited financial statement is generally not considered to be a circumstance beyond the licensee's control.

**Authority.** Arkansas Code § 23-55-104.

### **23 CAR § 302-207. Net worth.**

- (a) A money transmitter applicant or licensee must demonstrate and maintain net worth calculated at ten thousand dollars (\$10,000) for every one million dollars (\$1,000,000) of total company-wide money transmission, payment instrument, and stored value dollar volume during the prior calendar year.
- (b) The minimum net worth is fifty thousand dollars (\$50,000) and the maximum required amount is one million dollars (\$1,000,000).

**Authority.** Arkansas Code § 23-55-104.

### **Subpart 3. [Reserved]**

### **Subpart 4. Exchange Licenses**

### **23 CAR § 302-401. License required.**

For purposes of this subpart:

- (1) A person engages in the business of currency exchange if the person conducts currency exchange for persons located in this state or conducts currency exchange from a physical location in this state for persons located outside this state; and
- (2) Persons engaging in the business of currency exchange shall be presumed to solicit, advertise, or hold itself out as a person that engages in the business of currency exchange in this state if the person fails to provide a disclaimer listing either the states in which it is licensed or approved to do business or the states in which it is not licensed or approved to do business.

**Authority.** Arkansas Code § 23-55-104.



**23 CAR § 302-402. Application for license.**

**(a) Additional information.**

- (1) The staff will review the application and, as authorized by Arkansas Code § 23-55-403, investigate the applicant and all related facts to determine if the applicant possesses the qualifications and satisfies the requirements for the license.
- (2) At any time during the review and investigation process, the State Securities Department may require such information as the staff considers necessary to evaluate the application, including opinion of counsel or an opinion, review, or audited financials prepared by a certified public accountant.
- (3) It is the applicant's responsibility to provide or cause to be provided all the information the department requires.

**(b) Extension of time.**

- (1) The Securities Commissioner may give the applicant a thirty-day extension to submit the additional information requested if the department receives a written extension request from the applicant within ten (10) days of the staff's request for additional information.
- (2) Upon a finding of good cause, the commissioner may give the applicant an additional extension if the department receives a written request and sworn affidavits to support the claimed facts before the expiration of the thirty-day period described in subdivision (b)(1) of this section.
- (3) The request must explain in detail the reasons the extension is needed.
- (4) The commissioner will notify the applicant of the decision by letter mailed via regular mail to the address provided by the applicant on or before the tenth day after the date the department receives the request.
- (5) (A) In this rule, "good cause" means that the applicant acted diligently and took the steps reasonably necessary to enable the applicant to file the required information in a timely manner, but that circumstances beyond the applicant's control prevented it from doing so.

- (B) Good cause cannot be based upon ignorance of the law or facts that could have been learned through the exercise of due diligence or failure to take the actions necessary to ensure timely and complete filing and payment.
- (6) After reviewing the information provided in response to the staff's initial request for additional information, the department may determine that still more information is required.
- (7) The staff will:
  - (A) Notify the applicant in writing by regular mail to the address provided by the applicant if further information is required; and
  - (B) Specify the date by which the department must receive the information.
- (c) **Abandoned application.**
  - (1) If the applicant fails to provide any and all additional information required within the specified timeframe, the commissioner may determine the application to be abandoned, without prejudice to an applicant's rights to file a new application.
  - (2) The applicant will be notified that the application is considered abandoned.
  - (3) The commissioner's determination may not be appealed.
  - (4) The department will not refund the fee paid in connection with the abandoned application.
- (d) **Forms and instructions.** Pursuant to the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq., the commissioner designates NMLS to receive and store filings, collect related fees from applicants and licensees, and facilitate communication with applicants and licensees on behalf of the commissioner.

**Authority.** Arkansas Code § 23-55-104.

### **23 CAR § 302-403. Issuance of license.**

- (a) The Securities Commissioner may consider the following factors, without limitation, in determining whether an applicant has fulfilled the conditions for a license codified in Arkansas Code § 23-55-403(a)(2):

- (1) Whether the applicant, an executive officer, proposed responsible person, board director, person in control, or authorized delegate:
  - (A) Has been convicted of any felony within the past ten (10) years;
  - (B) Has been convicted of a crime involving a financial transaction or fraud within the past ten (10) years;
  - (C) Has criminal, civil, or administrative charges issued against him or her or them in any jurisdiction for violations relating to a financial transaction or transactions or fraud within the past ten (10) years;
  - (D) Is the subject of an order, including any denial, suspension, or revocation of authority to engage in a regulated activity by any other state or federal authority to which the person is, has been, or has sought to be subject, entered within the past ten (10) years, including, but not limited to, the money service industry; or
  - (E) Has falsified any information supplied in connection with the application;
- (2) Whether the applicant, or any proposed authorized delegate thereof, has had an adverse action taken against any business license related to providing financial services by a jurisdiction within the United States within the past ten (10) years;
- (3) Whether the applicant has allowed a business under its control to deteriorate to a condition of insolvency determined by the fact that its liabilities exceed its assets or it cannot meet its liabilities as they mature;
- (4) Whether the applicant, or any authorized delegate thereof, failed to respond to a request for information from the commissioner;
- (5) Whether the description of the screening process used by the applicant in selecting authorized delegates supplied by the applicant describes a process that is ineffective in determining the fitness of proposed authorized delegates;
- (6) Whether the applicant has failed to register with the United States Department of the Treasury as required by 31 U.S.C. § 5330; and
- (7) Whether the applicant, an executive officer, proposed responsible individual, board director, or person in control is listed on the specially

designated nationals and blocked persons list prepared by the United States Department of the Treasury as a potential threat to commit terrorist acts or to finance terrorist acts.

- (b) (1) In lieu of denying an application as authorized by any of the findings in subsection (a) of this section, the commissioner may return the application or extend the review period if the commissioner determines that the condition or circumstances that would likely lead to denial may be temporary and resolved satisfactorily within a reasonable period of time.
- (2) The commissioner may resume processing the application if the commissioner determines that a favorable resolution of the disqualifying condition has occurred.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-404. Renewal of license.**

- (a) **Extension of time.**
  - (1) Compliance with Arkansas Code § 23-55-404(a) is necessary for the State Securities Department to orderly and efficiently administer and enforce the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq.
  - (2) However, Arkansas Code § 23-55-404(d) authorizes the Securities Commissioner to allow the licensee to file or complete the filing of its renewal report at a date later than required for good cause.
  - (3) The licensee has the burden to demonstrate good cause.
- (b) **Good cause.**
  - (1) In this section, “good cause” means that the licensee acted diligently and took the steps reasonably necessary to enable the licensee to file the complete renewal report and pay the renewal fee in a timely manner, but that circumstances beyond the licensee’s control prevented it from doing so.
  - (2) The licensee is expected to know and comply with the requirements of Arkansas Code § 23-55-404(a) and (b).

- (3) Good cause cannot be based upon ignorance of the law or facts that could have been learned through the exercise of due diligence or failure to take the actions necessary to ensure timely and complete filing and payment.

**Authority.** Arkansas Code § 23-55-104.

#### **Subpart 5. Authorized Delegates [Reserved]**

#### **Subpart 6. Examinations — Reports — Records**

#### **23 CAR § 302-601. Report of material change.**

- (a) Material changes described in this section must be reported to the Securities Commissioner within fifteen (15) business days of the occurrence of the change.
- (b)
  - (1) “Material change” means any change that is not trivial, and that, if not reported, would cause an investigation or examination to be misled or delayed.
  - (2) Such changes include, but are not limited to:
    - (A) A change of the physical and/or mailing address;
    - (B) A change of the responsible individual;
    - (C) A change of the licensee's name or trade name;
    - (D) A change in the location where the records of the licensee that are required to be retained under Arkansas Code § 23-55-605 are kept;
    - (E) The obtaining, revocation, suspension, or surrender of a money services license in any other jurisdiction;
    - (F) The conviction of the licensee, an executive officer, responsible individual, board director, principal, or person in control of a misdemeanor or gross misdemeanor involving a financial transaction or fraud; and
    - (G) Other similar activities or events.

- (c) (1) In accordance with Arkansas Code § 23-55-603(b), a licensee shall file with the commissioner within forty-five (45) days after the end of each calendar quarter a current list of all authorized delegates and locations in this state where the licensee or an authorized delegate of the licensee provides money services.
- (2) Compliance is deemed where the licensee provides to the commissioner:
  - (A) Any addition or deletion of the licensee-owned locations where money services are provided, including mobile locations;
  - (B) Any change in the name or trade name or business address of an existing authorized delegate; and
  - (C) Any additions or deletions from its roster of authorized delegates.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-602. Change of control.**

- (a) A request for approval of change of control as required by Arkansas Code § 23-55-604 shall be made within fifteen (15) days after learning of the proposed change of control.
- (b) The request for approval shall include:
  - (1) A comprehensive description of the proposed change that sets forth:
    - (A) The identity of all persons acquiring control under the proposed change; and
    - (B) The ownership interest and managerial authority of all persons in control under the proposed change; and
  - (2) For each new person in control under the proposed change:
    - (A) Biographical information, including employment history for the immediate previous ten (10) years; and
    - (B) A signed authorization for a background investigation on a form prescribed by the Securities Commissioner.

**Authority.** Arkansas Code § 23-55-104.

**Subpart 7. Permissible Investments [Reserved]**

**Subpart 8. Enforcement**

**23 CAR § 302-801. Civil penalties.**

- (a) The Securities Commissioner may assess a civil penalty against a person that violates the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq., or this part or an order issued under the act.
- (b) **Notice of assessment of civil penalties.**
  - (1) Upon the request of the staff, the commissioner shall issue a notice of assessment of a civil penalty.
  - (2) The notice shall include the following:
    - (A) A statement of the violation or violations, unsafe or unsound practice or practices, or breaches alleged;
    - (B) A statement of the facts supporting the assessment of the civil penalty;
    - (C) Notice that the licensee or other person is entitled to a hearing in accordance with Arkansas Code § 23-55-902(a), to determine whether a civil penalty should be assessed against the licensee or other person, if the licensee or other person requests the hearing within thirty (30) days of service of the notice of assessment of a civil penalty;
    - (D) Notice that, if the licensee or other person makes a timely request for a hearing, the licensee or other person may appear at the hearing in person, by attorney, or by presenting positions, arguments, and contentions in writing, and at the hearing may present evidence and examine witnesses for and against the licensee or other person; and
    - (E) Notice that failure of the licensee or other person to make a timely request for a hearing to determine whether a civil penalty should be assessed against the licensee or other person, or to

appear at the hearing, in person, by attorney, or by writing, is consent by the licensee or other person to the assessment of the civil penalty.

- (c) **Amount of civil penalty.** The commissioner is authorized by Arkansas Code § 23-55-805 to assess a civil penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day the violation is outstanding, plus the state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees.
- (d) In determining the amount of civil penalty to be assessed pursuant to Arkansas Code § 23-55-805, the commissioner shall consider all of the following:
  - (1) The seriousness of and the risk posed by the violation;
  - (2) The licensee's or other person's good faith efforts to prevent the violation;
  - (3) The licensee's or other person's history regarding violations;
  - (4) The licensee's or other person's financial resources; and
  - (5) Any other matters justice may require.

**Authority.** Arkansas Code §§ 23-55-104 and 23-55-805.

## **Subpart 9. Administrative Proceedings**

### **23 CAR § 302-901. Administrative proceedings — Generally.**

This part should be read in conjunction with the Arkansas Administrative Procedure Act, Arkansas Code §§ 25-15-201 — 25-15-220.

**Authority.** Arkansas Code § 23-55-104.

### **23 CAR § 302-902. Administrative proceedings — Location of office — Contact information — Business hours.**

- (a) Address or deliver all communications and inquiries to:

State Securities Department



1 Commerce Way, Suite 402  
Little Rock, Arkansas 72202.

- (b) The general information number for the department is (501) 324-9260 and the toll free number is (800) 981-4429.
- (c) The department's website is located at <http://www.securities.arkansas.gov>.
- (d) The business hours of the department are 8:00 a.m. to 4:30 p.m. each day except Saturdays, Sundays, and legally declared state holidays.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-903. Administrative proceedings — Submissions and filings.**

- (a) Motions, requests, petitions, requests for advisory opinions or interpretations, and other materials submitted to the State Securities Department shall be filed with:
  - (1) The Securities Commissioner at the office of the department; or
  - (2) Any person authorized or designated by the commissioner to receive a filing.
- (b) (1) A filing may be made by:
  - (A) Personal delivery;
  - (B) First-class, registered, or certified mail; or
  - (C) Any express delivery service.
- (2) Where permitted by the commissioner, a filing may be made by facsimile or any other electronic means provided the department can print such filing.
- (3) The commissioner may require that a signed original of any document filed by electronic means be filed with the department.
- (c) All petitions, correspondence, motions, or other documents shall be deemed filed when received by:
  - (1) The commissioner; or

- (2) Any person authorized or designated by the commissioner to receive a filing.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-904. Administrative proceedings — Guidelines for interpretive opinions and no-action letters.**

- (a)
  - (1) In most circumstances, persons requesting informal advice from the staff should submit a request for an interpretive opinion or no-action letter.
  - (2) In an interpretive opinion, the staff provides its views on the interpretation of a specific statute or rule in the context of an actual and narrow fact situation.
  - (3) A no-action letter is one in which the staff indicates that it will not recommend enforcement action to the Securities Commissioner if a proposed course of action described in the request occurs just as described in the request.
  - (4) In some instances, the staff may indicate that it is unable to assure the requesting party that it will not recommend enforcement action and may allow the requesting party to withdraw the request.
  - (5) A no-action letter expresses the staff's position on enforcement action only and does not represent any legal conclusion on the question presented.
- (b) Requests for no-action letters or interpretive opinions should comply with the following:
  - (1)
    - (A) Each request for no-action letter or interpretive opinion shall be in writing.
    - (B) The requesting party must submit an original and one (1) copy of each request;
  - (2) The specific section or subsection of the particular statute, rule, or order to which the request pertains must be indicated in the request;
  - (3)
    - (A) The request must contain names of each person and entity involved in the underlying facts.

- (B) Requests relating to unnamed persons or entities, or to hypothetical situations, will not be answered;
- (4) (A) The request must be limited to the particular situation involving the problem at hand and must not attempt to include every possible type of situation that may arise in the future.
- (B) The facts and representations must be specific, not general;
- (5) While it is essential that the request contain all of the facts necessary to reach a conclusion in the matter, the request should be concise and to the point;
- (6) (A) The requesting party must indicate why the requesting party thinks a problem exists, his or her own opinion in the matter, and the basis for the opinion.
- (B) If the requesting party seeks confidential treatment, a separate letter requesting confidential treatment and stating the basis for confidential treatment must be submitted with the interpretive request.
- (C) (i) Confidential treatment will generally not be available unless necessary to protect bona fide trade secrets or unless clearly authorized by some other provision of law.
- (ii) In responding to a properly submitted request for interpretive opinion or no-action letter, the staff will use an endorsement to the incoming request.
- (iii) The staff will state its position on a separate page attached to the incoming request.
- (iv) Both the incoming letter and the staff's endorsement response will be:
  - (a) Sent to the requesting party;
  - (b) Made publicly available; and
  - (c) Posted to the State Security Department's website; and

- (7) In responding to a properly submitted request for interpretive opinion or no-action letter, if the requesting party seeks confidential treatment, a separate letter requesting confidential treatment and stating the basis for confidential treatment must be submitted with the request for informal advice.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-905. Administrative proceedings — Computations of time.**

- (a) In computing any period of time prescribed or allowed by the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq., or this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included.
- (b) The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legally declared state holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legally declared state holiday.
- (c) When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legally declared state holidays shall be excluded in the computation.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-906. Administrative proceedings — Extensions of time.**

- (a) Except as otherwise provided by law, the Securities Commissioner may, for good cause shown, extend any time limit prescribed or allowed by the rules or by any notice or order issued in a contested case or other proceeding.
- (b) The commissioner may grant extensions upon motion of a party or the staff, after notice and opportunity to respond is afforded to all non-moving parties and the staff, if the staff is not the movant, or on the commissioner's own motion.
- (c) All motions for extensions shall be made before the expiration of the period prescribed.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-907. Administrative proceedings — Effect of filing.**

- (a) (1) The filing with the Securities Commissioner of any motion, petition, request for declaratory ruling, or any other document shall not relieve any person of the obligation to comply with any statute, rule, or order of the commissioner.
- (2) Acceptance of such filing by the commissioner shall not constitute a waiver of any failure to comply with the Uniform Money Services Act, Arkansas Code § 23-55-101 et seq., or this part.
- (b) Where appropriate, the commissioner may require the amendment of any filing.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-908. Administrative proceedings — Service.**

- (a) Service of all documents shall be by:
  - (1) Personal service;
  - (2) First-class, registered, or certified mail; or
  - (3) Any express delivery service.
- (b) A copy of any document served by any party showing the addresses to which the document or other paper was served shall be placed in the Security Commissioner's files and shall be prima facie evidence of such service and the date of such service.
- (c) (1) A party, intervenor, or the staff filing documents with the commissioner in a contested case shall serve a copy of such documents upon:
  - (A) The counsel of record for all parties or intervenors that are represented by counsel;
  - (B) Any party or intervenor not represented; and
  - (C) Counsel for the State Securities Department.
- (2) Certification of such service shall be endorsed on all documents when filed with the commissioner.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-909. Administrative proceedings — Rights of witnesses.**

- (a) (1) Any person who appears and testifies in a deposition or a contested case may be accompanied, represented, and advised by counsel.
- (2) The right to be accompanied, represented, and advised by counsel means the right of a person testifying to have counsel present at all times while testifying and to have counsel:
  - (A) Advise the person before and after the conclusion of testimony;
  - (B) Question the person briefly at the conclusion of testimony to clarify any of the answers given; and
  - (C) Make summary notes during the testimony solely for the use of the person.
- (b) The Securities Commissioner may take such action as the circumstances warrant against a person who engages in dilatory or obstructionist conduct during the course of a deposition, including exclusion of the offending person from participation in the deposition or contested case.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-910. Commencement of contested case — Generally.**

A matter that is a contested case by operation of law commences when the State Securities Department so designates, but in no event not later than the date when the Securities Commissioner issues a notice of hearing.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-911. Commencement of contested case — Notice of hearings.**

- (a) Unless otherwise provided by statute, notice of a hearing shall be given at least fourteen (14) days prior to the hearing.
- (b) The Securities Commissioner may issue a notice that sets the date and time of the hearing.

- (c)
  - (1) The commissioner may amend the notice of hearing at any stage of the contested case prior to the close of evidence.
  - (2) The commissioner shall provide parties and intervenors with notice of the amendment and shall provide them with sufficient time to prepare their case in light of the amendment.
  - (3) A party that has requested a hearing on the original notice need not request a hearing on the amended notice and any such hearing shall proceed on the amended notice as if it were the original notice.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-912. Commencement of contested case — Hearing location.**

Unless by direction of the Securities Commissioner a different place is designated, all hearings of the State Securities Department shall be held at the office of the department.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-913. Commencement of contested case — Powers of the commissioner.**

- (a) The Securities Commissioner shall have all the powers necessary to:
  - (1) Conduct the proceeding in a fair and impartial manner; and
  - (2) Avoid unnecessary delay.
- (b) The powers of the commissioner include, but are not limited to, the following:
  - (1) Administering oaths and affirmations;
  - (2) Regulating the course of the hearing and the conduct of the parties and their counsel, including the power to:
    - (A) Receive relevant, material, and non-repetitious evidence;
    - (B) Rule upon the admissibility of evidence and offers of proof; and

- (C) Exclude or suspend a party's counsel from the proceedings for dilatory, obstructionist, egregious, contemptuous, or contumacious conduct;
- (3) Scheduling and holding prehearing conferences and conferences prior to and during the course of a hearing;
- (4) Considering and ruling upon all procedural and other motions appropriate in a proceeding, including petitions to add a party or intervenor;
- (5) Recusing for bias or conflict of interest himself or herself on a motion made by a party or the staff and appointing a new hearing officer in his or her place; and
- (6) Performing all other functions necessary and appropriate to discharge the duties of commissioner.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-914. Commencement of contested case — Consolidation and severance.**

- (a) The Securities Commissioner may, for good cause, upon the commissioner's own motion or upon motion by a party or the State Securities Department, consolidate proceedings involving related questions of law or fact.
- (b)
  - (1) The commissioner may, for good cause, upon the commissioner's own motion or upon motion by a party or the department, sever the proceeding for separate resolution of the matter as to any party or issue.
  - (2) In determining whether to sever the proceeding, the commissioner shall consider whether any undue prejudice or injustice that would result from not severing the proceeding outweighs the interests of judicial economy and expeditiousness in the complete and final resolution of the proceeding.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-915. Commencement of contested case — Motions.**

- (a) A motion may be made in writing or orally, unless the Securities Commissioner directs that such motion be reduced to writing.



- (b) All written motions shall state with particularity the relief sought and may be accompanied by a proposed order.
- (c)
  - (1) No oral arguments may be held on written motions except as otherwise directed by the commissioner.
  - (2) Written memoranda, briefs, affidavits, or other relevant materials or documents may be filed in support of or in opposition to a motion.
- (d)
  - (1) Motions shall be filed with the commissioner.
  - (2) There shall be filed an original and two (2) copies of each pleading and each exhibit.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-916. Commencement of contested case — Continuances.**

- (a) The Securities Commissioner may continue the hearing on his or her own motion or on the motion of any party or the State Securities Department on such terms as the commissioner may require.
- (b) The commissioner may grant any additional requests for a continuance for settlement purposes or in the event that the denial of a continuance request would substantially prejudice a party's or the department's case.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-917. Commencement of contested case — Failure to request or appear at a hearing.**

- (a) When a party fails to request a hearing within the time specified in the cease and desist order or other administrative order, the allegations against the party may be deemed admitted.
- (b)
  - (1) When a party fails to appear at a scheduled hearing, the allegations against the party may be deemed admitted.
  - (2) Without further proceedings or notice to the party, the Securities Commissioner shall issue a final decision.

- (3) The commissioner may, if deemed necessary, receive evidence from the staff, as part of the record, concerning the appropriateness of the amount of any civil penalty sought in the request.
- (c) A party that failed to request or appear at a hearing may file a petition for reconsideration of a final decision.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-918. Commencement of contested case — Appearances and withdrawals.**

- (a) Attorneys duly admitted to practice law in the State of Arkansas and in good standing may represent others before the State Securities Department.
- (b) Attorneys in good standing from other jurisdictions may request and, for good cause shown, be allowed to appear in a contested case, provided an attorney admitted to practice in Arkansas:
  - (1) Is present during the entire proceeding;
  - (2) Signs all pleadings and other papers filed in the proceeding; and
  - (3) Agrees to take full responsibility for supervising the conduct of the attorney.
- (c)
  - (1) An individual may appear on his or her own behalf in a contested case.
  - (2) A partner, member, or manager of a partnership or limited liability company may appear and represent the partnership or limited liability company.
  - (3) A duly authorized officer, director, or employee of any agency, institution, corporation, or authority may appear and represent the agency, institution, corporation, or authority.
- (d)
  - (1) Each person making an appearance before the Securities Commissioner as counsel or representative in connection with any contested case shall promptly notify the commissioner in writing by filing a notice of appearance at or before the time such person submits papers or otherwise appears on behalf of a party in the contested case.
  - (2) The notice of appearance shall include a declaration that the individual is:

- (A) Currently qualified as provided in this section; and
  - (B) Authorized to represent and accept service on behalf of the represented party.
- (e) Any party acting pro se shall so notify the commissioner in writing by filing a notice of appearance with the commissioner.
- (f) After a notice of appearance is filed by a party or counsel, copies of all subsequent pleadings, notices, rulings, or decisions shall be provided to the:
  - (1) Person named in the notice of appearance; and
  - (2) Person designated to represent the department.
- (g) A person that has filed a notice of appearance may withdraw the notice of appearance by:
  - (1) Filing a written notice of withdrawal with the commissioner; and
  - (2) Providing a copy to all parties, intervenors, and the department.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-919. Commencement of contested case — Conferences.**

- (a)
  - (1) Prior to the hearing, the parties, the State Securities Department, and their counsel may meet with the Securities Commissioner, at the direction of the commissioner or by mutual consent, in person at a specified time and place, or confer with the commissioner by telephone for the purpose of scheduling the course and conduct of the proceeding.
  - (2) The identification of potential witnesses, the time for and manner of inspecting and copying documents, and the exchange of any prehearing materials including witness lists, exhibits, and any other materials may also be determined at the scheduling conference.
- (b) The commissioner may, in addition to the scheduling conference, upon motion by any party or the department, order the parties, the staff, and their counsel to meet with the commissioner in person or by telephone at a prehearing conference or may recess the hearing to address any or all of the following:
  - (1) Simplification and clarification of the issues;

- (2) Exchange of witness and exhibit lists and copies of exhibits;
  - (3) Stipulations, admissions of fact, and the contents, authenticity, and admissibility into evidence of documents;
  - (4) Matters of which official notice may be taken;
  - (5) Issues relating to witnesses and exhibits;
  - (6) Summary disposition of any and all issues;
  - (7) Resolution of document production issues or disputes;
  - (8) Amendments to pleadings; and
  - (9) Such other matters as may aid in the orderly disposition of the proceeding.
- (c) (1) At or within a reasonable time following the conclusion of the scheduling conference or any prehearing conference, the commissioner may serve on each party and the staff an order setting forth any agreements reached and any procedural determinations made.
  - (2) If the commissioner has ordered a party to disclose all witnesses or exhibits, no witness may testify and no exhibit may be introduced at the hearing if such witness or exhibit was not disclosed pursuant to such order, unless the commissioner allows a party or the staff sufficient time to prepare in light of the undisclosed witness or exhibit.
- (d) Following any discussion among the commissioner, the parties, and the staff addressing any issues in a contested case that occurs during a hearing recess, the commissioner shall place the substance of the communication on the record including any action taken and any agreements made by the parties and the staff as to any matters that were discussed.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-920. Commencement of contested case — Conduct of hearings.**

- (a) (1) Hearings shall be conducted so as to provide a fair and expeditious presentation of the relevant disputed issues.

- (2) The State Securities Department and each party has the right to present its case or defense by oral examination and documentary evidence and to conduct such cross-examination as may be required for full disclosure of the facts.
- (b)
  - (1) The department shall present its case-in-chief first, unless otherwise ordered by the Securities Commissioner or expressly specified by law.
  - (2) The department shall be the first to present an opening statement and a closing statement, and may make a rebuttal statement after the other party's closing statement or, in the case of multiple parties, after the closing statements of all parties.
- (c)
  - (1) The commissioner may, at any time prior to the rendering of a final decision, reopen the hearing upon the motion of the commissioner, any party, or the department for good cause shown.
  - (2) The parties, intervenors, and the staff shall be notified of the reopening and the hearing shall be convened not less than five (5) days after the sending of such notice unless waived by the parties and the staff.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-921. Commencement of contested case — Recordings of hearings.**

- (a) All hearings shall be recorded either stenographically or electronically.
- (b) The Securities Commissioner shall serve notice upon the State Securities Department and all parties of receipt of the certified transcript.
- (c) Any party may request a copy of the transcript from the court reporter and such copy shall be made available to any party upon payment of the cost of the transcript.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-922. Commencement of contested case — Transcript corrections.**

- (a) The Securities Commissioner shall have the authority to order the transcript corrected upon a motion to correct, upon stipulation of the State Securities Department and the parties, or upon the commissioner's own motion following notice to the staff and the parties.

- (b) The commissioner may call for the submission of proposed corrections and may order the corrections at appropriate times during the course of the proceedings.
- (c) Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing.
- (d) Transcript corrections may be incorporated into the record at any time during the hearing or after the close of evidence, but not more than ten (10) days from the date of receipt of the transcript by the commissioner.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-923. Commencement of contested case — Evidence.**

- (a) The Securities Commissioner may allow witnesses to use existing or newly created charts, exhibits, calendars, calculations, outlines, or other graphic material to summarize, illustrate, or simplify the presentation of testimony, provided that upon request by the commissioner, a party, or the staff, the witness shall provide the books, papers, documents, or sources from which the information contained in such materials is derived prior to its use or admission as evidence.
- (b)
  - (1) Formal exceptions to rulings on evidence and procedure are unnecessary.
  - (2) It is sufficient that a party or the staff, at the time a ruling of the commissioner is made or sought, makes known to the commissioner the action that the party or the staff desires taken, or the objections to such action, and the grounds for such action or objection.
  - (3) Failure to object to the admission of evidence or any ruling constitutes a waiver of the objection.
- (c)
  - (1) Any offer of proof made in connection with an objection taken to a ruling of the commissioner rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence that would be adduced by such testimony.
  - (2) If the excluded evidence consists of evidence in documentary or written form or refers to documents or records, a copy of such evidence shall:
    - (A) Be marked for identification; and
    - (B) Constitute the offer of proof.

- (d) The commissioner may take administrative notice of judicially cognizable facts and generally recognized technical or scientific facts within the staff's specialized knowledge.
- (e) The commissioner shall afford the parties and the staff an opportunity to contest the material noticed before or during the hearing.
- (f) The commissioner shall have the authority to employ the staff's experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making findings of fact and arriving at a decision in any contested case.
- (g) The parties and the staff may stipulate as to any relevant matters of fact or the authentication of any relevant documents that may be entered as evidence at the commencement of or during the hearing.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-924. Commencement of contested case — Filing of additional evidence.**

At any stage of the hearing, the Securities Commissioner may call for further evidence upon any issue and require that such evidence be produced by the party or parties concerned or by the staff, or may authorize any party or the staff to file specific documentary evidence as part of the record, either at the hearing or within a specified time, provided every other party and the staff shall be afforded a reasonable opportunity to review and rebut or object to such evidence.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-925. Commencement of contested case — Briefs.**

- (a) Briefs may be filed by a party or the State Securities Department either before or during the course of a hearing or within such time as the Securities Commissioner designates.
- (b) Failure to file a brief shall in no way prejudice the rights of any party or the department.
- (c) The order of filing briefs or reply briefs shall be designated by the commissioner.
- (d) The commissioner shall provide the parties and the department at least fourteen (14) days to file a brief after it is requested.

- (e) A party or the department may request an extension of the briefing schedule set by the commissioner prior to the due date.
- (f) Late briefs may not be considered by the commissioner.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-926. Commencement of contested case — Final decision.**

- (a) All decisions and orders of the Securities Commissioner concluding a contested case shall be in writing.
- (b) If a final decision is adverse to a party, the decision shall include all findings of fact and conclusions of law relied upon by the commissioner in arriving at the decision, the findings of fact and conclusions of law to be separately stated.
- (c) The findings of fact shall also set forth a concise and explicit statement of the underlying facts supporting the findings of fact, where appropriate.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-927. Commencement of contested case — Right to appeal.**

A person who is aggrieved by the final decision of the Securities Commissioner may seek judicial review of the decision in accordance with the provisions of Arkansas Code § 25-15-212.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-928. Commencement of contested case — Petitions and requests.**

Petitions and requests shall include all forms of proposals, requests, notices, petitions, and filings of any nature that are placed before the Securities Commissioner.

**Authority.** Arkansas Code § 23-55-104.

**23 CAR § 302-929. Form.**

- (a) The form to be followed in the filing of pleadings pursuant to these rules will vary to the extent necessary to provide for the nature of the legal rights, duties, or privileges involved therein.



- (b) Except as otherwise provided by law or the Securities Commissioner otherwise determines, the petitions and requests shall include the following:
- (1) (A) Each pleading shall incorporate a statement setting forth clearly and concisely the authorization or other relief sought.
- (B) The pleading shall set forth:
- (i) (a) Unless the pleading is filed by the staff, the exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person.
- (b) If any applicant or petitioner is a corporation, limited liability company, partnership, trust, association, or other organized group, it shall also specify the state under the laws of which it was created or organized;
- (ii) (a) The name, title, address, and telephone number of the attorney to whom correspondence or communications in regard to the petition or application are to be addressed.
- (b) Notice, orders, and other papers may be served upon the person so named and such service shall be deemed to be service upon the petitioner or applicant;
- (iii) A concise and explicit statement of the facts on which the commissioner is expected to rely in granting the authorization or other relief sought; and
- (iv) An explanation of any unusual circumstances involved in the petition or request to which the commissioner will be expected to direct particular attention, including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order during the pendency of the petition or application;
- (2) There shall be attached to the pleading any exhibits, sworn written testimony, data, models, illustrations, or other materials that the petitioner or movant deems necessary or desirable to support the

granting of the pleading or that any statute or regulation may require for the lawful determination of the petition or request;

- (3) (A) All documents, whenever practicable, shall be printed, typewritten, or reproduced on one (1) side of the paper only, and double-spaced with a normal margin on all four (4) sides.
- (B) All pleadings shall be on paper eight and one-half inches by eleven inches (8 1/2" x 11") in size; and
- (4) Pleadings shall show:
  - (A) The venue as "State Securities Department";
  - (B) The title of the proceedings;
  - (C) The docket number assigned; and
  - (D) An appropriate designation, e.g., petition, request, motion, brief, complaint.

**Authority.** Arkansas Code § 23-55-104.

#### **Subpart 10. Miscellaneous Provisions**

**23 CAR § 302-1001. Uniformity of Application and Construction [Reserved].**

**23 CAR § 302-1002. Severability Clause [Reserved].**

**23 CAR § 302-1003. Effective Date [Reserved].**

**23 CAR § 302-1004. [Reserved].**

**23 CAR § 302-1005. Savings and Transitional Provisions [Reserved].**