

CHAPTER 79-A

MONEY TRANSMITTERS

SUBCHAPTER 1

SHORT TITLE AND PURPOSE

§6067. Short title

This chapter may be known and cited as "the Maine Money Transmission Modernization Act." [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6068. Purpose

It is the intent of the Legislature that the provisions of this Act accomplish the following: [PL 2023, c. 662, §2 (NEW).]

1. Coordination. Ensure states can coordinate in all areas of regulation, licensing and supervision to eliminate unnecessary regulatory burden and more effectively use regulator resources; [PL 2023, c. 662, §2 (NEW).]

2. Protection of public. Protect the public from financial crime; [PL 2023, c. 662, §2 (NEW).]

3. Standardization. Standardize the types of activities that are subject to licensing or otherwise exempt from licensing; and [PL 2023, c. 662, §2 (NEW).]

4. Modernization. Modernize safety and soundness requirements to ensure customer funds are protected in an environment that supports innovative and competitive business practices. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 2

DEFINITIONS

§6071. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2023, c. 662, §2 (NEW).]

1. Acting in concert. "Acting in concert" means knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement. [PL 2023, c. 662, §2 (NEW).]

2. Administrator. "Administrator" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation. [PL 2023, c. 662, §2 (NEW).]

3. Authorized delegate. "Authorized delegate" means a person a licensee designates to engage in money transmission on behalf of the licensee.

[PL 2023, c. 662, §2 (NEW).]

4. Bank Secrecy Act. "Bank Secrecy Act" means the federal Bank Secrecy Act, 31 United States Code, Section 5311 et seq. and its implementing regulations.

[PL 2023, c. 662, §2 (NEW).]

5. Bureau. "Bureau" means the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection.

[PL 2023, c. 662, §2 (NEW).]

6. Closed loop stored value. "Closed loop stored value" means stored value that is redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

[PL 2023, c. 662, §2 (NEW).]

7. Control. "Control" means:

A. The power to vote, directly or indirectly, at least 25% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee; [PL 2023, c. 662, §2 (NEW).]

B. The power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee; or [PL 2023, c. 662, §2 (NEW).]

C. The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee. [PL 2023, c. 662, §2 (NEW).]

A person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least 10% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

A person presumed to exercise a controlling influence pursuant to this subsection may rebut the presumption of control if the person is a passive investor.

For purposes of determining the percentage of a person controlled by any other person, the person's interest must be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, parents-in-law, children-in-law and siblings-in-law, and any other person who shares that person's home.

[PL 2023, c. 662, §2 (NEW).]

8. Eligible rating. "Eligible rating" means a credit rating of any of the 3 highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service. Long-term credit ratings are considered eligible ratings if the rating is equal to or higher than "A-" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service. Short-term credit ratings are considered eligible ratings if the rating is equal to or higher than "A-2" or "SP-2" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service. If ratings differ among eligible rating services, the highest rating applies when determining whether a security bears an eligible rating.

[PL 2023, c. 662, §2 (NEW).]

9. Eligible rating service. "Eligible rating service" means a nationally recognized statistical rating organization recognized by the United States Securities and Exchange Commission and any other organization designated by the administrator by rule or order.

[PL 2023, c. 662, §2 (NEW).]

10. Federally insured depository financial institution. "Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank or industrial loan company organized under the laws of the United States or any state of the United States, when that bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank or industrial loan company has federally insured deposits.

[PL 2023, c. 662, §2 (NEW).]

11. In this State. "In this State," for a transaction requested in person, means at a physical location within this State. For a transaction requested electronically or by telephone, "in this State" means that the person requesting the transaction is at a physical location within this State. For a transaction requested electronically or by telephone, 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 residential address, if an individual, or principal place of business, if a business entity, or other physical address location and any records associated with the person that the provider of money transmission may have that indicate the location, including but not limited to an address associated with an account.

[PL 2023, c. 662, §2 (NEW).]

12. Individual. "Individual" means a natural person.

[PL 2023, c. 662, §2 (NEW).]

13. Key individual. "Key individual" means an individual ultimately responsible for establishing or directing policies and procedures of a licensee, such as an executive officer, manager, director or trustee.

[PL 2023, c. 662, §2 (NEW).]

14. Licensee. "Licensee" means a person licensed under this Act.

[PL 2023, c. 662, §2 (NEW).]

15. Material litigation. "Material litigation" means litigation that, according to generally accepted accounting principles in the United States, is significant to a person's financial health and would be required to be disclosed in the person's annual audited financial statements, reports to shareholders or similar records.

[PL 2023, c. 662, §2 (NEW).]

16. Monetary value. "Monetary value" means a medium of exchange, whether or not redeemable in money.

[PL 2023, c. 662, §2 (NEW).]

17. Money. "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between 2 or more governments.

[PL 2023, c. 662, §2 (NEW).]

18. Money transmission. "Money transmission" means:

A. Selling or issuing payment instruments to a person located in this State; [PL 2023, c. 662, §2 (NEW).]

B. Selling or issuing stored value to a person located in this State; or [PL 2023, c. 662, §2 (NEW).]

C. Receiving money for transmission from a person located in this State. [PL 2023, c. 662, §2 (NEW).]

"Money transmission" does not include the provision solely of online or telecommunications services or network access.

[PL 2023, c. 662, §2 (NEW).]

19. MSB. "MSB" means a money services business as defined in 31 Code of Federal Regulations, Section 1010.100.

[PL 2023, c. 662, §2 (NEW).]

20. MSB accredited state. "MSB accredited state" means a state agency that is accredited by the Conference of State Bank Supervisors or successor organization and the Money Transmitter Regulators Association or successor organization for money transmission licensing and supervision.

[PL 2023, c. 662, §2 (NEW).]

21. Multistate licensing process. "Multistate licensing process" means an agreement entered into by and among state regulators relating to coordinated processing of applications for money transmission licenses, applications for the acquisition of control of a licensee, control determinations or notice and information requirements for a change of key individuals.

[PL 2023, c. 662, §2 (NEW).]

22. NMLS. "NMLS" means the nationwide multistate licensing system and registry developed by the Conference of State Bank Supervisors or successor organization and the American Association of Residential Mortgage Regulators or successor organization and owned and operated by the State Regulatory Registry LLC or successor organization, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

[PL 2023, c. 662, §2 (NEW).]

23. Outstanding money transmission obligation. "Outstanding money transmission obligation" means:

A. A payment instrument or stored value issued or sold by a licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or [PL 2023, c. 662, §2 (NEW).]

B. Money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender or escheated in accordance with applicable abandoned property laws. [PL 2023, c. 662, §2 (NEW).]

For purposes of this subsection, "in the United States" includes, to the extent applicable, a state, territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a United States military installation that is located in a foreign country.

[PL 2023, c. 662, §2 (NEW).]

24. Passive investor. "Passive investor" means a person that:

A. Does not have the power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee; [PL 2023, c. 662, §2 (NEW).]

B. Is not employed by and does not have any managerial duties of the licensee or person in control of a licensee; [PL 2023, c. 662, §2 (NEW).]

C. Does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or a person in control of a licensee; and [PL 2023, c. 662, §2 (NEW).]

D. Either:

(1) Attests to paragraphs A to C in a form and in a medium prescribed by the administrator; or

(2) Commits to the passivity characteristics of paragraphs A to C in a written document. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

25. Payment instrument. "Payment instrument" means a written or electronic check, draft, money order, traveler's check or other wire, electronic or written instrument, or written order for the transmission or payment of money or monetary value, whether or not negotiable. "Payment instrument" does not include stored value or an instrument that:

A. Is redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or [PL 2023, c. 662, §2 (NEW).]

B. Is not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

26. Person. "Person" means an individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation or other corporate entity identified by the administrator.
[PL 2023, c. 662, §2 (NEW).]

27. Receiving money for transmission. "Receiving money for transmission" or "money received for transmission" means the receipt of money or monetary value in the United States for transmission within or outside the United States by electronic or other means.
[PL 2023, c. 662, §2 (NEW).]

28. Stored value. "Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record and that is intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services. "Stored value" includes, but is not limited to, prepaid access as defined by 31 Code of Federal Regulations, Section 1010.100(w) but does not include a payment instrument, closed loop stored value or stored value not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.
[PL 2023, c. 662, §2 (NEW).]

29. Tangible net worth. "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with generally accepted accounting principles in the United States.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 3

EXEMPTIONS

§6074. Exemptions

This Act does not apply to: [PL 2023, c. 662, §2 (NEW).]

1. Operator. An operator of a payment system to the extent that it provides processing, clearing or settlement services between or among persons exempted by this section or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearinghouse transfers or similar funds transfers;
[PL 2023, c. 662, §2 (NEW).]

2. Agent. A person appointed as an agent of a payee to collect and process a payment from a payer to the payee for goods or services, other than money transmission itself, provided to the payer by the payee, as long as:

A. There exists a written agreement between the payee and the agent directing the agent to collect and process payments from payers on the payee's behalf; [PL 2023, c. 662, §2 (NEW).]

B. The payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and [PL 2023, c. 662, §2 (NEW).]

C. Payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payer's obligation is extinguished and there is no risk of loss to the payer if the agent fails to remit the funds to the payee; [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

3. Intermediary. A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender and the sender's designated recipient, as long as the entity:

A. Is properly licensed or exempt from licensing requirements under this Act; [PL 2023, c. 662, §2 (NEW).]

B. Provides a receipt, electronic record or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and [PL 2023, c. 662, §2 (NEW).]

C. Bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient; [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

4. United States. The United States or a department, agency or instrumentality of the United States or its agent;

[PL 2023, c. 662, §2 (NEW).]

5. United States Postal Service. Money transmission by the United States Postal Service or by an agent of the United States Postal Service;

[PL 2023, c. 662, §2 (NEW).]

6. Agency. A state, county, municipal or other governmental agency or governmental subdivision or instrumentality of a state or its agent;

[PL 2023, c. 662, §2 (NEW).]

7. Financial institution. A federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to the federal International Banking Act of 1978, 12 United States Code, Section 3102, corporation organized pursuant to the federal Bank Service Company Act, 12 United States Code, Sections 1861 to 1867 or corporation organized under the federal Edge Act, 12 United States Code, Sections 611 to 633;

[PL 2023, c. 662, §2 (NEW).]

8. Financial organization. A supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A, as long as the supervised financial organization does not engage in the business of issuing or selling payment instruments through an authorized delegate that is not a supervised financial organization;

[PL 2023, c. 662, §2 (NEW).]

9. Electronic funds transfer. Electronic funds transfer of governmental benefits for a federal, state, county or governmental agency by a contractor on behalf of the United States or a department,

agency or instrumentality of the United States or on behalf of a state or governmental subdivision, agency or instrumentality of the United States;
[PL 2023, c. 662, §2 (NEW).]

10. Board of trade. A board of trade designated as a contract market under the federal Commodity Exchange Act, 7 United States Code, Sections 1 to 25 or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board;
[PL 2023, c. 662, §2 (NEW).]

11. Futures commission merchant. A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant;
[PL 2023, c. 662, §2 (NEW).]

12. Securities broker-dealer. A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer;
[PL 2023, c. 662, §2 (NEW).]

13. Employee. An individual employed by a licensee, authorized delegate or person exempted from the licensing requirements of this Act when acting within the scope of employment and under the supervision of the licensee, authorized delegate or exempted person as an employee and not as an independent contractor;
[PL 2023, c. 662, §2 (NEW).]

14. Service provider. A person expressly appointed as a 3rd-party service provider to or agent of an entity exempt under subsection 7, solely to the extent that:

A. The service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and [PL 2023, c. 662, §2 (NEW).]

B. The exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent; [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

15. Payroll processor. A payroll processor licensed under Title 10, chapter 222; or
[PL 2023, c. 662, §2 (NEW).]

16. Regulation, rule or order. A person exempt by regulation, rule or order if the administrator finds the exemption to be in the public interest and that the regulation of the person is not necessary for the purposes of this Act.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6075. Authority to require demonstration of exemption

The administrator may require that a person claiming to be exempt from licensing pursuant to section 6074 provide information and documentation to the administrator demonstrating that the person qualifies for a claimed exemption. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 4

IMPLEMENTATION; CONFIDENTIALITY; INVESTIGATIONS; RELATIONSHIP TO FEDERAL LAW

§6078. Implementation

In order to carry out the purposes of this Act, the administrator may, subject to the provisions of section 6080, subsections 1 and 2: [PL 2023, c. 662, §2 (NEW).]

1. Licensing. Require licensing under this Act through NMLS. The administrator is authorized to participate in the nationwide mortgage licensing system and registry; [PL 2023, c. 662, §2 (NEW).]

2. Agreements. Enter into agreements or relationships with other government officials or federal and state regulatory agencies and regulatory associations in order to improve efficiencies and reduce regulatory burden by standardizing methods or procedures and sharing resources, records or related information obtained under this Act; [PL 2023, c. 662, §2 (NEW).]

3. Examination and investigation. Use, hire, contract or employ analytical systems, methods or software to examine or investigate any person subject to this Act; [PL 2023, c. 662, §2 (NEW).]

4. Reports. Accept from state or federal government agencies or officials licensing, examination or investigation reports made by those state or federal government agencies or officials; and [PL 2023, c. 662, §2 (NEW).]

5. Audit reports. Accept audit reports made by an independent certified public accountant or other qualified 3rd-party auditor for an applicant or licensee and incorporate the audit report in a report of examination or investigation. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6079. Administrative authority

The administrator has the authority to administer, interpret and enforce this Act, to adopt rules implementing this Act and to recover the cost of administering and enforcing this Act by imposing and collecting proportionate and equitable fees associated with applications, examinations, investigations and other actions required to achieve the purposes of this Act. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6080. Confidentiality

Information confidentiality and disclosure is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Confidentiality and prohibited disclosure. Except as otherwise provided in subsection 2, all information or reports obtained by the administrator from an applicant for a license, licensee or authorized delegate and all information contained in or related to an examination, investigation, operating report or condition report prepared by, on behalf of or for the use of the administrator, or financial statements, balance sheets or authorized delegate information, are confidential and are not subject to disclosure under Title 1, chapter 13. [PL 2023, c. 662, §2 (NEW).]

2. Authorized disclosure. The administrator may disclose information not otherwise subject to disclosure under subsection 1 to representatives of state or federal agencies who certify in a record that they will maintain the confidentiality of the information or if the administrator finds that the release is reasonably necessary for the protection and interest of the public.

[PL 2023, c. 662, §2 (NEW).]

3. Licensees. This section does not prohibit the administrator from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

[PL 2023, c. 662, §2 (NEW).]

4. Public information. Information contained in the records of the bureau that is not confidential and may be made available to the public either on the bureau's publicly accessible website, upon receipt by the bureau of a written request, or in NMLS includes:

A. The name, business address, telephone number and unique identifier of a licensee; [PL 2023, c. 662, §2 (NEW).]

B. The business address of a licensee's registered agent for service; [PL 2023, c. 662, §2 (NEW).]

C. The name, business address and telephone number of each authorized delegate; [PL 2023, c. 662, §2 (NEW).]

D. The terms of or a copy of a bond filed by a licensee, as long as confidential information, including but not limited to prices and fees for that bond, is redacted; [PL 2023, c. 662, §2 (NEW).]

E. Copies of nonconfidential final orders of the bureau relating to a violation of this Act or rules implementing this Act; and [PL 2023, c. 662, §2 (NEW).]

F. Imposition of an administrative fine or penalty under this Act. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6081. Investigations

Investigations by the administrator are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Examination. The administrator may conduct an examination or investigation of a licensee or authorized delegate or otherwise take independent action authorized by this Act or by a rule adopted or order issued under this Act as reasonably necessary or appropriate to administer and enforce this Act, rules implementing this Act and other applicable law, including the Bank Secrecy Act and the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Public Law 107-56, 115 Stat. 272. The administrator may:

A. Conduct an examination of a licensee's business either on-site or off-site as the administrator may reasonably require; [PL 2023, c. 662, §2 (NEW).]

B. Conduct an examination in conjunction with an examination conducted by representatives of agencies of the State or agencies of another state or of the Federal Government; [PL 2023, c. 662, §2 (NEW).]

C. Accept the examination report of an agency of the State or an agency of another state or of the Federal Government or a report prepared by an independent accounting firm, which on being accepted is considered for all purposes as an official report of the administrator; and [PL 2023, c. 662, §2 (NEW).]

D. Summon and examine under oath a key individual or employee of a licensee or authorized delegate and require a key individual or employee to produce records regarding any matter related to the condition and business of the licensee or authorized delegate. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

2. Records. A licensee or authorized delegate shall provide, and the administrator may have full and complete access to, all records the administrator may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the administrator, and the administrator may use multistate record production standards and examination procedures when such standards and procedures will reasonably achieve the requirements of this subsection.
[PL 2023, c. 662, §2 (NEW).]

3. Costs. Unless otherwise directed by the administrator, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6082. Networked supervision

Networked supervision by the administrator is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Multistate supervision. To efficiently and effectively administer and enforce this Act and to minimize regulatory burden, the administrator is authorized to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, the Money Transmitter Regulators Association and affiliates or successors of the conference and association for all licensees that hold licenses in this State and other states. As a participant in multistate supervision, the administrator shall:

A. Cooperate, coordinate and share information with other state and federal regulators in accordance with section 6080; [PL 2023, c. 662, §2 (NEW).]

B. Enter into written cooperation, coordination or information-sharing contracts or agreements with organizations whose memberships are made up of state or federal government agencies; and
[PL 2023, c. 662, §2 (NEW).]

C. Cooperate, coordinate and share information with organizations whose memberships are made up of state or federal government agencies, as long as the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section 6080. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

2. Enforcement authority. The administrator may not waive, and nothing in this section constitutes a waiver of, the administrator's authority to conduct an examination or investigation or otherwise take independent action authorized by this Act or by a rule adopted or order issued under this Act to enforce compliance with applicable state or federal law.
[PL 2023, c. 662, §2 (NEW).]

3. Joint examination. A joint examination or investigation or acceptance of an examination or investigation report does not waive an examination assessment provided for in this Act.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6083. Relationship to federal law

State money transmission jurisdiction is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Governance. If state money transmission jurisdiction is conditioned on a federal law, any inconsistency between a provision of this Act and the federal law governing money transmission is governed by the applicable federal law to the extent of the inconsistency.

[PL 2023, c. 662, §2 (NEW).]

2. Guidance. If there is an inconsistency between this Act and a federal law that governs pursuant to subsection 1, the administrator may provide interpretive guidance that identifies the inconsistency and identifies the appropriate means of compliance with federal law.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6084. Prohibited practices

It is a violation of this Act for a licensee, executive officer, responsible individual or other person subject to this Act in connection with money transmission to: [PL 2023, c. 662, §2 (NEW).]

1. Defraud or mislead. Directly or indirectly employ any scheme, device or artifice to defraud or mislead any person, including but not limited to engaging in bait and switch advertising or sales practices;

[PL 2023, c. 662, §2 (NEW).]

2. Unfair acts. Directly or indirectly engage in any unfair, deceptive or abusive act or practice toward any person, including but not limited to any false or deceptive statement about fees or other terms of money transmission or currency exchange;

[PL 2023, c. 662, §2 (NEW).]

3. Fraud or misrepresentation. Directly or indirectly obtain property by fraud or misrepresentation;

[PL 2023, c. 662, §2 (NEW).]

4. False information. Make, publish or disseminate any false, deceptive or misleading information;

[PL 2023, c. 662, §2 (NEW).]

5. Property for personal use. Receive or take possession for personal use of property of a money transmission business, other than in payment for services rendered, and with intent to defraud or to omit to make or cause or direct to omit to make a full and true entry in the books and accounts of the money transmission business;

[PL 2023, c. 662, §2 (NEW).]

6. False entries. Make or concur in making any false entry or omit or concur in omitting any material entry in the books or accounts of a money transmission business;

[PL 2023, c. 662, §2 (NEW).]

7. False reports. Knowingly make or publish to the administrator or concur in making or publishing to the administrator any written report, exhibit or statement of a money transmission business's affairs or pecuniary condition containing any material statement that is false or omit or concur in omitting any statement required by law to be contained in such a written report, exhibit or statement; or

[PL 2023, c. 662, §2 (NEW).]

8. Failure to report. Fail to make any report or statement lawfully required by the administrator or other public official.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 5

MONEY TRANSMISSION LICENSES

§6087. License required

A person may not engage in the business of money transmission or advertise, solicit or hold itself out as providing money transmission unless the person is licensed under this Act. [PL 2023, c. 662, §2 (NEW).]

1. Exemption. This section does not apply to:

A. A person that is an authorized delegate of a person licensed under this Act acting within the scope of authority conferred by a written contract with the licensee; or [PL 2023, c. 662, §2 (NEW).]

B. A person that is exempt pursuant to section 6074 and does not engage in money transmission outside the scope of such exemption. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Transfer or assignment. A license issued under section 6091 is not transferable or assignable. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6088. Consistent state licensing

Consistent licensing between the State and other states is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Authorization. To establish consistent licensing between the State and other states, the administrator may:

A. Implement all licensing provisions of this Act in a manner that is consistent with other states that have adopted this Act; and [PL 2023, c. 662, §2 (NEW).]

B. Participate in nationwide protocols for licensing cooperation and coordination among state regulators as long as such protocols are consistent with this Act. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Relationships and contracts. In order to fulfill the purposes of this Act, the administrator may establish relationships or contracts with NMLS or other entities designated by NMLS to enable the administrator to:

A. Collect and maintain records; [PL 2023, c. 662, §2 (NEW).]

B. Coordinate multistate licensing processes and supervision processes; [PL 2023, c. 662, §2 (NEW).]

C. Process fees; and [PL 2023, c. 662, §2 (NEW).]

D. Facilitate communication between this State and licensees or other persons subject to this Act. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

3. NMLS licensing. The administrator may use NMLS for all aspects of licensing in accordance with this Act, including but not limited to license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing and examinations.

[PL 2023, c. 662, §2 (NEW).]

4. NMLS forms, processes and functionalities. The administrator may use NMLS forms, processes and functionalities in accordance with this Act. If NMLS does not provide forms, processes or functionality for a provision of this Act, the administrator may strive to implement the requirements in a manner that facilitates uniformity with respect to licensing, supervision, reporting and regulation of licensees that are licensed in multiple jurisdictions.

[PL 2023, c. 662, §2 (NEW).]

5. Waive or modify requirements. The administrator may waive or modify by rule any or all of the requirements, in whole or in part, and establish new requirements as reasonably necessary to participate in NMLS.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6089. Application for license

License applications are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Forms. An applicant for a license shall apply in a form and in a medium as prescribed by the administrator. Each form must contain content as set forth by law or rule and additional content determined by the administrator to be necessary to properly evaluate an application. The administrator may change or update forms and media in accordance with applicable law to carry out the purposes of this Act and maintain consistency with NMLS licensing standards and practices. The application must state or contain, as applicable:

A. The legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business; [PL 2023, c. 662, §2 (NEW).]

B. A list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the 10-year period preceding the submission of the application; [PL 2023, c. 662, §2 (NEW).]

C. A description of any money transmission previously provided by the applicant and the money transmission that the applicant seeks to provide in the State; [PL 2023, c. 662, §2 (NEW).]

D. A list of the applicant's proposed authorized delegates and the locations in this State where the applicant and its authorized delegates propose to engage in money transmission; [PL 2023, c. 662, §2 (NEW).]

E. A list of other states in which the applicant is licensed to engage in money transmission and any license revocations or suspensions or other disciplinary action taken against the applicant in another state; [PL 2023, c. 662, §2 (NEW).]

F. Information concerning any bankruptcy or receivership proceedings affecting the applicant or a person in control of an applicant; [PL 2023, c. 662, §2 (NEW).]

G. A sample form of contract for authorized delegates, if applicable; [PL 2023, c. 662, §2 (NEW).]

H. A sample form of payment instrument or stored value, if applicable; [PL 2023, c. 662, §2 (NEW).]

I. The name and address of any federally insured depository financial institution through which the applicant plans to conduct money transmission; and [PL 2023, c. 662, §2 (NEW).]

J. Any other information the administrator or NMLS reasonably requires with respect to the applicant. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Corporation, limited liability company, partnership or other legal entity. If an applicant is a corporation, limited liability company, partnership or other legal entity, the applicant, in addition to the application information under subsection 1, shall provide:

A. The date of the applicant's incorporation or formation and state or country of incorporation or formation; [PL 2023, c. 662, §2 (NEW).]

B. If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed; [PL 2023, c. 662, §2 (NEW).]

C. A brief description of the structure or organization of the applicant, including any parents or subsidiaries of the applicant, and whether any parents or subsidiaries are publicly traded; [PL 2023, c. 662, §2 (NEW).]

D. The legal name, any fictitious or trade name, all business and residential addresses and the employment of each key individual and person in control of the applicant, as applicable, in the 10-year period preceding the submission of the application; [PL 2023, c. 662, §2 (NEW).]

E. A list of any criminal convictions and material litigation in which a person in control of the applicant that is not an individual has been involved in the 10-year period preceding the submission of the application; [PL 2023, c. 662, §2 (NEW).]

F. A copy of audited financial statements of the applicant for the most recent fiscal year and for the 2-year period preceding the submission of the application or, if determined to be acceptable to the administrator, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the administrator; [PL 2023, c. 662, §2 (NEW).]

G. A certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter; [PL 2023, c. 662, §2 (NEW).]

H. If the applicant is a publicly traded corporation, a copy of the most recent report filed with the United States Securities and Exchange Commission under Section 13 of the federal Securities Exchange Act of 1934, 15 United States Code, Section 78m; [PL 2023, c. 662, §2 (NEW).]

I. If the applicant is a wholly owned subsidiary of:

(1) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under the federal Securities Exchange Act of 1934, 15 United States Code, Section 78m; or

(2) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States; [PL 2023, c. 662, §2 (NEW).]

J. The name and address of the applicant's registered agent in this State; and [PL 2023, c. 662, §2 (NEW).]

K. Any other information the administrator reasonably requires with respect to the applicant. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

3. Waiver. The administrator may waive one or more requirements of subsections 1 and 2 or permit an applicant to submit other information in lieu of the required information. A waiver under this subsection is limited to one licensing period.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6090. Information requirements for certain individuals

Information requirements for certain individuals are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Required information. An individual in control of a licensee or applicant, an individual that seeks to acquire control of a licensee and a key individual shall furnish to the administrator through NMLS the following items:

A. The individual's fingerprints for submission to the Federal Bureau of Investigation and the administrator for purposes of a national criminal history record check unless the individual resides outside of the United States and has resided outside of the United States for the last 10 years; and [PL 2023, c. 662, §2 (NEW).]

B. Personal history and experience in a form and in a medium prescribed by the administrator, to obtain the following:

(1) An independent credit report from a consumer reporting agency unless the individual does not have a social security number, in which case this requirement is waived;

(2) Information related to any criminal convictions or pending charges; and

(3) Information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of contract. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Foreign residence. If the individual under subsection 1 has resided outside of the United States at any time in the last 10 years, the individual shall also provide an investigative background report prepared by an independent search firm that meets the following requirements:

A. At a minimum, the independent search firm:

(1) Must demonstrate that it has sufficient knowledge and resources and employs accepted and reasonable methodologies to conduct the research of the investigative background report; and

(2) May not be affiliated with or have an interest with the individual it is researching; and [PL 2023, c. 662, §2 (NEW).]

B. At a minimum, the investigative background report must be written in the English language and contain the following:

(1) If available in the individual's jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to develop the report, including a search of the court data in the countries, provinces, states, cities, towns and contiguous areas where the individual resided and worked;

(2) Criminal records information for the past 10 years, including but not limited to felonies, misdemeanors or similar convictions for violations of law in the countries, provinces, states, cities, towns and contiguous areas where the individual resided and worked;

(3) Employment history;

(4) Media history, including an electronic search of national and local publications, wire services and business applications; and

(5) Financial services-related regulatory history, including but not limited to money transmission, securities, banking, insurance and mortgage-related industries. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6091. Issuance of license

License issuance is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Complete application. When an application for an original license appears to include all the items and address all of the matters that are required under this subchapter, the application is complete and the administrator shall promptly notify the applicant of the date on which the application was determined to be complete and:

A. The administrator shall approve or deny the application within 120 days after the completion date; or [PL 2023, c. 662, §2 (NEW).]

B. If the application is not approved or denied within 120 days after the completion date:

(1) The application is approved; and

(2) The license takes effect as of the first business day after expiration of the 120-day period. [PL 2023, c. 662, §2 (NEW).]

The administrator for good cause may extend the application period.

[PL 2023, c. 662, §2 (NEW).]

2. Completion determination. A determination by the administrator that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items, including the criminal history record check response from the Federal Bureau of Investigation, and address all of the matters that are required. The determination is not an assessment of the substance of the application or of the sufficiency of the information provided.

[PL 2023, c. 662, §2 (NEW).]

3. Investigation. When an application is filed and considered complete under this section, the administrator shall investigate the applicant's financial condition and responsibility, financial and business experience, competence, character and general fitness. The administrator may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant must pay. The administrator shall issue a license to an applicant under this subsection if the administrator finds that the following conditions have been fulfilled:

A. The applicant has complied with sections 6089 and 6090; and [PL 2023, c. 662, §2 (NEW).]

B. The financial condition and responsibility, financial and business experience, competence, character and general fitness of the applicant and the competence, experience, character and general fitness of the key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

4. Multistate licensing process. If an applicant avails itself of or is otherwise subject to a multistate licensing process:

A. The administrator may accept the investigation results of a lead investigative state for the purposes of subsection 3 if the lead investigative state has sufficient staffing, expertise and minimum standards; or [PL 2023, c. 662, §2 (NEW).]

B. If the State is a lead investigative state, the administrator may investigate the applicant pursuant to subsection 3 and the time frames established by agreement through the multistate licensing process, as long as the time frames are compliant with the application period in subsection 1, paragraph A. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

5. Notice of denial. The administrator shall issue a formal written notice of the denial of a license application within 30 days of the decision to deny the application. The administrator shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the administrator under this subsection may request a hearing on the issue in accordance with Title 5, chapter 375, subchapter 4.

[PL 2023, c. 662, §2 (NEW).]

6. License term. Except as provided in subsection 1, paragraph B, the initial license term begins on the day the application is approved. A license expires on December 31st of the year in which the license term began, unless the initial license date is between November 1st and December 31st, in which case the initial license term runs through December 31st of the following year.

[PL 2023, c. 662, §2 (NEW).]

7. Requirements. An applicant for a money transmission license must demonstrate that it meets or will meet the requirements in sections 6100-R, 6100-S and 6100-T.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6092. Renewal of license

License renewal is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Annual renewal. A license under this Act may be renewed annually. The renewal term is for a period of one year and begins on January 1st of each year after the initial license term and expires on December 31st of the year the renewal term begins.

[PL 2023, c. 662, §2 (NEW).]

2. Renewal report. A licensee must submit a renewal report with the renewal fee, in a form and in a medium prescribed by the administrator. The renewal report must state or contain a description of each material change in information submitted by the licensee in its original license application that has not been reported to the administrator.

[PL 2023, c. 662, §2 (NEW).]

3. Renewal extension. The administrator for good cause may grant an extension of the renewal date.

[PL 2023, c. 662, §2 (NEW).]

4. Processing license renewals. The administrator may use NMLS to process license renewals as long as the license renewals are consistent with the requirements of this section.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6093. Maintenance of license

License maintenance is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Suspension and revocation. If a licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the administrator may suspend or revoke the licensee's license in accordance with the procedures established by this Act or other applicable state law.

[PL 2023, c. 662, §2 (NEW).]

2. Requirements. A money transmission licensee must at all times meet the requirements in sections 6100-R, 6100-S and 6100-T.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 6

ACQUISITION OF CONTROL AND CHANGE OF KEY INDIVIDUAL

§6096. Acquisition of control of a licensee

Acquisition of control of a licensee is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Approval. A person or group of persons acting in concert seeking to acquire control of a licensee shall obtain the written approval of the administrator prior to acquiring control. An individual does not acquire control of a licensee and is not subject to this section when that individual becomes a key individual in the ordinary course of business.

[PL 2023, c. 662, §2 (NEW).]

2. Application. A person or group of persons acting in concert seeking to acquire control of a licensee shall, in cooperation with the licensee, submit an application in a form and in a medium prescribed by the administrator.

[PL 2023, c. 662, §2 (NEW).]

3. NMLS use. Upon request, the administrator may permit a licensee or the person or group of persons acting in concert seeking to acquire control of a licensee to submit some or all information required by the administrator pursuant to subsection 2 without using NMLS.

[PL 2023, c. 662, §2 (NEW).]

4. Required information. The application required by subsection 2 must include information required by section 6090 for any new key individuals that have not previously completed the requirements of section 6090 for a licensee.

[PL 2023, c. 662, §2 (NEW).]

5. Completion. When an application for acquisition of control of a licensee appears to include all the items and address all of the matters that are required, the application is complete and the administrator shall promptly notify the applicant of the date on which the application was determined to be complete and:

A. The administrator shall approve or deny the application within 60 days after the completion date; or [PL 2023, c. 662, §2 (NEW).]

B. If the application is not approved or denied within 60 days after the completion date:

(1) The application is approved; and

(2) The person or group of persons acting in concert is not prohibited from acquiring control of a licensee. [PL 2023, c. 662, §2 (NEW).]

The administrator for good cause may extend the application period.
[PL 2023, c. 662, §2 (NEW).]

6. Completion determination. A determination by the administrator that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and address all of the matters that are required. The determination is not an assessment of the substance of the application or of the sufficiency of the information provided.
[PL 2023, c. 662, §2 (NEW).]

7. Investigation. When an application is filed and considered complete under subsection 6, the administrator shall investigate the financial condition and responsibility, financial and business experience, competence, character and general fitness of the person or group of persons acting in concert seeking to acquire control of a licensee. The administrator shall approve an acquisition of control if the administrator finds that the following conditions have been fulfilled:

A. The requirements of subsections 2 and 4 have been met, as applicable; and [PL 2023, c. 662, §2 (NEW).]

B. The financial condition and responsibility, financial and business experience, competence, character and general fitness of the person or group of persons acting in concert seeking to acquire control of a licensee and the competence, experience, character and general fitness of the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person or group of persons acting in concert to control the licensee. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

8. Multistate licensing process. If an applicant avails itself or is otherwise subject to a multistate licensing process:

A. The administrator may accept the investigation results of a lead investigative state for the purposes of subsection 7 if the lead investigative state has sufficient staffing, expertise and minimum standards; or [PL 2023, c. 662, §2 (NEW).]

B. If the State is a lead investigative state, the administrator may investigate the applicant pursuant to subsection 7 and the time frames established by agreement through the multistate licensing process. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

9. Notice of denial. The administrator shall issue a formal written notice of the denial of an application to acquire control of a licensee within 30 days of the decision to deny the application. The administrator shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the administrator under this subsection may request a hearing on the issue in accordance with Title 5, chapter 375, subchapter 4.
[PL 2023, c. 662, §2 (NEW).]

10. Exemptions. The requirements of subsections 1 and 2 do not apply to the following:

A. A person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or person in control of a licensee; [PL 2023, c. 662, §2 (NEW).]

B. A person that acquires control of a licensee by devise or descent; [PL 2023, c. 662, §2 (NEW).]

C. A person that acquires control of a licensee as a personal representative, custodian, guardian, conservator or trustee or as an officer appointed by a court of competent jurisdiction or by operation of law; [PL 2023, c. 662, §2 (NEW).]

D. A person that is exempt under section 6074, subsection 7; [PL 2023, c. 662, §2 (NEW).]

E. A person that the administrator determines is not subject to subsection 1 based on the public interest; [PL 2023, c. 662, §2 (NEW).]

F. A public offering of securities of a licensee or a person in control of a licensee; or [PL 2023, c. 662, §2 (NEW).]

G. An internal reorganization of a person in control of the licensee for which the ultimate person in control of the licensee remains the same. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

11. Acquisition notification. Persons in subsection 10, paragraphs B, C, D, F and G in cooperation with the licensee shall notify the administrator within 15 days after the acquisition of control.

[PL 2023, c. 662, §2 (NEW).]

12. Streamlined acquisition of control. Acquisition of control of a licensee may be streamlined in accordance with this subsection.

A. The requirements of subsections 1 and 2 do not apply to a person that has complied with and received approval to engage in money transmission under this Act or was identified as a person in control of a licensee in a prior application filed with and approved by the administrator or by an MSB accredited state pursuant to a multistate licensing process, as long as:

(1) The person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous 5 years;

(2) If the person is a licensee, the person is well-managed and has received at least a satisfactory rating for compliance at its most recent examination by an MSB accredited state if such rating was given;

(3) The licensee to be acquired is projected to meet the requirements of sections 6100-R, 6100-S and 6100-T after the acquisition of control is completed and, if the person acquiring control is a licensee, that licensee is also projected to meet the requirements of sections 6100-R, 6100-S and 6100-T after the acquisition of control is completed;

(4) The licensee to be acquired will not implement any material changes to its business plan as a result of the acquisition of control and, if the person acquiring control is a licensee, that licensee also will not implement any material changes to its business plan as a result of the acquisition of control; and

(5) The person provides notice of the acquisition in cooperation with the licensee and attests to subparagraphs (1) to (4) in a form and in a medium prescribed by the administrator. [PL 2023, c. 662, §2 (NEW).]

B. If the notice under paragraph A, subparagraph (5) is not denied within 30 days of the date on which the notice is determined to be complete, the notice is deemed approved. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

13. Determination. Before filing an application for approval to acquire control of a licensee, a person may request in writing a determination from the administrator as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the administrator determines that the person would not be a person in control of a licensee, the person and transaction are not subject to the requirements of subsections 1 and 2.

[PL 2023, c. 662, §2 (NEW).]

14. Multistate licensing process. If a multistate licensing process includes a determination pursuant to subsection 13 and an applicant avails itself or is otherwise subject to the multistate licensing process:

A. The administrator may accept the control determination of a lead investigative state with sufficient staffing, expertise and minimum standards for the purposes of subsection 13; or [PL 2023, c. 662, §2 (NEW).]

B. If the State is a lead investigative state, the administrator may investigate the applicant pursuant to subsection 13 and the time frames established by agreement through the multistate licensing process. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6097. Notice and information requirements for change of key individuals

Notice and information requirements for a change of key individuals is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Licensee adding or replacing key individual. A licensee adding or replacing a key individual shall:

A. Provide notice in a manner prescribed by the administrator within 15 days of the effective date of the key individual's appointment; and [PL 2023, c. 662, §2 (NEW).]

B. Provide information as required by section 6090 within 45 days of the effective date of the key individual's appointment. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

2. Notice of disapproval. Within 90 days of the date on which the notice provided pursuant to subsection 1 is determined to be complete, the administrator may issue a notice of disapproval of a key individual if the competence, experience, character or integrity of the individual indicates that it would not be in the best interests of the public or the customers of the licensee to permit the individual to be a key individual of the licensee.
[PL 2023, c. 662, §2 (NEW).]

3. Basis of disapproval. A notice of disapproval must contain a statement of the basis for disapproval and be sent to the licensee and the disapproved individual. An applicant whose application is denied by the administrator under this section may request a hearing on the issue in accordance with Title 5, chapter 375, subchapter 4.
[PL 2023, c. 662, §2 (NEW).]

4. Approval. If the notice provided pursuant to subsection 1 is not disapproved within 90 days of the date on which the notice is determined to be complete, the key individual is deemed approved.
[PL 2023, c. 662, §2 (NEW).]

5. Multistate licensing process. If a multistate licensing process includes a key individual notice review and disapproval process pursuant to this section and the licensee avails itself or is otherwise subject to the multistate licensing process:

A. The administrator may accept the determination of another state if the investigating state has sufficient staffing, expertise and minimum standards for the purposes of this section; or [PL 2023, c. 662, §2 (NEW).]

B. If the State is a lead investigative state, the administrator may investigate the applicant pursuant to subsection 2 and the time frames established by agreement through the multistate licensing process. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 7

REPORTING AND RECORDS

§6100. Report of condition

Condition reporting is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Report. A licensee shall submit a report of condition within 45 days of the end of each calendar quarter or within any extended time as the administrator may prescribe.

[PL 2023, c. 662, §2 (NEW).]

2. Required information. The report of condition must include:

A. Financial information at the licensee level; [PL 2023, c. 662, §2 (NEW).]

B. Nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission; [PL 2023, c. 662, §2 (NEW).]

C. Permissible investments maintenance reporting pursuant to section 6100-U; [PL 2023, c. 662, §2 (NEW).]

D. Transaction destination country reporting for money received for transmission, if applicable. The information required by this paragraph is required to be included only in a report of condition submitted within 45 days of the end of the 4th calendar quarter; and [PL 2023, c. 662, §2 (NEW).]

E. Any other information the administrator reasonably requires with respect to the licensee. The administrator may use NMLS for the submission of the report required by this section and may change or update as necessary the requirements of this section to carry out the purposes of this Act and maintain consistency with NMLS reporting. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-A. Audited financials

Audited financial filing is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Required filing. A licensee shall, within 90 days of the end of each fiscal year or within any extended time as the administrator may prescribe, file with the administrator:

A. An audited financial statement of the licensee for the fiscal year prepared in accordance with generally accepted accounting principles in the United States; and [PL 2023, c. 662, §2 (NEW).]

B. Any other information as the administrator may reasonably require. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Filing preparation. The audited financial statements required by this section must be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the administrator.

[PL 2023, c. 662, §2 (NEW).]

3. Certificate of opinion. The audited financial statements required by this section must include or be accompanied by a certificate of opinion of the independent certified public accountant or

independent public accountant who prepared the statements that is satisfactory in form and content to the administrator. If the certificate of opinion is qualified, the administrator may order the licensee to take any action the administrator may find necessary to enable the independent certified public accountant or independent public accountant to remove the qualification.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-B. Authorized delegate reporting

Authorized delegate reporting is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Authorized delegate reports. A licensee shall submit a report regarding its authorized delegates within 45 days of the end of each calendar quarter. The administrator may use NMLS for the submission of the report required by this section as long as the report submission is consistent with the requirements of this section.

[PL 2023, c. 662, §2 (NEW).]

2. Required information. The authorized delegate report must include, at a minimum, each authorized delegate's:

- A. Company's legal name; [PL 2023, c. 662, §2 (NEW).]
- B. Taxpayer employer identification number; [PL 2023, c. 662, §2 (NEW).]
- C. Principal provider of money transmission; [PL 2023, c. 662, §2 (NEW).]
- D. Physical address; [PL 2023, c. 662, §2 (NEW).]
- E. Mailing address; [PL 2023, c. 662, §2 (NEW).]
- F. Business conducted in other states, if any; [PL 2023, c. 662, §2 (NEW).]
- G. Fictitious or trade name, if any; [PL 2023, c. 662, §2 (NEW).]
- H. Contact person's name, telephone number and e-mail address; [PL 2023, c. 662, §2 (NEW).]
- I. Start date acting as licensee's authorized delegate; and [PL 2023, c. 662, §2 (NEW).]
- J. End date acting as licensee's authorized delegate, if applicable. [PL 2023, c. 662, §2 (NEW).]

The administrator may request any other information the administrator reasonably requires with respect to the authorized delegate.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-C. Reports of certain events

Event reporting is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Events requiring report within one day. A licensee shall file a report with the administrator within one business day after the licensee has reason to know of the occurrence of any of the following events:

- A. The filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 United States Code, Sections 101 to 110 for bankruptcy or reorganization; [PL 2023, c. 662, §2 (NEW).]
- B. The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization or the

making of a general assignment for the benefit of the licensee's creditors; or [PL 2023, c. 662, §2 (NEW).]

C. The commencement of a proceeding to revoke or suspend the licensee's license in a state or country in which the licensee engages in business or is licensed. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

2. Events requiring report within 3 days. A licensee shall file a report with the administrator within 3 business days after the licensee has reason to know of the occurrence of any of the following events:

A. The filing of a civil or criminal action against the licensee or a key individual or person in control of the licensee by a state or federal agency; or [PL 2023, c. 662, §2 (NEW).]

B. The filing of a civil or criminal action against an authorized delegate by a state or federal agency. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-D. Bank Secrecy Act reports

A licensee and an authorized delegate shall file all reports required by federal currency reporting, record-keeping and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering. The timely filing of a complete and accurate report required under this section with the appropriate federal agency is deemed compliant with the requirements of this section. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-E. Records

Records maintenance is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Required records. A licensee shall maintain for at least 3 years the following records for determining its compliance with this Act:

A. A record of each outstanding money transmission obligation sold; [PL 2023, c. 662, §2 (NEW).]

B. A general ledger posted at least monthly containing all asset, liability, capital, income and expense accounts; [PL 2023, c. 662, §2 (NEW).]

C. Bank statements and bank reconciliation records; [PL 2023, c. 662, §2 (NEW).]

D. Records of outstanding money transmission obligations; [PL 2023, c. 662, §2 (NEW).]

E. Records of each outstanding money transmission obligation paid within the 3-year period; [PL 2023, c. 662, §2 (NEW).]

F. A list of the last known names and addresses of all of the licensee's authorized delegates; and [PL 2023, c. 662, §2 (NEW).]

G. Any other records the administrator may reasonably require by rule. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Form of records. The items specified in subsection 1 may be maintained in any form of record as long as the records can be viewed without special equipment and can be copied using methods commonly used in business.

[PL 2023, c. 662, §2 (NEW).]

3. Records outside this State. Records specified in subsection 1 may be maintained outside this State if they are made accessible to the administrator on 7 business days' notice.

[PL 2023, c. 662, §2 (NEW).]

4. Inspection. All records maintained by the licensee as required in subsections 1 to 3 are open to inspection by the administrator pursuant to section 6081, subsection 1.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 8

AUTHORIZED DELEGATES

§6100-H. Relationship between licensee and authorized delegate

The relationship between licensees and authorized delegates is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Definition. For the purposes of this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

[PL 2023, c. 662, §2 (NEW).]

2. Authorized delegate. Before a licensee may conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

A. Adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law; [PL 2023, c. 662, §2 (NEW).]

B. Enter into a written contract that complies with subsection 4; and [PL 2023, c. 662, §2 (NEW).]

C. Conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

3. Compliance. An authorized delegate shall operate in full compliance with this Act.

[PL 2023, c. 662, §2 (NEW).]

4. Contract. The written contract required by subsection 2, paragraph B must be signed by the licensee and the authorized delegate and, at a minimum, must:

A. Appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee; [PL 2023, c. 662, §2 (NEW).]

B. Set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties; [PL 2023, c. 662, §2 (NEW).]

C. Require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules and regulations pertaining to money transmission, including this Act and laws and rules implementing this Act and relevant provisions of the Bank Secrecy Act and the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Public Law 107-56, 115 Stat. 272; [PL 2023, c. 662, §2 (NEW).]

D. Require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate; [PL 2023, c. 662, §2 (NEW).]

E. Impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee; [PL 2023, c. 662, §2 (NEW).]

F. Require the authorized delegate to prepare and maintain records as required by this Act or rules implementing this Act, or as reasonably requested by the administrator; [PL 2023, c. 662, §2 (NEW).]

G. Acknowledge that the authorized delegate consents to examination or investigation by the administrator; [PL 2023, c. 662, §2 (NEW).]

H. State that the licensee is subject to regulation by the administrator and that, as part of that regulation, the administrator may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; [PL 2023, c. 662, §2 (NEW).]

I. Acknowledge receipt of the written policies and procedures required under subsection 2, paragraph A; and [PL 2023, c. 662, §2 (NEW).]

J. Acknowledge that neither the licensee nor the authorized delegate may authorize subdelegates without the written consent of the administrator. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

5. Suspended, revoked, surrendered or expired license. If a licensee's license is suspended, revoked, surrendered or expired, the licensee, within 5 business days, shall provide documentation to the administrator that the licensee has notified all applicable authorized delegates of the licensee whose names are filed with the administrator of the suspension, revocation, surrender or expiration of a license. Upon suspension, revocation, surrender or expiration of a license, applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.
[PL 2023, c. 662, §2 (NEW).]

6. Fees. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If an authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property are considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission.
[PL 2023, c. 662, §2 (NEW).]

7. Subdelegates. An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensee.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-I. Unauthorized activities

A person may not engage in the business of money transmission on behalf of a person not licensed under this Act or not exempt pursuant to subchapter 3. A person that engages in the business of money

transmission on behalf of such a person provides money transmission to the same extent as if the person were a licensee and is jointly and severally liable with the unlicensed or nonexempt person. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 9

TIMELY TRANSMISSION REFUNDS; DISCLOSURES

§6100-L. Transmission

Money received for transmission is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Money forwarding. A licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule or regulation has occurred, is occurring or may occur.

[PL 2023, c. 662, §2 (NEW).]

2. Failure to forward. If a licensee fails to forward money received for transmission in accordance with this section, the licensee shall respond to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law, rule or regulation.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-M. Refunds

Refunds are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Applicability. This section does not apply to:

A. Money received for transmission subject to 12 Code of Federal Regulations, Part 1005, Subpart B; or [PL 2023, c. 662, §2 (NEW).]

B. Money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Refunds. A licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund all money received for transmission unless any of the following occurs:

A. The money has been forwarded within 10 days of the date on which the money was received for transmission; [PL 2023, c. 662, §2 (NEW).]

B. Instructions have been given committing an equivalent amount of money to the person designated by the sender within 10 days of the date on which the money was received for transmission; [PL 2023, c. 662, §2 (NEW).]

C. The agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond 10 days of the date on which the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with the other provisions of this section; [PL 2023, c. 662, §2 (NEW).]

D. The refund is requested for a transaction that the licensee has not completed based on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule or regulation has occurred, is occurring or may occur; or [PL 2023, c. 662, §2 (NEW).]

E. The refund request does not enable the licensee to identify the sender's name and address or telephone number or identify the particular transaction to be refunded if the sender has multiple transactions outstanding. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-N. Receipts

Receipts are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Application. This section does not apply to:

A. Money received for transmission subject to 12 Code of Federal Regulations, Part 1005, Subpart B; or [PL 2023, c. 662, §2 (NEW).]

B. Money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Electronic receipts. For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts must be provided in a retainable form.

[PL 2023, c. 662, §2 (NEW).]

3. Money transmission receipts. A licensee or its authorized delegate shall provide the sender a receipt for money received for transmission.

A. The receipt required by this section must contain the following information, as applicable:

- (1) The name of the sender;
- (2) The name of the designated recipient;
- (3) The date of the transaction;
- (4) The unique transaction or identification number;
- (5) The name of the licensee, the licensee's NMLS unique identifier, the licensee's business address and the licensee's customer service telephone number;
- (6) The amount of the transaction in United States dollars;
- (7) Any fees charged by the licensee to the sender for the transaction; and
- (8) Any taxes collected by the licensee from the sender for the transaction. [PL 2023, c. 662, §2 (NEW).]

B. The receipt required by this section must be in English and in the language principally used by the licensee or authorized delegate to advertise, solicit or negotiate, either orally or in writing, for a transaction conducted in person, electronically or by phone, if other than English. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

For purposes of this section, "receipt" means a paper receipt, electronic record or other written confirmation. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-O. Notice of contact information

A licensee or authorized delegate shall include on a receipt or disclose on the licensee's publicly accessible website or mobile application the name and telephone number of the bureau and a statement that the licensee's customers may contact the bureau with questions or complaints about the licensee's money transmission services. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 10

PRUDENTIAL STANDARDS

§6100-R. Net worth

Net worth requirements are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Tangible net worth. A licensee under this Act shall maintain at all times a tangible net worth of the greater of \$100,000 and 3% of total assets for the first \$100,000,000, 2% of additional assets for \$100,000,000 to \$1,000,000,000 and 0.5% of additional assets for over \$1,000,000,000. [PL 2023, c. 662, §2 (NEW).]

2. Financial statements. Tangible net worth must be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to section 6089, subsection 2, paragraph F. [PL 2023, c. 662, §2 (NEW).]

3. Exemption. Notwithstanding the provisions of this section, the administrator may, for good cause shown, exempt, in whole or in part, from the requirements of this section any applicant or licensee. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-S. Surety bond

Surety bond requirements are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Security. An applicant for a money transmission license shall provide, and a licensee at all times shall maintain, security consisting of a surety bond in a form satisfactory to the administrator or, with the administrator's approval, a deposit instead of a bond in accordance with this section. [PL 2023, c. 662, §2 (NEW).]

2. Amount. The amount of the required security is \$100,000. [PL 2023, c. 662, §2 (NEW).]

3. Exceeding maximum required bond amount. A licensee may exceed the maximum required bond amount pursuant to section 6100-T, subsection 1. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-T. Maintenance of permissible investments

Permissible investment maintenance is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Investment requirements. A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles in the United States of not less than the aggregate amount of all of its outstanding money transmission obligations.

[PL 2023, c. 662, §2 (NEW).]

2. Investment limits. Except for permissible investments enumerated in section 6100-U, subsection 1, the administrator, with respect to any licensee, may by rule or order limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of investments.

[PL 2023, c. 662, §2 (NEW).]

3. Trusts. Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 United States Code, Sections 101 to 110 for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization or in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust. A permissible investment impressed with a trust pursuant to this section may not be subject to attachment, levy of execution or sequestration by order of any court, except for a beneficiary of this statutory trust.

[PL 2023, c. 662, §2 (NEW).]

4. Notice. Upon the establishment of a statutory trust in accordance with subsection 3 or when any funds are drawn on a letter of credit pursuant to section 6100-U, subsection 1, paragraph D, the administrator shall notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice is deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in this State, and other states, as applicable. A statutory trust established pursuant to this subsection is terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

[PL 2023, c. 662, §2 (NEW).]

5. Other investments. The administrator by rule or order may allow other types of investments that the administrator determines are of sufficient liquidity and quality to be a permissible investment. The administrator may participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-U. Permissible investments

Permissible investments are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Types of permissible investments. The following investments are permissible under section 6100-T:

A. Cash, including demand deposits, savings deposits and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository financial institution, and cash equivalents, including automated clearinghouse items in transit to the licensee and automated clearinghouse items or international wires in transit to a payee, cash in transit via armored car, cash in so-called smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank or money market mutual funds rated "AAA" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service; [PL 2023, c. 662, §2 (NEW).]

B. Certificates of deposit or senior debt obligations of an insured depository institution, as defined in the Federal Deposit Insurance Act, 12 United States Code, Section 1813(c)(2) or as described under the Federal Credit Union Act, 12 United States Code, Section 1751 et seq.; [PL 2023, c. 662, §2 (NEW).]

C. An obligation of the United States or a commission, agency or instrumentality of the United States; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency or instrumentality of the United States; and [PL 2023, c. 662, §2 (NEW).]

D. The full drawable amount of an irrevocable standby letter of credit, for which the stated beneficiary is the administrator, that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within 7 days of presentation of the items required by subparagraph (3).

(1) The letter of credit:

(a) Must be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states or a foreign bank that is authorized under state law to maintain a branch in a state that bears an eligible rating or whose parent company bears an eligible rating and is regulated, supervised and examined by federal or state authorities in the United States having regulatory authority over banks, credit unions and trust companies;

(b) Must be irrevocable and unconditional and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

(c) May not contain reference to any other agreements, documents or entities or otherwise provide for any security interest in the licensee; and

(d) Must contain an issue date and expiration date and expressly provide for automatic extension, without a written amendment, for an additional period of one year from any current or future expiration date, unless the issuer of the letter of credit notifies the administrator in writing by certified or registered mail or courier mail or other receipted means, at least 60 days prior to the expiration date, that the irrevocable letter of credit will not be extended.

(2) If a notice of expiration or nonextension of a letter of credit is issued under subparagraph (1), division (d), the licensee shall demonstrate to the satisfaction of the administrator, 15 days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with section 6100-T, subsection 1 upon the expiration of the letter of credit. If the licensee is not able to do so, the administrator may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible

investments in accordance with section 6100-T, subsection 1. Such a draw must be offset against the licensee's outstanding money transmission obligations. The drawn funds must be held in trust by the administrator or the administrator's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(3) The letter of credit must state that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

- (a) The original letter of credit, including any amendments; and
- (b) A written statement from the beneficiary stating that any of the following events have occurred:
 - (i) The filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 United States Code, Sections 101 to 110 for bankruptcy or reorganization;
 - (ii) The filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for the dissolution or reorganization of the licensee;
 - (iii) The seizure of assets of a licensee by an administrator pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation or condition that has caused or is likely to cause the insolvency of the licensee; or
 - (iv) The beneficiary has received notice of expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with section 6100-T, subsection 1 upon the expiration or nonextension of the letter of credit.

(4) The administrator may designate an agent to serve on the administrator's behalf as beneficiary to a letter of credit as long as the agent and letter of credit meet requirements established by the administrator. The administrator's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of this paragraph are assigned to the administrator.

(5) The administrator may participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including but not limited to services provided by NMLS and the State Regulatory Registry LLC or successor organization. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Investment limits. Unless permitted by the administrator by rule or order to exceed the limit as set forth in this subsection, the following investments are permissible under section 6100-T to the extent specified.

- A. Receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than 7 days old are permissible up to 50% of the aggregate value of the licensee's total permissible investments. [PL 2023, c. 662, §2 (NEW).]
- B. Of the receivables permissible under paragraph A, receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed 10% of the aggregate value of the licensee's total permissible investments. [PL 2023, c. 662, §2 (NEW).]
- C. The following investments are permissible up to 20% per category and combined up to 50% of the aggregate value of the licensee's total permissible investments:

- (1) A short-term investment, up to 6 months in duration, bearing an eligible rating;
- (2) Commercial paper bearing an eligible rating;
- (3) A bill, note, bond or debenture bearing an eligible rating;
- (4) United States tri-party repurchase agreements collateralized at 100% or more with United States government or agency securities, municipal bonds or other securities bearing an eligible rating;
- (5) Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service; and
- (6) A mutual fund or other investment fund composed exclusively of one or more permissible investments listed in subsection 1, paragraphs A to C. [PL 2023, c. 662, §2 (NEW).]

D. Cash, including demand deposits, savings deposits and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions is permissible up to 10% of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in its most recent examination and the foreign depository institution:

- (1) Has an eligible rating;
- (2) Is registered under the federal foreign account tax compliance laws under the federal Hiring Incentives to Restore Employment Act, Title V, Subtitle A;
- (3) Is not located in a country subject to sanctions from the United States Department of the Treasury, Office of Foreign Assets Control; and
- (4) Is not located in a high-risk or noncooperative jurisdiction as designated by the Financial Action Task Force or successor organization. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 11

ENFORCEMENT

§6100-X. Suspension and revocation

License suspension and revocation are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. License suspension and revocation. The administrator may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:

- A. The licensee violates this Act or a rule adopted or an order issued under this Act; [PL 2023, c. 662, §2 (NEW).]
- B. The licensee does not cooperate with an examination or investigation by the administrator; [PL 2023, c. 662, §2 (NEW).]
- C. The licensee engages in fraud, intentional misrepresentation or gross negligence; [PL 2023, c. 662, §2 (NEW).]
- D. An authorized delegate is convicted of a violation of a state or federal anti-money laundering statute or violates a rule adopted or an order issued under this Act as a result of the licensee's willful misconduct or willful blindness; [PL 2023, c. 662, §2 (NEW).]

E. The competence, experience, character or general fitness of the licensee, authorized delegate, person in control of a licensee, key individual or responsible person of the authorized delegate indicates that it is not in the public interest to permit the person to provide money transmission; [PL 2023, c. 662, §2 (NEW).]

F. The licensee engages in an unsafe or unsound practice; [PL 2023, c. 662, §2 (NEW).]

G. The licensee is insolvent, suspends payment of its obligations or makes a general assignment for the benefit of its creditors; or [PL 2023, c. 662, §2 (NEW).]

H. The licensee does not remove an authorized delegate after the administrator issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this Act. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Determination. In determining whether a licensee is engaging in an unsafe or unsound practice under subsection 1, paragraph F, the administrator may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this Act and the previous conduct of the person involved.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-Y. Suspension and revocation of authorized delegates

Authorized delegate suspension and revocation are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Designation suspension and revocation. The administrator may issue an order suspending or revoking the designation of an authorized delegate if the administrator finds that:

A. The authorized delegate violates this Act or a rule adopted or an order issued under this Act; [PL 2023, c. 662, §2 (NEW).]

B. The authorized delegate does not cooperate with an examination or investigation by the administrator; [PL 2023, c. 662, §2 (NEW).]

C. The authorized delegate engages in fraud, intentional misrepresentation or gross negligence; [PL 2023, c. 662, §2 (NEW).]

D. The authorized delegate is convicted of a violation of a state or federal anti-money laundering statute; [PL 2023, c. 662, §2 (NEW).]

E. The competence, experience, character or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money transmission; or [PL 2023, c. 662, §2 (NEW).]

F. The authorized delegate engages in an unsafe or unsound practice. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

2. Determination. In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the administrator may consider the size and condition of the authorized delegate's provision of money transmission, the magnitude of the loss, the gravity of the violation of this Act or a rule adopted or order issued under this Act and the previous conduct of the authorized delegate.

[PL 2023, c. 662, §2 (NEW).]

3. Relief. An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the administrator.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-Z. Orders to cease and desist

Orders to cease and desist are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Order issuance. If the administrator determines that a violation of this Act or a rule adopted or an order issued under this Act by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the licensee, the administrator may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon its service upon the licensee or authorized delegate.

[PL 2023, c. 662, §2 (NEW).]

2. Authorized delegate. The administrator may issue an order against a licensee to cease and desist from providing money transmission through an authorized delegate that is the subject of a separate order by the administrator.

[PL 2023, c. 662, §2 (NEW).]

3. Administrative proceeding. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Title 5, chapter 375.

[PL 2023, c. 662, §2 (NEW).]

4. Petition. A licensee or an authorized delegate that is served with an order to cease and desist may petition the Superior Court for a judicial order setting aside, limiting or suspending the enforcement, operation or effectiveness of the order pending the completion of an administrative proceeding pursuant to Title 5, chapter 375.

[PL 2023, c. 662, §2 (NEW).]

5. Expiration. An order to cease and desist expires unless the administrator commences an administrative proceeding within 10 days after the order is issued.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-AA. Consent agreements

The administrator may enter into a consent agreement at any time with a person to resolve a matter arising under this Act or a rule adopted or order issued under this Act. A consent agreement must be signed by the person to whom it is issued or by the person's authorized representative and must indicate agreement with the terms contained in the agreement. A consent agreement may contain a provision that it does not constitute an admission by a person that this Act or a rule adopted or order issued under this Act has been violated. A consent agreement may be entered into only with the consent of the applicant, licensee or registrant; the administrator; and the Attorney General. A remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a license and revocation of a designation of an authorized delegate. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-BB. Criminal penalties

Criminal penalties for violations of this Act are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. False records. A person that intentionally makes a false statement, misrepresentation or false certification in a record filed or required to be maintained under this Act or that intentionally makes a false entry or omits a material entry in such a record is guilty of a Class D crime. [PL 2023, c. 662, §2 (NEW).]

2. Unlicensed activity; no more than \$1,000 in compensation. A person that knowingly engages in an activity for which a license is required under this Act without being licensed under this Act and who receives no more than \$1,000 in compensation within a 30-day period from this activity is guilty of a Class D crime. [PL 2023, c. 662, §2 (NEW).]

3. Unlicensed activity; more than \$1,000 but no more than \$10,000 in compensation. A person that knowingly engages in an activity for which a license is required under this Act without being licensed under this Act and that receives more than \$1,000 but no more than \$10,000 in compensation within a 30-day period from this activity is guilty of a Class C crime. [PL 2023, c. 662, §2 (NEW).]

4. Unlicensed activity; more than \$10,000 in compensation. A person that knowingly engages in an activity for which a license is required under this Act without being licensed under this Act and that receives more than \$10,000 in compensation within a 30-day period from this activity is guilty of a Class B crime. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-CC. Civil penalties

The administrator may assess a civil penalty against a person that violates this Act or a rule adopted or an order issued under this Act in an amount not to exceed \$1,000 per day for each day the violation is outstanding, plus this State's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-DD. Unlicensed persons

Orders to cease and desist for unlicensed persons are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Order. If the administrator has reason to believe that a person has violated or is violating section 6087, the administrator may issue an order to show cause why an order to cease and desist should not be issued requiring that the person cease and desist from the violation. [PL 2023, c. 662, §2 (NEW).]

2. Temporary restraining order. In an emergency, the administrator may petition the Superior Court for the issuance of a temporary restraining order ex parte pursuant to the Maine Rules of Civil Procedure. [PL 2023, c. 662, §2 (NEW).]

3. Effective date. An order to cease and desist becomes effective upon its service upon the person. [PL 2023, c. 662, §2 (NEW).]

4. Administrative proceeding. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Title 5, chapter 375.

[PL 2023, c. 662, §2 (NEW).]

5. Petition. A person that is served with an order to cease and desist for violating section 6087 may petition the Superior Court for a judicial order setting aside, limiting or suspending the enforcement, operation or effectiveness of the order pending the completion of an administrative proceeding pursuant to Title 5, chapter 375.

[PL 2023, c. 662, §2 (NEW).]

6. Expiration. An order to cease and desist expires unless the administrator commences an administrative proceeding within 10 days after the order is issued.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-EE. Expenses of investigations and administrative hearings

A licensee shall reimburse the administrator for costs involved in investigating suspected violations of this Act and in bringing administrative proceedings or actions in court to enforce the terms of this Act. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 12

MISCELLANEOUS PROVISIONS

§6100-HH. Uniformity of application and construction

In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-II. Adoption of rules

Rules adopted by the administrator pursuant to this Act are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-JJ. Treatment of fees

The administrator may set the fees under this Act by rule up to a maximum of \$2,500 for an initial license, \$1,000 for a license renewal and \$1,000 for the designation of an authorized delegate. [PL 2023, c. 662, §2 (NEW).]

The aggregate of fees, examination expense reimbursements and other payments made under this Act is appropriated for the use of the administrator. Any balances of funds do not lapse but must be carried forward to be expended for the same purposes in the following fiscal year. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-KK. Multiple licenses

A person licensed under this Act is not required to obtain a separate license to engage in either the cashing of checks or the exchange of foreign currency in the State. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-LL. Giving notice

When the giving of notice is required by this Act, for persons licensed in this State through NMLS or applying for licensing through NMLS, notice is considered complete when posted to the licensee's or applicant's site on NMLS. [PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

SUBCHAPTER 13

VIRTUAL CURRENCY

§6100-OO. Definitions

For the purposes of this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2023, c. 662, §2 (NEW).]

1. Asymmetric cryptosystem. "Asymmetric cryptosystem" means an algorithm or series of algorithms that provide a secure key pair, a public key and a private key. [PL 2023, c. 662, §2 (NEW).]

2. Control of virtual currency. "Control of virtual currency," when used in reference to a transaction or relationship involving virtual currency, means the power to execute unilaterally or prevent indefinitely a virtual currency transaction. [PL 2023, c. 662, §2 (NEW).]

3. Digital signature. "Digital signature" means an electronic signature that transforms a message by using an asymmetric cryptosystem. [PL 2023, c. 662, §2 (NEW).]

4. Exchange. "Exchange" means to assume control of virtual currency from or on behalf of a person, at least momentarily, to sell, trade or convert:

A. Virtual currency for money, bank credit or one or more forms of virtual currency; or [PL 2023, c. 662, §2 (NEW).]

B. Money or bank credit for one or more forms of virtual currency. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

5. Private key. "Private key" means the key of a key pair used to verify a digital signature. [PL 2023, c. 662, §2 (NEW).]

6. Public key. "Public key" means the key of a key pair used to create a digital signature. [PL 2023, c. 662, §2 (NEW).]

7. Transfer. "Transfer" means to assume control of virtual currency from or on behalf of a person and to:

A. Credit the virtual currency to the account of another person; [PL 2023, c. 662, §2 (NEW).]

B. Move the virtual currency from one account of a person to another account of the same person; or [PL 2023, c. 662, §2 (NEW).]

C. Relinquish control of virtual currency to another person. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

8. Unhosted wallet. "Unhosted wallet" means a wallet that is owned, held or controlled by an individual owner other than a 3rd party or a custodian. "Unhosted wallet" also means a wallet that is not owned, held or controlled by a licensee or a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A.
[PL 2023, c. 662, §2 (NEW).]

9. United States dollar equivalent of virtual currency. "United States dollar equivalent of virtual currency" means the equivalent value of a particular virtual currency in United States dollars shown on a virtual currency exchange based in the United States for a particular date or period specified in this Act.
[PL 2023, c. 662, §2 (NEW).]

10. Virtual currency. "Virtual currency" means a digital representation of value that:

A. Is used as a medium of exchange, unit of account or store of value; and [PL 2023, c. 662, §2 (NEW).]

B. Is not money, whether or not denominated in money. [PL 2023, c. 662, §2 (NEW).]

"Virtual currency" does not include a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for money, bank credit or virtual currency or a digital representation of value issued by or on behalf of a game publisher and used solely within an online game, game platform or family of games sold by the same publisher or offered on the same game platform.

[PL 2023, c. 662, §2 (NEW).]

11. Virtual currency administration. "Virtual currency administration" means issuing virtual currency with the authority to redeem the currency for money, bank credit or other virtual currency.
[PL 2023, c. 662, §2 (NEW).]

12. Virtual currency business activity. "Virtual currency business activity" means:

A. Exchanging, transferring or storing virtual currency or engaging in virtual currency administration, whether directly or through an agreement with a virtual currency control-services vendor; [PL 2023, c. 662, §2 (NEW).]

B. Holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals; or [PL 2023, c. 662, §2 (NEW).]

C. Exchanging one or more digital representations of value used within one or more online games, game platforms or family of games for:

(1) Virtual currency offered by or on behalf of the same game publisher from which the original digital representation of value was received; or

(2) Money or bank credit outside the online game, game platform or family of games offered by or on behalf of the same game publisher from which the original digital representation of value was received. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

13. Virtual currency control-services vendor. "Virtual currency control-services vendor" means a person that has control of virtual currency solely under an agreement with a person that, on behalf of another person, assumes control of virtual currency.

[PL 2023, c. 662, §2 (NEW).]

14. Wallet. "Wallet" means a physical device, a writing, a receipt or any digital or electronic technology that allows an individual owner or a custodian the ability to directly or indirectly control a private key for a digital signature for the purpose of money transmission.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-PP. Scope

The application of this subchapter is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Application. This subchapter does not apply to the exchange, transfer or storage of virtual currency or to virtual currency administration to the extent the federal Electronic Fund Transfer Act, 15 United States Code, Sections 1693 to 1693r, the federal Securities Exchange Act of 1934, 15 United States Code, Sections 78a to 78oo or the federal Commodity Exchange Act, 7 United States Code, Sections 1 to 27f govern the activity.

[PL 2023, c. 662, §2 (NEW).]

2. Exempt activity. This subchapter does not apply to activity by:

A. A person that:

- (1) Contributes only connectivity software or computing power to a decentralized virtual currency or to a protocol governing transfer of the digital representation of value;
- (2) Provides only data storage or security services for a business engaged in virtual currency business activity and does not otherwise engage in virtual currency business activity on behalf of another person; or
- (3) Provides only to a person otherwise exempt from this Act virtual currency as one or more enterprise solutions used solely between each other and has no agreement or relationship with a person that is an end user of virtual currency; [PL 2023, c. 662, §2 (NEW).]

B. A person using virtual currency, including creating, investing, buying or selling or obtaining virtual currency as payment for the purchase or sale of goods or services, solely:

- (1) On the person's own behalf;
- (2) For personal, family or household purposes; or
- (3) For academic purposes; [PL 2023, c. 662, §2 (NEW).]

C. A person whose virtual currency business activity with or on behalf of persons is reasonably expected to be valued, in the aggregate, on an annual basis at \$5,000 or less, measured by the United States dollar equivalent of virtual currency; [PL 2023, c. 662, §2 (NEW).]

D. An attorney to the extent the attorney is providing escrow account services to a person; [PL 2023, c. 662, §2 (NEW).]

E. A title insurance company to the extent the company is providing escrow account services to a person; [PL 2023, c. 662, §2 (NEW).]

F. A securities intermediary, as defined in Title 11, section 8-1102, subsection (1), paragraph (n), or a commodity intermediary, as defined in Title 11, section 9-1102, subsection (17), that:

- (1) Does not engage in the ordinary course of business in virtual currency business activity with or on behalf of a person in addition to maintaining securities accounts or commodities accounts and is regulated as a securities intermediary or commodity intermediary under federal law, law of this State other than this Act or the law of another state; and

(2) Affords a person protections comparable to those set forth in section 6100-SS; [PL 2023, c. 662, §2 (NEW).]

G. A secured creditor under Title 11, article 9-A or creditor with a judicial lien or lien arising by operation of law on collateral that is virtual currency, if the virtual currency business activity of the creditor is limited to enforcement of the security interest or lien in compliance with the applicable law; [PL 2023, c. 662, §2 (NEW).]

H. A virtual currency control-services vendor; or [PL 2023, c. 662, §2 (NEW).]

I. A person that:

(1) Does not receive compensation from a person for providing virtual currency products or services or conducting virtual currency business activity; or

(2) Is engaged in testing products or services with the person's own funds. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

3. Exemption determination. The administrator may determine that a person or class of persons, given facts particular to the person or class, is exempt from this Act, regardless of whether the person or class is covered by requirements imposed under federal law on an MSB.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-QQ. License required for engaging in virtual currency business activity

Licensing for virtual currency business activity is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Licensing. A person may not engage in virtual currency business activity, or hold itself out as being able to engage in virtual currency business activity, with or on behalf of another person unless the person is:

A. Licensed in this State by the administrator pursuant to section 6091; or [PL 2023, c. 662, §2 (NEW).]

B. Exempt from licensing under section 6074. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

2. Requirements. A person that is licensed to engage in virtual currency business activity is engaged in the business of money transmission and is subject to the requirements of this Act.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-RR. Required disclosures

Licensee disclosures are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Licensee disclosures. A licensee that engages in virtual currency business activity shall provide to a person that uses the licensee's products or services the disclosures required by subsection 2 and any additional disclosure the administrator by rule determines reasonably necessary for the protection of persons. The administrator shall determine by rule the time and form required for disclosure. A disclosure required by this section must be made separately from any other information provided by the licensee and in a clear and conspicuous manner in a format the person may keep. A licensee may

propose for the administrator's approval alternate disclosures as more appropriate for its virtual currency business activity with or on behalf of persons.

[PL 2023, c. 662, §2 (NEW).]

2. Relationship disclosures. Before establishing a virtual currency business activity relationship with a person, a licensee shall disclose, to the extent applicable to the virtual currency business activity the licensee will undertake with the person:

A. A schedule of fees and charges the licensee may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed and the timing of the fees and charges; [PL 2023, c. 662, §2 (NEW).]

B. Whether the product or service provided by the licensee is covered by:

(1) A form of insurance or is otherwise guaranteed against loss by an agency of the United States up to the full United States dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or otherwise available from the Securities Investor Protection Corporation or successor organization or, if not provided at the full United States dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee, the maximum amount of coverage for each person expressed in the United States dollar equivalent of the virtual currency; or

(2) Private insurance against theft or loss, including theft involving a computer or networked device or theft by other means; [PL 2023, c. 662, §2 (NEW).]

C. The irrevocability of a transfer or exchange and any exception to irrevocability; [PL 2023, c. 662, §2 (NEW).]

D. A description of:

(1) Liability for an unauthorized, mistaken or accidental transfer or exchange;

(2) The person's responsibility to provide notice to the licensee of the transfer or exchange;

(3) The basis for any recovery by the person from the licensee;

(4) General error-resolution rights applicable to the transfer or exchange; and

(5) The method for the person to update the person's contact information with the licensee; [PL 2023, c. 662, §2 (NEW).]

E. That the date or time when a transfer or exchange is made and the person's account is debited may differ from the date or time when the person initiates the instruction to make the transfer or exchange; [PL 2023, c. 662, §2 (NEW).]

F. Whether the person has a right to stop a preauthorized payment or revoke authorization for a transfer and the procedure to initiate a stop-payment order or revoke authorization for a subsequent transfer; [PL 2023, c. 662, §2 (NEW).]

G. The person's right to receive a receipt, trade ticket or other evidence of a transfer or exchange; [PL 2023, c. 662, §2 (NEW).]

H. The person's right to at least 30 days' prior notice of a change in the licensee's fee schedule, other terms and conditions of operating its virtual currency business activity with the person and the policies applicable to the person's account; and [PL 2023, c. 662, §2 (NEW).]

I. That virtual currency is not money. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

3. Transaction confirmation. Except as otherwise provided in subsection 4, at the conclusion of a virtual currency transaction with or on behalf of a person, a licensee shall provide the person a confirmation in a record that contains:

A. The name and contact information of the licensee, including information the person may need to ask a question or file a complaint; [PL 2023, c. 662, §2 (NEW).]

B. The type, value, date, precise time and amount of the transaction; and [PL 2023, c. 662, §2 (NEW).]

C. The fee charged for the transaction, including any charge for conversion of virtual currency to money, bank credit or other virtual currency. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

4. Daily confirmation. If a licensee discloses that it will provide a daily confirmation in the initial disclosure under subsection 3, the licensee may elect to provide a single, daily confirmation for all transactions with or on behalf of a person on that day instead of a per transaction confirmation.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-SS. Property interests and entitlements to virtual currency

Property interests and entitlements to virtual currency are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Control. A licensee that has control of virtual currency for one or more persons shall maintain control of virtual currency in each type of virtual currency sufficient to satisfy the aggregate entitlements of the persons to the type of virtual currency.
[PL 2023, c. 662, §2 (NEW).]

2. Violation. If a licensee violates subsection 1, the property interests of the persons in the virtual currency are pro rata property interests in the type of virtual currency to which the persons are entitled, without regard to the time the persons became entitled to the virtual currency or the licensee obtained control of the virtual currency.
[PL 2023, c. 662, §2 (NEW).]

3. Virtual currency. The virtual currency referred to in this section is:

A. Held for the persons entitled to the virtual currency; [PL 2023, c. 662, §2 (NEW).]

B. Not property of the licensee; [PL 2023, c. 662, §2 (NEW).]

C. Not subject to the claims of creditors of the licensee; and [PL 2023, c. 662, §2 (NEW).]

D. A permissible investment under this Act. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-TT. Additional requirements for virtual currency business activities

Additional requirements for virtual currency business activities are governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Compliance. A licensee engaged in virtual currency business activities shall comply with all provisions of this Act to the extent applicable to the licensee's activities.
[PL 2023, c. 662, §2 (NEW).]

2. Tangible net worth calculation. A licensee engaged in virtual currency business activities may include in its calculation of tangible net worth virtual currency, measured by the average value of the virtual currency in United States dollar equivalent of virtual currency over the prior 6 months, excluding control of virtual currency for a person entitled to the protections pursuant to section 6100-SS.

[PL 2023, c. 662, §2 (NEW).]

3. Records. A licensee shall maintain, for all virtual currency business activity with or on behalf of a person 5 years after the date of the activity, a record of:

A. Each transaction of the licensee with or on behalf of the person or for the licensee's account in this State, including:

- (1) The identity of the person;
- (2) The form of the transaction;
- (3) The amount, date and payment instructions given by the person; and
- (4) The account number, name and United States Postal Service address of the person and, to the extent feasible, other parties to the transaction; [PL 2023, c. 662, §2 (NEW).]

B. The aggregate number of transactions and aggregate value of transactions by the licensee with or on behalf of the person and for the licensee's account in this State, expressed in United States dollar equivalent of virtual currency for the previous 12 calendar months; [PL 2023, c. 662, §2 (NEW).]

C. Each transaction in which the licensee exchanges one form of virtual currency for money or another form of virtual currency with or on behalf of the person; [PL 2023, c. 662, §2 (NEW).]

D. All assets, liabilities, capital, income and expenses of the licensee, as a monthly general ledger; [PL 2023, c. 662, §2 (NEW).]

E. Each business call report the licensee is required to create or provide to the Department of Professional and Financial Regulation or NMLS; [PL 2023, c. 662, §2 (NEW).]

F. Bank statements and bank reconciliation records for the licensee and the name, account number and United States Postal Service address of each bank the licensee uses in the conduct of its virtual currency business activity with or on behalf of the person; [PL 2023, c. 662, §2 (NEW).]

G. A report of any dispute with the person; and [PL 2023, c. 662, §2 (NEW).]

H. A report of any virtual currency business activity transaction with or on behalf of a person that the licensee was unable to complete. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

4. Form of records. A licensee shall maintain records required by subsection 3 in a form that enables the administrator to determine whether the licensee is in compliance with this Act, a court order, a federal law and a law of this State other than this Act.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

§6100-UU. Requirements for unhosted wallets

A licensee shall identify the recipient of virtual currency or monetary value transferred to an unhosted wallet. If the sender claims that it is also the recipient of the transferred virtual currency or monetary value, attestation by the sender alone is not sufficient to meet this identification requirement.

[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

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