

TITLE XXXVI

PAWNBROKERS AND MONEYLENDERS

Chapter 399-G

LICENSING OF MONEY TRANSMITTERS

Section 399-G:1

399-G:1 Purpose. –

The purpose of this chapter is to:

- I. Ensure New Hampshire can coordinate in all areas of regulation, licensing, and supervision with other states to eliminate unnecessary regulatory burden and more efficiently utilize regulator resources.
- II. Protect the citizens of New Hampshire from financial crime.
- III. Standardize the types of activities that are subject to licensing or otherwise exempt from licensing.
- IV. Modernize safety and soundness requirements to ensure customer funds are protected in an environment that supports innovative and competitive business practices.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:2

399-G:2 Definitions. –

The following terms shall have the following meanings, unless context clearly indicates otherwise:

- I. "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.
- II. "Authorized delegate" means a person a licensee delegates to engage in money transmission on behalf of the licensee.
- III. "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in New Hampshire at the end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under this chapter for any licensee required to do so, the given period of time shall be the quarters ending March 31, June 30, September 30, and December 31.
- IV. "Bank Secrecy Act" means the Bank Secrecy Act, 31 U.S.C. Section 5311, et seq., and its implementing regulations, as amended and recodified from time to time.
- V. "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.
- VI. (a) "Control" means:
 - (1) The power to vote, directly or indirectly, at least 25 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;
 - (2) 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
 - (3) 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.
- (b) Provided that:
 - (1) A person is presumed to exercise controlling influence when a person holds the power to vote, directly or indirectly, at least 10 percent of the outstanding voting shares or voting interests of a licensee or person in control of the licensee.
 - (2) A person presumed to exercise a controlling influence as defined in this paragraph can rebut the presumption of control if the person is a passive investor.

(c) For purposes of determining the percentage of a person controlled by another person, the person's interest shall be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, mothers- and fathers-in law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares such person's home.

VII. "Convertible virtual currency" means a digital representation of value that:

- (a) Can be a medium of exchange, a unit of account, and/or a store of value;
- (b) Has an equivalent value in real currency or acts as a substitute for real currency;
- (c) May be centralized or decentralized; and
- (d) Can be exchanged for currency or other convertible virtual currency.

VIII. "Eligibility rating" means a credit rating of any of the 3 highest rating categories provided by an eligibility rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for the S__ampersand__P, or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by S__ampersand__P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S__ampersand__P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligibility rating.

IX. "Eligible rating service" means any nationally recognized statistical rating organization (NRSRO) as defined by the United States Securities and Exchange Commission, and any other organization designated by the commissioner by rule or order.

X. "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 such bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company has federal insured deposits.

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

XII. "Individual" means a natural person.

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

XIV. "Licensee" means a person licensed pursuant to this chapter.

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

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

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

XVIII. "Money transmission" means any of the following:

- (a) Selling or issuing payment instruments to a person located in this state.
- (b) Selling or issuing stored value to a person located in this state.
- (c) Receiving money for transmission from a person located in this state.

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

XX. "Multistate licensing process" means any 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.

XXI. "NMLS" means the Nationwide Multistate Licensing System and Registry developed by the Conference of

State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

XXII. "Outstanding money transmission obligations" shall be established and extinguished in accordance with applicable state law and shall mean:

(a) Any payment instrument or stored value issued or sold by the 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

(b) Any 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.

(c) For purposes of this paragraph, "in the United States" shall include, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a foreign country.

XXIII. "Passive investor" means a person that:

(a) Does not have the power to elect 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;

(b) Is not employed by and does not have any managerial duties of the licensee or person in control of a licensee;

(c) Does not have 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; and

(d) Either attests to subparagraphs (a), (b), and (c), in a form and in a medium prescribed by the commissioner or commits to the passivity characteristics of subparagraphs (a), (b), and (c), in a written document.

XXIV. "Payment instrument" means a written or electronic check, draft, money order, traveler's check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include stored value or any instrument that (1) 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 (2) not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

XXV. "Payroll processing services" means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. The term payroll processing services does not include an employer performing payroll processing services on its own behalf or on behalf of its affiliate, or a professional employment organization subject to regulation under other applicable state law.

XXVI. "Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other corporate entity identified by the commissioner by rule or order.

XXVII. "Receiving money for transmission" or "money received for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means.

XXVIII. "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. The term includes, but is not limited to, "prepaid access" as defined by 31 C.F.R. section 1010.100, as amended or recodified from time to time. Notwithstanding the foregoing, the term "stored value" does not include a payment instrument or 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. Pursuant to RSA 399-G:3, VII, nothing in this paragraph shall be construed so as to affect persons engaged in the business of selling or issuing payment instruments or stored value solely in the form of convertible virtual currency or who receive convertible virtual currency for transmission to another location.

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

Section 399-G:3

399-G:3 Exemptions. –

The provisions of this chapter shall not apply to:

- I. Any bank, trust company, savings and loan association, profit sharing and pension trust, credit union, thrift company, insurance company, or receivership, which may be chartered by this state or any other state or by any agency of the United States.
- II. The United States or any department, instrumentality, or agency thereof.
- III. A state, county, city, or any other governmental agency or governmental subdivision of a state.
- IV. 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 thereof, or a state or governmental subdivision, agency, or instrumentality thereof.
- V. Retailers issuing stored value credits or gift cards.
- VI. A debt adjuster duly licensed pursuant to RSA 399-D that acts as a money transmitter for the sole purpose of providing a debt adjustment service to a consumer under terms of a contract issued pursuant to RSA 399-D and that has a surety bond on file with the commissioner under RSA 399-D in the amount of \$100,000.
- VII. Persons who engage in the business of selling or issuing payment instruments or stored value solely in the form of convertible virtual currency or receive convertible virtual currency for transmission to another location. Such persons shall be subject to the provisions of RSA 358-A.
- VIII. Other persons not within the intent of this chapter as the commissioner may designate by rule or order.
- IX. An operator of a payment system to the extent 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 clearing house transfers, or similar funds transfers.
- X. A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:
 - (a) There exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;
 - (b) The payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and
 - (c) Payment for the goods or services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee.
- XI. 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, provided that the entity on whose behalf the person is acting as intermediary:
 - (a) Is properly licensed or exempt from licensing requirements under this chapter;
 - (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
 - (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.
- XII. Money transmission by the United States Postal Service or by an agent of the United States Postal Service.
- XIII. A board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. sections 1-25, as amended or recodified from time to time, 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.
- XIV. A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.
- XV. 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.
- XVI. An individual employed by a licensee, authorized delegate, or any person exempted from the licensing

requirements of this chapter 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.

XVII. A person expressly appointed as a third party service provider to or agent of an entity exempt under paragraph I, solely to the extent that:

(a) Such 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

(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 currency or monetary value by the service provider or agent.

XVIII. A person performing payroll processing services, solely to the extent of its operation as a payroll processor. Provided, however, that this exemption shall not apply to any person providing stored value cards, including digital stored value cards, directly to individual employees.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:4

399-G:4 Implementation; Authority of the Commissioner. –

The commissioner shall administer, interpret, and enforce this chapter. The commissioner may adopt rules implementing this chapter, and may assess fees and costs associated with applications, examinations, investigations, and other actions taken to achieve the purpose of this chapter. The commissioner may:

I. 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 pursuant to this chapter.

II. Use, hire, contract, or employ analytical systems, methods, or software to examine or investigate any person subject to this chapter.

III. Accept, from other state or federal agencies or officials, licensing, examination, or investigation reports made by such other state or federal government agencies or officials.

IV. Accept audit reports made by an independent certified public accountant or other qualified third-party auditor for an applicant or licensee and incorporate the audit report in any report of examination or investigation.

V. Prepare, alter, or withdraw such forms as are necessary to comply with the provisions of this chapter.

VI. Issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of this chapter.

VII. Abate all or a portion of delinquency penalties assessed under this chapter.

VIII. Subpoena witnesses and administer oaths in any adjudicative proceeding and compel, by subpoena duces tecum, the production of documents, papers, books, records, files, and other evidence, whether electronically stored or otherwise, before the commissioner in any matter over which the commissioner has jurisdiction, control, or supervision.

IX. Administer oaths and affirmation to any person whose testimony is required.

X. Adopt fees under RSA 541-A to be charged to cover the reasonable costs of copying documents and producing reports.

XI. Receive and investigate consumer complaints naming licensees under this chapter which are filed with the commissioner in accordance with RSA 399-G:36.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:5

399-G:5 Confidentiality. –

I. Except as otherwise provided in paragraph II and RSA 383:10-b, all information or reports obtained by the commissioner from an applicant, 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 commissioner, or financial statements, balance sheets, or authorized delegate information, are confidential and are not subject to disclosure under RSA 91-A.

II. The commissioner may disclose information not otherwise subject to disclosure under this section or RSA 383:10-b to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information or where the commissioner finds that the release is reasonably necessary for the protection and interest of the public.

III. This section shall not prohibit the commissioner from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

IV. Information contained in the records of banking department that is not confidential and may be made available to the public in accordance with RSA 91-A shall include:

- (a) The name, business address, telephone number, and unique identifier of a licensee;
- (b) The business address of a licensee's registered agent for service;
- (c) The name, business address, and telephone number of all authorized delegates;
- (d) The terms of or a copy of any bond filed by a licensee, provided that confidential information, including, but not limited to, prices and fees for such bond is redacted;
- (e) Copies of any non-confidential final orders of the department relating to any violation of this chapter or its implementing regulations; and
- (f) The imposition of an administrative fine or penalty under this chapter.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:6

399-G:6 Supervision; Examination. –

I. The commissioner may conduct an examination or investigation of a licensee or authorized delegate, or may otherwise take independent action authorized by this chapter as reasonably necessary or appropriate to administer and enforce the provisions of this chapter and other applicable rules, regulations, and laws, including the Bank Secrecy Act and the USA PATRIOT Act. The commissioner may:

- (a) Conduct an examination either on-site or off-site as the commissioner may reasonably require;
- (b) Conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;
- (c) Accept an examination report of another state agency 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 commissioner; and
- (d) Summon and examine under oath a key individual or employee of a licensee or authorized delegate and require the person to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

II. A licensee or authorized delegate shall provide, and the commissioner shall have full and complete access to, all records the commissioner may reasonably require to conduct a complete examination. The records shall be provided at the location and in the format specified by the commissioner, provided that the commissioner may utilize multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this section.

III. Unless otherwise directed by the commissioner, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.

IV. Licensees and authorized delegates being examined pursuant to this chapter shall deliver to the commissioner any files or documents requested within 28 days of receipt of the request. Failure to provide files or documents within 28 days shall subject a licensee or authorized delegate to a fine of \$50 per day for each day the files or documents are not produced. Failure to provide files or documents within 60 days after receipt of the request shall be sufficient cause for license revocation, suspension, or denial, or other penalties under this chapter.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:7

399-G:7 License Required. – No person shall engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission in this state unless the person is licensed pursuant to

this chapter or exempt pursuant to RSA 399-G:3. Nothing in this section shall prohibit an authorized delegate of a person licensed under this chapter from acting within the scope of authority conferred by a written contract with the licensee. Licenses issued pursuant to this chapter are non-transferable and non-assignable.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:8

399-G:8 Application for License. –

I. Applicants for a license shall apply in a form and in a medium as prescribed by the commissioner. The application shall be submitted through NMLS and shall contain the following information:

- (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;
- (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 immediately preceding the submission of the application;
- (c) A description of any money transmission previously provided by the applicant and the money transmission that the applicant seeks to provide in New Hampshire;
- (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;
- (e) A list of other states in which the applicant is licensed to engage in money transmission and any license revocations, suspensions, or other disciplinary action taken against the applicant in another state;
- (f) Information concerning any bankruptcy or receivership proceedings affecting the licensee or a person in control of a licensee;
- (g) The name and address of any federally insured depository financial institution through which the applicant plans to conduct money transmission; and
- (h) Any other information the commissioner or NMLS reasonably requires with respect to the applicant.

II. If an applicant is a corporation, limited liability company, partnership, or other legal entity, the applicant shall also provide:

- (a) The date of the applicant's incorporation or formation and state or country of incorporation or formation;
- (b) 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;
- (c) The legal name, any fictitious or trade name, all business and residential addresses, and the employment, as applicable, in the 10-year period immediately preceding the submission of the application of each key individual and person in control of the applicant;
- (d) 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;
- (e) A copy of audited financial statements of the applicant for the most recent fiscal year and for the 2-year period immediately preceding the submission of the application or, if determined to be acceptable to the commissioner, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the commissioner;
- (f) A certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter;
- (g) 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 U.S.C. section 78m, as amended or recodified from time to time;
- (h) If the applicant is a wholly owned subsidiary of 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 section 13 of the U.S. Securities Exchange Act of 1934, 15 U.S.C. section 78m, as amended or recodified from time to time.
- (i) If the applicant is a wholly owned subsidiary of a corporation publicly traded outside the United States, a copy of documentation similar to that required in subparagraph (h) above, filed with the regulator of the parent corporation's domicile outside the United States;
- (j) The name and address of the applicant's registered agent in this state; and
- (k) Any other information the commissioner reasonably requires with respect to the applicant.

III. A nonrefundable application fee of \$500 shall accompany an application for a license under this section.

IV. The commissioner may waive one or more requirements of paragraphs I and II or permit an applicant to submit other information in lieu of the required information.

V. A nonrefundable fee of \$25 shall accompany any application for registration as an authorized delegate.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:9

399-G:9 Information Requirements for Certain Individuals. –

I. Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual shall furnish to the commissioner through NMLS the following items:

(a) The individual's fingerprints for submission to the Federal Bureau of Investigation and the commissioner for purposes of a national criminal history background check unless the person currently resides outside of the United States and has resided outside of the United States for the last 10 years.

(b) Personal history and experience in a form and in a medium prescribed by the commissioner, including 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 shall be 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.

II. If the individual 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 minimum requirements:

(a) The search firm shall demonstrate that it has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report; and

(b) The search firm shall not be affiliated with or have an interest with the individual it is researching.

(c) The investigative background report shall be written in the English language and shall contain the following:

(1) If available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish such 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.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:10

399-G:10 Issuance of License. –

I. When an application for an original license under this chapter appears to include all the items and addresses all of the matters that are required, the application is complete and the commissioner shall promptly notify the applicant in a record of the date on which the application is determined to be complete, and:

(a) The commissioner shall approve or deny the application within 120 days after the completion date; or

(b) If the application is not approved or denied within 120 days after the completion date, the application is approved and the license takes effect as of the first business day after expiration of the 120-day period.

II. The commissioner may extend the time period for review provided for in paragraph I upon written agreement of the applicant.

III. A determination by the commissioner 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 background check response from the FBI, and addresses all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

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

(a) The applicant has complied with the requirements of this chapter; and

(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.

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

(a) The commissioner is authorized and encouraged to accept the investigation results of a lead investigative state for the purpose of paragraph IV if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(b) If New Hampshire is a lead investigative state, the commissioner is authorized and encouraged to investigate the applicant pursuant to paragraph IV and the timeframes established by agreement through the multistate licensing process, provided however, that in no case shall such timeframe be noncompliant with the application period in paragraph I.

VI. The commissioner shall issue a formal written notice of the denial of a license application within 30 days of the decision to deny the application. The commissioner 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 commissioner may appeal within 30 days after receipt of the written notice of the denial pursuant to RSA 541-A.

VII. The initial license term shall begin on the day the application is approved. The license shall expire on December 31 of the year in which the license term began, unless the initial license date is between November 1 and December 31, in which instance the initial license term shall run through December 31 of the following year.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:11

399-G:11 Renewal of License. –

I. Licenses issued pursuant to this chapter shall be renewed annually. The renewal term shall be for a period of one year and shall begin on January 1 of each year after the initial license term and shall expire on December 31 of the year the renewal term begins. An annual renewal fee of \$500 shall be submitted with the application for renewal.

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

III. The commissioner for good cause may grant an extension of the renewal date.

IV. The commissioner is authorized to utilize NMLS to process license renewals provided that such functionality is consistent with this section.

V. Authorized delegates shall renew their registrations annually. A fee of \$25 shall be submitted with the renewal.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:12

399-G:12 Maintenance of License; License Surrender. –

- I. If at any point the licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the commissioner may suspend or revoke the licensee's license in accordance with the procedures established by this chapter and as required in RSA 541-A.
- II. An applicant for money transmission license must demonstrate that it meets or will meet, and a money transmission licensee must at all times meet, the net worth, surety bond, and permissible investment requirements established in this chapter.
- III. A licensee who ceases to engage in the business of money transmission at any time during a license year for any cause shall surrender such principal license and any authorized delegate registrations, and within 15 calendar days of such cessation shall publish, whether in a newspaper of general circulation in the licensee's market area or via electronic means such as the licensee's Internet website, a notice to such effect. The licensee shall provide any documentation the commissioner may require as part of the surrender request. Surrender of a licensee shall not take effect until the commissioner deems the surrender process complete.
- IV. Failure to comply with paragraph III shall be cause for a denial of future license applications and the imposition of penalties under RSA 399-G:34.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:13

399-G:13 Acquisition of Control. –

- I. Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain approval of the commissioner prior to acquiring control. An individual is not deemed to acquire control of a licensee and is not subject to these acquisition of control provisions when that individual becomes a key individual in the ordinary course of business.
- II. A person, or group of persons acting in concert, seeking to acquire control of a licensee shall, in cooperation with the licensee:
 - (a) Submit information regarding the change in control as required by the commissioner through NMLS; and
 - (b) Submit a nonrefundable fee of \$500 with the request for approval.
- III. Upon request, the commissioner may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required pursuant to paragraph II without using NMLS.
- IV. The application required by paragraph II shall include information required by RSA 399-G:9 for any new key individuals that have not previously completed the requirements of that section for a licensee.
- V. When an application for acquisition of control under this section appears to include all the items and address all of the matters that are required, the application shall be considered complete and the commissioner shall promptly notify the applicant in a record of the date on which the application was determined to be complete. The commissioner shall approve or deny the application within 60 days after the completion date. If the application is not approved or denied within 60 days after the completion date, the application shall be deemed approved and the person, or group of persons acting in concert, are not prohibited from acquiring control. The commissioner may for good cause extend the application period upon written agreement of the applicant.
- VI. A determination by the commissioner 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, and is not an assessment of the substance of the application or of the sufficiency of the information provided.
- VII. When an application is filed and considered complete, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control. The commissioner shall approve an acquisition of control pursuant to this section if the commissioner finds that all of the following conditions have been fulfilled:
 - (a) The requirements of this section have been met, as applicable; and
 - (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; 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.

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

(a) The commissioner is authorized and encouraged to accept the investigation results of a lead investigative state for the purpose of this section if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(b) If New Hampshire is a lead investigative state, the commissioner is authorized and encouraged to investigate the applicant pursuant to this section and the timeframes established by agreement through the multistate licensing process.

IX. The commissioner shall issue a formal written notice of the denial of an application to acquire control within 30 days of the decision to deny the application. The commissioner 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 commissioner may appeal within 30 days after receipt of the written notice of the denial in accordance with the procedures set forth in RSA 541-A.

X. The requirements of paragraphs I and II do not apply to any of 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 a person in control of a licensee;

(b) A person that acquires control of a licensee by devise or descent;

(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;

(d) A person that is exempt from licensure;

(e) A person that the commissioner determines by order is not subject to paragraph I based on the public interest;

(f) A public offering of securities of a licensee or a person in control of a licensee; or

(g) An internal reorganization of a person in control of the licensee where the ultimate person in control of the licensee remains the same.

XI. Persons in subparagraphs X(b)-(d) and (f)-(g) in cooperation with the licensee shall notify the commissioner within 15 days after the acquisition of control.

XII. (a) The requirements of paragraphs I-II do not apply to a person that has complied with and received approval to engage in money transmission under this chapter or was identified as a person in control in a prior application filed with and approved by the commissioner or by an MSB accredited state pursuant to a multistate licensing process, provided that:

(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 this chapter relating to net worth, surety bond, and permissible investments after the acquisition of control is completed, and if the person acquiring control is a licensee, that licensee is also projected to meet such requirements 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)-(4) in a form and in a medium prescribed by the commissioner.

(b) If the notice is not disapproved within 30 days after the date on which the notice was determined to be complete, the notice is deemed approved.

XIII. Before filing an application for approval to acquire control of a licensee a person may request in writing a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to the requirements of this section.

XIV. If a multistate licensing process includes a determination pursuant to paragraph XIII and an applicant avails itself or is otherwise subject to the multistate licensing process:

(a) The commissioner is authorized and encouraged to accept the control determination of a lead investigative state with sufficient staffing, expertise, and minimum standards for the purpose of paragraph XIII; or

(b) If New Hampshire is a lead investigative state, the commissioner is authorized and encouraged to investigate

the applicant pursuant to paragraph XIII and the timeframes established by agreement through the multistate licensing process.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:14

399-G:14 Notice and Information Requirements for a Change of Key Individuals. –

I. A licensee adding or replacing any key individual shall:

(a) Provide notice in a manner prescribed by the commissioner within 15 days after the effective date of the key individual's appointment; and

(b) Provide information as required by RSA 399-G:9 within 45 days of the effective date.

II. Within 90 days of the date on which the notice provided pursuant to paragraph I was determined to be complete, the commissioner may issue a notice of disapproval of a key individual if the competence, experience, character, or integrity of the individual 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 such licensee.

III. A notice of disapproval shall contain a statement of the basis for disapproval and shall be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval pursuant to RSA 541-A after receipt of such notice of disapproval.

IV. If the notice provided pursuant to paragraph I is not disapproved within 90 days after the date on which the notice was determined to be complete, the key individual is deemed approved.

V. 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 commissioner is authorized and encouraged to accept the determination of another state if the investigating state has sufficient staffing, expertise, and minimum standards for the purpose of this section; or

(b) If New Hampshire is a lead investigative state, the commissioner is authorized and encouraged to investigate the applicant pursuant to paragraph II and the timeframes established by agreement through the multistate licensing process.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:15

399-G:15 Report of Condition. –

I. Each licensee shall submit a report of condition within 45 days of the end of the calendar quarter, or within any extended time as the commissioner may prescribe.

II. The report of condition shall include:

(a) Financial information at the licensee level;

(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;

(c) Permissible investments report;

(d) Average daily outstanding transmission liability;

(e) Transaction destination country reporting for money received for transmission, if applicable; and

(f) Any other information the commissioner reasonably requires with respect to the licensee. The commissioner is authorized and encouraged to utilize NMLS for the submission of the report required by this section and is authorized to update as necessary the requirements of this section to carry out the purposes of this chapter and maintain consistency with NMLS reporting.

III. The information required by paragraph II(d) shall only be included in a report of condition submitted within 45 days of the end of the fourth calendar quarter.

IV. Any licensee failing to file a report required under this section within the time prescribed shall be subject to a late fee of \$25 for each calendar day the report is overdue, up to a maximum penalty of \$625.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:16

399-G:16 Audited Financials. –

- I. Each licensee shall, within 90 days after the end of each fiscal year, or within any extended time as the commissioner may prescribe, file with the commissioner:
- (a) An audited financial statement of the licensee for the fiscal year prepared in accordance with United States generally accepted accounting principles; and
 - (b) Any other information as the commissioner may reasonably require.
- II. The audited financial statements shall be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the commissioner;
- III. The audited financial statements shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the commissioner. If the certificate or opinion is qualified, the commissioner may order the licensee to take any action as the commissioner may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification.
- IV. Any licensee failing to file the financial statement required by this section within the time prescribed shall be subject to a late fee of \$25 for each calendar day the statement is overdue, up to a maximum penalty of \$2,500.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:17

399-G:17 Authorized Delegate Reporting. –

- I. Each licensee shall submit a report of authorized delegates within 45 days of any change to the number of authorized delegates. The commissioner is authorized and encouraged to utilize NMLS for the submission of the report required by this section provided that such functionality is consistent with the requirements of this section.
- II. The authorized delegate report shall include, at a minimum, each authorized delegate's:
- (a) Company legal name;
 - (b) Taxpayer employer identification number;
 - (c) Principal provider identifier;
 - (d) Physical address;
 - (e) Mailing address;
 - (f) Any business conducted in other states;
 - (g) Any fictitious or trade name;
 - (h) Contact person name, phone number, and email;
 - (i) Start date as licensee's authorized delegate;
 - (j) End date acting as licensee's authorized delegate, if applicable; and
 - (k) Any other information the commissioner reasonably requires with respect to the authorized delegate.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:18

399-G:18 Reports of Certain Events. –

- I. A licensee shall file a report with the commissioner 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 U.S.C. Section 101-110, as amended or recodified from time to time, for bankruptcy or reorganization;
 - (b) The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors; or
 - (c) The commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed.

II. A licensee shall file a report with the commissioner within 3 business day after the licensee has reason to know of the occurrence of any of the following events:

- (a) A conviction of the licensee or of a key individual or person in control of the licensee for a felony; or
- (b) A conviction of an authorized delegate for a felony.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:19

399-G:19 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.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:20

399-G:20 Records. –

I. Licensee shall maintain the following records, for determining its compliance with this chapter for at least 3 years:

- (a) A record of each outstanding money transmission obligation sold;
- (b) A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;
- (c) Bank statements and bank reconciliation records;
- (d) Records of outstanding money transmission obligations;
- (e) Records of each outstanding money transmission obligation paid within the 3-year period;
- (f) A list of the last known names and addresses of all of the licensee's authorized delegates; and
- (g) Any other records the commissioner reasonably requires by rule.

II. The items specified in paragraph I may be maintained in any form of record and may be maintained outside this state if they are made accessible to the commissioner on 7 business-days' notice that is sent in a record. All records maintained by the licensee as required in this section shall be open to inspection by the commissioner pursuant to RSA 399-G:6.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:21

399-G:21 Relationship between Licensee and Authorized Delegate. –

I. In 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.

II. Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee must:

- (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;
- (b) Enter into a written contract that complies with paragraph IV; and
- (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.

III. An authorized delegate must operate in full compliance with this chapter.

IV. The written contract required by paragraph II shall be signed by the licensee and the authorized delegate and, at a minimum, shall:

- (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;

- (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;
- (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 chapter, department rules, and relevant provisions of the Bank Secrecy Act and the USA PATRIOT Act;
- (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;
- (e) Impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee;
- (f) Require the authorized delegate to prepare and maintain records as required by this chapter or rules implementing this chapter, or as reasonably requested by the commissioner;
- (g) Acknowledge that the authorized delegate consents to examination or investigation by the commissioner;
- (h) State that the licensee is subject to regulation by the commissioner and that, as part of that regulation, the commissioner may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and
- (i) Acknowledge receipt of the written policies and procedures required under paragraph II.

V. If the licensee's license is suspended, revoked, surrendered, or expired, the licensee must, within 5 business days, provide documentation to the commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the commissioner 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.

VI. 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 any 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 shall be 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.

VII. An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensee.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:22

399-G:22 Unauthorized Activities. – A person shall not engage in the business of money transmission on behalf of a person not licensed under this chapter or not exempt pursuant to RSA 399-G:3. A person that engages in such activity provides money transmission to the same extent as if the person were a licensee and shall be jointly and severally liable with the unlicensed or nonexempt person.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:23

399-G:23 Timely Transmission. –

I. Every 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.

II. If a licensee fails to forward money received for transmission in accordance with this section, the licensee must 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.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:24

399-G:24 Refunds. –

I. This section shall not apply to:

- (a) Money received for transmission subject to the federal Remittance Rule, 12 C.F.R. part 1005, subpart B, as amended or recodified from time to time; or
- (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.

II. Every licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund of any and 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;
- (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;
- (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;
- (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
- (e) The refund request does not enable the licensee to identify the sender's name and address or telephone number and does not enable the licensee to identify the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:25

399-G:25 Receipts. –

I. This section does not apply to:

- (a) Money received for transmission subject to the federal Remittance Rule (12 C.F.R. part 1005, subpart B), as amended or recodified from time to time;
- (b) Money received for transmission that is not primarily for personal, family, or household purposes;
- (c) 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; or
- (d) Payroll processing services.

II. For purposes of this section, "receipt" means a paper receipt, electronic record, or other written confirmation. 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 shall be provided in a retainable form.

III. Every licensee or its authorized delegate shall provide the sender a receipt for money received for transmission. The receipt shall contain the following information, as applicable:

- (a) The name of the sender;
- (b) The name of the designated recipient;
- (c) The date of the transaction;
- (d) The unique transaction or identification number;
- (e) The name of the licensee, NMLS Unique ID, the licensee's business address, and the licensee's customer service telephone number;
- (f) The amount of the transaction in United States dollars;
- (g) Any fee charged by the licensee to the sender for the transaction; and
- (h) Any taxes collected by the licensee from the sender for the transaction.

IV. The receipt required by this section shall 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.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:26

399-G:26 Prudential Standards; Net Worth. –

I. A licensee shall maintain at all times a tangible net worth of the greater of \$100,000 or 3 percent of total assets for the first \$100 million, 2 percent of additional assets for \$100 million to \$1 billion, and 0.5 percent of additional assets for over \$1 billion.

II. Tangible net worth must be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to RSA 399-G:8, II(f).

III. The commissioner shall have the authority to exempt in whole or in part any applicant or licensee from the requirements of paragraphs I and II for good cause shown.

IV. For purposes of this section, a licensee that issues proprietary cryptocurrency, non-fungible tokens, or other digital assets shall not include the value of such assets when calculating tangible net worth. For purposes of calculating net worth under this section, cryptocurrency, non-fungible tokens, or other digital assets shall be considered "proprietary" when such assets are developed or created by the licensed entity. Nothing in this paragraph shall prevent a licensed entity from including the reasonable value of cryptocurrency, non-fungible tokens, or other digital assets developed or created by other entities and held as assets when calculating tangible net worth.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:27

399-G:27 Prudential Standards; Surety Bond. –

I. An applicant for a money transmission license must provide, and a licensee at all times must maintain, security consisting of a surety bond in a form satisfactory to the commissioner or, with the commissioner's approval, a deposit instead of a bond in accordance with this section.

II. The amount of the required security shall be the greater of \$100,000 or an amount equal to 100 percent of the licensee's average daily money transmission liability in this state calculated for the most recently completed 3-month period, up to a maximum of \$500,000.

III. A licensee that maintains a bond in the maximum amount provided for in paragraph I shall not be required to calculate its average daily money transmission liability in this state for purposes of this section.

IV. A licensee may exceed the maximum required bond amount pursuant to RSA 399-G:29, I(e).

V. The surety bond shall be payable to the state of New Hampshire and the bank commissioner of the state of New Hampshire for the benefit of any person who is damaged by a violation of this chapter and shall be conditioned upon the licensee's compliance with each provision of this chapter.

VI. Surety bonds shall include a provision requiring the surety to give written notice to the commissioner 30 days in advance of the cancellation or termination of the bond.

VII. Every bond shall provide that no recovery may be made against the bond unless the state makes a claim for recovery or the person brings suit naming the principal within 6 years after the act upon which the recovery or suit is based. The obligations of the surety shall survive the bankruptcy, insolvency, liquidation, or reorganization of the licensee, including, without limitation, any bankruptcy, insolvency, liquidation, or reorganization commenced by or against the licensee under any applicable state or federal law, including the United States Bankruptcy Code.

VIII. When an action is commenced on a licensee's bond, the licensee shall immediately file a new bond. Immediately upon recovery upon any action on the bond, the licensee shall file a new bond.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:28

399-G:28 Prudential Standards; Maintenance of Permissible Investments. –

- I. A licensee shall maintain at all times permissible investments that have a market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations.
- II. Except for permissible investments enumerated in RSA 399-G:29, I the commissioner, 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.
- III. 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 U.S.C. section 101-110, as amended or recodified from time to time, for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, 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. No permissible investments impressed with a trust pursuant to this section shall be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.
- IV. Upon the establishment of a statutory trust in accordance with paragraph III or when any funds are drawn on a letter of credit pursuant to RSA 399-G:29, I(d), the commissioner 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 shall be 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. Any statutory trust established hereunder shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.
- V. The commissioner by rule or by order may allow other types of investments that the commissioner determines are of sufficient liquidity and quality to be a permissible investment. The commissioner is authorized to 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.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:29

399-G:29 Types of Permissible Investments. –

- I. The following investments are permissible under RSA 399-G:28:
- (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 ACH items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in 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__ampersand__P, or the equivalent from any eligible rating service;
 - (b) Certificates of deposit or senior debt obligations of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813, as amended or recodified from time to time, or as defined under the federal Credit Union Act, 12 U.S.C. section 1781, as amended or recodified from time to time;
 - (c) An obligation of the United States or a commission, agency, or instrumentality thereof; 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 thereof;
 - (d) The full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the commissioner 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), provided:

(1) The letter of credit must:

(A) 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 and that:

(i) Bears an eligible rating or whose parent company bears an eligible rating; and

(ii) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies;

(B) Be irrevocable, unconditional and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

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

(D) 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 the present or each future expiration date, unless the issuer of the letter of credit notifies the commissioner in writing by certified or registered mail or courier mail or other receipted means, at least 60 days prior to any expiration date, that the irrevocable letter of credit will not be extended.

(2) In the event of any notice of expiration or non-extension of a letter of credit issued under paragraph I(d)(1)

(D), the licensee shall be required to demonstrate to the satisfaction of the commissioner, 15 days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with RSA 399-G:28, I upon the expiration of the letter of credit. If the licensee is not able to do so, the commissioner 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 RSA 399-G:28, I. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the commissioner or the commissioner'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 shall provide 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 U.S.C. section 101-110, as amended or recodified from time to time, 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 its dissolution or reorganization;

(iii) The seizure of assets of a licensee by a state regulator 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 non-extension 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 RSA 399-G:28, I upon the expiration or non-extension of the letter of credit.

(4) The commissioner may designate an agent to serve on the commissioner's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the commissioner. The commissioner'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 subparagraph are assigned to the commissioner.

(5) The commissioner is authorized and encouraged to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including but not limited to services provided by the NMLS and State Regulatory Registry, LLC.

(e) One hundred percent of the surety bond or deposit provided for under RSA 399-G:2 that exceeds the average daily money transmission liability in this state.

II. Unless permitted by the commissioner by rule or by order to exceed the limit as set forth herein, the following investments are permissible under RSA 399-G:28 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, up to 50 percent of the aggregate value of the licensee's total permissible investments, provided that receivables that are payable to a licensee from a single authorized delegate in the ordinary course

- of business may not exceed 10 percent of the aggregate value of the licensee's total permissible investments;
- (b) The following investments are permissible up to 20 percent per category and combined up to 50 percent of the aggregate value of the licensee's total permissible investments:
- (1) A short-term, up to 6 months, investment 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 percent 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__ampersand__P, or the equivalent from any other eligible rating service; and
 - (6) A mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subparagraphs I(a)-(c).
- (c) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to 10 percent 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 Foreign Account Tax Compliance Act;
 - (3) Is not located in any country subject to sanctions from the Office of Foreign Asset Control; and
 - (4) Is not located in a high-risk or non-cooperative jurisdiction as designated by the Financial Action Task Force.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:30

399-G:30 Enforcement; Suspension and Revocation. –

- I. The commissioner may suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:
- (a) The licensee violates this chapter or a rule adopted or an order issued under this chapter;
 - (b) The licensee does not cooperate with an examination or investigation by the commissioner;
 - (c) The licensee engages in fraud, intentional misrepresentation, or gross negligence;
 - (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 chapter, as a result of the licensee's willful misconduct or willful blindness;
 - (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;
 - (f) The licensee engages in an unsafe or unsound practice;
 - (g) The licensee is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or
 - (h) The licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee a final order including a finding that the authorized delegate has violated this chapter.
- II. In determining whether a licensee is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the person involved.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:31

399-G:31 Suspension and Revocation of Authorized Delegates. –

- I. The commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the commissioner finds that:
- (a) The authorized delegate violated this chapter or a rule adopted or an order issued under this chapter;

- (b) The authorized delegate did not cooperate with an examination or investigation by the commissioner;
- (c) The authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;
- (d) The authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;
- (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
- (f) The authorized delegate is engaging in an unsafe or unsound practice.

II. In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the commissioner 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 chapter or a rule adopted or order issued under this chapter, and the previous conduct of the authorized delegate.

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

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:32

399-G:32 Orders to Cease and Desist. –

I. If the commissioner determines that a violation of this chapter or of a rule adopted or an order issued under this chapter 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 commissioner may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.

II. The commissioner 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 commissioner.

III. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to RSA 541-A.

IV. 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 RSA 541-A.

V. An order to cease and desist expires unless the commissioner commences an administrative proceeding pursuant to RSA 541-A within 10 days after it is issued.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:33

399-G:33 Consent Orders. – The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter. A consent order shall be signed by the person to whom it is issued or by the person's authorized representative, and shall indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter or a rule adopted or an order issued under this chapter has been violated.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:34

399-G:34 Penalties. –

I. A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter or that intentionally makes a false entry or omits a material entry in such a record is guilty of a felony.

II. A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives more than \$500 in compensation within a 30-day period from this activity is guilty of a felony.

III. A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives no more than \$500 in compensation within a 30-day period from this activity is guilty of a misdemeanor.

IV. The commissioner may assess a civil penalty against a person that violates this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed \$1,500 for a negligent violation and \$2,500 for a knowing violation per day for each day the violation is outstanding, plus costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees. For purposes of this section, each act of money transmission shall constitute a separate violation of this chapter.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:35

399-G:35 Unlicensed Persons. –

I. If the commissioner has reason to believe that a person has violated or is violating RSA 399-G:7, the commissioner may issue an order to show cause why an order to cease and desist should not issue requiring that the person cease and desist from the violation.

II. In an emergency the commissioner or, if the commissioner delegates the attorney general to do so, the attorney general may petition the superior court for the issuance of a temporary restraining order ex parte pursuant to the rules of civil procedure.

III. An order to cease and desist becomes effective upon service of it upon the person.

IV. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to RSA 541-A.

V. A person that is served with an order to cease and desist for violating RSA 399-G:7 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 RSA 541-A.

VI. An order to cease and desist expires unless the commissioner commences an administrative proceeding within 10 days after it is issued.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:36

399-G:36 Consumer Complaints. –

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via electronic mail or certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 10 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the department. Not later than 30 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

(a) Make appropriate corrections in the account of the consumer and transmit to the consumer and the department written notification of such corrections, including documentary evidence thereof; or

(b) Transmit a written explanation or clarification to the consumer and the department which sets forth, to the extent applicable, the reasons why the licensee believes its actions are correct, including copies of documentary evidence thereof.

II. A licensee who fails to respond to consumer complaints as required by this section within the time prescribed shall pay to the commissioner a penalty of \$50 for each day such response is overdue. For purposes of this section, the date of transmission shall be the date such response is received by the commissioner.

III. Licensees which, because of extenuating circumstances beyond the control of the licensee, are unable to comply with the time frames prescribed in this section, may make written request to the commissioner for a waiver of such time frames. Waivers shall not be granted or considered unless the request for the waiver:

(a) Is received by the department within 20 days following the licensee's receipt of the complaint;

- (b) Specifies the reason for the request; and
 - (c) Specifies a date certain by which the licensee shall comply with the provisions of this section.
- IV. Requests for waivers shall be either granted or denied within 5 days of receipt by the department.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:37

399-G:37 Application; Construction of Chapter. – In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact similar regulation.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:38

399-G:38 Severability. – If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Source. 2024, 368:1, eff. Oct. 22, 2024.

Section 399-G:39

399-G:39 Transition Period. –

- I. A person licensed in this state to engage in the business of money transmission shall not be subject to the provisions of this chapter, to the extent that they conflict with current law or establish new requirements not imposed under current law, until January 1, 2026.
- II. Notwithstanding paragraph I, a licensee shall only be required to amend its authorized delegate contracts for contracts entered into or amended after the effective date or the completion of any transition period contemplated under paragraph I. Nothing herein shall be construed as limiting an authorized delegate's obligations to operate in full compliance with this chapter as required by RSA 399-G:21, III.

Source. 2024, 368:1, eff. Oct. 22, 2024.