

CHAPTER 27

MONEY TRANSMITTERS

Authority

N.J.S.A. 17:1-8.1 and 15e, 17:15C-1 et seq.

Source and Effective Date

R.2004 d.152, effective March 19, 2004.
See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

Chapter Expiration Date

Chapter 27, Money Transmitters, expires on March 19, 2009.

Chapter Historical Note

Chapter 27, Mortgage Loans, was filed and became effective prior to September 1, 1969.

Subchapter 6, Variable Interest Rate Mortgage Loans, was adopted as R.1976 d.279, effective September 1, 1976. See: 8 N.J.R. 453(a). Subchapter 6, Variable Interest Rate Mortgage Loans, was repealed by R.1981 d.507, effective January 4, 1982. See: 13 N.J.R. 715(a), 14 N.J.R. 40(b).

Pursuant to Executive Order No. 66(1978), Chapter 27, Mortgage Loans, was readopted as R.1990 d.498, effective September 12, 1990, and Subchapter 2, Mortgage Loan Participations, was repealed effective October 15, 1990. See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b). Pursuant to Executive Order No. 66(1978), Chapter 27 expired on September 12, 1995.

Chapter 27, Money Transmitters, was adopted as R.1998 d.477, effective September 21, 1998. See: 30 N.J.R. 2550(a), 30 N.J.R. 3459(b).

Chapter 27, Money Transmitters, was readopted as R.2004 d.152, effective March 19, 2004. As part of this readoption, Subchapter 6, Maintenance of Books, Records, and Accounts, Subchapter 7, Change of Control, and Subchapter 8, Penalties, were adopted. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

3:27-1.1 Purpose and scope

(a) This chapter implements the New Jersey Money Transmitters Act, N.J.S.A. 17:15C-1 et seq., which combines under one license two activities that previously required separate licenses as well as two additional activities not previously subject to licensure and regulation.

(b) This chapter shall apply to all licenses which are issued or renewed under the Act on or after July 31, 1998.

3:27-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the “New Jersey Money Transmitters Act,” N.J.S.A. 17:15C-1 et seq.

“Authorized delegate” means an entity authorized by the licensee pursuant to the Act to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

“Commissioner” means the Commissioner of the Department of Banking and Insurance.

“Control” means ownership of, or the power to vote, 25 percent or more of the outstanding voting securities of a licensee or controlling person. For purposes of determining the percentage of a licensee controlled by any person, there shall be aggregated with the person’s interest the interest of any other person controlled directly or indirectly by that person or by any spouse, parent or child of that person.

“Controlling person” means any person in control of a license.

"Department" means the Department of Banking and Insurance.

"Foreign money transmitter" means a person who, from a location in this State or through interacting via any means, including, but not limited to, the Internet, with persons in this State, engages, in this State, only in the business of the receipt of money for transmission or transmitting money to locations outside of the United States by any and all means, including, but not limited to, payment instrument, wire, facsimile, electronic transfer, or otherwise for a fee, commission or other benefit.

"Licensee" means a person licensed under the Act.

"Location" means a place of business at which activities regulated by the Act occur.

"Money transmitter" means a person who, from a location in this State or through interacting via any means, including, but not limited to, the Internet, with persons in this State, engages in this State in the business of:

1. The sale or issuance of payment instruments for a fee, commission or other benefit;
2. The receipt of money for transmission or transmitting money within the United States or to locations abroad by any and all means, including but not limited to, payment instrument, wire, facsimile, electronic transfer, or otherwise for a fee, commission or other benefit; or
3. The receipt of money for obligors for the purpose of paying obligors' bills, invoices or accounts for a fee, commission or other benefit paid by the obligor (for example, mortgage payment acceleration programs and utilities payment programs).

"OFAC" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"Outstanding payment instrument" means any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any payment instrument issued by the licensee which has been sold by an authorized delegate of the licensee in the United States, which has been reported to the licensee as having been sold, and which has not yet been paid by or for the licensee.

"Payment instrument" means any check, draft, money order, travelers check or other instrument or written order for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services.

"Permissible investments" means:

1. Cash;

2. Certificates of deposit or other debt obligations of a bank, savings bank, savings and loan association, or credit union, either domestic or foreign;

3. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the Federal Reserve System;

4. Any investment which is rated in one of the three highest rating categories by a nationally recognized statistical rating organization;

5. Investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States, or any obligations of any state, municipality or any political subdivision thereof which is rated in one of the three highest rating categories by a nationally recognized statistical rating organization;

6. Shares in a money market mutual fund, interest-bearing bills, notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of those securities or a fund composed of one or more permissible investments;

7. Demand borrowing agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;

8. Receivables which are due to a licensee from its authorized delegates pursuant to a contract described in section 17 of the Act, which are not past due or doubtful of collection; or

9. Any other investment or security device which the Commissioner may authorize by rule.

"Security device" means a surety bond issued by a surety company authorized to do business in this State or an irrevocable letter of credit issued by a Federally-insured depository institution.

Amended by R.2004 d.152, effective April 19, 2004.

See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

Rewrote the section.

SUBCHAPTER 2. LICENSING

3:27-2.1 Requirement to be licensed

(a) No person shall act as a money transmitter or as a foreign money transmitter without holding, in good standing, a license under the Act, unless that person is exempt from licensure pursuant to section 3 of the Act.

(b) The license shall be renewable for subsequent biennial licensing periods commencing on January 1, 2000.

Amended by R.2004 d.152, effective April 19, 2004.

See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

In (a), deleted "As of July 31, 1998, " at the beginning; in (b), deleted the first two sentences.

3:27-2.2 Application for an initial license

(a) All persons applying for an initial license pursuant to the Act shall submit the following:

1. A completed application form as prescribed by the Commissioner which shall comply in all respects with the requirements of N.J.S.A. 17:15C-7;
2. An original, executed bond or an irrevocable letter of credit which meets the requirements of N.J.A.C. 3:27-4.1;
3. An audited financial statement prepared by a certified public accountant or a public accountant, in good standing, demonstrating proof of net worth as specified in N.J.A.C. 3:27-5.1;
4. The application fee specified in N.J.A.C. 3:27-3.2; and
5. The license fee specified in N.J.A.C. 3:27-3.3.

(b) In addition, for each executive officer, key shareholder, officer, owner, partner and manager responsible for the business to be licensed, the following information is required to be furnished to the Department:

1. A certified consent for criminal investigation purposes;
2. A two inch by two inch passport style photograph of the persons listed in (b) above;
3. Fingerprints in the manner currently required by the New Jersey State Police or their authorized representative. In the case of a publicly traded corporation, its subsidiaries and affiliates, or a bank, bank holding company, and the subsidiaries and affiliates thereof, it is not required that the applicant furnish the fingerprints of each of the applicant's executive officers and of each officer or manager who will be in charge of the applicant's activities requiring licensure;
4. Registration fee(s) as required by N.J.A.C. 3:27-3.4;
5. Additional information, which may be specifically requested by the Commissioner from a particular applicant; and
6. A check in the amount of \$26.00 payable to the "Treasurer, State of New Jersey" and a second check in the amount required by the New Jersey State Police payable to the "Division of State Police—SBI" or their designee for each person for the costs of background investigations, including fingerprints.

(c) No applicant for a license shall commence operations until a license has been issued.

(d) Corporate applicants for a money transmitter license shall submit a copy of the Certificate of Incorporation showing the filed or recording stamp of the New Jersey Department of Treasury, Division of Revenue, and shall identify the registered agent for service of process. Foreign corporations shall submit a New Jersey Certificate of Authority in addition to a corporate certificate.

(e) Individual or partnership applicants using a trade name shall submit a copy of the trade name as filed with the county clerk showing the date of recording.

(f) Corporations using alternate names shall file a copy of registration of such name, as recorded, as part of their applications, in addition to the documents listed in (a) above.

(g) Limited liability companies shall file a copy of the Certificate of Formation.

Recodified from N.J.A.C. 3:27-2.3 and amended by R.2004 d.152, effective April 19, 2004.

See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

Former N.J.A.C. 3:27-2.2, Conversion of an existing license, repealed. Added (b) through (g).

3:27-2.3 (Reserved)

Repealed by R.2004 d.152, effective April 19, 2004.

See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

Section was "Application for an initial license".

SUBCHAPTER 3. FEES

3:27-3.1 Fees—general

Except as specified elsewhere in this chapter, all fees shall be paid by a check made payable to "Treasurer—State of New Jersey."

Amended by R.2004 d.152, effective April 19, 2004.

See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

Substituted "Except as specified elsewhere in this chapter, all" for "All" preceding "fees".

3:27-3.2 Application fees

(a) A person who is applying for an initial license under this Act shall pay an application fee to the Department in the amount of \$400.00 for a money transmitter license or \$300.00 for a foreign money transmitter license.

(b) Application fees are nonrefundable.

Amended by R.2004 d.152, effective April 19, 2004.

See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

In (a), deleted the N.J.A.C. reference.

3:27-3.3 License fees

(a) An applicant for an initial license who applies during the first year of a biennial period or an applicant who

applies to renew an existing license shall pay the biennial licensing fee. An applicant for an initial license who applies during the second year of a biennial period shall pay the reduced initial license fee of one half the biennial licensing fee.

(b) For foreign money transmitters only, the biennial license fee is \$1,200 and the reduced initial license fee, when applicable, is \$600.00.

(c) For money transmitters other than foreign money transmitters, the biennial license fee is \$1,400 and the reduced initial license fee, when applicable, is \$700.00.

Amended by R.2004 d.152, effective April 19, 2004.
See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).
Rewrote the section.

3:27-3.4 Registration fees

(a) A biennial registration fee of \$100.00 for each authorized delegate and location in this State shall be required, except that the total fee required to so register locations and authorized delegates shall not exceed a maximum of \$5,000.

(b) The initial registration period shall run from the date of application, which shall be on or after July 31, 1998, through December 31, 1999. Registrations will be renewed thereafter for biennial periods commencing on January 1, 2000.

(c) There shall be no reduction in the registration fee even if application to register is made during the second year of the biennial period.

Amended by R.2004 d.152, effective April 19, 2004.
See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).
In (a), substituted "\$100.00" for "\$25.00".

3:27-3.5 Change of control fee

A licensee who seeks approval for change of control pursuant to N.J.S.A. 17:15C-14 shall be required to pay a fee of \$100.00.

3:27-3.6 Annual report and fee

(a) Each money transmitter, including foreign money transmitters, shall file an annual report on or before April 1, on a form supplied by the Commissioner. The form shall include information indicating the adequacy of net worth, confirmation of compliance with the bonding requirements, summary of activity, the names of all banks with which the money transmitter does business and a list of all money transmissions as outlined below.

(b) Each money transmitter shall list all money transmissions for the calendar year immediately preceding the report as follows:

1. The total number and amounts of all transmissions (100 percent of all activity including all outstanding transmissions), whether initiated through the money transmitter directly or through any of its authorized delegates, listed by country including the United States;

2. The number and amounts of all transmissions initiated through the money transmitter directly, listed by country including the United States; and

3. A separate list for each authorized delegate, listing the number and amounts of all transmissions for that delegate, listed by country including the United States.

(c) Unless waived by the Commissioner in accordance with N.J.S.A. 17:15C-6, the permissible investments of a money transmitter shall not be considered adequate if the permissible investments do not have an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee in the United States or the licensee is not in compliance with N.J.S.A. 17:15C-5.

(d) The money transmitter, including foreign money transmitters, shall remit a fee of \$100.00 for each annual report filed. Any licensee who fails to file a complete annual report in a timely manner, as set forth in (a) above, shall be assessed a penalty of \$100.00 per day for each day after the due date that the complete report remains unfilled.

New Rule, R.2004 d.152, effective April 19, 2004.
See: 35 N.J.R. 4938(a), 36 N.J.R. 1958(a).

SUBCHAPTER 4. BONDING, SECURITY DEVICES

3:27-4.1 Bond or security device requirements

(a) A person who seeks an initial license to engage in the business of a money transmitter or in the business of foreign money transmitter shall comply with the requirements of N.J.S.A. 17:15C-8 and shall obtain a surety bond, utilizing a bond form provided by the Department, from a surety company authorized to do business in this State, or an irrevocable letter of credit, or a security device, authorized by the Commissioner in the amounts stated in chapter Appendix A which is incorporated herein by reference.

(b) The security device shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any person injured by a wrongful act, default, or misrepresentation of the licensee, including its directors, officers, authorized delegates and employees, to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money in connection with the sale and issuance of payment instruments, transmission of money, or both and for the benefit of the Department for unpaid examination bills, unpaid penalties and any other unpaid obligation of the money transmitter to the Department, including, but not limited to, returned items submitted to the Department in payment of bills, penalties, charges or fees.