

CHAPTER 27
MONEY TRANSMITTERS

Authority

N.J.S.A. 17:1-8 and 15e, 17:1C-33 et seq. and 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

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 27, Money Transmitters, expires on September 15, 2009. See: 41 N.J.R. 831(a).

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 Subchapter 6, Variable Interest Rate Mortgage Loans, was repealed by R.1981 d.507, effective January 4, 1982.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Loans, was readopted as R.1990 d.498, effective September 12, 1990, and Subchapter 2, Mortgage Loan Participations, was repealed effective October 15, 1990.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 licensing periods commencing on July 1, 2007.

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.

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

In (b), deleted "biennial" and substituted "July 1, 2007" for "January 1, 2000".

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; and
4. The application fee specified in N.J.A.C. 3:27-3.2 and 3:23-2.1.

(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 personal certification on a form supplied by the Commissioner;
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; and
4. Additional information, which may be specifically requested by the Commissioner from a particular applicant.

(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).

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Added "and" in (a)3, substituted "and 3:23-2.1" for "; and" in (a)4 and deleted (a)5; and rewrote(b)1, inserted "and" at the end of (b)3, deleted former (b)4 and recodified (b)5 as (b)4 and deleted (b)6.

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 accordance with N.J.A.C. 3:23-2.1.

(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.

Amended by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Substituted "in accordance with N.J.A.C. 3:23-2.1" for "in the amount of \$400.00 for a money transmitter license or \$300.00 for a foreign money transmitter license" in (a).

3:27-3.3 Annual report

(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) Any licensee who fails to file a complete annual report in a timely manner, as set forth in (a) above, shall pursuant to N.J.S.A. 17:15C-12 be assessed a penalty of not more than \$100.00 per day for each day after the due date that the complete report remains unfiled.

New Rule, R.2004 d.152, effective April 19, 2004.

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

Recodified from N.J.A.C. 3:27-3.6 by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R.10(a), 38 N.J.R. 2674(a).

Former N.J.A.C. 3:27-3.3, License fees, repealed. Section was "Annual report and fee". In (d), deleted the first sentence and inserted "pursuant to N.J.S.A. 17:15C-12".

Amended by R.2007 d.306, effective October 1, 2007.

See: 39 N.J.R. 2299(a), 39 N.J.R. 4111(a).

In (d), inserted "not more than".

3:27-3.4 (Reserved)

Repealed by R.2006 d.235, effective June 19, 2005.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Section was "Registration fees".

3:27-3.5 (Reserved)

Repealed by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Section was "Change of control fee".

3:27-3.6 (Reserved)

Recodified as N.J.A.C. 3:27-3.3 by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Section was "Annual Report and fee".

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.

(c) The security device shall remain in effect until cancellation, which may only occur after 30 days' written notice to the Commissioner. Cancellation shall not affect any liability incurred or accrued during the period the security device was in effect.

(d) The security device shall remain in place for no longer than five years after the licensee ceases money transmission operations in the State. The Commissioner may periodically review the amount of the licensee's payment obligations and the security device may be increased or reduced accordingly. However, notwithstanding this provision, the Commissioner may permit the security device to be reduced or eliminated prior to that time to the extent that the amount of the licensee's payment instruments outstanding in this State are reduced or eliminated. The Commissioner may also permit a licensee to substitute an irrevocable letter of credit or other form of security device acceptable to the Commissioner for the security device in place at the time the licensee ceases money transmission operations in the State by surrender, revocation or expiration of its license.

(e) Attorney's fees, pre-or post-judgment interest, court costs and similar charges are not recoverable through the security device, unless such charges are included in a final judgment against the money transmitter and the surety company was given prior notice of the court action and an opportunity to respond.

(f) The security device shall not be payable for claims made by business creditors.

(g) The security device shall not be payable for treble damage claims pursuant to the Consumer Fraud Act or any other State or Federal law.

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

Designated existing text as (a) and added (b) through (g).

SUBCHAPTER 5. NET WORTH

3:27-5.1 Net worth requirements

(a) Each applicant for an initial license as a money transmitter, except those described in (b) below, shall demonstrate a net worth of not less than \$100,000, calculated in accordance with generally accepted accounting principles, plus an additional net worth of \$25,000 per location or agent to be located in this State, as applicable, up to a maximum of \$1,000,000.

(b) Each applicant for an initial license only as a foreign money transmitter shall demonstrate a net worth of not less than \$50,000, calculated in accordance with generally accepted accounting principles, plus an additional net worth of

\$10,000 per location or agent to be located in this State, as applicable, up to a maximum of \$400,000.

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), inserted "except those described in (b) below," preceding "shall demonstrate a net worth".

SUBCHAPTER 6. MAINTENANCE OF BOOKS, RECORDS AND ACCOUNTS

3:27-6.1 Maintenance of books, records and accounts

(a) Each licensee shall make, keep and preserve in English the following books, accounts and other records for a period of three years:

1. A record of each payment instrument sold and a record of each money transmission sent or accepted, including the name and address of each recipient;
2. A general ledger containing all assets, liabilities, capital, income and expense accounts (which general ledger shall be posted at least monthly and all books closed quarterly);
3. Settlement sheets received from authorized delegates containing the date, name of delegate, name of customer, the amount of the transmission, the country to which it was transmitted and the fee charged for the transmission;
4. All bank statements and bank reconciliation records relating to the business of money transmission;
5. Records of outstanding payment instruments;
6. Records of each payment instrument paid within the three-year period;
7. Records of completed money transmissions;
8. Records of outstanding money transmission orders;
9. A list of names and addresses of all of the licensee's authorized delegates;
10. A list of all countries to which money is transmitted or from which money is received for transmission;
11. A list of the names and addresses of all clearing banks through which the licensee's money transmission business is conducted;
12. Records of all numbers including voids, for numbered money transmission forms and records of all characters or other information including voids, which identify non-numbered money transmission forms;

13. All records required to be maintained pursuant to 31 C.F.R. §§ 103.11 et seq.; and

14. Records of all events reported to the OFAC in compliance with all reporting requirements of OFAC.

(b) Maintenance of the documents required by this section in a photographic, electronic or other similar form shall constitute compliance with this section.

(c) The records of the licensee regarding business regulated under the Act shall be maintained at its principal place of business or, with notice to the Commissioner, at another location designated by the licensee. If the records are maintained outside this State, the Commissioner may require that the licensee reimburse the Department for the travel costs incurred in the examination or investigation of those records or may require that the licensee make those records available to the Commissioner at the licensee's principal place of business or at the Commissioner's office within three business days of the demand. The Commissioner may further require that those records be accompanied by an individual, on behalf of the licensee, who will be available to answer questions regarding those records and the business regulated under the Act. The Commissioner may require the appearance of a specific individual, or request that the licensee designate an individual with knowledge of the records and the business.

SUBCHAPTER 7. CHANGE OF CONTROL OR KEY PERSONNEL

3:27-7.1 Applications for change of control or key personnel

(a) A person shall not directly or indirectly acquire control of a licensee without the prior written approval of the Commissioner. The application for change of control shall be in writing filed by the existing licensee, in a form prescribed by the Commissioner, and shall be accompanied by the information required by N.J.A.C. 3:27-2.2 for an initial license application, and an amended version of the last submitted annual report updated through the date of the application, as well as all documents related to the change in control, (that is, a stock purchase agreement). The Commissioner may request copies or access to any or all of the books and records maintained in accordance with N.J.A.C. 3:27-6.1 prior to granting approval.

(b) Any change of key shareholders, executive officers, owners, partners, or managers responsible for the licensed business shall require the submission of a new application in accordance with N.J.A.C. 3:27-2.2(b).

SUBCHAPTER 8. PENALTIES

3:27-8.1 Penalties

(a) A violation of the Act or these rules shall be subject to the penalties contained in N.J.S.A. 17:15C-1 et seq.

Appendix A

Annual Volume of Business Security Device Amount for Those Engaged as Foreign Money Transmitters Only

Up to and including \$500,000	\$ 25,000
Over \$500,000 and up to and including \$1,000,000	\$ 30,000
Over \$1,000,000 and up to and including \$2,000,000	\$ 35,000
Over \$2,000,000 and up to and including \$3,000,000	\$ 40,000
Over \$3,000,000 and up to and including \$4,000,000	\$ 45,000
Over \$4,000,000 and up to and including \$5,000,000	\$ 50,000
Over \$5,000,000 and up to and including \$6,000,000	\$ 55,000
Over \$6,000,000 and up to and including \$7,000,000	\$ 60,000
Over \$7,000,000 and up to and including \$8,000,000	\$ 65,000
Over \$8,000,000 and up to and including \$9,000,000	\$ 70,000
Over \$9,000,000 and up to and including \$10,000,000	\$ 75,000
Over \$10,000,000 and up to and including \$11,000,000	\$ 80,000
Over \$11,000,000 and up to and including \$12,000,000	\$ 85,000
Over \$12,000,000 and up to and including \$13,000,000	\$ 90,000
Over \$13,000,000 and up to and including \$14,000,000	\$ 95,000
Over \$14,000,000 and up to and including \$15,000,000	\$ 100,000
Over \$15,000,000 and up to and including \$25,000,000	\$ 150,000
Over \$25,000,000 and up to and including \$30,000,000	\$ 200,000
Over \$30,000,000 and up to and including \$70,000,000	\$ 750,000
Over \$70,000,000	\$1,000,000

Annual Volume of Business Security Device Amount for Money Transmitters Other Than Foreign Money Transmitters Only

Up to and including \$15,000,000	\$ 100,000
Over \$15,000,000 and up to and including \$25,000,000	\$ 150,000
Over \$25,000,000 and up to and including \$30,000,000	\$ 200,000
Over \$30,000,000 and up to and including \$70,000,000	\$ 750,000
Over \$70,000,000	\$1,000,000