

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

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 Subchapter 6, Variable Interest Rate Mortgage Loans, was repealed by R.1981 d.507, effective January 4, 1982.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was readopted as R.1990 d.498, effective September 12, 1990, and Subchapter 2, Mortgage Loan Participations, was repealed effective October 15, 1990.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