**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**030 BUREAU OF CONSUMER CREDIT PROTECTION**

**Chapter 709: LICENSE AND RENEWAL FEES AND APPLICATION REQUIREMENTS FOR MAINE’S MONEY TRANSMITTER LICENSING AND REQUIREMENTS FOR LICENSING THROUGH THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS)**

**SUMMARY**

This Chapter repeals and replaces current Chapter 709 to effectuate Maine’s adoption of the Maine Money Transmission Modernization Act (Title 32 M.R.S. Chapter 79-A). It requires licensing of all money transmitters operating in the State of Maine through the Nationwide Multistate Licensing System (NMLS). This Chapter establishes periods of licensure validity. It sets application and renewal fees and application requirements for money transmitters and requires applicants for new licenses to apply through NMLS.

**I.** **Authority**

Pursuant to 32 M.R.S. § 6100-JJ, the Administrator may establish, by rule, fees to apply for money transmitter licenses, to renew money transmitter licenses, and to designate authorized delegates, except that the fee for an initial application may not exceed $2,500.00 and the fee for a renewal may not exceed $1,000,00 for any licensed location. Fees for designation of authorized delegates may not exceed $1,000.00. Renewal applications received after the license expiration date are subject to a late fee of $100.00.

Title 32 M.R.S. §§ 6079 and 6088(4) authorize the Administrator to establish routine technical rules to require licensing of money transmitters through the Nationwide Multistate Licensing System (NMLS), including rules authorizing NMLS to collect fees and remit those fees to the Bureau; authorizing collection of fees by the NMLS for its processing costs; authorizing NMLS to process and maintain license records; and authorizing the use of NMLS uniform forms.

**II. Purpose**

The purpose of this Chapter is to implement the new Money Transmission Modernization Act and permit the State of Maine to use NMLS for licensing of all money transmitters. Use of the system will provide improved oversight over the activities of licensees and will simplify recordkeeping and standardize processes for all money transmitters licensed in Maine.

**III. Definitions**

For the purpose of this Chapter, the following terms have the following meanings.

1. **“Administrator”** means the Superintendent of Consumer Credit Protection within the Maine Department of Professional and Financial Regulation.
2. **“Applicant”** means a person applying for either initial licensure as a money transmitter or renewal of licensure as a money transmitter.
3. **“Authorized delegate”** means an entity as defined in 32 M.R.S. § 6071(3).
4. “**Bureau**” means the Maine Bureau of Consumer Credit Protection.
5. “**Control**” means:

 a. The power to vote, directly or indirectly, at least 25% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

 b. The power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising the managerial authority of a person in control of a licensee; or

 c. The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

 A person is presumed to exercise a controlling influence when the person holds the power

to vote, directly or indirectly, at least 10% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee. A person presumed to exercise a controlling influence pursuant to this subsection may rebut the presumption of control if the person is a passive investor. For purposes of determining the percentage of a person controlled by any other person, the person's interest must be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, parents-in-law, children-in-law and siblings-in-law, and any other person who shares that person's home(s).

  **6.** **“Key individual”** means an individual ultimately responsible for establishing or

directing policies and procedures of a licensee, such as an executive officer, manager,

 director or trustee.

  **7. “Licensee”** means a person licensed as a money transmitter.

**8. “Money transmitter”** means an entity required to be licensed to perform money transmission under 32 M.R.S. Chapter 79-A.

9**. “Nationwide Multistate Licensing System**,**”** herein referred to as “**NMLS,**” means the nationwide multistate licensing system and registry developed by the Conference of State Bank Supervisors or successor organization and the American Association of Residential Mortgage Regulators or successor organization and owned and operated by the State Regulatory Registry LLC or successor organization, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

**10. "Person"** means an individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation or other corporate entity identified by the Administrator.

1. **General Provisions**
2. **Administrative authority granted to NMLS.** To effectuate the transition of all money transmitter licensing to NMLS, NMLS is authorized to collect fees and remit those fees to the Bureau, collect fees for its processing costs, process and maintain licensing records, and require use of NMLS uniform electronic and paper forms.
3. **Licensing periods.** Licenses for money transmitters are issued for a one-year period commencing January 1 each year. Licenses issued before November 1 will expire December 31 of the year in which issued. New licenses issued November 1 or later each year shall be valid through December 31 of the following year.
4. **Fees.** The fee to apply for or renew a license is $500.00. The application or renewal application must be accompanied by a fee of $50.00 for each authorized delegate designated by the applicant, up to a maximum of $2,500.00in authorized delegate fees.
5. **New licenses and renewal licenses.**
	1. **NMLS to determine license and renewal procedures.** New licenses and renewal licenses issued after the effective date of this rule shall be processed pursuant to the procedures established by NMLS.
	2. **NMLS to determine time periods for license validity.** New licenses and renewal licenses issued after the effective date of this rule shall be valid for the time periods established by NMLS.
	3. **Payment of fees.** Application, renewal, and processing fees will be paid directly to NMLS.
	4. **Late renewal for other than application for initial transition to NMLS.** For any renewal application other than the initial application for an entity to transition its existing license to NMLS, renewal applications received after December 31 of any year will be considered late. The status of such licenses will be changed to “terminated – failed to renew” or an equivalent status. Such licenses may be reinstated if a renewal application is received between January 1 and the end of February, together with all renewal fees and a late fee of $100.00. Beginning March 1 of every year, renewal requests for any company that did not renew their licenses by March 1 will not be processed, and the company must apply for a new license.
6. **Licensing Requirements.** Applicants for new and renewal licenses shall provide the following information and documentation as required by the Administrator either for in-office Bureau filings or through NMLS:
	1. Legal name and address, telephone number, website, Federal Identification Number or Social Security Number, as applicable;
	2. All locations in Maine from which business will be transacted;
	3. All locations outside Maine from which business with Maine residents will be conducted
	4. All names under which business will be transacted;
	5. The name, address, and account number for each financial institution or other custodian holding funds or virtual currency;
	6. The name, address, and account number for each account which the applicant will use to conduct business;
	7. A description of the activities conducted by the business and a history of operations;
	8. A business plan;
	9. A list of the names and business addresses of all authorized delegates;
	10. A sample authorized delegate contract;
	11. A sample payment instrument, e.g., a check, draft, money order, traveler’s check, or written order for money transmission, if such will be used;
	12. The name, title, address, telephone number, and email address of an employee of the applicant to contact if the Bureau receives a consumer complaint regarding activities of the applicant;
	13. The name, title, address, telephone number, and email address of the person to contact for the scheduling of routine compliance examinations;
	14. A description of any money transmission or virtual currency business activity previously provided in this State by the applicant and a description of the money transmission or virtual currency business activity which the applicant seeks to provide in this State;
	15. A list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the 10-year period preceding the submission of the application;
	16. Information concerning any bankruptcy or receivership proceedings affecting the applicant or a person in control of an applicant;
	17. A list of other states in which the applicant is licensed to engage in money transmission;
	18. For corporations, the date and state of incorporation; a certificate of good standing from the State of incorporation; a complete description of corporate structure, including parents and subsidiaries, and the name of any stock exchange on which any of those entities are publicly traded; a certified copy of authority to do business in Maine as a foreign corporation, limited liability company, partnership, or other foreign entity required to register with the State of Maine before doing business, including any assumed or fictitious names used; and the name and address of a designated agent upon whom service of process may be made in this State;
	19. For all entities, including partnerships and sole proprietorships, a copy of the most recent audited financial statement and, if available, audited financial statements for the immediately preceding two-year period.
	20. A certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter;
	21. If the applicant is a publicly traded corporation, a copy of the most recent report filed with the United States Securities and Exchange Commission under Section 13 of the federal Securities Exchange Act of 1934, 15 United States Code, Section 78m;
	22. If the applicant is a wholly owned subsidiary of:

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

ii. A corporation publicly traded outside the United States, a copy of documentation most recently filed with the securities regulator of the parent corporation's domicile outside the United States;

* 1. The names, business addresses, residential addresses, and employment positions for the last ten (10) years of each owner; partner; executive officer; manager who will be in charge of the offices to be licensed; manager of a limited liability company, partnership, or similar entity; and holder of a controlling interest in the applicant;
	2. Whether any owner, partner, executive officer, manager who will be in charge of the location to be licensed, or holder of a controlling interest in the applicant has been involved in material litigation and/or convicted of a crime in the ten (10) year period prior to application and, if so, a detailed explanation of any litigation and/or conviction(s);
	3. A certification of the applicant’s permissible investments (as defined in 32 M.R.S. §§ 6100-T and 6100-U) showing that such investments shall at all times have a market value computed in accordance with generally accepted accounting principles in the United States of not less than the aggregate amount of all of its outstanding money transmission obligations;
	4. A statement indicating the total dollar amount of the applicant’s outstanding payment instruments and transmissions in Maine and in the United States as of the dates of the both the most recent audited financial statement and the most recent interim financial statement. Also, for the previous twelve-month period:

 i. The number and dollar amount of payment instruments sold/issued by

 the applicant in Maine and the United States; and

ii. The number and dollar amount of money transmissions conducted by the applicant in Maine and the United States;

* 1. Copies of documents used in the regular course of business, e.g., payment instruments, receipts, customer agreements;
	2. A management chart displaying the applicant’s directors, officers, and managers by individuals’ names and titles and identifying compliance reporting and internal audit structure;
	3. An organizational chart showing the percentage of ownership in the applicant of direct owners, indirect owners, subsidiaries, and affiliates;
	4. An original money transmitter bond in form provided by the Bureau in the amount of $100,000.00 furnished by a surety company authorized to conduct business in Maine. The name of the principal insured on the bond must match exactly the full legal name of the applicant and must include all assumed or fictitious names of the applicant;
	5. A written authorization signed by an appropriate officer, partner, or owner of of the applicant directing each financial institution or other custodian in which the applicant will hold customer funds or virtual currency to allow the Bureau to examine those trust accounts;
	6. Whether the applicant has ever been denied a license in another jurisdiction, surrendered or abandoned a license, had a license suspended or revoked, been the subject of an administrative proceeding relating to the business for which it seeks to be licensed, had a license denied for cause, or been convicted of a crime related to the business of money transmission, forgery, theft or false representation and, if so, a complete and detailed explanation of each such occurrence;
	7. If the applicant is a start-up with an operational or financial history of less than two (2) years and is controlled by another person, the information required herein shall be provided for the controlling person; and
	8. Any other information which the Administrator may reasonably require.
1. **Additional Licensing Requirements for applicants engaging in virtual currency business activity.** Applicants for new or renewal licenses who engage in virtual currency business activity shall provide the following information in addition to that required by Section IV(5) above:
2. The number of money transmissions made by Maine residents and Maine businesses to unhosted wallets;
3. The number of money transmissions made by Maine residents and Maine businesses to hosted wallets;
4. The U.S. dollar value of all money transmissions to unhosted wallets involving Maine residents or Maine businesses.
5. The number of SARS reports filed during the previous 12-month period involving Maine residents;
6. The number of Maine residents or Maine businesses whose accounts have been closed because of illegality, suspected illegality, or victimization;
7. The number of Maine residents or Maine businesses whose account activity has been identified or investigated as suspicious;
8. The number of instances that the applicant has interacted with law enforcement agencies regarding transactions involving Maine residents or Maine businesses, identifying the circumstances of each such instance;
9. Whether the applicant operates virtual currency kiosks. If so, whether

the virtual currency kiosks store Maine consumer’s personally identifiable information;

1. Whether the applicant or any person associated with the applicant collaborates with conventional ATM operators to provide services that facilitate the transfer or purchase of virtual currency, explaining each such collaboration;
2. Whether the applicant hosts or will host virtual currency wallets;
3. Whether the applicant uses technology or a device (including virtual currency kiosks) that enables customers to send virtual currency to any identified wallet, hosted or unhosted;
4. Any other information which the Administrator may reasonably require.
5. **Additional Licensing Requirements for certain individuals.**

An individual in control of a licensee or applicant, an individual who seeks to acquire control of a licensee or applicant and any key individual shall furnish to the Administrator through NMLS the following information in addition to that required by Sections IV(5) and IV(6) above:

* 1. The individual's fingerprints for submission to the Federal Bureau of

Investigation and the Administrator for purposes of a national criminal history record check unless the individual resides outside of the United States and has resided outside of the United States for the last 10 years;

* 1. Personal history and experience in a form and in a medium prescribed by the

 Administrator, including at a minimum:

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

ii. Information related to any criminal convictions or pending charges;

iii. Information related to any regulatory or administrative action, or civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, money transmission, breach of fiduciary duty or breach of contract;

* 1. If an individual subject the requirement of this Section IV(7) has resided outside 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 demonstrates that it has sufficient knowledge and resources and employs accepted and reasonable methodologies to conduct the requisite investigative background report. The investigative search firm may not be affiliated with or have an interest with the individual it is researching. At a minimum, the investigative background report must be written in the English language and contain the following:

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

ii. Complete criminal records history 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;

iii. An employment history;

iv. A media history, including an electronic search of national and local publications, wire services, and business applications;

v. Financial services-related regulatory history, including but not limited to money transmission, securities, banking, insurance, and mortgage-related industries and

* 1. Any other information which the Administrator may reasonably require.
1. **Changes to existing licensing information.** If any information reported by a licensee changes during a period of licensure, the licensee must amend its information on file with NMLS within 30 days of the occurrence of the change or such shorter period as required by NMLS rules or procedures. Notice of a change of control of the licensee must be provided to the Bureau by advance change notice on NMLS, and the Bureau must approve or deny any change of control application pursuant to 32 M.R.S. § 6096.
2. **Routine technical rule.** This is a routine technical rule authorized by 32 M.R.S.

 § 6100-II.

STATUTORY AUTHORITY: 32 M.R.S. §§ 6079, 6088(4), 6100-II, and 6100-JJ

EFFECTIVE DATE:

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