Article - Financial Institutions

[Previous][Next]

§12–401.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Accelerated mortgage payment service" means the service of receiving funds from a mortgagor for the purpose of making mortgage payments to a mortgagee on behalf of the mortgagor in order to exceed the regularly scheduled minimum payment obligation under the terms of the mortgage.

(2) "Accelerated mortgage payment service" does not include the collection by a mortgagee of accelerated payments from the mortgagee's own mortgagors.

(c) "Authorized delegate" means a person who is authorized by a licensee to engage in the business of money transmission under a licensed name at any location other than a licensed location.

(d) (1) "Bill payer service" means the service of receiving funds from an obligor for the purpose of paying the obligor's bills, invoices, mortgages, or accounts.

(2) "Bill payer service" does not include the service described in paragraph (1) of this subsection that is provided by a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(e) "Control" means:

(1) If the licensee is a corporation:

(i) The direct or indirect ownership of, or the right to control, 25% or more of the voting shares of the licensee; or

(ii) The ability to elect a majority of the directors or otherwise effect a change in policy of the licensee; and

(2) If the licensee is a person other than a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the licensee, whether through ownership, by contract, or otherwise.

(f) (1) "Control person" means a person who has the power, directly or indirectly, to direct the management or policies of a money transmitter, whether through ownership of securities, by contract, or otherwise.

(2) "Control person" includes a person who:

(i) Is a general partner, an officer, or a director of a money transmitter, or a person who occupies a similar position or performs a similar function;

(ii) Directly or indirectly has the right to vote 10% or more of a class of voting securities, or has the power to sell or direct the sale of 10% or more of a class of voting securities, of a money transmitter; or

(iii) In the case of a partnership, a limited partnership, a limited liability partnership, a limited liability company, or any other business entity:

1. Has the right to receive on liquidation or dissolution of a money transmitter 10% or more of the capital of a money transmitter; or

2. Has contributed 10% or more of the capital of a money transmitter.

(g) "Currency" has the meaning stated in 31 C.F.R. § 1010.100(m).

(h) "Deposit in lieu of a surety bond" means an investment in:

(1) Cash;

(2) Unless found by the Commissioner to be unacceptable, a certificate of deposit or other debt obligation, except a capital note, of a State–chartered or federally chartered financial institution, other–state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain deposit or share accounts;

(3) Unless found by the Commissioner to be unacceptable:

(i) Obligations of or guaranteed by the United States, its departments, agencies, or instrumentalities, or obligations of any state, territory, or municipality or any political subdivision of any state, territory, or municipality;

(ii) Any investment securities, money market mutual funds, interest–bearing bills or notes, debentures, or stock traded on any national securities exchange or on a national over–the–counter market bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities; and

(iii) Any demand borrowing agreement or agreements in an amount or aggregate amount which does not exceed 10% of the net worth of the company liable for payment under the agreement or agreements as shown on financial statements certified by a certified public accountant acceptable to the Commissioner, provided that the company is a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange and is not a licensee or authorized delegate of a licensee under this subtitle; or

(4) Any other investment that the Commissioner approves.

(i) "Executive officer" means a president, vice president, senior officer responsible for business operations, chief financial officer, or any other individual who performs similar functions.

(j) "License" means a license issued in any form by the Commissioner under this subtitle to engage in the business of money transmission, including as provided for through NMLS.

(k) (1) "Licensed location" means any location listed by the licensee in NMLS in accordance with this subtitle.

(2) "Licensed location" includes a self–service financial kiosk.

(3) "Licensed location" does not include an authorized delegate.

(l) "Licensed name" means:

(1) The licensee's legal name; and

(2) Any trade name used by the licensee in accordance with § 2–121 of this article.

(m) "Licensee" means a person licensed under this subtitle to engage in the business of money transmission.

(n) "Material litigation" means litigation that according to generally accepted accounting principles:

(1) Is deemed significant to an applicant's or licensee's financial health; and

(2) Would be required to be referenced in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar document.

(o) "Monetary value" means a medium of exchange whether or not redeemable in money.

(p) (1) "Money transmission" means engaging in the business of selling or issuing payment instruments or prepaid access or receiving currency, funds, or other value that substitutes for currency and transferring currency, funds, or other value that substitutes for currency to another person or a location within or outside the United States by any means, including electronically, through the Internet, through a mobile application, through a network of persons, or through an informal value transfer system.

(2) "Money transmission" includes any other activity that the Commissioner identifies as money transmission by regulation.

(q) (1) "Money transmitter" means a person that engages in money transmission that is required to be licensed under this subtitle, whether or not the person maintains a license.

(2) "Money transmitter" includes:

(i) A bill payer service; and

(ii) An accelerated mortgage payment service.

(r) "Outstanding money transmission" means:

(1) With respect to a payment instrument or prepaid access, a payment instrument or prepaid access, that has been sold or issued in the United States directly by a licensee or an authorized delegate of a licensee that has been reported as not yet paid by or for the licensee; and

(2) With respect to money received for transmission, currency, funds, or other value that substitutes for currency received by a licensee or an authorized delegate of a licensee that has been received but not yet paid to the beneficiary.

(s) (1) "Payment instrument" means any electronic or written check, draft, money order, traveler's check, or other electronic or written instrument or order

for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable.

(2) "Payment instrument" does not include any credit card voucher, letter of credit, or tangible object redeemable by the issuer in goods or services.

(t) "Permissible investment" means:

(1) Cash;

(2) Unless found by the Commissioner to be unacceptable, a certificate of deposit or other debt obligation, except a capital note, of a State–chartered or federally chartered financial institution, other–state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain deposit or share accounts;

(3) Unless found by the Commissioner to be unacceptable:

(i) Obligations of or guaranteed by the United States, its departments, agencies, or instrumentalities, or obligations of any state, territory, or municipality or any political subdivision of any state, territory, or municipality;

(ii) Any investment securities, money market mutual fund, interest–bearing bills or notes, debentures or stock traded on any national securities exchange or on a national over–the–counter market bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities; and

(iii) Any demand borrowing agreement or agreements in an amount or aggregate amount which does not exceed 10% of the net worth of the company liable for payment under the agreement or agreements as shown on financial statements certified by a certified public accountant acceptable to the Commissioner, provided that the company is a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange and is not a licensee or authorized delegate of a licensee under this subtitle;

(4) Receivables that are due to a licensee from its authorized delegates under a contract described in § 12–413 of this subtitle that are not past due or doubtful of collection; or

(5) Any other investment that the Commissioner approves.

(u) (1) "Prepaid access" means access to funds or the value of funds that have been paid in advance and can be retrieved or transferred at some point in the future through an electronic device or vehicle including:

(i) A card;

(ii) A code;

(iii) An electronic serial number;

(iv) A mobile identification; or

(v) A personal identification.

(2) "Prepaid access" does not include access to funds or the value of funds that may be redeemed only in the issuer's goods or services.

(v) "Self–service financial kiosk" means a stand–alone automated platform through which a consumer may obtain money transmission services.

(w) "Surety device" means:

(1) A surety bond; or

(2) A deposit in lieu of a surety bond.

(x) "Unique identifier" means a number or another identifier assigned by NMLS.

[Previous][Next]