

HB 1241 - AS INTRODUCED

2024 SESSION

24-2199

10/05

HOUSE BILL ***1241***

AN ACT relative to regulation of money transmitters.

SPONSORS: Rep. Hunt, Ches. 14

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill revises the regulation and licensure of money transmitters by the banking department.

This bill is a request of the banking department.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to regulation of money transmitters.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Licensing of Money Transmitters. RSA 399-G is repealed and reenacted to read as follows:

2 CHAPTER 399-G

3 LICENSING OF MONEY TRANSMITTERS

4 399-G:1 Purpose. The purpose of this chapter is to:

5 I. Ensure New Hampshire can coordinate in all areas of regulation, licensing, and
6 supervision with other states to eliminate unnecessary regulatory burden and more efficiently utilize
7 regulator resources.

8 II. Protect the citizens of New Hampshire from financial crime.

9 III. Standardize the types of activities that are subject to licensing or otherwise exempt from
10 licensing.

11 IV. Modernize safety and soundness requirements to ensure customer funds are protected in
12 an environment that supports innovative and competitive business practices.

13 399-G:2 Definitions. The following terms shall have the following meanings, unless context
14 clearly indicates otherwise:

15 I. “Acting in concert” means persons knowingly acting together with a common goal of
16 jointly acquiring control of a licensee whether or not pursuant to an express agreement.

17 II. “Authorized delegate” means a person a licensee delegates to engage in money
18 transmission on behalf of the licensee.

19 III. “Average daily money transmission liability” means the amount of the licensee’s
20 outstanding money transmission obligations in New Hampshire at the end of each day in a given
21 period of time, added together, and divided by the total number of days in the given period of time.
22 For purposes of calculating average daily money transmission liability under this chapter for any
23 licensee required to do so, the given period of time shall be the quarters ending March 31, June 30,
24 September 30, and December 31.

25 IV. “Bank Secrecy Act” means the Bank Secrecy Act, 31 U.S.C. Section 5311, et seq., and its
26 implementing regulations, as amended and recodified from time to time.

27 V. “Closed loop stored value” means stored value that is redeemable by the issuer only for
28 goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate,
29 except to the extent required by applicable law to be redeemable in cash for its cash value.

30 VI.(a) “Control” means:

(1) The power to vote, directly or indirectly, at least 25 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

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

(3) 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.

(b) Provided that:

(1) A person is presumed to exercise controlling influence when a person holds the power to vote, directly or indirectly, at least 10 percent of the outstanding voting shares or voting interests of a licensee or person in control of the licensee.

(2) A person presumed to exercise a controlling influence as defined in this paragraph can rebut the presumption of control if the person is a passive investor.

(c) For purposes of determining the percentage of a person controlled by another person, the person's interest shall be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, mothers- and fathers-in law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares such persons home.

VII. "Convertible virtual currency" means a digital representation of value that:

(a) Can be a medium of exchange, a unit of account, and/or a store of value;

(b) Has an equivalent value in real currency or acts as a substitute for real currency;

(c) May be centralized or decentralized; and

(d) Can be exchanged for currency or other convertible virtual currency.

VIII. "Eligibility rating" means a credit rating of any of the 3 highest rating categories provided by an eligibility rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for the S&P, or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or high than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligibility rating.

IX. "Eligible rating service" means any nationally recognized statistical rating organization (NRSRO) as defined by the United States Securities and Exchange Commission, and any other organization designated by the commissioner by rule or order.

X. "Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank, or industrial loan company organized under the laws of the United States or any state of the United

1 States, when such bank, credit union, savings and loan association, trust company, savings
2 association, savings bank, industrial bank, or industrial loan company has federal insured deposits.

3 XI. "In this state" means at a physical location within New Hampshire for a transaction
4 requested in person. For a transaction requested electronically or by phone, the provider of money
5 transmission may determine if the person requesting the transaction is "in this state" by relying on
6 other information provided by the person regarding the location of the individual's residential
7 address or a business entity's principal place of business or other physical address location, and any
8 records associated with the person that the provider of money transmission may have that indicate
9 such location, including but not limited to an address associated with an account.

10 XII. "Individual" means a natural person.

11 XIII. "Key individual" means any individual ultimately responsible for establishing or
12 directing policies and procedures of the licensee, such as an executive officer, manager, director, or
13 trustee.

14 XIV. "Licensee" means a person licensed pursuant to this chapter.

15 XV. "Material litigation" means litigation that, according to United States generally
16 accepted accounting principles, is significant to a person's financial health and would be required to
17 be disclosed in the person's annual audited financial statements, report to shareholders, or similar
18 records.

19 XVI. "Money" means a medium of exchange that is authorized or adopted by the United
20 States or a foreign government. The term includes a monetary unit of account established by an
21 intergovernmental organization or by agreement between 2 or more governments.

22 XVII. "Monetary value" means a medium of exchange, whether or not redeemable in money.

23 XVIII. "Money transmission" means any of the following:

24 (a) Selling or issuing payment instruments to a person located in this state.

25 (b) Selling or issuing stored value to a person located in this state.

26 (c) Receiving money for transmission from a person located in this state. The term
27 includes payroll processing services. The term does not include the provision solely of online or
28 telecommunications services or network access.

29 XIX. "MSB accredited state" means a state agency that is accredited by the Conference of
30 State Bank Supervisors and Money Transmitter Regulators Association for money transmission
31 licensing and supervision.

32 XX. "Multistate licensing process" means any agreement entered into by and among state
33 regulators relating to coordinated processing of applications for money transmission licenses,
34 applications for the acquisition of control of a licensee, control determinations, or notice and
35 information requirements for a change of key individuals.

36 XXI. "NMLS" means the Nationwide Multistate Licensing System and Registry developed
37 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage

1 Regulators and owned and operated by the State Regulatory Registry, LLC, or any successor or
2 affiliated entity, for the licensing and registration of persons in financial services industries.

3 XXII. "Outstanding money transmission obligations" shall be established and extinguished
4 in accordance with applicable state law and shall mean:

5 (a) Any payment instrument or stored value issued or sold by the licensee to a person
6 located in the United States or reported as sold by an authorized delegate of the licensee to a person
7 that is located in the United States that has not yet been paid or refunded by or for the licensee, or
8 escheated in accordance with applicable abandoned property laws; or

9 (b) Any money received for transmission by the licensee or an authorized delegate in the
10 United States from a person located in the United States that has not been received by the payee or
11 refunded to the sender, or escheated in accordance with applicable abandoned property laws.

12 (c) For purposes of this paragraph, "in the United States" shall include, to the extent
13 applicable, a person in any state, territory, or possession of the United States; the District of
14 Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a
15 foreign country.

16 XXIII. "Passive investor" means a person that:

17 (a) Does not have the power to elect a majority of key individuals or executive officers,
18 managers, directors, trustees, or other persons exercising managerial authority of a person in control
19 of a licensee;

20 (b) Is not employed by and does not have any managerial duties of the licensee or person
21 in control of a licensee;

22 (c) Does not have the power to exercise, directly or indirectly, a controlling influence over
23 the management or policies of a licensee or person in control of a licensee; and

24 (d) Either attests to subparagraphs (a), (b), and (c), in a form and in a medium
25 prescribed by the commissioner or commits to the passivity characteristics of subparagraphs (a), (b),
26 and (c), in a written document.

27 XXIV. "Payment instrument" means a written or electronic check, draft, money order,
28 traveler's check, or other written or electronic instrument for the transmission or payment of money
29 or monetary value, whether or not negotiable. The term does not include stored value or any
30 instrument that (1) is redeemable by the issuer only for goods or services provided by the issuer or
31 its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law
32 to be redeemable in cash for its cash value; or (2) not sold to the public but issued and distributed as
33 part of a loyalty, rewards, or promotional program.

34 XXV. "Payroll processing services" means receiving money for transmission pursuant to a
35 contract with a person to deliver wages or salaries, make payment of payroll taxes to state and
36 federal agencies, make payments relating to employee benefit plans, or make distributions of other
37 authorized deductions from wages or salaries. The term payroll processing services does not include

1 an employer performing payroll processing services on its own behalf or on behalf of its affiliate, or a
2 professional employment organization subject to regulation under other applicable state law.

3 XXVI. "Person" means any individual, general partnership, limited partnership, limited
4 liability company, corporation, trust, association, joint stock corporation, or other corporate entity
5 identified by the commissioner by rule or order.

6 XXVII. "Receiving money for transmission" or "money received for transmission" means
7 receiving money or monetary value in the United States for transmission within or outside the
8 United States by electronic or other means.

9 XXVIII. "Stored value" means monetary value representing a claim against the issuer
10 evidenced by an electronic or digital record, and that is intended and accepted for use as a means of
11 redemption for money or monetary value, or payment for goods or services. The term includes, but is
12 not limited to, "prepaid access" as defined by 31 C.F.R. Section 1010.100, as amended or recodified
13 from time to time. Notwithstanding the foregoing, the term "stored value" does not include a
14 payment instrument or closed loop stored value, or stored value not sold to the public but issued and
15 distributed as part of a loyalty, rewards, or promotional program.

16 XXIX. "Tangible net worth" shall mean the aggregate assets of a licensee excluding all
17 intangible assets, less liabilities, as determined in accordance with United States generally accepted
18 accounting principles.

19 399-G:3 Exemptions. The provisions of this chapter shall not apply to:

20 I. Any bank, trust company, savings and loan association, profit sharing and pension trust,
21 credit union, thrift company, insurance company, or receivership, which may be chartered by this
22 state or any other state or by any agency of the United States.

23 II. The United States or any department, instrumentality, or agency thereof.

24 III. A state, county, city, or any other governmental agency or governmental subdivision of a
25 state.

26 IV. Electronic funds transfer of governmental benefits for a federal, state, county, or
27 governmental agency by a contractor on behalf of the United States or a department, agency, or
28 instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality thereof.

29 V. Retailers issuing stored value credits or gift cards.

30 VI. A debt adjuster duly licensed pursuant to RSA 399-D that acts as a money transmitter
31 for the sole purpose of providing a debt adjustment service to a consumer under terms of a contract
32 issued pursuant to RSA 399-D and that has a surety bond on file with the commissioner under RSA
33 399-D in the amount of \$100,000.

34 VII. Persons who engage in the business of selling or issuing payment instruments or stored
35 value solely in the form of convertible virtual currency or receive convertible virtual currency for
36 transmission to another location. Such persons shall be subject to the provisions of RSA 358-A.

VIII. Other persons not within the intent of this chapter as the commissioner may designate by rule or order.

IX. An operator of a payment system to the extent it provides processing, clearing, or settlement services, between or among persons exempted by this section or licensees, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers.

X. A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:

(a) There exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(b) The payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(c) Payment for the goods or services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee.

XI. A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity on whose behalf the person is acting as intermediary:

(a) Is properly licensed or exempt from licensing requirements under this chapter;

(b) Provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(c) Bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient.

XII. Money transmission by the United States Postal Service or by an agent of the United States Postal Service.

XIII. A board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. Sections 1-25, as amended or recodified from time to time, or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board.

XIV. A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.

XV. A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer.

XVI. An individual employed by a licensee, authorized delegate, or any person exempted from the licensing requirements of this chapter when acting within the scope of employment and

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1 under the supervision of the licensee, authorized delegate, or exempted person as an employee and
2 not as an independent contractor.

3 XVII. A person expressly appointed as a third party service provider to or agent of an entity
4 exempt under paragraph I, solely to the extent that:

5 (a) Such service provider or agent is engaging in money transmission on behalf of and
6 pursuant to a written agreement with the exempt entity that sets forth the specific functions that
7 the service provider or agent is to perform; and

8 (b) The exempt entity assumes all risk of loss and all legal responsibility for satisfying
9 the outstanding money transmission obligations owed to purchasers and holders of the outstanding
10 money transmission obligations upon receipt of the purchaser's or holder's currency or monetary
11 value by the service provider or agent.

12 399-G:4 Implementation; Authority of the Commissioner. The commissioner shall administer,
13 interpret, and enforce this chapter. The commissioner may adopt rules implementing this chapter,
14 and may assess fees and costs associated with applications, examinations, investigations, and other
15 actions taken to achieve the purpose of this chapter. The commissioner may:

16 I. Enter into agreements or relationships with other government officials or federal and
17 state regulatory agencies and regulatory associations in order to improve efficiencies and reduce
18 regulatory burden by standardizing methods or procedures, and sharing resources, records, or
19 related information obtained pursuant to this chapter.

20 II. Use, hire, contract, or employ analytical systems, methods, or software to examine or
21 investigate any person subject to this chapter.

22 III. Accept, from other state or federal agencies or officials, licensing, examination, or
23 investigation reports made by such other state or federal government agencies or officials.

24 IV. Accept audit reports made by an independent certified public accountant or other
25 qualified third-party auditor for an applicant or licensee and incorporate the audit report in any
26 report of examination or investigation.

27 V. Prepare, alter, or withdraw such forms as are necessary to comply with the provisions of
28 this chapter.

29 VI. Issue, amend, or rescind such orders as are reasonably necessary to carry out the
30 provisions of this chapter.

31 VII. Abate all or a portion of delinquency penalties assessed under this chapter.

32 VIII. Subpoena witnesses and administer oaths in any adjudicative proceeding and compel,
33 by subpoena duces tecum, the production of documents, papers, books, records, files, and other
34 evidence, whether electronically stored or otherwise, before the commissioner in any matter over
35 which the commissioner has jurisdiction, control, or supervision.

36 IX. Administer oaths and affirmation to any person whose testimony is required.

1 X. Adopt fees under RSA 541-A to be charged to cover the reasonable costs of copying
2 documents and producing reports.

3 XI. Receive and investigate consumer complaints naming licensees under this chapter which
4 are filed with the commissioner in accordance with RSA 399-G:37.

5 399-G:5 Confidentiality.

6 I. Except as otherwise provided in paragraph II and RSA 383:10-b, all information or reports
7 obtained by the commissioner from an applicant, licensee, or authorized delegate, and all
8 information contained in or related to an examination, investigation, operating report, or condition
9 report prepared by, on behalf of, or for the use of the commissioner, or financial statements, balance
10 sheets, or authorized delegate information, are confidential and are not subject to disclosure under
11 RSA 91-A.

12 II. The commissioner may disclose information not otherwise subject to disclosure under this
13 section or RSA 383:10-b to representatives of state or federal agencies who promise in a record that
14 they will maintain the confidentiality of the information or where the commissioner finds that the
15 release is reasonably necessary for the protection and interest of the public.

16 III. This section shall not prohibit the commissioner from disclosing to the public a list of all
17 licensees or the aggregated financial or transactional data concerning those licensees.

18 IV. Information contained in the records of banking department that is not confidential and
19 may be made available to the public in accordance with RSA 91-A shall include:

- 20 (a) The name, business address, telephone number, and unique identifier of a licensee;
21 (b) The business address of a licensee's registered agent for service;
22 (c) The name, business address, and telephone number of all authorized delegates;
23 (d) The terms of or a copy of any bond filed by a licensee, provided that confidential
24 information, including, but not limited to, prices and fees for such bond is redacted;
25 (e) Copies of any non-confidential final orders of the department relating to any violation
26 of this chapter or its implementing regulations; and
27 (f) The imposition of an administrative fine or penalty under this chapter.

28 399-G:6 Supervision; Examination.

29 I. The commissioner may conduct an examination or investigation of a licensee or authorized
30 delegate, or may otherwise take independent action authorized by this chapter as reasonably
31 necessary or appropriate to administer and enforce the provisions of this chapter and other
32 applicable rules, regulations, and laws, including the Bank Secrecy Act and the USA PATRIOT Act.
33 The commissioner may:

- 34 (a) Conduct an examination either on-site or off-site as the commissioner may
35 reasonably require;
36 (b) Conduct an examination in conjunction with an examination conducted by
37 representatives of other state agencies or agencies of another state or of the federal government;

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1 (c) Accept an examination report of another state agency or an agency of another state or
2 of the federal government, or a report prepared by an independent accounting firm, which on being
3 accepted is considered for all purposes as an official report of the commissioner; and

4 (d) Summon and examine under oath a key individual or employee of a licensee or
5 authorized delegate and require the person to produce records regarding any matter related to the
6 condition and business of the licensee or authorized delegate.

7 II. A licensee or authorized delegate shall provide, and the commissioner shall have full and
8 complete access to, all records the commissioner may reasonably require to conduct a complete
9 examination. The records shall be provided at the location and in the format specified by the
10 commissioner, provided that the commissioner may utilize multistate record production standards
11 and examination procedures when such standards will reasonably achieve the requirements of this
12 section.

13 III. Unless otherwise directed by the commissioner, a licensee shall pay all costs reasonably
14 incurred in connection with an examination of the licensee or the licensee's authorized delegates.

15 IV. Licensees and authorized delegates being examined pursuant to this chapter shall
16 deliver to the commissioner any files or documents requested within 28 days of receipt of the
17 request. Failure to provide files or documents within 28 days shall subject a licensee or authorized
18 delegate to a fine of \$50 per day for each day the files or documents are not produced. Failure to
19 provide files or documents within 60 days after receipt of the request shall be sufficient cause for
20 license revocation, suspension, or denial, or other penalties under this chapter.

21 399-G:7 License Required. No person shall engage in the business of money transmission or
22 advertise, solicit, or hold itself out as providing money transmission in this state unless the person is
23 licensed pursuant to this chapter or exempt pursuant to RSA 399-G:3. Nothing in this section shall
24 prohibit an authorized delegate of a person licensed under this chapter from acting within the scope
25 of authority conferred by a written contract with the licensee. Licenses issued pursuant to this
26 chapter are non-transferable and non-assignable.

27 399-G:8 Application for License.

28 I. Applicants for a license shall apply in a form and in a medium as prescribed by the
29 commissioner. The application shall be submitted through NMLS and shall contain the following
30 information:

31 (a) The legal name and residential and business addresses of the applicant and any
32 fictitious or trade name used by the applicant in conducting its business;

33 (b) A list of any criminal convictions of the applicant and any material litigation in
34 which the applicant has been involved in the ten-year period immediately preceding the submission
35 of the application;

36 (c) A description of any money transmission previously provided by the applicant and
37 the money transmission that the applicant seeks to provide in New Hampshire;

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1 (d) A list of the applicant's proposed authorized delegates and the locations in this state
2 where the applicant and its authorized delegates propose to engage in money transmission;

3 (e) A list of other states in which the applicant is licensed to engage in money
4 transmission and any license revocations, suspensions, or other disciplinary action taken against the
5 applicant in another state;

6 (f) Information concerning any bankruptcy or receivership proceedings affecting the
7 licensee or a person in control of a licensee;

8 (g) The name and address of any federally insured depository financial institution
9 through which the applicant plans to conduct money transmission; and

10 (h) Any other information the commissioner or NMLS reasonably requires with respect
11 to the applicant.

12 II. If an applicant is a corporation, limited liability company, partnership, or other legal
13 entity, the applicant shall also provide:

14 (a) The date of the applicant's incorporation or formation and state or country of
15 incorporation or formation;

16 (b) A brief description of the structure or organization of the applicant, including any
17 parents or subsidiaries of the applicant, and whether any parents or subsidiaries are publicly traded;

18 (c) The legal name, any fictitious or trade name, all business and residential addresses,
19 and the employment, as applicable, in the ten-year period immediately preceding the submission of
20 the application of each key individual and person in control of the applicant;

21 (d) A list of any criminal convictions and material litigation in which a person in control
22 of the applicant that is not an individual has been involved in the 10-year period preceding the
23 submission of the application;

24 (e) A copy of audited financial statements of the applicant for the most recent fiscal year
25 and for the two-year period immediately preceding the submission of the application or, if
26 determined to be acceptable to the commissioner, certified unaudited financial statements for the
27 most recent fiscal year or other period acceptable to the commissioner;

28 (f) A certified copy of unaudited financial statements of the applicant for the most recent
29 fiscal quarter;

30 (g) If the applicant is a publicly traded corporation, a copy of the most recent report filed
31 with the United States Securities and Exchange Commission under Section 13 of the federal
32 Securities Exchange Act of 1934, 15 U.S.C. Section 78m, as amended or recodified from time to time;

33 (h) If the applicant is a wholly owned subsidiary of a corporation publicly traded in the
34 United States, a copy of audited financial statements for the parent corporation for the most recent
35 fiscal year or a copy of the parent corporation's most recent report filed under Section 13 of the U.S.
36 Securities Exchange Act of 1934, 15 U.S.C. Section 78m, as amended or recodified from time to time.

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1 (i) If the applicant is a wholly owned subsidiary of a corporation publicly traded outside
2 the United States, a copy of documentation similar to that required in subparagraph (i) above, filed
3 with the regulator of the parent corporation's domicile outside the United States;

4 (j) The name and address of the applicant's registered agent in this state; and

5 (k) Any other information the commissioner reasonably requires with respect to the
6 applicant.

7 III. A nonrefundable application fee of \$500 shall accompany an application for a license
8 under this section.

9 IV. The commissioner may waive one or more requirements of paragraphs I and II or permit
10 an applicant to submit other information in lieu of the required information.

11 V. A nonrefundable fee of \$25 shall accompany any application for registration as an
12 authorized delegate.

13 399-G:9 Information Requirements for Certain Individuals.

14 I. Any individual in control of a licensee or applicant, any individual that seeks to acquire
15 control of a licensee, and each key individual shall furnish to the commissioner through NMLS the
16 following items:

17 (a) The individual's fingerprints for submission to the Federal Bureau of Investigation
18 and the commissioner for purposes of a national criminal history background check unless the
19 person currently resides outside of the United States and has resided outside of the United States
20 for the last 10 years.

21 (b) Personal history and experience in a form and in a medium prescribed by the
22 commissioner, including the following:

23 (1) An independent credit report from a consumer reporting agency unless the
24 individual does not have a Social Security number, in which case, this requirement shall be waived;

25 (2) Information related to any criminal convictions or pending charges; and

26 (3) Information related to any regulatory or administrative action and any civil
27 litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach
28 of fiduciary duty, or breach of contract.

29 II. If the individual has resided outside of the United States at any time in the last ten
30 years, the individual shall also provide an investigative background report prepared by an
31 independent search firm that meets the following minimum requirements:

32 (a) The search firm shall demonstrate that it has sufficient knowledge, resources, and
33 employs accepted and reasonable methodologies to conduct the research of the background report;
34 and

35 (b) The search firm shall not be affiliated with or have an interest with the individual it
36 is researching.

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1 (c) The investigative background report shall be written in the English language and
2 shall contain the following:

3 (1) If available in the individual's current jurisdiction of residency, a comprehensive
4 credit report, or any equivalent information obtained or generated by the independent search firm to
5 accomplish such report, including a search of the court data in the countries, provinces, states, cities,
6 towns, and contiguous areas where the individual resided and worked;

7 (2) Criminal records information for the past 10 years, including, but not limited to,
8 felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states,
9 cities, towns, and contiguous areas where the individual resided and worked;

10 (3) Employment history;

11 (4) Media history, including an electronic search of national and local publications,
12 wire services, and business applications; and

13 (5) Financial services-related regulatory history, including but not limited to, money
14 transmission, securities, banking, insurance, and mortgage related industries.

15 399-G:10 Issuance of License.

16 I. When an application for an original license under this chapter appears to include all the
17 items and addresses all of the matters that are required, the application is complete and the
18 commissioner shall promptly notify the applicant in a record of the date on which the application is
19 determined to be complete, and:

20 (a) The commissioner shall approve or deny the application within 120 days after the
21 completion date; or

22 (b) If the application is not approved or denied within 120 days after the completion
23 date, the application is approved and the license takes effect as of the first business day after
24 expiration of the 120-day period.

25 II. The commissioner may extend the time period for review provided for in paragraph I
26 upon written agreement of the applicant.

27 III. A determination by the commissioner that an application is complete and is accepted for
28 processing means only that the application, on its face, appears to include all of the items, including
29 the criminal background check response from the FBI, and address all of the matters that are
30 required, and is not an assessment of the substance of the application or of the sufficiency of the
31 information provided.

32 IV. When an application is filed and considered complete under this section, the
33 commissioner shall investigate the applicant's financial condition and responsibility, financial and
34 business experience, character, and general fitness. The commissioner may conduct an on-site
35 investigation of the applicant, the reasonable cost of which the applicant must pay. The
36 commissioner shall issue a license to an applicant under this section if he or she finds that the
37 following conditions have been fulfilled:

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1 (a) The applicant has complied with the requirements of this chapter; and

2 (b) The financial condition and responsibility, financial and business experience,
3 competence, character, and general fitness of the applicant; and the competence, experience,
4 character, and general fitness of the key individuals and persons in control of the applicant indicate
5 that it is in the interest of the public to permit the applicant to engage in money transmission.

6 V. If an applicant avails itself or is otherwise subject to a multistate licensing process:

7 (a) The commissioner is authorized and encouraged to accept the investigation results of
8 a lead investigative state for the purpose of paragraph IV if the lead investigative state has
9 sufficient staffing, expertise, and minimum standards; or

10 (b) If New Hampshire is a lead investigative state, the commissioner is authorized and
11 encouraged to investigate the applicant pursuant to paragraph IV and the timeframes established by
12 agreement through the multistate licensing process, provided however, that in no case shall such
13 timeframe be noncompliant with the application period in paragraph I.

14 VI. The commissioner shall issue a formal written notice of the denial of a license
15 application within 30 days of the decision to deny the application. The commissioner shall set forth
16 in the notice of denial the specific reasons for the denial of the application. An applicant whose
17 application is denied by the commissioner may appeal within 30 days after receipt of the written
18 notice of the denial pursuant to RSA 541-A.

19 VII. The initial license term shall begin on the day the application is approved. The license
20 shall expire on December 31 of the year in which the license term began, unless the initial license
21 date is between November 1 and December 31, in which instance the initial license term shall run
22 through December 31 of the following year.

23 399-G:11 Renewal of License.

24 I. Licenses issued pursuant to this chapter shall be renewed annually. The renewal term
25 shall be for a period of one year and shall begin on January 1 of each year after the initial license
26 term and shall expire on December 31 of the year the renewal term begins. An annual renewal fee of
27 \$500 shall be submitted with the application for renewal.

28 II. A licensee shall submit a renewal application with the renewal fee, in a form and in a
29 medium prescribed by the commissioner. The renewal application must state or contain a
30 description of each material change in information submitted by the licensee in its original license
31 application which has not been reported to the commissioner.

32 III. The commissioner for good cause may grant an extension of the renewal date.

33 IV. The commissioner is authorized to utilize NMLS to process license renewals provided
34 that such functionality is consistent with this section.

35 V. Authorized delegates shall renew their registrations annually. A fee of \$25 shall be
36 submitted with the renewal.

37 399-G:12 Maintenance of License; License Surrender.

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1 I. If at any point the licensee does not continue to meet the qualifications or satisfy the
2 requirements that apply to an applicant for a new money transmission license, the commissioner
3 may suspend or revoke the licensee's license in accordance with the procedures established by this
4 chapter and as required in RSA 541-A.

5 II. An applicant for money transmission license must demonstrate that it meets or will
6 meet, and a money transmission licensee must at all times meet, the net worth, surety bond, and
7 permissible investment requirements established in this chapter.

8 III. A licensee who ceases to engage in the business of money transmission at any time
9 during a license year for any cause shall surrender such principal license and any authorized
10 delegate registrations, and within 15 calendar days of such cessation shall publish, whether in a
11 newspaper of general circulation in the licensee's market area or via electronic means such as the
12 licensee's Internet website, a notice to such effect. The licensee shall provide any documentation the
13 commissioner may require as part of the surrender request. Surrender of a licensee shall not take
14 effect until the commissioner deems the surrender process complete.

15 IV. Failure to comply with paragraph III shall be cause for a denial of future license
16 applications and the imposition of penalties under RSA 399-G:35.

17 399-G:13 Acquisition of Control.

18 I. Any person, or group of persons acting in concert, seeking to acquire control of a licensee
19 shall obtain approval of the commissioner prior to acquiring control. An individual is not deemed to
20 acquire control of a licensee and is not subject to these acquisition of control provisions when that
21 individual becomes a key individual in the ordinary course of business.

22 II. A person, or group of persons acting in concert, seeking to acquire control of a licensee
23 shall, in cooperation with the licensee:

24 (a) Submit information regarding the change in control as required by the commissioner
25 through NMLS; and

26 (b) Submit a nonrefundable fee of \$500 with the request for approval.

27 III. Upon request, the commissioner may permit a licensee or the person, or group of persons
28 acting in concert, to submit some or all information required pursuant to paragraph II without using
29 NMLS.

30 IV. The application required by paragraph II shall include information required by RSA 399-
31 G:9 for any new key individuals that have not previously completed the requirements of that section
32 for a licensee.

33 V. When an application for acquisition of control under this section appears to include all
34 the items and address all of the matters that are required, the application shall be considered
35 complete and the commissioner shall promptly notify the applicant in a record of the date on which
36 the application was determined to be complete. The commissioner shall approve or deny the
37 application within 60 days after the completion date. If the application is not approved or denied

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1 within 60 days after the completion date, the application shall be deemed approved the person, or
2 group of persons acting in concert, are not prohibited from acquiring control. The commissioner may
3 for good cause extend the application period upon written agreement of the applicant.

4 VI. A determination by the commissioner that an application is complete and is accepted for
5 processing means only that the application, on its face, appears to include all of the items and
6 address all of the matters that are required, and is not an assessment of the substance of the
7 application or of the sufficiency of the information provided.

8 VII. When an application is filed and considered complete, the commissioner shall
9 investigate the financial condition and responsibility, financial and business experience, character,
10 and general fitness of the person, or group of persons acting in concert, seeking to acquire control.
11 The commissioner shall approve an acquisition of control pursuant to this section if the
12 commissioner finds that all of the following conditions have been fulfilled:

13 (a) The requirements of this section have been met, as applicable; and

14 (b) The financial condition and responsibility, financial and business experience,
15 competence, character, and general fitness of the person, or group of persons acting in concert,
16 seeking to acquire control; and the competence, experience, character, and general fitness of the key
17 individuals and persons that would be in control of the licensee after the acquisition of control
18 indicate that it is in the interest of the public to permit the person, or group of persons acting in
19 concert, to control the licensee.

20 VIII. If an applicant avails itself or is otherwise subject to a multistate licensing process:

21 (a) The commissioner is authorized and encouraged to accept the investigation results of
22 a lead investigative state for the purpose of this section if the lead investigative state has sufficient
23 staffing, expertise, and minimum standards; or

24 (b) If New Hampshire is a lead investigative state, the commissioner is authorized and
25 encouraged to investigate the applicant pursuant to this section and the timeframes established by
26 agreement through the multistate licensing process.

27 IX. The commissioner shall issue a formal written notice of the denial of an application to
28 acquire control within 30 days of the decision to deny the application. The commissioner shall set
29 forth in the notice of denial the specific reasons for the denial of the application. An applicant whose
30 application is denied by the commissioner may appeal within thirty days after receipt of the written
31 notice of the denial in accordance with the procedures set forth in RSA 541-A.

32 X. The requirements of paragraphs I and II do not apply to any of the following:

33 (a) A person that acts as a proxy for the sole purpose of voting at a designated meeting of
34 the shareholders or holders of voting shares or voting interests of a licensee or a person in control of
35 a licensee;

36 (b) A person that acquires control of a licensee by devise or descent;

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1 (c) A person that acquires control of a licensee as a personal representative, custodian,
2 guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by
3 operation of law;

4 (d) A person that is exempt from licensure;

5 (e) A person that the commissioner determines by order is not subject to paragraph I
6 based on the public interest;

7 (f) A public offering of securities of a licensee or a person in control of a licensee; or

8 (g) An internal reorganization of a person in control of the licensee where the ultimate
9 person in control of the licensee remains the same.

10 XI. Persons in subparagraphs X(b)-(d) and (f)-(g) in cooperation with the licensee shall notify
11 the commissioner within 15 days after the acquisition of control.

12 XII.(a) The requirements of paragraphs I-II do not apply to a person that has complied with
13 and received approval to engage in money transmission under this chapter or was identified as a
14 person in control in a prior application filed with and approved by the commissioner or by an MSB
15 accredited state pursuant to a multistate licensing process, provided that:

16 (1) The person has not had a license revoked or suspended or controlled a licensee
17 that has had a license revoked or suspended while the person was in control of the licensee in the
18 previous 5-years;

19 (2) If the person is a licensee, the person is well managed and has received at least a
20 satisfactory rating for compliance at its most recent examination by an MSB accredited state if such
21 rating was given;

22 (3) The licensee to be acquired is projected to meet the requirements of this chapter
23 relating to net worth, surety bond, and permissible investments after the acquisition of control is
24 completed, and if the person acquiring control is a licensee, that licensee is also projected to meet
25 such requirements after the acquisition of control is completed;

26 (4) The licensee to be acquired will not implement any material changes to its
27 business plan as a result of the acquisition of control, and if the person acquiring control is a
28 licensee, that licensee also will not implement any material changes to its business plan as a result
29 of the acquisition of control; and

30 (5) The person provides notice of the acquisition in cooperation with the licensee and
31 attests to subparagraphs (1)-(4) in a form and in a medium prescribed by the commissioner.

32 (b) If the notice is not disapproved within 30 days after the date on which the notice was
33 determined to be complete, the notice is deemed approved.

34 XIII. Before filing an application for approval to acquire control of a licensee a person may
35 request in writing a determination from the commissioner as to whether the person would be
36 considered a person in control of a licensee upon consummation of a proposed transaction. If the

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1 commissioner determines that the person would not be a person in control of a licensee, the proposed
2 person and transaction is not subject to the requirements of this section.

3 XIV. If a multistate licensing process includes a determination pursuant to paragraph XIII
4 and an applicant avails itself or is otherwise subject to the multistate licensing process:

5 (a) The commissioner is authorized and encouraged to accept the control determination
6 of a lead investigative state with sufficient staffing, expertise, and minimum standards for the
7 purpose of paragraph XIII; or

8 (b) If New Hampshire is a lead investigative state, the commissioner is authorized and
9 encouraged to investigate the applicant pursuant to paragraph XIII and the timeframes established
10 by agreement through the multistate licensing process.

11 399-G:14 Notice and Information Requirements for a Change of Key Individuals.

12 I. A licensee adding or replacing any key individual shall:

13 (a) Provide notice in a manner prescribed by the commissioner within 15 days after the
14 effective date of the key individual's appointment; and

15 (b) Provide information as required by RSA 399-G:9 within 45 days of the effective date.

16 II. Within 90 days of the date on which the notice provided pursuant to paragraph I was
17 determined to be complete, the commissioner may issue a notice of disapproval of a key individual if
18 the competence, experience, character, or integrity of the individual would not be in the best
19 interests of the public or the customers of the licensee to permit the individual to be a key individual
20 of such licensee.

21 III. A notice of disapproval shall contain a statement of the basis for disapproval and shall
22 be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval
23 pursuant to RSA 541-A after receipt of such notice of disapproval.

24 IV. If the notice provided pursuant to paragraph I is not disapproved within 90 days after
25 the date on which the notice was determined to be complete, the key individual is deemed approved.

26 V. If a multistate licensing process includes a key individual notice review and disapproval
27 process pursuant to this section and the licensee avails itself or is otherwise subject to the multistate
28 licensing process:

29 (a) The commissioner is authorized and encouraged to accept the determination of
30 another state if the investigating state has sufficient staffing, expertise, and minimum standards for
31 the purpose of this section; or

32 (b) If New Hampshire is a lead investigative state, the commissioner is authorized and
33 encouraged to investigate the applicant pursuant to paragraph II and the timeframes established by
34 agreement through the multistate licensing process.

35 399-G:15 Report of Condition.

36 I. Each licensee shall submit a report of condition within 45 days of the end of the calendar
37 quarter, or within any extended time as the commissioner may prescribe.

1 II. The report of condition shall include:

2 (a) Financial information at the licensee level;

3 (b) Nationwide and state-specific money transmission transaction information in every
4 jurisdiction in the United States where the licensee is licensed to engage in money transmission;

5 (c) Permissible investments report;

6 (d) Average daily outstanding transmission liability;

7 (e) Transaction destination country reporting for money received for transmission, if
8 applicable; and

9 (f) Any other information the commissioner reasonably requires with respect to the
10 licensee. The commissioner is authorized and encouraged to utilize NMLS for the submission of the
11 report required by this section and is authorized to update as necessary the requirements of this
12 section to carry out the purposes of this chapter and maintain consistency with NMLS reporting.

13 III. The information required by paragraph II(d) shall only be included in a report of
14 condition submitted within 45 days of the end of the fourth calendar quarter.

15 IV. Any licensee failing to file a report required under this section within the time
16 prescribed shall be subject to a late fee of \$25 for each calendar day the report is overdue, up to a
17 maximum penalty of \$625.

18 399-G:16 Audited Financials.

19 I. Each licensee shall, within 90 days after the end of each fiscal year, or within any
20 extended time as the commissioner may prescribe, file with the commissioner:

21 (a) An audited financial statement of the licensee for the fiscal year prepared in
22 accordance with United States generally accepted accounting principles; and

23 (b) Any other information as the commissioner may reasonably require.

24 II. The audited financial statements shall be prepared by an independent certified public
25 accountant or independent public accountant who is satisfactory to the commissioner;

26 III. The audited financial statements shall include or be accompanied by a certificate of
27 opinion of the independent certified public accountant or independent public accountant that is
28 satisfactory in form and content to the commissioner. If the certificate or opinion is qualified, the
29 commissioner may order the licensee to take any action as the commissioner may find necessary to
30 enable the independent or certified public accountant or independent public accountant to remove
31 the qualification.

32 IV. Any licensee failing to file the financial statement required by this section within the
33 time prescribed shall be subject to a late fee of \$25 for each calendar day the statement is overdue,
34 up to a maximum penalty of \$2,500.

35 399-G:17 Authorized Delegate Reporting.

36 I. Each licensee shall submit a report of authorized delegates within 45 days of any change
37 to the number of authorized delegates. The commissioner is authorized and encouraged to utilize

1 NMLS for the submission of the report required by this section provided that such functionality is
2 consistent with the requirements of this section.

3 II. The authorized delegate report shall include, at a minimum, each authorized delegate's:

- 4 (a) Company legal name;
- 5 (b) Taxpayer employer identification number;
- 6 (c) Principal provider identifier;
- 7 (d) Physical address;
- 8 (e) Mailing address;
- 9 (f) Any business conducted in other states;
- 10 (g) Any fictitious or trade name;
- 11 (h) Contact person name, phone number, and email
- 12 (i) Start date as licensee's authorized delegate;
- 13 (j) End date acting as licensee's authorized delegate, if applicable; and
- 14 (k) Any other information the commissioner reasonably requires with respect to the
15 authorized delegate.

16 399-G:18 Reports of Certain Events.

17 I. A licensee shall file a report with the commissioner within one business day after the
18 licensee has reason to know of the occurrence of any of the following events:

- 19 (a) The filing of a petition by or against the licensee under the United States Bankruptcy
20 Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for bankruptcy or
21 reorganization;
- 22 (b) The filing of a petition by or against the licensee for receivership, the commencement
23 of any other judicial or administrative proceeding for its dissolution or reorganization, or the making
24 of a general assignment for the benefit of its creditors; or
- 25 (c) The commencement of a proceeding to revoke or suspend its license in a state or
26 country in which the licensee engages in business or is licensed.

27 II. A licensee shall file a report with the commissioner within 3 business day after the
28 licensee has reason to know of the occurrence of any of the following events:

- 29 (a) A conviction of the licensee or of a key individual or person in control of the licensee
30 for a felony; or
- 31 (b) A conviction of an authorized delegate for a felony.

32 399-G:19 Bank Secrecy Act Reports. A licensee and an authorized delegate shall file all reports
33 required by federal currency reporting, record keeping, and suspicious activity reporting
34 requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to
35 money laundering. The timely filing of a complete and accurate report required under this section
36 with the appropriate federal agency is deemed compliant with the requirements of this section.

37 399-G:20 Records.

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1 I. Licensee shall maintain the following records, for determining its compliance with this
2 chapter for at least 3 years:

- 3 (a) A record of each outstanding money transmission obligation sold;
- 4 (b) A general ledger posted at least monthly containing all asset, liability, capital,
5 income, and expense accounts;
- 6 (c) Bank statements and bank reconciliation records;
- 7 (d) Records of outstanding money transmission obligations;
- 8 (e) Records of each outstanding money transmission obligation paid within the 3-year
9 period;
- 10 (f) A list of the last known names and addresses of all of the licensee's authorized
11 delegates; and
- 12 (g) Any other records the commissioner reasonably requires by rule.

13 II. The items specified in paragraph I may be maintained in any form of record and may be
14 maintained outside this state if they are made accessible to the commissioner on 7 business-days'
15 notice that is sent in a record. All records maintained by the licensee as required in this section
16 shall be open to inspection by the commissioner pursuant to RSA 399-G:6.

17 399-G:21 Relationship between Licensee and Authorized Delegate.

18 I. In this section, "remit" means to make direct payments of money to a licensee or its
19 representative authorized to receive money or to deposit money in a bank in an account specified by
20 the licensee.

21 II. Before a licensee is authorized to conduct business through an authorized delegate or
22 allows a person to act as the licensee's authorized delegate, the licensee must:

- 23 (a) Adopt, and update as necessary, written policies and procedures reasonably designed
24 to ensure that the licensee's authorized delegates comply with applicable state and federal law;
- 25 (b) Enter into a written contract that complies with paragraph IV; and
- 26 (c) Conduct a reasonable risk-based background investigation sufficient for the licensee
27 to determine whether the authorized delegate has complied and will likely comply with applicable
28 state and federal law.

29 III. An authorized delegate must operate in full compliance with this chapter.

30 IV. The written contract required by paragraph II shall be signed by the licensee and the
31 authorized delegate and, at a minimum, shall:

- 32 (a) Appoint the person signing the contract as the licensee's authorized delegate with the
33 authority to conduct money transmission on behalf of the licensee;
- 34 (b) Set forth the nature and scope of the relationship between the licensee and the
35 authorized delegate and the respective rights and responsibilities of the parties;

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1 (c) Require the authorized delegate to agree to fully comply with all applicable state and
2 federal laws, rules, and regulations pertaining to money transmission, including this chapter,
3 department rules, and relevant provisions of the Bank Secrecy Act and the USA PATRIOT Act;

4 (d) Require the authorized delegate to remit and handle money and monetary value in
5 accordance with the terms of the contract between the licensee and the authorized delegate;

6 (e) Impose a trust on money and monetary value net of fees received for money
7 transmission for the benefit of the licensee;

8 (f) Require the authorized delegate to prepare and maintain records as required by this
9 chapter or rules implementing this chapter, or as reasonably requested by the commissioner;

10 (g) Acknowledge that the authorized delegate consents to examination or investigation
11 by the commissioner;

12 (h) State that the licensee is subject to regulation by the commissioner and that, as part
13 of that regulation, the commissioner may suspend or revoke an authorized delegate designation or
14 require the licensee to terminate an authorized delegate designation; and

15 (i) Acknowledge receipt of the written policies and procedures required under paragraph
16 II.

17 V. If the licensee's license is suspended, revoked, surrendered, or expired, the licensee must,
18 within 5 business days, provide documentation to the commissioner that the licensee has notified all
19 applicable authorized delegates of the licensee whose names are in a record filed with the
20 commissioner of the suspension, revocation, surrender, or expiration of a license. Upon suspension,
21 revocation, surrender, or expiration of a license, applicable authorized delegates shall immediately
22 cease to provide money transmission as an authorized delegate of the licensee.

23 VI. An authorized delegate of a licensee holds in trust for the benefit of the licensee all
24 money net of fees received from money transmission. If any authorized delegate commingles any
25 funds received from money transmission with any other funds or property owned or controlled by the
26 authorized delegate, all commingled funds and other property shall be considered held in trust in
27 favor of the licensee in an amount equal to the amount of money net of fees received from money
28 transmission.

29 VII. An authorized delegate may not use a subdelegate to conduct money transmission on
30 behalf of a licensee.

31 399-G:22 Unauthorized Activities. A person shall not engage in the business of money
32 transmission on behalf of a person not licensed under this chapter or not exempt pursuant to RSA
33 399-G:3. A person that engages in such activity provides money transmission to the same extent as
34 if the person were a licensee and shall be jointly and severally liable with the unlicensed or
35 nonexempt person.

36 399-G:23 Timely Transmission.

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1 I. Every licensee shall forward all money received for transmission in accordance with the
2 terms of the agreement between the licensee and the sender unless the licensee has a reasonable
3 belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or
4 violation of law, rule, or regulation has occurred, is occurring, or may occur.

5 II. If a licensee fails to forward money received for transmission in accordance with this
6 section, the licensee must respond to inquiries by the sender with the reason for the failure unless
7 providing a response would violate a state or federal law, rule, or regulation.

8 399-G:24 Refunds.

9 I. This section shall not apply to:

10 (a) Money received for transmission subject to the federal Remittance Rule, 12 C.F.R.
11 Part 1005, Subpart B, as amended or recodified from time to time; or

12 (b) Money received for transmission pursuant to a written agreement between the
13 licensee and payee to process payments for goods or services provided by the payee.

14 II. Every licensee shall refund to the sender within 10 days of receipt of the sender's written
15 request for a refund of any and all money received for transmission unless any of the following
16 occurs:

17 (a) The money has been forwarded within 10 days of the date on which the money was
18 received for transmission;

19 (b) Instructions have been given committing an equivalent amount of money to the
20 person designated by the sender within 10 days of the date on which the money was received for
21 transmission;

22 (c) The agreement between the licensee and the sender instructs the licensee to forward
23 the money at a time that is beyond 10 days of the date on which the money was received for
24 transmission. If funds have not yet been forwarded in accordance with the terms of the agreement
25 between the licensee and the sender, the licensee shall issue a refund in accordance with the other
26 provisions of this section;

27 (d) The refund is requested for a transaction that the licensee has not completed based
28 on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or
29 regulation has occurred, is occurring, or may occur; or

30 (e) The refund request does not enable the licensee to identify the sender's name and
31 address or telephone number and does not enable the licensee to identify the particular transaction
32 to be refunded in the event the sender has multiple transactions outstanding.

33 399-G:25 Receipts.

34 I. This section does not apply to:

35 (a) Money received for transmission subject to the federal Remittance Rule (12 C.F.R.
36 Part 1005, Subpart B), as amended or recodified from time to time;

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1 (b) Money received for transmission that is not primarily for personal, family or
2 household purposes;

3 (c) Money received for transmission pursuant to a written agreement between the
4 licensee and payee to process payments for goods or services provided by the payee; or

5 (d) Payroll processing services.

6 II. For purposes of this section, "receipt" means a paper receipt, electronic record or other
7 written confirmation. For a transaction conducted in person, the receipt may be provided
8 electronically if the sender requests or agrees to receive an electronic receipt. For a transaction
9 conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts
10 shall be provided in a retainable form.

11 III. Every licensee or its authorized delegate shall provide the sender a receipt for money
12 received for transmission. The receipt shall contain the following information, as applicable:

13 (a) The name of the sender;

14 (b) The name of the designated recipient;

15 (c) The date of the transaction;

16 (d) The unique transaction or identification number;

17 (e) The name of the licensee, NMLS Unique ID, the licensee's business address, and the
18 licensee's customer service telephone number;

19 (f) The amount of the transaction in United States dollars;

20 (g) Any fee charged by the licensee to the sender for the transaction; and

21 (h) Any taxes collected by the licensee from the sender for the transaction.

22 IV. The receipt required by this section shall be in English and in the language principally
23 used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in
24 writing, for a transaction conducted in person, electronically or by phone, if other than English.

25 399-G:26 Disclosures for Payroll Processing Services. A licensee that provides payroll
26 processing services shall issue reports to clients detailing client payroll obligations in advance of the
27 payroll funds being deducted from an account, and shall make available worker paystubs or an
28 equivalent statement to workers. This section shall not apply to a licensee providing payroll
29 processing services where the licensee's client designates the intended recipients to the licensee and
30 is responsible for providing the disclosures required by this section.

31 399-G:27 Prudential Standards; Net Worth.

32 I. A licensee shall maintain at all times a tangible net worth of the greater of \$100,000 or 3
33 percent of total assets for the first \$100 million, 2 percent of additional assets for \$100 million to \$1
34 billion, and 0.5 percent of additional assets for over \$1 billion.

35 II. Tangible net worth must be demonstrated at initial application by the applicant's most
36 recent audited or unaudited financial statements pursuant to RSA 399-G:8, II(f).

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1 III. The commissioner shall have the authority to exempt in whole or in part any applicant
2 or licensee from the requirements of paragraph I and II for good cause shown.

3 IV. For purposes of this section, a licensee that issues proprietary cryptocurrency, non-
4 fungible tokens, or other digital assets shall not include the value of such assets when calculating
5 tangible net worth.

6 399-G:28 Prudential Standards; Surety Bond.

7 I. An applicant for a money transmission license must provide, and a licensee at all times
8 must maintain, security consisting of a surety bond in a form satisfactory to the commissioner or,
9 with the commissioner's approval, a deposit instead of a bond in accordance with this section.

10 II. The amount of the required security shall be:

11 (a) the greater of \$100,000 or an amount equal to one hundred percent of the licensee's
12 average daily money transmission liability in this state calculated for the most recently completed 3-
13 month period, up to a maximum of \$500,000.

14 III. A licensee that maintains a bond in the maximum amount provided for in paragraph I
15 shall not be required to calculate its average daily money transmission liability in this state for
16 purposes of this section.

17 IV. A licensee may exceed the maximum required bond amount pursuant to RSA 399-G:30,
18 I(e).

19 V. The surety bond shall be payable to the state of New Hampshire and the bank
20 commissioner of the state of New Hampshire for the benefit of any person who is damaged by an
21 violation of this chapter and shall be conditioned upon the licensee's compliance with each provision
22 of this chapter.

23 VI. Surety bonds shall include a provision requiring the surety to give written notice to the
24 commissioner 30 days in advance of the cancellation or termination of the bond.

25 VII. Every bond shall provide that no recovery may be made against the bond unless the
26 state makes a claim for recovery or the person brings suit naming the principal within 6 years after
27 the act upon which the recovery or suit is based. The obligations of the surety shall survive the
28 bankruptcy, insolvency, liquidation, or reorganization of the licensee, including, without limitation,
29 any bankruptcy, insolvency, liquidation, or reorganization commenced by or against the licensee
30 under any applicable state or federal law, including the United States Bankruptcy Code.

31 VIII. When an action is commenced on a licensee's bond, the licensee shall immediately file
32 a new bond. Immediately upon recovery upon any action on the bond, the licensee shall file a new
33 bond.

34 399-G:29 Prudential Standards; Maintenance of Permissible Investments.

35 I. A licensee shall maintain at all times permissible investments that have a market value
36 computed in accordance with United States generally accepted accounting principles of not less than
37 the aggregate amount of all of its outstanding money transmission obligations.

1 II. Except for permissible investments enumerated in RSA 399-G:30, I the commissioner,
2 with respect to any licensee, may by rule or order limit the extent to which a specific investment
3 maintained by a licensee within a class of permissible investments may be considered a permissible
4 investment, if the specific investment represents undue risk to customers, not reflected in the
5 market value of investments.

6 III. Permissible investments, even if commingled with other assets of the licensee, are held
7 in trust for the benefit of the purchasers and holders of the licensee's outstanding money
8 transmission obligations in the event of insolvency, the filing of a petition by or against the licensee
9 under the United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from
10 time to time, for bankruptcy or reorganization, the filing of a petition by or against the licensee for
11 receivership, the commencement of any other judicial or administrative proceeding for its dissolution
12 or reorganization, or in the event of an action by a creditor against the licensee who is not a
13 beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to
14 this section shall be subject to attachment, levy of execution, or sequestration by order of any court,
15 except for a beneficiary of this statutory trust.

16 IV. Upon the establishment of a statutory trust in accordance with paragraph III or when
17 any funds are drawn on a letter of credit pursuant to RSA 399-G:30, I(d), the commissioner shall
18 notify the applicable regulator of each state in which the licensee is licensed to engage in money
19 transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as
20 applicable. Notice shall be deemed satisfied if performed pursuant to a multistate agreement or
21 through NMLS. Funds drawn on a letter of credit, and any other permissible investments held in
22 trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission
23 obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and
24 equitable basis in accordance with statutes pursuant to which permissible investments are required
25 to be held in this state, and other states, as applicable. Any statutory trust established hereunder
26 shall be terminated upon extinguishment of all of the licensee's outstanding money transmission
27 obligations.

28 V. The commissioner by rule or by order may allow other types of investments that the
29 commissioner determines are of sufficient liquidity and quality to be a permissible investment. The
30 commissioner is authorized to participate in efforts with other state regulators to determine that
31 other types of investments are of sufficient liquidity and quality to be a permissible investment.

32 399-G:30 Types of Permissible Investments.

33 I. The following investments are permissible under RSA 399-G:29:

34 (a) Cash, including demand deposits, savings deposits, and funds in such accounts held
35 for the benefit of the licensee's customers in a federally insured depository financial institution, and
36 cash equivalents including ACH items in transit to the licensee and ACH items or international
37 wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-

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1 owned locations, debit card or credit card-funded transmission receivables owed by any bank, or
2 money market mutual funds rated "AAA" by S&P, or the equivalent from any eligible rating service;

3 (b) Certificates of deposit or senior debt obligations of an insured depository institution,
4 as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813, as amended or
5 recodified from time to time, or as defined under the federal Credit Union Act, 12 U.S.C. Section
6 1781, as amended or recodified from time to time;

7 (c) An obligation of the United States or a commission, agency, or instrumentality
8 thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an
9 obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

10 (d) The full drawable amount of an irrevocable standby letter of credit for which the
11 stated beneficiary is the commissioner that stipulates that the beneficiary need only draw a sight
12 draft under the letter of credit and present it to obtain funds up to the letter of credit amount within
13 7 days of presentation of the items required by subparagraph (3), provided:

14 (1) The letter of credit must:

15 (A) Be issued by a federally insured depository financial institution, a foreign
16 bank that is authorized under federal law to maintain a federal agency or federal branch office in a
17 state or states, or a foreign bank that is authorized under state law to maintain a branch in a state
18 and that (1) bears an eligible rating or whose parent company bears an eligible rating; and (2) is
19 regulated, supervised, and examined by United States federal or state authorities having regulatory
20 authority over banks, credit unions, and trust companies;

21 (B) Be irrevocable, unconditional and indicate that it is not subject to any
22 condition or qualifications outside of the letter of credit;

23 (C) Not contain reference to any other agreements, documents, or entities, or
24 otherwise provide for any security interest in the licensee; and

25 (D) Contain an issue date and expiration date, and expressly provide for
26 automatic extension, without a written amendment, for an additional period of one year from the
27 present or each future expiration date, unless the issuer of the letter of credit notifies the
28 commissioner in writing by certified or registered mail or courier mail or other receipted means, at
29 least 60 days prior to any expiration date, that the irrevocable letter of credit will not be extended.

30 (2) In the event of any notice of expiration or non-extension of a letter of credit
31 issued under paragraph I(d)(1)(D), the licensee shall be required to demonstrate to the satisfaction of
32 the commissioner, 15 days prior to expiration, that the licensee maintains and will maintain
33 permissible investments in accordance with RSA 399-G:29, I upon the expiration of the letter of
34 credit. If the licensee is not able to do so, the commissioner may draw on the letter of credit in an
35 amount up to the amount necessary to meet the licensee's requirements to maintain permissible
36 investments in accordance with RSA 399-G:29, I. Any such draw shall be offset against the
37 licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by

1 the commissioner or the commissioner's designated agent, to the extent authorized by law, as agent
2 for the benefit of the purchasers and holders of the licensee's outstanding money transmission
3 obligations.

4 (3) The letter of credit shall provide that the issuer of the letter of credit will honor,
5 at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior
6 to the expiration date of the letter of credit:

7 (A) The original letter of credit, including any amendments; and

8 (B) A written statement from the beneficiary stating that any of the following
9 events have occurred:

10 (i) The filing of a petition by or against the licensee under the United States
11 Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for
12 bankruptcy or reorganization;

13 (ii) The filing of a petition by or against the licensee for receivership, or the
14 commencement of any other judicial or administrative proceeding for its dissolution or
15 reorganization;

16 (iii) The seizure of assets of a licensee by a state regulator pursuant to an
17 emergency order issued in accordance with applicable law, on the basis of an action, violation, or
18 condition that has caused or is likely to cause the insolvency of the licensee; or

19 (iv) The beneficiary has received notice of expiration or non-extension of a
20 letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the
21 licensee will maintain permissible investments in accordance with RSA 399-G:29, I upon the
22 expiration or non-extension of the letter of credit.

23 (4) The commissioner may designate an agent to serve on the commissioner's behalf
24 as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements
25 established by the commissioner. The commissioner's agent may serve as agent for multiple
26 licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount
27 for the purposes of this subparagraph are assigned to the commissioner.

28 (5) The commissioner is authorized and encouraged to participate in multistate
29 processes designed to facilitate the issuance and administration of letters of credit, including but not
30 limited to services provided by the NMLS and State Regulatory Registry, LLC.

31 (e) One hundred percent of the surety bond or deposit provided for under RSA 399-G:2
32 that exceeds the average daily money transmission liability in this state.

33 II. Unless permitted by the commissioner by rule or by order to exceed the limit as set forth
34 herein, the following investments are permissible under RSA 399-G:29 to the extent specified:

35 (a) Receivables that are payable to a licensee from its authorized delegates in the
36 ordinary course of business that are less than 7 days old, up to 50 percent of the aggregate value of
37 the licensee's total permissible investments, provided that receivables that are payable to a licensee

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1 from a single authorized delegate in the ordinary course of business may not exceed 10 percent of the
2 aggregate value of the licensee's total permissible investments;

3 (b) The following investments are permissible up to 20 percent per category and
4 combined up to 50 percent of the aggregate value of the licensee's total permissible investments:

5 (1) A short-term, up to 6 months, investment bearing an eligible rating;

6 (2) Commercial paper bearing an eligible rating;

7 (3) A bill, note, bond, or debenture bearing an eligible rating;

8 (4) United States tri-party repurchase agreements collateralized at 100 percent or
9 more with United States government or agency securities, municipal bonds, or other securities
10 bearing an eligible rating;

11 (5) Money market mutual funds rated less than "AAA" and equal to or higher than
12 "A-" by S&P, or the equivalent from any other eligible rating service; and

13 (6) A mutual fund or other investment fund composed solely and exclusively of one
14 or more permissible investments listed in subparagraphs I(a)-(c).

15 (c) Cash, including demand deposits, savings deposits, and funds in such accounts held
16 for the benefit of the licensee's customers, at foreign depository institutions are permissible up to 10
17 percent of the aggregate value of the licensee's total permissible investments if the licensee has
18 received a satisfactory rating in its most recent examination and the foreign depository institution:

19 (1) Has an eligible rating;

20 (2) Is registered under the Foreign Account Tax Compliance Act;

21 (3) Is not located in any country subject to sanctions from the Office of Foreign Asset
22 Control; and

23 (4) Is not located in a high-risk or non-cooperative jurisdiction as designated by the
24 Financial Action Task Force.

25 399-G:31 Enforcement; Suspension and Revocation.

26 I. The commissioner may suspend or revoke a license or order a licensee to revoke the
27 designation of an authorized delegate if:

28 (a) The licensee violates this chapter or a rule adopted or an order issued under this
29 chapter;

30 (b) The licensee does not cooperate with an examination or investigation by the
31 commissioner;

32 (c) The licensee engages in fraud, intentional misrepresentation, or gross negligence;

33 (d) An authorized delegate is convicted of a violation of a state or federal anti-money
34 laundering statute, or violates a rule adopted or an order issued under this chapter, as a result of the
35 licensee's willful misconduct or willful blindness;

36 (e) The competence, experience, character, or general fitness of the licensee, authorized
37 delegate, person in control of a licensee, key individual, or responsible person of the authorized

1 delegate indicates that it is not in the public interest to permit the person to provide money
2 transmission;

3 (f) The licensee engages in an unsafe or unsound practice;

4 (g) The licensee is insolvent, suspends payment of its obligations, or makes a general
5 assignment for the benefit of its creditors; or

6 (h) The licensee does not remove an authorized delegate after the commissioner issues
7 and serves upon the licensee a final order including a finding that the authorized delegate has
8 violated this chapter.

9 II. In determining whether a licensee is engaging in an unsafe or unsound practice, the
10 commissioner may consider the size and condition of the licensee's money transmission, the
11 magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the
12 person involved.

13 399-G:32 Suspension and Revocation of Authorized Delegates.

14 I. The commissioner may issue an order suspending or revoking the designation of an
15 authorized delegate, if the commissioner finds that:

16 (a) The authorized delegate violated this chapter or a rule adopted or an order issued
17 under this chapter;

18 (b) The authorized delegate did not cooperate with an examination or investigation by
19 the commissioner;

20 (c) The authorized delegate engaged in fraud, intentional misrepresentation, or gross
21 negligence;

22 (d) The authorized delegate is convicted of a violation of a state or federal anti-money
23 laundering statute;

24 (e) The competence, experience, character, or general fitness of the authorized delegate
25 or a person in control of the authorized delegate indicates that it is not in the public interest to
26 permit the authorized delegate to provide money transmission; or

27 (f) The authorized delegate is engaging in an unsafe or unsound practice.

28 II. In determining whether an authorized delegate is engaging in an unsafe or unsound
29 practice, the commissioner may consider the size and condition of the authorized delegate's provision
30 of money transmission, the magnitude of the loss, the gravity of the violation of this chapter or a rule
31 adopted or order issued under this chapter, and the previous conduct of the authorized delegate.

32 III. An authorized delegate may apply for relief from a suspension or revocation of
33 designation as an authorized delegate according to procedures prescribed by the commissioner.

34 399-G:33 Orders to Cease and Desist.

35 I. If the commissioner determines that a violation of this chapter or of a rule adopted or an
36 order issued under this chapter by a licensee or authorized delegate is likely to cause immediate and
37 irreparable harm to the licensee, its customers, or the public as a result of the violation, or cause

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1 insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order
2 requiring the licensee or authorized delegate to cease and desist from the violation. The order
3 becomes effective upon service of it upon the licensee or authorized delegate.

4 II. The commissioner may issue an order against a licensee to cease and desist from
5 providing money transmission through an authorized delegate that is the subject of a separate order
6 by the commissioner.

7 III. An order to cease and desist remains effective and enforceable pending the completion of
8 an administrative proceeding pursuant to RSA 541-A.

9 IV. A licensee or an authorized delegate that is served with an order to cease and desist may
10 petition superior court for a judicial order setting aside, limiting, or suspending the enforcement,
11 operation, or effectiveness of the order pending the completion of an administrative proceeding
12 pursuant to RSA 541-A.

13 V. An order to cease and desist expires unless the commissioner commences an
14 administrative proceeding pursuant to RSA 541-A within 10 days after it is issued.

15 399-G:34 Consent Orders. The commissioner may enter into a consent order at any time with a
16 person to resolve a matter arising under this chapter or a rule adopted or order issued under this
17 chapter. A consent order shall be signed by the person to whom it is issued or by the person's
18 authorized representative, and shall indicate agreement with the terms contained in the order. A
19 consent order may provide that it does not constitute an admission by a person that this chapter or a
20 rule adopted or an order issued under this chapter has been violated.

21 399-G:35 Penalties.

22 I. A person that intentionally makes a false statement, misrepresentation, or false
23 certification in a record filed or required to be maintained under this chapter or that intentionally
24 makes a false entry or omits a material entry in such a record is guilty of a felony.

25 II. A person that knowingly engages in an activity for which a license is required under this
26 chapter without being licensed under this chapter and who receives more than \$500 in compensation
27 within a 30-day period from this activity is guilty of a felony.

28 III. A person that knowingly engages in an activity for which a license is required under this
29 chapter without being licensed under this chapter and who receives no more than \$500 in
30 compensation within a 30-day period from this activity is guilty of a misdemeanor.

31 IV. The commissioner may assess a civil penalty against a person that violates this chapter
32 or a rule adopted or an order issued under this chapter in an amount not to exceed \$1,500 for a
33 negligent violation and \$2,500 for a knowing violation per day for each day the violation is
34 outstanding, plus costs and expenses for the investigation and prosecution of the matter, including
35 reasonable attorney's fees. For purposes of this section, each act of money transmission shall
36 constitute a separate violation of this chapter.

37 399-G:36 Unlicensed Persons.

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1 I. If the commissioner has reason to believe that a person has violated or is violating RSA
2 399-G:7, the commissioner may issue an order to show cause why an order to cease and desist should
3 not issue requiring that the person cease and desist from the violation.

4 II. In an emergency the commissioner or, if the commissioner delegates the attorney general
5 to do so, the attorney general may petition superior court for the issuance of a temporary restraining
6 order ex parte pursuant to the rules of civil procedure.

7 III. An order to cease and desist becomes effective upon service of it upon the person.

8 IV. An order to cease and desist remains effective and enforceable pending the completion of
9 an administrative proceeding pursuant to RSA 541-A.

10 V. A person that is served with an order to cease and desist for violating RSA 399-G:7 may
11 petition superior court for a judicial order setting aside, limiting, or suspending the enforcement,
12 operation, or effectiveness of the order pending the completion of an administrative proceeding
13 pursuant to RSA 541-A.

14 VI. An order to cease and desist expires unless the commissioner commences an
15 administrative proceeding within 10 days after it is issued.

16 399-G:37 Consumer Complaints.

17 I. Consumer complaints naming licensees under this chapter, which are filed in writing with
18 the office of the commissioner, shall be forwarded via electronic mail or certified or registered mail to
19 the licensee for response within 10 days of receipt by the department. Licensees shall, within 10
20 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and
21 the department. Not later than 30 days following receipt of such complaint, the licensee shall
22 conduct an investigation of the complaint and either:

23 (a) Make appropriate corrections in the account of the consumer and transmit to the
24 consumer and the department written notification of such corrections, including documentary
25 evidence thereof; or

26 (b) Transmit a written explanation or clarification to the consumer and the department
27 which sets forth, to the extent applicable, the reasons why the licensee believes its actions are
28 correct, including copies of documentary evidence thereof.

29 II. A licensee who fails to respond to consumer complaints as required by this section within
30 the time prescribed shall pay to the commissioner a penalty of \$50 for each day such response is
31 overdue. For purposes of this section, the date of transmission shall be the date such response is
32 received by the commissioner.

33 III. Licensees which, because of extenuating circumstances beyond the control of the
34 licensee, are unable to comply with the time frames prescribed in this section, may make written
35 request to the commissioner for a waiver of such time frames. Waivers shall not be granted or
36 considered unless the request for the waiver:

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1 (a) Is received by the department within 20 days following the licensee's receipt of the
2 complaint;

3 (b) Specifies the reason for the request; and

4 (c) Specifies a date certain by which the licensee shall comply with the provisions of this
5 section.

6 IV. Requests for waivers shall be either granted or denied within 5 days of receipt by the
7 department.

8 399-G:38 Application; Construction of Chapter. In applying and construing this chapter,
9 consideration shall be given to the need to promote uniformity of the law with respect to its subject
10 matter among states that enact similar regulation.

11 399-G:39 Severability. If any provision of this chapter or its application to any person or
12 circumstance is held invalid, the invalidity does not affect other provisions or applications of this
13 chapter which can be given effect without the invalid provision or application, and to this end the
14 provisions of this chapter are severable.

15 399-G:40 Transition Period.

16 I. A person licensed in this state to engage in the business of money transmission shall not
17 be subject to the provisions of this chapter, to the extent that they conflict with current law or
18 establish new requirements not imposed under current law, until January 1, 2026.

19 II. Notwithstanding paragraph I, a licensee shall only be required to amend its authorized
20 delegate contracts for contracts entered into or amended after the effective date or the completion of
21 any transition period contemplated under paragraph I. Nothing herein shall be construed as
22 limiting an authorized delegate's obligations to operate in full compliance with this chapter as
23 required by RSA 399-G:21, III.

24 III. A person providing payroll processing services in this state without a license shall not be
25 considered in violation of RSA 399-G:21 if the person applies for a license by April 1, 2025. The
26 commissioner may for good cause extend the transition period in conjunction with the extension of
27 an application period.

28 2 Effective Date. This act shall take effect 60 days after its passage.