

§6071. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2023, c. 662, §2 (NEW).]

1. Acting in concert. "Acting in concert" means knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

[PL 2023, c. 662, §2 (NEW).]

2. Administrator. "Administrator" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation.

[PL 2023, c. 662, §2 (NEW).]

3. Authorized delegate. "Authorized delegate" means a person a licensee designates to engage in money transmission on behalf of the licensee.

[PL 2023, c. 662, §2 (NEW).]

4. Bank Secrecy Act. "Bank Secrecy Act" means the federal Bank Secrecy Act, 31 United States Code, Section 5311 et seq. and its implementing regulations.

[PL 2023, c. 662, §2 (NEW).]

5. Bureau. "Bureau" means the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection.

[PL 2023, c. 662, §2 (NEW).]

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

[PL 2023, c. 662, §2 (NEW).]

7. Control. "Control" means:

A. The power to vote, directly or indirectly, at least 25% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee; [PL 2023, c. 662, §2 (NEW).]

B. 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 [PL 2023, c. 662, §2 (NEW).]

C. The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee. [PL 2023, c. 662, §2 (NEW).]

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

A person presumed to exercise a controlling influence pursuant to this subsection may rebut the presumption of control if the person is a passive investor.

For purposes of determining the percentage of a person controlled by any other person, the person's interest must be aggregated with the interest of any other immediate family member, including the person's spouse, parents, children, siblings, parents-in-law, children-in-law and siblings-in-law, and any other person who shares that person's home.

[PL 2023, c. 662, §2 (NEW).]

8. Eligible rating. "Eligible rating" means a credit rating of any of the 3 highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P Global Ratings or successor organization, or the equivalent from

any other eligible rating service. Long-term credit ratings are considered eligible ratings if the rating is equal to or higher than "A-" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service. Short-term credit ratings are considered eligible ratings if the rating is equal to or higher than "A-2" or "SP-2" by S&P Global Ratings or successor organization, or the equivalent from any other eligible rating service. If ratings differ among eligible rating services, the highest rating applies when determining whether a security bears an eligible rating.

[PL 2023, c. 662, §2 (NEW).]

9. Eligible rating service. "Eligible rating service" means a nationally recognized statistical rating organization recognized by the United States Securities and Exchange Commission and any other organization designated by the administrator by rule or order.

[PL 2023, c. 662, §2 (NEW).]

10. Federally insured depository financial institution. "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 States, when that bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank or industrial loan company has federally insured deposits.

[PL 2023, c. 662, §2 (NEW).]

11. In this State. "In this State," for a transaction requested in person, means at a physical location within this State. For a transaction requested electronically or by telephone, "in this State" means that the person requesting the transaction is at a physical location within this State. For a transaction requested electronically or by telephone, the provider of money transmission may determine if the person requesting the transaction is in this State by relying on other information provided by the person regarding the location of the residential address, if an individual, or principal place of business, if a business entity, or other physical address location and any records associated with the person that the provider of money transmission may have that indicate the location, including but not limited to an address associated with an account.

[PL 2023, c. 662, §2 (NEW).]

12. Individual. "Individual" means a natural person.

[PL 2023, c. 662, §2 (NEW).]

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

[PL 2023, c. 662, §2 (NEW).]

14. Licensee. "Licensee" means a person licensed under this Act.

[PL 2023, c. 662, §2 (NEW).]

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

[PL 2023, c. 662, §2 (NEW).]

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

[PL 2023, c. 662, §2 (NEW).]

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

[PL 2023, c. 662, §2 (NEW).]

18. Money transmission. "Money transmission" means:

- A. Selling or issuing payment instruments to a person located in this State; [PL 2023, c. 662, §2 (NEW).]
- B. Selling or issuing stored value to a person located in this State; or [PL 2023, c. 662, §2 (NEW).]
- C. Receiving money for transmission from a person located in this State. [PL 2023, c. 662, §2 (NEW).]

"Money transmission" does not include the provision solely of online or telecommunications services or network access.

[PL 2023, c. 662, §2 (NEW).]

19. MSB. "MSB" means a money services business as defined in 31 Code of Federal Regulations, Section 1010.100.

[PL 2023, c. 662, §2 (NEW).]

20. MSB accredited state. "MSB accredited state" means a state agency that is accredited by the Conference of State Bank Supervisors or successor organization and the Money Transmitter Regulators Association or successor organization for money transmission licensing and supervision.

[PL 2023, c. 662, §2 (NEW).]

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

[PL 2023, c. 662, §2 (NEW).]

22. NMLS. "NMLS" means the nationwide multistate licensing system and registry developed by the Conference of State Bank Supervisors or successor organization and the American Association of Residential Mortgage Regulators or successor organization and owned and operated by the State Regulatory Registry LLC or successor organization, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries.

[PL 2023, c. 662, §2 (NEW).]

23. Outstanding money transmission obligation. "Outstanding money transmission obligation" means:

- A. A payment instrument or stored value issued or sold by a licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or [PL 2023, c. 662, §2 (NEW).]
- B. Money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender or escheated in accordance with applicable abandoned property laws. [PL 2023, c. 662, §2 (NEW).]

For purposes of this subsection, "in the United States" includes, to the extent applicable, a state, territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a United States military installation that is located in a foreign country.

[PL 2023, c. 662, §2 (NEW).]

24. Passive investor. "Passive investor" means a person that:

A. Does not have 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; [PL 2023, c. 662, §2 (NEW).]

B. Is not employed by and does not have any managerial duties of the licensee or person in control of a licensee; [PL 2023, c. 662, §2 (NEW).]

C. Does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or a person in control of a licensee; and [PL 2023, c. 662, §2 (NEW).]

D. Either:

(1) Attests to paragraphs A to C in a form and in a medium prescribed by the administrator; or

(2) Commits to the passivity characteristics of paragraphs A to C in a written document. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

25. Payment instrument. "Payment instrument" means a written or electronic check, draft, money order, traveler's check or other wire, electronic or written instrument, or written order for the transmission or payment of money or monetary value, whether or not negotiable. "Payment instrument" does not include stored value or an instrument that:

A. Is redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or [PL 2023, c. 662, §2 (NEW).]

B. Is not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program. [PL 2023, c. 662, §2 (NEW).]
[PL 2023, c. 662, §2 (NEW).]

26. Person. "Person" means an individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation or other corporate entity identified by the administrator.
[PL 2023, c. 662, §2 (NEW).]

27. Receiving money for transmission. "Receiving money for transmission" or "money received for transmission" means the receipt of money or monetary value in the United States for transmission within or outside the United States by electronic or other means.
[PL 2023, c. 662, §2 (NEW).]

28. Stored value. "Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record and that is intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services. "Stored value" includes, but is not limited to, prepaid access as defined by 31 Code of Federal Regulations, Section 1010.100(w) but does not include a payment instrument, closed loop stored value or stored value not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.
[PL 2023, c. 662, §2 (NEW).]

29. Tangible net worth. "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with generally accepted accounting principles in the United States.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

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