

§6100-H. Relationship between licensee and authorized delegate

The relationship between licensees and authorized delegates is governed by this section. [PL 2023, c. 662, §2 (NEW).]

1. Definition. For the purposes of this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

[PL 2023, c. 662, §2 (NEW).]

2. Authorized delegate. Before a licensee may conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

A. Adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law; [PL 2023, c. 662, §2 (NEW).]

B. Enter into a written contract that complies with subsection 4; and [PL 2023, c. 662, §2 (NEW).]

C. Conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law. [PL 2023, c. 662, §2 (NEW).]

[PL 2023, c. 662, §2 (NEW).]

3. Compliance. An authorized delegate shall operate in full compliance with this Act.

[PL 2023, c. 662, §2 (NEW).]

4. Contract. The written contract required by subsection 2, paragraph B must be signed by the licensee and the authorized delegate and, at a minimum, must:

A. Appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee; [PL 2023, c. 662, §2 (NEW).]

B. Set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties; [PL 2023, c. 662, §2 (NEW).]

C. Require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules and regulations pertaining to money transmission, including this Act and laws and rules implementing this Act and relevant provisions of the Bank Secrecy Act and the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Public Law 107-56, 115 Stat. 272; [PL 2023, c. 662, §2 (NEW).]

D. Require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate; [PL 2023, c. 662, §2 (NEW).]

E. Impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee; [PL 2023, c. 662, §2 (NEW).]

F. Require the authorized delegate to prepare and maintain records as required by this Act or rules implementing this Act, or as reasonably requested by the administrator; [PL 2023, c. 662, §2 (NEW).]

G. Acknowledge that the authorized delegate consents to examination or investigation by the administrator; [PL 2023, c. 662, §2 (NEW).]

H. State that the licensee is subject to regulation by the administrator and that, as part of that regulation, the administrator may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; [PL 2023, c. 662, §2 (NEW).]

I. Acknowledge receipt of the written policies and procedures required under subsection 2, paragraph A; and [PL 2023, c. 662, §2 (NEW).]

J. Acknowledge that neither the licensee nor the authorized delegate may authorize subdelegates without the written consent of the administrator. [PL 2023, c. 662, §2 (NEW).]
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5. Suspended, revoked, surrendered or expired license. If a licensee's license is suspended, revoked, surrendered or expired, the licensee, within 5 business days, shall provide documentation to the administrator that the licensee has notified all applicable authorized delegates of the licensee whose names are filed with the administrator of the suspension, revocation, surrender or expiration of a license. Upon suspension, revocation, surrender or expiration of a license, applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.
[PL 2023, c. 662, §2 (NEW).]

6. Fees. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If an authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property are considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission.
[PL 2023, c. 662, §2 (NEW).]

7. Subdelegates. An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensee.
[PL 2023, c. 662, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 662, §2 (NEW).

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