

**§ 53-208.42. Definitions.**

For purposes of this Article, the following definitions apply:

- (1) Applicant. – A person filing an application for a license under this Article.
- (2) Authorized delegate. – An entity designated by the licensee under the provisions of this Article to engage in the business of money transmission on behalf of a licensee in this State.
- (3) Branch office. – Any physical retail location within this State operated by the licensee or the licensee's authorized delegate at which the licensee engages in the business of money transmission. For the purposes of this Article, this includes automated kiosks.
- (4) Commissioner. – The Commissioner of Banks of the State of North Carolina.
- (5) Control. – The power, directly or indirectly, to direct the management or policy of the licensee or person subject to this Article, whether through ownership of securities, by contract, or otherwise. Any person that (i) is a director, general partner, or executive officer; (ii) directly or indirectly has ownership of or the power to vote ten percent (10%) or more of a class of outstanding voting securities; (iii) in the case of a limited liability company, is a managing member; or (iv) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten percent (10%) or more of the capital, is presumed to control the licensee or person subject to this Article.
- (6) Controlling person. – Any person in control of a licensee or person subject to this Article.
- (7) Depository institution. – Any bank, savings association, mutual savings bank, savings bank, or other institution as defined in Section 3 of the Federal Deposit Insurance Act and any credit union whose share and deposit accounts are insured by the National Credit Union Administration under the Federal Credit Union Act.
- (8) Engage in the business of. – For compensation or gain, or in expectation of compensation or gain, either directly or indirectly, to make available monetary transmission services to North Carolina consumers for personal, family, or household purposes.
- (9) Executive officer. – The chief executive officer, chief operating officer, chief financial officer, chief compliance officer, chief technology officer, or any other individual the Commissioner identifies who exercises significant influence over, or participates in, major policy making decisions of the applicant or licensee without regard to title, salary, or compensation.
- (10) Licensee. – A person licensed under this Article.
- (11) Material litigation. – Any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in that entity's annual audited financial statements, report to shareholders, or similar documents.
- (12) Monetary value. – A medium of exchange, whether or not redeemable in money.
- (13) Money transmission. – To engage in the business of any of the following:
  - a. Sale or issuance of payment instruments or stored value primarily for personal, family, or household purposes; or
  - b. Receiving money or monetary value for transmission or holding funds incidental to transmission within the United States or to locations abroad by any and all means, including payment instrument, stored value, wire, facsimile, or electronic transfer, primarily for personal,

family, or household purposes. This includes maintaining control of virtual currency on behalf of others.

(14) NMLS. – The Nationwide Mortgage Licensing System and Registry or its successors.

(15) Outstanding transmission obligation. –

- a. Any payment instrument or stored value issued by the licensee which has been sold in the United States directly by the licensee, or any payment instrument or stored value issued by the licensee which has been sold by an authorized delegate of the licensee in the United States, but in either case has not yet been paid or refunded by the licensee.
- b. Any money or monetary value received by the licensee for transmission that has not been remitted to the payee or refunded to the sender.

To the extent that the outstanding transmission obligation was received in virtual currency, for the purposes of compliance with this Article, the obligation shall be denominated in the amount or value to be transmitted to the payee.

(16) Payment instrument. – A check, draft, money order, traveler's check, or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or any other instrument that is redeemable by the issuer exclusively in goods or services.

(17) Permissible investments. – One or more of the following, but only to the extent that they are maintained in an account located in the United States:

- a. Cash.
- b. Certificates of deposit or other debt obligations of a depository institution, either domestic or foreign.
- c. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the Federal Reserve System.
- d. Any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities.
- e. Investment securities that are obligations of the United States, its agencies, or instrumentalities or obligations that are guaranteed fully as to principal and interest of the United States or any obligations of any state, municipality, or any political subdivision thereof.
- f. Shares in a money market mutual fund, interest bearing bills or notes or bonds, debentures, or preferred stock traded on any national securities exchange or on a national over the counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein.
- g. Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange.
- h. Value of receivables due to the licensee that are no more than 30 days past due or otherwise doubtful of collection.
- i. Virtual currency but only to the extent of outstanding transmission obligations received by the licensee in like kind virtual currency.

- j. Any other investments or security device approved by the Commissioner.
- (18) Person. – Any individual, partnership, limited liability company, limited partnership, association, joint-stock association, trust, corporation, or other group engaged in joint business activities however organized.
- (19) Stored value. – Monetary value representing a claim against the issuer that is stored on an electronic or digital medium and is 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. The term does not include stored value that is redeemable by the issuer exclusively in goods or services; stored value that is redeemable exclusively in goods or services limited to transactions involving a defined merchant or location or set of locations, such as a specific retailer or retail chain, college campus, or subway system; or program points, miles, or other units issued in connection with a customer affinity or rewards program, even if there is a secondary market for the stored value.
- (20) Virtual currency. – A digital representation of value that can be digitally traded and functions as a medium of exchange, a unit of account, or a store of value but only to the extent defined as stored value under subdivision (19) of this section, but does not have legal tender status as recognized by the United States Government. (2016-81, s. 1; 2017-102, ss. 14.1(a), 46; 2018-23, s. 1.)