

**LOUISIANA REVISED STATUTES
TITLE 6 BANKS AND BANKING**

CHAPTER 21. VIRTUAL CURRENCY BUSINESSES

(CURRENT THROUGH 2023 REGULAR LEGISLATIVE SESSION)

§1381. Short title

This Chapter shall be known and may be cited as the "Virtual Currency Businesses Act".
Acts 2020, No. 341, §1.

§1382. Definitions

As used in this Chapter, unless the context otherwise requires, the following terms shall be defined as follows:

- (1) "Acting in concert" means persons who knowingly act together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.
- (2) "Affiliate" means any person who controls, is controlled by, or is under common control with another person.
- (3) "Applicant" means a person who applies for a license pursuant to this Chapter.
- (4) "Blockchain" means any ledger of exchange, sale, or transfer of virtual currency which is accessible by computers or operators that are part of any virtual currency network.
- (5) "Commissioner" means the commissioner of the office of financial institutions.
- (6) "Control", when used in the context described, means the following:
 - (a) When used in reference to a transaction or relationship involving virtual currency, power to execute unilaterally or prevent indefinitely a virtual currency transaction.
 - (b) When used in reference to a person, any of the following:
 - (i) The direct or indirect power to direct the management, operations, or policies of the person through legal or beneficial ownership of voting power in the person or under a contract, arrangement, or understanding.
 - (ii) The power to vote, directly or indirectly, at least twenty-five percent of outstanding voting shares or voting interests of a licensee or person in control of a licensee, including persons acting in concert in such instances.
 - (iii) The power to elect or appoint a majority of responsible individuals of a licensee.
 - (iv) 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.
 - (v) Any other set of facts and circumstances, as determined by the commissioner in his discretion, that may constitute control.
- (7) "Exchange", when used as a verb, means to assume control of virtual currency from, or on behalf of, a resident, at least momentarily, to sell, trade, or convert either of the following:
 - (a) Virtual currency for legal tender, bank credit, or one or more forms of virtual currency.
 - (b) Legal tender or bank credit for one or more forms of virtual currency.
- (8) "Insolvent" means any of the following:
 - (a) Having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute.
 - (b) Being unable to pay debts as they become due.
 - (c) Being insolvent within the meaning of federal bankruptcy law.
- (9) "Legal tender" means a medium of exchange or unit of value, including the coin or paper money of the United States, issued by the United States or by another government if the issuance by another government is not virtual currency.
- (10) "Licensee" means a person licensed pursuant to this Chapter.

(11) "Mining" means the use of any machine or device to solve any series of complex mathematical equations, problems, or puzzles in binary or nonbinary sequences to add a block to any virtual currency network blockchain which is used to do any of the following:

- (a) Validate sales, exchanges, transfers, or ownership of virtual currency.
- (b) Secure a blockchain or virtual currency network.
- (c) Prevent fraud, theft, or misappropriation of virtual currency.

(12) "Minting" means the use of any machine or device to authenticate data, add any block, or record any information or data on any blockchain by either of the following:

- (a) Through any protocol.
- (b) Under any terms or conditions of any contract or agreement, or both, to create any virtual currency on a blockchain.

(13) "Nationwide Multistate Licensing System and Registry" or "NMLS" means the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity, for the licensing and registration of persons in financial services industries or any other similar online multistate database.

(14) "Non-fungible token" means any unique digital identifier on any blockchain or virtual currency network used to certify authenticity and ownership rights that cannot be replaced, exchanged, or interchanged with any similar type or category of asset.

(15) "Office" means the office of financial institutions.

(16) "Person" means an individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation, or other legal entity, or any individual or group of individuals, however organized. The term shall not include a public corporation, government, or governmental subdivision, agency, or instrumentality.

(17)(a) "Regulated financial institution" means a federally insured depository institution and its wholly owned subsidiaries chartered pursuant to the laws of this state, another state, or the United States, a Louisiana state-chartered trust company, a trust company chartered by another state, or a federally chartered trust company.

(b) "Regulated financial institution" shall not include either of the following:

- (i) An industrial loan company.
- (ii) A trust company chartered by a state with which this state does not have reciprocity governing trust-company activities.

(18)(a) "Resident" means any of the following:

- (i) A person who is domiciled in this state.
- (ii) A person who is physically located in this state for more than one hundred eighty-three days of the previous three hundred sixty-five days.
- (iii) A person who has a place of business in this state.

(b) "Resident" shall include a legal representative of a person that meets one of the criteria provided for in Subparagraph (a) of this Paragraph.

(19) "Responsible individual" means any individual who is ultimately responsible for establishing or directing policies and procedures of the licensee, including but not limited to an executive officer, manager, director, or trustee.

(20) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(21) "Store", except in the phrase "store of value", means to maintain control of virtual currency on behalf of a resident by a person other than the resident. "Storage" and "storing" have corresponding meanings.

(22) "Tangible net worth" means all business assets minus liabilities and intangible assets, including goodwill and other intangible assets. For the purposes of this Paragraph, an intangible asset may include but is

not limited to favorable leasehold rights, trademarks, trade names, internet domain names, and noncompete agreements.

(23) "Transfer" means to assume control of virtual currency from, or on behalf of, a resident and do any of the following:

- (a) Credit the virtual currency to the account of another person.
- (b) Move the virtual currency from one account of a resident to another account of the same resident.
- (c) Relinquish control of virtual currency to another person.

(24) "United States dollar equivalent of virtual currency" means the equivalent value of a particular virtual currency in United States dollars shown on a virtual currency exchange based in the United States for a particular date or period specified in this Chapter.

(25) "Unsafe or unsound act or practice" means and includes but is not limited to a practice or conduct by a person licensed to engage in virtual currency business activity in the state which creates the likelihood of material loss, insolvency, dissipation of the licensee's assets that materially prejudices the interests of residents, and any other set of facts and circumstances, as determined by the commissioner in accordance with this Chapter and applicable law.

(26)(a) "Virtual currency" means a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender, whether or not denominated in legal tender.

(b) "Virtual currency" shall not include either of the following:

(i) A transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or virtual currency.

(ii) A digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

(27) "Virtual currency administration" means issuing virtual currency with the authority to redeem the currency for legal tender, bank credit, or other virtual currency.

(28) "Virtual currency business activity" means any of the following:

(a) Exchanging, transferring, or storing virtual currency or engaging in virtual currency administration, whether directly or through an agreement with a virtual currency control services vendor.

(b) Holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals.

(c) Exchanging one or more digital representations of value used within one or more online games, game platforms, or family of games for either of the following:

(i) Virtual currency offered by or on behalf of the same publisher from which the original digital representation of value was received.

(ii) Legal tender or bank credit outside of the online game, game platform, or family of games offered by or on behalf of the same publisher from which the original digital representation of value was received.

(d) "Virtual currency business activity" shall not include any of the following:

(i) Mining.

(ii) Minting non-fungible tokens.

(iii) Blockchain activities that do not involve any exchange, holding, sale, storing, or transfer of virtual currency to, for, or on behalf of any resident.

(29) "Virtual currency control services vendor" means a person that has control of virtual currency solely under an agreement with a person that, on behalf of another person, assumes control of virtual currency.

(30) "Virtual currency network" means any computer or operator having access to a ledger of exchange, sale, or transfer of one or more virtual currencies.

§1383. Applicability

A. Except as otherwise provided in Subsection B or C of this Section, the provisions of this Chapter govern the virtual currency business activity of a person, wherever located, who engages in or holds itself out as engaging in the activity with, or on behalf of, a resident.

B. This Chapter shall not apply to the exchange, transfer, or storage of virtual currency or to virtual currency administration to the extent the activity is governed by any of the following federal or state laws:

- (1) The Electronic Fund Transfer Act of 1978.
- (2) The Securities Exchange Act of 1934.
- (3) The Commodities Exchange Act of 1936.
- (4) The Louisiana Securities Law, R.S. 51:701 et seq.

C. This Chapter shall not apply to activity by any of the following:

(1) The United States, a state, political subdivision of a state, agency, or instrumentality of federal, state, or local government, or a foreign government or a subdivision, department, agency, or instrumentality of a foreign government.

(2) A regulated financial institution.

(3) A person whose participation in a payment system is limited to providing processing, clearing, or performing settlement services solely for transactions between or among persons that are exempt from the licensing or registration requirements of this Chapter.

(4) A person engaged in the business of dealing in foreign exchange to the extent the person's activity meets the definition in 31 CFR 1010.605(f)(1)(iv).

(5) A person who does any of the following:

(a) Contributes only connectivity software or computing power to a decentralized virtual currency or to a protocol governing transfer of the digital representation of value.

(b) Provides only data storage or security services for a business engaged in virtual currency business activity and does not otherwise engage in virtual currency business activity on behalf of another person.

(c) Repealed by Acts 2023, No. 331, §2, eff. June 13, 2023.

(6) A person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely on the person's own behalf for personal, family, or household purposes or for academic purposes.

(7) Repealed by Acts 2023, No. 331, §2, eff. June 13, 2023.

(8) An attorney to the extent of providing escrow services to a resident.

(9) A title insurance company to the extent of providing escrow services to a resident.

(10) A securities intermediary, as defined in R.S. 10:8-102(a), or a commodity intermediary, as defined in R.S. 10:9-102(a), that does not engage in the ordinary course of business in virtual currency business activity with, or on behalf of, a resident, in addition to maintaining securities accounts or commodities accounts and is regulated as a securities intermediary or commodity intermediary pursuant to federal law, law of this state other than the provisions of this Chapter, or law of another state, and affords a resident protections comparable to those provided in R.S. 10:8-501 et seq.

(11) A secured creditor pursuant to R.S. 10:9-101 et seq. or a creditor with a judicial lien, or lien arising by operation of law, on collateral that is virtual currency, if the virtual currency business activity of the creditor is limited to enforcement of the security interest in compliance with R.S. 10:9-101 et seq. or lien in compliance with the law applicable to the lien.

(12) A virtual currency control services vendor.

(13) A person who does not receive compensation from a resident for providing virtual currency products or services or for conducting virtual currency business activity, or that is engaged in testing products or services with the person's own funds.

D. Repealed by Acts 2023, No. 331, §2, eff. June 13, 2023.

§1384. Licensure; general

A person shall not engage in virtual currency business activity, or hold himself out as being able to engage in virtual currency business activity, with or on behalf of a resident unless the person is one of the following:

- (1) Licensed in this state by the office pursuant to R.S. 6:1385.
- (2) Exempt from licensure pursuant to R.S. 6:1383.

§1385. Requirements

A. An applicant for a license pursuant to the provisions of this Chapter shall submit the application through the Nationwide Multi-State Licensing System (NMLS) and satisfy all of the following:

(1) Provide all of the following information relevant to the applicant's proposed virtual currency business activity:

(a) The legal name of the applicant, each current or proposed business United States Postal Service address of the applicant, and any fictitious or trade name the applicant uses or plans to use in conducting its virtual currency business activity with or on behalf of a resident.

(b) The legal name, any former or fictitious name, and the residential and business United States Postal Service address of each responsible individual of the applicant and each person that has control of the applicant.

(c) A description of the current and former business of the applicant for the five years before the application is submitted or, if the business has operated for less than five years, for the time the business has operated, including its products and services, associated internet website addresses and social media pages, principal place of business, projected user base, and specific marketing targets.

(d) The name, United States Postal Service address, and telephone number of a person that manages each server the applicant expects to use in conducting its virtual currency business activity with, or on behalf of, a resident and a copy of any agreement with that person. A copy of the applicant's business plan, which shall include a three-year financial pro forma, the anticipated volume of virtual currency business activities in this state for the same period, the anticipated number of virtual currency locations in this state, including kiosk machines, and evidence of the surety bond as well as the current and continued maintenance of the tangible net worth required by R.S. 6:1386.

(e) The name, United States Postal Service address, and telephone number of each affiliate of the applicant and a description of the control relationship.

(f) A list of both of the following:

(i) Each money service or money transmitter license the applicant holds in another state and the date the license expires.

(ii) Any license revocation, license suspension, or other disciplinary action taken against the licensee in another state and any license applications rejected by another state.

(g) A list of any criminal conviction, deferred prosecution agreement, or pending criminal proceeding in any jurisdiction against all of the following:

(i) The applicant.

(ii) Each responsible individual of the applicant.

(iii) Each person that has control over the applicant.

(iv) Each person over which the applicant has control.

(h) A list of any litigation, arbitration, or administrative proceeding in any jurisdiction in which the applicant or a responsible individual of the applicant has been a party for the five years before the application is submitted, determined to be material in accordance with generally accepted accounting principles and to the extent the applicant would be required to disclose the litigation, arbitration, or administrative proceeding in the applicant's audited financial statements, reports to equity owners, and similar statements or reports.

(i) A list of any bankruptcy or receivership proceeding in any jurisdiction for the ten years before the application is submitted in which any of the following was a debtor:

(i) The applicant.

- (ii) Each responsible individual of the applicant.
- (iii) Each person who has control over the applicant.
- (iv) Each person over which the applicant has control.
- (j) The name and United States Postal Service address of each bank in which the applicant plans to deposit funds obtained by its virtual currency business activity.
- (k) The source of funds and credit to be used by the applicant to conduct virtual currency business activity with, or on behalf of, a resident and documentation demonstrating that the applicant has the tangible net worth required pursuant to R.S. 6:1386.
- (l) The United States Postal Service address and electronic mail address to which communications from the office may be sent.
- (m) The name, United States Postal Service address, and electronic mail address of the registered agent of the applicant in this state.
- (n) A copy of the certificate of coverage for each liability, casualty, business interruption, and cybersecurity insurance policy maintained by the applicant for itself or as to any responsible individual, affiliate, agent, or control person of the applicant, with respect to the virtual currency business activities of the applicant.
- (o) If applicable, the date on which and the state where the applicant is formed and a copy of a current certificate of good standing issued by that state.
- (p) A copy of the applicant's audited financial statement for the prior year.
- (q) If a person has control of the applicant and the person's equity interests are publicly traded in the United States, a copy of the audited financial statement of the person for the most recent fiscal year or most recent report of the person filed pursuant to 15 U.S.C. 78.
- (r) If a person has control of the applicant and the person's equity interests are publicly traded outside of the United States, a copy of the audited financial statement of the person for the most recent fiscal year of the person or a copy of the most recent documentation similar to that required in Subparagraph (q) of this Paragraph filed with the foreign regulator in the domicile of the person.
- (s) If the applicant is a partnership or a member-managed limited liability company, the names and United States Postal Service addresses of all general partners or members.
- (t) If the applicant is required to register with the Financial Crimes Enforcement Network of the United States Department of the Treasury as a money service business, evidence of the registration.
- (u) A set of fingerprints for each responsible individual and person who has control of the applicant. If the person resided outside of the United States anytime within the past ten years, the person shall also provide an investigative background report prepared by an independent search firm that meets the following requirements:
 - (i) At a minimum, the search firm shall satisfy both of the following:
 - (aa) Demonstrate that it has sufficient knowledge and resources and employs accepted and reasonable methodologies to conduct the research of the background report.
 - (bb) Demonstrate that it does not have an interest in, nor affiliation with, the person who is the subject of the background report.
 - (ii) At a minimum, the investigative background report shall be written in the English language and shall contain all of the following:
 - (aa) If available in the person's current jurisdiction of residency, a comprehensive credit report or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked.
 - (bb) Criminal records information for the past ten years, including but not limited to felonies, misdemeanors, or similar convictions.
 - (cc) Employment history.

(dd) Media history, including an electronic search of national and local publications, wire services, and business applications.

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

(v) For each responsible individual and person who has control of the applicant, for the five years before the application is submitted, employment history and history of any investigation of the person who has control or the responsible individual or legal proceeding to which the person who has control or responsible individual was a party.

(w) Other information the office reasonably requires by rule.

(2) Provide through and in the manner prescribed by NMLS a nonrefundable fee in an amount provided for by rule for the reasonable regulatory cost of the application and investigation process. Pursuant to this Section, the applicant shall pay the reasonable costs of the investigation incurred by the office that are in excess of the amount of the nonrefundable fee amount in the manner prescribed by the commissioner.

B. An application for a license pursuant to this Section shall not be complete until the office receives all information required by the provisions of this Chapter and completes its investigation pursuant to Subsection C of this Section.

C.(1) On receipt of a completed application, the office shall investigate all of the following:

(a) The financial condition and responsibility of the applicant.

(b) The relevant financial and business experience, character, and general fitness of the applicant.

(c) The competence, experience, character, and general fitness of each responsible individual and any person who has control of the applicant, in order for the commissioner to reasonably determine that the applicant will conduct its virtual currency business activity honestly, carefully, and efficiently and in accordance with the requirements of this Chapter and any other applicable state or federal laws or regulations.

(2) At the option of the office, it may investigate the business premises of an applicant.

D.(1) Not later than sixty days after an application is complete, the office shall send the applicant notice of its decision to approve, conditionally approve, or deny the application.

(2) If the office does not receive notice from the applicant that the applicant accepts conditions specified by the office within thirty-one days after the date of the notice of the conditional approval, the application shall be deemed denied.

E. No license shall be issued pursuant to this Chapter unless all of the following occur:

(1) The applicant provides a surety bond and the commissioner accepts the surety bond required pursuant to R.S. 6:1386.

(2) The applicant provides evidence acceptable to the commissioner of the tangible net worth required pursuant to R.S. 6:1386.

(3) The applicant has paid all costs and fees required pursuant to this Chapter in connection with a license application.

(4) The commissioner has issued notice of the decision to approve or conditionally approve the application in accordance with Subsection D of this Section.

§1385.1. Approval of advanced change of control notice

A. Whenever a change of control of a licensee or an applicant is contemplated by any person, or persons acting in concert, the following information shall be provided to the commissioner through the NMLS:

(1) The licensee or applicant shall do all of the following:

(a) File an advanced change of control notice within thirty days after learning of the change of control and at least forty-five days prior to the date that the proposed transaction is to be consummated.

(b) Provide such information as required pursuant to R.S. 6:1385(A).

(2) After review of an advanced change of control notice filed pursuant to Paragraph (1) of this Subsection, the commissioner may require the licensee or applicant to provide additional information concerning the proposed person, or persons acting in concert, to cause a change of control. The additional

information shall be limited to the same information required from the licensee or applicant as part of its original application filed pursuant to R.S. 6:1385(A).

B. The commissioner shall approve an advanced change of control notice filed in accordance with Subsection A of this Section if, after investigation, he determines that the person, or persons acting in concert, to cause a change of control shall not adversely affect the ability of the licensee or applicant to conduct its virtual currency business activity honestly, carefully, and efficiently and in accordance with the requirements of this Chapter and any other applicable state and federal laws and regulations.

C. If the commissioner determines that the proposed person, or persons acting in concert, to cause a change of control fails to meet the qualifications, standards, and requirements pursuant to this Chapter, the commissioner shall inform the licensee, applicant, proposed person, or persons acting in concert to cause the change of control in writing that the advanced change of control request is denied and state the reasons for such denial. The licensee, applicant, proposed person, or persons acting in concert to cause the change of control may appeal the denial in accordance with R.S. 6:1387(C).

D. The provisions of Paragraph (A)(1) of this Section shall not apply to a public offering of securities under the laws of the United States.

E. Before filing an advanced change of control notice, any person, or persons acting in concert, may request in writing a determination from the commissioner as to whether the person, or persons acting in concert, would be considered to be in control of a licensee or applicant upon consummation of a proposed transaction. If the commissioner determines that the person, or persons acting in concert, would not be in control of the licensee or applicant, the commissioner shall respond in writing that the proposed transaction is not subject to the requirements of Subsection A of this Section.

§1385.2. Approval of advanced change of responsible individual notice

A. Whenever a change is contemplated with respect to a reasonable individual of a licensee or applicant, all of the following information shall be provided to the commissioner through the NMLS:

- (1) The legal name, any former or fictitious name, and the residential and business United States Postal Service addresses of the proposed responsible individual.
- (2) A list of any criminal conviction, deferred prosecution agreement, or pending criminal proceeding in any jurisdiction against the proposed responsible individual.
- (3) A list of any bankruptcy or receivership proceeding in any jurisdiction for the prior ten years involving the proposed responsible individual.
- (4) A list of any litigation, arbitration, or administrative proceeding in any jurisdiction in which the proposed responsible individual was a party for the prior five years.
- (5) A set of fingerprints of the proposed responsible individual for submission to the Federal Bureau of Investigation and the commissioner for purposes of a national and state criminal background check. If the individual resided outside of the United States at any time in the past ten years, the individual shall also provide an investigative background report prepared by an independent search firm pursuant to the requirements of R.S. 6:1385(A)(1)(u).
- (6) The employment history of the proposed responsible individual for the prior five years.
- (7) A history of any investigation or legal proceeding to which the proposed responsible individual was a party for the prior five years.

B. After review of an advanced change of responsible individual notice filed pursuant to Subsection A of this Section, the commissioner may require the licensee or applicant to provide additional information concerning the proposed responsible individual. The additional information shall be limited to the same information required from a licensee or an applicant as part of his original application filed pursuant to R.S. 6:1385(A).

C. The commissioner shall approve an advanced change of responsible individual notice filed in accordance with Subsection A of this Section if, after investigation, the commissioner reasonably determines that the proposed responsible individual has the relevant competence, experience, character, and general fitness

considered necessary to ensure that the licensee or applicant will continue to conduct its virtual currency business activity honestly, carefully, and efficiently and in accordance with the requirements of this Chapter and other applicable state and federal laws and regulations.

D. If the commissioner determines that the proposed responsible individual fails to meet the qualifications, standards, and requirements of this Chapter, the commissioner shall inform the licensee, applicant, and proposed responsible individual, in writing, that the advanced change of control request is denied and state the reasons for denial. The licensee, applicant, and proposed responsible individual may appeal the denial in accordance with R.S. 6:1387(C).

§1386. Required documents; surety bond; tangible net worth

A.(1) Before a license is issued pursuant to the provisions of this Chapter, an applicant shall submit a surety bond in the amount of one hundred thousand dollars to the department that secures the applicant's faithful performance of its duties pursuant to the provisions of this Chapter or in an amount the office specifies based on the nature and extent of risks in the applicant's virtual currency business plan.

(2)(a) The licensee shall maintain or increase the minimum amount of the surety bond to reflect the dollar amount of all licensed virtual currency business activity in this state in the preceding calendar year in accordance with the provisions of this Paragraph.

Dollar Amount of Virtual Currency Business Activity	Minimum Surety Bond Amount Required
\$0 to \$5,000,000	\$ 100,000
\$5,000,000.01 to \$10,000,000	\$ 200,000
\$10,000,000.01 to \$15,000,000	\$ 300,000
\$15,000,000.01 to \$20,000,000	\$ 400,000
\$20,000,000.01 to \$25,000,000	\$ 500,000
\$25,000,000.01 to \$30,000,000	\$ 600,000
\$30,000,000.01 to \$35,000,000	\$ 700,000
\$35,000,000.01 to \$40,000,000	\$ 800,000
\$40,000,000.01 to \$45,000,000	\$ 900,000
Over \$45,000,000	\$1,000,000

(b) The office may increase the amount of the surety bond required to a maximum of seven million dollars.

(c) The surety bond shall be issued by an entity authorized to sell insurance in this state in a form satisfactory to the commissioner and payable to the office for the benefit of any claimant against the licensee to secure the faithful performance of the obligations and duties of the licensee with respect to virtual currency business activities with, or on behalf of, residents of this state and the payment of required but unpaid fee amounts due to the office and assessed but unpaid civil money penalties.

(d) The aggregate liability on a surety bond shall not exceed the principal sum of the bond. A claimant against a licensee may maintain an action on the bond.

(e) A surety bond shall cover claims for as long as the office specifies but for at least five years after the licensee ceases to engage in virtual currency business activities in this state. However, the commissioner may permit the amount of the surety bond to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's obligations outstanding in this state is reduced.

B.(1) In addition to the surety bond required pursuant to Subsection A of this Section, a licensee, at the time of the application for a license pursuant to the provisions of this Chapter, shall submit to the office evidence of and maintain at all times a tangible net worth of the greater of one hundred thousand dollars or three percent of total assets for the first one hundred million dollars, two percent of additional assets for one hundred million to one billion dollars, and one-half percent of additional assets for over one billion dollars.

(2) If a licensee materially violates any provision of this Chapter, any rule or regulation promulgated by the office, or any order issued by the commissioner pursuant to this Chapter, the commissioner may, at any time, require a licensee to increase its tangible net worth required to be maintained pursuant to this Section. The licensee shall submit to the commissioner evidence that it has the required additional tangible net worth not later than thirty days after the licensee is notified in writing of the required increase.

(3) In determining the required additional tangible net worth, the commissioner may consider factors including but not limited to the following:

(a) The actual and projected volume of the licensee's virtual currency business activity in this state.

(b) Whether the licensee is currently licensed or regulated by the commissioner in accordance with the Sale of Checks and Money Transmission Act, R.S. 6:1031 et seq., and whether the licensee is in good standing in that capacity.

(c) The amount of leverage employed by the licensee.

(d) The liquidity position of the licensee.

(e) The products or services offered by the licensee.

§1386.1. Meeting tangible net worth requirements

A. In satisfying the licensure and renewal requirements provided in this Chapter, tangible net worth shall be clearly evidenced by filing or submitting a current audited financial statement to the commissioner through the NMLS that is prepared in accordance with the general acceptable accounting principles (GAAP) standards or consistent with the Public Company Accounting Oversight Board (PCAOB) standards.

B. All licensing requirements, including renewals, relative to tangible net worth shall be evidenced at the time of initial application for licensure and renewal, maintained at all times during licensure and renewal, and reported annually to the commissioner in compliance with Subsection A of this Section and in accordance with R.S. 6:1388.

§1386.2. Protection of resident assets

A. To the extent a licensee stores, holds, or maintains custody or control of virtual currency on behalf of a resident, the licensee shall hold virtual currency of the same type and amount as that which is owed or obligated to the resident.

B. A licensee is prohibited from selling, transferring, assigning, lending, hypothecating, pledging, or otherwise using or encumbering assets, including virtual currency, stored, held, or maintained by or under the custody or control of such licensee on behalf of a resident, except for the sale, transfer, or assignment of such assets at the direction of the resident.

C. A licensee is prohibited from commingling assets belonging to a resident with assets belonging to a licensee, using the resident's assets to secure or guarantee a transaction other than a transaction involving, or on behalf of, the resident's contributing assets, maintaining the resident's assets in such a manner that the resident may be unable to fully withdraw his assets, and investing in such a manner that would not allow for sufficient assets, including virtual currency, to fulfill all outstanding obligations to the resident.

D. In order to ensure compliance with the requirements of Subsection C of this Section, a licensee may include the amount of his assets in the same account with a resident's assets solely for the purpose of facilitating, selling, transferring, assigning, lending, hypothecating, pledging, or using or encumbering assets, including virtual currency, stored, held, maintained by, or under the custody or control of such licensee on behalf of a resident, and operational needs related to such virtual currency business activities, provided that the assets of the licensee shall be deemed resident assets, and the licensee may only withdraw or assert a claim on that amount to the extent that amount exceeds that amount of resident assets held by or for a resident.

§1387. Issuance of license; appeal

A. No license shall be issued unless the commissioner has made a determination that the applicant has met the licensing requirements pursuant to this Chapter, including all requirements of R.S. 6:1385 and 1386.

B. An applicant may appeal a denial of its application pursuant to R.S. 6:1385, in accordance with the Administrative Procedure Act, not later than thirty days after the office notifies the applicant of the denial or the application is deemed denied.

C. In the case of a denial of an advanced change of control notice, or denial of an advanced change of responsible individual notice, pursuant to either R.S. 6:1385.1 or 1385.2, in accordance with the Administrative Procedure Act, the applicant or licensee may appeal the denial not later than thirty days after the office notifies the applicant or licensee of the denial of the advanced change of control notice, or the denial of an advanced change of responsible individual notice, or in either case, the change is deemed denied.

§1388. Renewal of license; procedure; denial

A. (1) Each person licensed as a virtual currency business activity licensee shall submit an annual license renewal application on or before December thirty-first of each year in a manner and form prescribed by the commissioner and submit to the commissioner a renewal report pursuant to Subsection C of this Section if the person is not issued a new license from November first to December thirty-first of that year. A virtual currency business activity license issued during this time period will expire on December thirty-first of the following calendar year.

(2) An annual renewal application shall be accompanied by the required annual license renewal and investigation fees pursuant to the rules and regulations promulgated by the commissioner, as required pursuant to Subsection F of this Section. An annual license renewal application submitted after December thirty-first and before March first of the following year shall be charged an annual license renewal late fee pursuant to the rules and regulations promulgated by the commissioner, in addition to the annual license renewal and investigation fees.

B.(1) An annual licensee renewal application that is timely submitted on or before the license expiration date shall remain in force and effect until such application is approved or denied by the commissioner. Nothing in this Section shall preclude the commissioner from implementing any administrative or enforcement action authorized by this Title for violations of this Chapter or for material misrepresentation that may have occurred prior to the renewal date of a license.

(2) If the renewal application is submitted timely on or before December thirty-first, the license shall remain in force and effect until the renewal application is either approved or denied by the commissioner. Nothing in this Paragraph shall preclude the commissioner from implementing any administrative or enforcement action authorized by this Title for violations of this Chapter or for any material representation that may have occurred prior to the renewal date of a license.

(3) If the commissioner has not received the renewal fee and late fee before March first, the license to engage in virtual currency business activities shall expire without hearing or notification, and the license shall not be reinstated. However, the person whose license has expired may apply for a new license, subject to all new license application requirements of this Chapter. Prior to such application being complete and eligible for approval consideration, the applicant shall be subject to and pay unlicensed activity civil money penalties in an amount determined by the commissioner.

C.(1) The renewal report required by Subsection A of this Section shall be submitted in a form and medium prescribed by the office.

(2) The report shall contain all of the following:

(a) A copy of the licensee's audited annual financial statement.

(b) If a person other than an individual has control of the licensee, a copy of either of the following:

(i) The person's current annual financial statement.

(ii) The person's current audited consolidated annual financial statement.

(c) A description of any of the following:

(i) Material change in the financial condition of the licensee.

(ii) Material litigation involving the licensee or a responsible individual of the licensee.

(iii) License suspension or revocation proceeding commenced, or other action taken, involving a license to conduct virtual currency business activity issued by another state.

(iv) Federal or state investigation involving the licensee.

(v) Data security breach involving the licensee.

(d) The number of virtual currency business activity transactions with, or on behalf of, residents as of December thirty-first of the preceding calendar year and as of September thirtieth of the current year.

(e)(i) The amount of United States dollar equivalent of virtual currency in the control of the licensee as of December thirty-first of the preceding calendar year and as of September thirtieth of the current year.

(ii) The total number of residents for whom the licensee had control of United States dollar equivalent of virtual currency as of December thirty-first of the preceding calendar year and as of September thirtieth of the current year.

(f) Evidence that the licensee continues to satisfy the requirements provided for in R.S. 6:1386.

(g) A list of each location where the licensee operates its virtual currency business activity.

(h) The name, United States Postal Service address, and telephone number of each person that manages a server used by the licensee in conducting its virtual currency business activity with or on behalf of a resident.

D. In addition to the provisions of Paragraph (B)(3) of this Section, if a licensee does not timely comply with Subsection A of this Section, the office may use any enforcement action provided for in R.S. 6:1392.

E. Expiration of a license pursuant to the provisions of this Section shall not invalidate a transfer or exchange of virtual currency for, or on behalf of, a resident made during such expiration and shall not insulate the licensee from liability pursuant to the provisions of this Chapter, nor from other enforcement action as provided for in Subsection D of this Section.

F. A licensee shall pay the reasonable and necessary costs of the office's investigation in accordance with this Section.

§1388.1. Quarterly financial reports

A. A licensee shall submit through the NMLS quarterly financial reports, including transactional information, within forty-five days following the close of each calendar quarter, in the form and containing such information as the commissioner shall prescribe, including both of the following:

(1) A statement of the financial condition of the licensee, including a balance sheet and income sheet, along with transactional information, all in United States currency, relating to virtual currency balances held on behalf of residents, virtual currency balances not held on behalf of residents, and other investments.

(2) A certification of the financial reports by an officer or member of the board of directors, or an equivalent governing body of the licensee, attesting to the truth and correctness of such reports.

B. In addition, each licensee shall submit special reports to the commissioner at such times and in such form as the commissioner may require.

§1389. Repealed by Acts 2023, No. 331, §2, eff. June 13, 2023.

§1390. Transferability

A license issued pursuant to the provisions of this Chapter shall not be transferable or assignable.

§1391. Examinations

A. Each person required to be licensed under this Chapter shall maintain in his office the books, records, and accounts of its virtual currency business activities as the commissioner may reasonably require in order to determine whether the person is complying with the provisions of this Chapter and the rules and regulations promulgated under the provisions of this Chapter. Required records may be maintained in any electronic format consistent with the person's ordinary business practices unless the person receives specific written instructions from the commissioner to the contrary. The books, records, and accounts shall be maintained separate and apart from any other business in which the person is involved and shall be kept at the location in the state at which the

virtual currency business activities occurred or at the person's principal office unless otherwise permitted in writing by the commissioner. Records shall be made available for review or examination at a nonresidential location approved by the commissioner.

B. If the books and records of any person described in this Section are located outside of the state, he shall make them available to the commissioner at a location within this state convenient to the commissioner or pay the reasonable and necessary expenses for the commissioner or his representative to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect the records on his behalf.

C. The licensee shall pay the reasonable cost of the examination as the commissioner shall prescribe by rule. If the examination fee is not paid within thirty days of its assessment, the person examined shall be subject to an administrative penalty.

D. The commissioner may do any of the following:

(1) Conduct on-site examination or investigation, participate in a joint or concurrent examination or investigation with another state or federal agency or agencies, or examine or investigate the books, records, and accounts used in the business of every licensee.

(2) Accept and rely upon an examination report or investigative report of any other state or federal agency.

E. Nothing in Subsection D of this Section shall preclude the commissioner from conducting an examination or investigation in accordance with applicable provisions of this Chapter, including but not limited to any of the following:

(1) Participating in a joint examination or investigation.

(2) Participating in a concurrent examination or investigation.

(3) Accepting results of an examination or investigation report conducted by any state or federal agency.

F. A joint report or concurrent report accepted by the commissioner pursuant to this Section may be accepted as an official report of the office for purposes of this Chapter.

G.(1) To efficiently and effectively enforce the provisions of this Chapter and to minimize regulatory burdens, the commissioner may participate in a multistate examination and investigation process for licensees that hold licenses in this state and other states.

(2) As a participant in any multistate examination or investigation, the commissioner may, to the extent provided by law, do all of the following:

(a) Cooperate, coordinate, and share information with other state regulators of virtual currency business activities.

(b) Enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations made up of other state governmental regulators of virtual currency business activities.

(c) Cooperate, coordinate, and share information with organizations made up of other state governmental regulators of virtual currency business activities, if the organizations agree in writing to maintain confidentiality and security of shared information.

(3) Nothing in this Section shall constitute a waiver of the commissioner's authority to do any of the following:

(a) Conduct any examination or investigation authorized by law.

(b) Otherwise take any independent action authorized by law or any rule promulgated in accordance with the Administrative Procedure Act.

(c) Enforce compliance of any order issued pursuant to this Chapter.

(4) The following shall not constitute a waiver of any examination fee provided pursuant to this Chapter or any rule promulgated in accordance with the Administrative Procedure Act:

(a) The commissioner's participation in any joint examination or investigation.

(b) The commissioner's acceptance of an examination or investigative report conducted and prepared by other state or federal regulators of virtual currency business activity.

§1391.1. Books, records, and accounts

A. Any licensee engaging in virtual currency business activities in this state shall maintain and preserve the books, records, and accounts of its virtual currency business activities, pursuant to R.S. 6:1391, for a period of five years or longer, if required by the commissioner to resolve any examination, investigation, or complaint.

B. The books, records, and accounts to be maintained by each licensee shall include all of the following:

(1) For each transaction:

(a) The amount, date, and precise time of the transaction.

(b) Any payment instructions for the transaction.

(c) The total amount of fees and charges received and paid to, by, or on behalf of the licensee.

(d) The names, account numbers, and physical address of the parties to the transactions, including any customers and account holders of the licensee who are residents.

(2) A general ledger containing all assets, liabilities, ownership equity, income, and expense accounts.

(3) Bank statements and bank reconciliation records.

(4) Any statement and valuation provided to customers and account holders.

(5) Records or minutes of meetings of the board of directors, or an equivalent governing body.

(6) Records demonstrating compliance with applicable state and federal anti-money laundering laws, rules, and regulations, including customer and account holder identification and verification documents, records linking customers and account holders to their respective accounts and balances, and a record of any compliance breaches.

(7) Communications and documentation related to investigations of customer and account holder complaints and transaction error resolutions.

(8) Any other books, records, and accounts as the commissioner may require.

§1391.2. Compliance policies and procedures

A. Any licensee engaging in virtual currency business activity in this state shall adopt and implement appropriate compliance policies and procedures, as part of the required books, records, and accounts, as determined by the commissioner by rule or pursuant to this Chapter.

B. The policies and procedures shall be in writing and reviewed and approved by the licensee's board of directors or an equivalent governing body and include, at a minimum, policies and procedures covering anti-fraud, anti-money laundering, cybersecurity, privacy, and information security, and such other policies and procedures as may be required by the commissioner by rule or pursuant to this Chapter.

C. A licensee shall designate a qualified individual or individuals who is responsible for coordinating and monitoring compliance with this Section and all other applicable state and federal laws, rules, and regulations.

§1392. Enforcement power of the commissioner

A. For purposes of this Chapter, "enforcement action" means an action or actions by the commissioner to enforce the requirements of this Chapter, including any of the following:

(1) Suspend or revoke a license pursuant to the provisions of this Chapter.

(2) Order a person to cease and desist from doing virtual currency business activity with, or on behalf of, a resident.

(3) Request the court to appoint a receiver for the assets of a person doing virtual currency business activity with, or on behalf of, a resident.

(4) Request the court to issue temporary, preliminary, or permanent injunctive relief against a person doing virtual currency business activity with, or on behalf of, a resident.

(5) Assess civil money penalties.

(6) Recover on the surety bond provided pursuant to R.S. 6:1386 and initiate a plan to distribute the proceeds for the benefit of a resident injured by a violation of any provision of this Chapter.

(7) Impose necessary or appropriate conditions on the conduct of virtual currency business activity with, or on behalf of, a resident.

B. Any enforcement action pursuant to this Section may be supplemented by the exercise of any other enforcement power by the commissioner as may be authorized by this Title or any other Title of the Louisiana Revised Statutes of 1950.

§1393. Violations

A. The office may take an enforcement action against a licensee or person who is not a licensee but is engaging in virtual currency business activity with, or on behalf of, a resident in any of the following instances:

(1) The licensee or person violates any of the provisions of this Chapter or any rule or regulation promulgated or any order, including but not limited to a cease and desist order or subpoena, issued pursuant to this Chapter.

(2) The licensee or person violates any provision of a voluntary consent or compliance agreement that has been entered into with the commissioner.

(3) The licensee or person, in the conduct of its virtual currency business activity with, or on behalf of, a resident, engages in any of the following:

(a) An unsafe or unsound act or practice.

(b) An unfair or deceptive act or practice.

(c) Fraud or intentional misrepresentation.

(d) Another dishonest act.

(e) Misappropriation of legal tender, virtual currency, or other value held by a fiduciary.

(4) The licensee or person does not cooperate substantially with an investigation by the office, fails to pay a fee, or fails to submit a report or documentation.

(5) If any of the following occurs:

(a) The licensee or person becomes insolvent.

(b) The licensee or person makes a general assignment for the benefit of its creditors.

(c) The licensee or person becomes the debtor, alleged debtor, respondent, or person in a similar capacity in a case or other proceeding under any bankruptcy, reorganization, arrangement, readjustment, insolvency, receivership, dissolution, liquidation, or similar law and does not obtain from the court, within a reasonable time, confirmation of a plan or dismissal of the case or proceeding.

(d) The licensee or person applies for, or permits the appointment of, a receiver, trustee, or other agent of a court for itself or for a substantial part of its assets.

(6) The licensee or person has knowingly provided or caused to be provided a material misrepresentation to the commissioner, any false or fraudulent material fact, or any false or fraudulent financial statement or has suppressed or withheld from the commissioner any information which if submitted by the licensee would have resulted in a denial of the license application.

(7) The licensee or person refuses to permit an examination by the commissioner of the books and affairs or has refused or failed within a reasonable time to furnish any information or make any report that may be required by the commissioner pursuant to the provisions of this Chapter.

(8) The licensee or person fails to maintain records as required by the commissioner after being given written notice to the last address of record and thirty days within which to correct the failure. The commissioner may grant up to two thirty-day extensions within which to correct the recordkeeping violation.

(9) The licensee or person continues in office any individual with power to direct the management or policies of a person regulated by this Chapter, including but not limited to any officer, director, or manager, if such individual is convicted of, pleads guilty to, or is found guilty after a plea of nolo contendere of any felony and has been adjudicated guilty in any state, federal, foreign, or military court.

(10) The licensee or person violates any provision of a regulatory or prohibitory statute by the government agency responsible for determining such violations.

(11) The licensee or person misrepresents material facts or makes a false promise likely to influence, persuade, or induce a resident to engage in virtual currency business activity.

(12) The licensee or person misrepresents or conceals a material fact, term, or condition of a transaction to which he is a party pertinent to a resident to engage in virtual currency business activity.

(13) The licensee or person knowingly engages in any transaction, practice, or course of business which perpetrates a fraud upon any person in connection with engaging in virtual currency business activity.

(14) The licensee or person fails to exchange, transfer, or store, without just cause, any funds in accordance with any agreement connected with a virtual currency business activity transaction.

(15) The licensee or person fails to account for or deliver to any person any assets obtained in connection with a virtual currency business activity transaction, including but not limited to legal tender, virtual currency, precious metals, and electronic certificates.

(16) The licensee or person fails to pay any fee, civil money penalty, cost, or assessment imposed pursuant to this Chapter or by any rule or regulation promulgated in accordance with this Chapter.

(17) The licensee or person violates the written restrictions or conditions under which the license was issued.

(18) The licensee or person fails, after notice and without lawful excuse, to obey any order or subpoena issued by the commissioner.

(19) The commissioner discovers any fact or condition currently exists that, if it had existed at the time of the original application for licensure, would have warranted the denial of the application.

B.(1) Notwithstanding any other law to the contrary, and in addition to any other authority conferred upon the commissioner by any other provision of law, the commissioner may, upon discovery, order an immediate suspension of the license of any person licensed pursuant to this Chapter who does any of the following:

(a) Fails to maintain a surety bond or fails to meet the tangible net worth requirements in any manner as provided for pursuant to R.S. 6:1386.

(b) Commits material violations pursuant to this Chapter such that, in the opinion of the commissioner, the public safety and welfare demand that emergency action be taken.

(c) Submits a payment of any fee for any application, notification, examination, investigation, late fee, or penalty that is returned, declined, denied, or otherwise not paid in full for any reason.

(d) Is convicted of a felony that would have prohibited the issuance or renewal of the license.

(e) Has his license to engage in virtual currency business activities suspended or revoked in another jurisdiction.

(2) A person whose license is suspended pursuant to this Subsection shall have thirty days from the date of the order to request a hearing in accordance with the Administrative Procedure Act. Failure to timely request a hearing shall constitute a waiver of all hearing rights regarding the suspension.

C. In addition to any other authority conferred upon the commissioner by this Chapter or this Title, the commissioner may issue a cease and desist order, order refunds of any unauthorized portion of any fee, or charge any person who collects in violation of this Chapter and may impose a civil money penalty as determined by the commissioner by rule upon any person who is found to have violated any of the provisions of this Chapter or any rule or regulation promulgated in accordance with this Chapter. Each separate violation shall subject the person to a civil money penalty, and each day the person acts without complying with the provisions of this Chapter, or rules or regulations promulgated in accordance with this Chapter, shall constitute a separate violation.

D. The violations listed in this Subsection are nonexclusive and are in addition to and exist independent of any violations set forth in other provisions of this Chapter. Failure to comply with any provisions set forth in this Chapter may serve as a basis for any enforcement or other action authorized to the commissioner under this Title. It shall be a violation of this Chapter for a person engaged in virtual currency business activity pursuant to this Chapter to do any of the following:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any resident, when such person knew or should have known that such scheme, device, or artifice was defrauding or misleading.

(2) Engage in any unfair or deceptive practice toward any resident.

(3) Fail to comply with this Chapter, any rules or regulations promulgated pursuant to this Chapter, the laws of this state, or federal law, including the rules and regulations issued thereunder, applicable to any virtual currency business activity.

(4) Negligently make any false statement, or knowingly and willfully make any omission of material fact, in connection with any information or reports filed with a state or federal government agency or the NMLS or in connection with any investigation conducted by the commissioner or any other state or federal government agency.

(5) Fail to truthfully account for any assets in connection with any virtual currency business activity with, or on behalf of, a resident.

E. The commissioner may report apparent violations to other appropriate state and federal regulators, the NMLS, federal law enforcement agencies, the attorney general, or the district attorney of the appropriate parish, who may institute any proceeding as he considers appropriate.

F. Advisory opinions and interpretations of the office shall not be considered rules requiring compliance with the rulemaking process of the Administrative Procedure Act. The commissioner and the employees of the office shall have no liability to any person with respect to an advisory opinion or interpretation issued in connection with this Chapter.

G. All of the grounds for enforcement action listed in Subsection A of this Section are violations of this Chapter and may serve as the basis for any other enforcement action provided to the commissioner by this Title.

H. The commissioner may share information about any person who is licensed or required to be licensed pursuant to this Chapter with any state or federal agency also having jurisdiction over the virtual currency business activities of that person.

I. Any licensee whose license issued pursuant to this Chapter has been revoked for any reason may not reapply for a license until at least five years have elapsed from the date of the order of revocation, unless the commissioner, in his sole discretion, prescribes an earlier or later date. For purposes of this Subsection, the order is considered to be the commissioner's notification of revocation of the license. For the purpose of this Subsection, the term "licensee" shall include the licensee, owners of ten percent or more, and its members if the licensee is a limited liability company, its partners if the licensee is a partnership, its officers and directors if the licensee is a corporation, and any other person determined by the commissioner, in his sole discretion, to be closely related to the licensee.

§1393.1. Required disclosures

A. Any licensee engaging in virtual currency business activity as defined in R.S. 6:1382 in this state shall provide accurate and appropriate disclosures to residents as it relates to the exchanging, transferring, or storing of virtual currency through the licensee. Failure to provide the disclosures required by this Section shall be a violation of this Chapter.

B. Disclosures shall be made separately from any other information provided by the licensee to a resident and shall be clear, conspicuous, and in legible writing in the English language.

C. Without limitation, the commissioner may require additional disclosures by rule or regulation as considered necessary and appropriate.

D. The disclosures shall describe all material risks associated with the licensee's virtual currency products, services, and activities and virtual currency generally, including but not limited to the following:

(1) Virtual currency is not legal tender in the United States, is not backed by the United States government, and accounts and value balances are not subject to Federal Deposit Insurance Corporation or Securities Investor Protection Corporation protections.

(2) Legislative and regulatory changes or actions at the state, federal, or international level may adversely affect the value of virtual currency.

(3) Transaction in virtual currency may be irreversible, and accordingly, losses due to fraudulent or accidental transactions may not be recoverable.

(4) Some virtual currency transactions may be immediately effective when recorded on a public ledger, which is not necessarily the date or time that the resident initiates the transaction.

(5) The value of virtual currency may be derived from the continued willingness of market participants to exchange legal tender for virtual currency, which may result in the potential for permanent and total loss of value of a particular virtual currency if the market for the virtual currency declines or collapses for an extended period of time.

(6) Any surety bond required by this Chapter for the benefit of residents may not be sufficient to cover all losses incurred by the residents.

(7) The residents should perform research before purchasing or investing in virtual currency.

(8) The circumstances under which the licensee will, in the ordinary course of business, disclose the resident's financial and account information to third parties.

E. When opening a new account, and prior to entering into an initial transaction with, for, or on behalf of a resident, each licensee shall disclose in clear, conspicuous, and legible writing in the English language all relevant terms and conditions associated with its virtual currency products, services, and activities and virtual currency generally, including but not limited to the following:

(1) The resident's liability for unauthorized virtual currency transactions.

(2) The resident's right to stop payment of a preauthorized virtual currency transfer and the procedure to initiate the stop-payment order.

(3) Under what circumstances the licensee will, absent a court or government order, disclose information concerning the resident's account to third parties.

(4) The resident's right to receive periodic account statements and valuations from the licensee.

(5) The resident's right to receive a receipt, trade ticket, or other evidence of a transaction.

(6) Any other disclosures as are customarily given in connection with the opening of resident accounts.

F. Prior to each transaction in virtual currency with, for, or on behalf of a resident, each licensee shall furnish to each such customer or account holder a written disclosure in clear, conspicuous, and legible writing in the English language containing the terms and conditions of the transaction, including but not limited to the following:

(1) The amount of the transaction.

(2) Any fees, expenses, and charges borne by the resident, including applicable exchange rates.

(3) The type of the virtual currency transaction.

(4) A notice that once executed, the transaction is not reversible.

G. Each licensee shall ensure that all disclosures required in this Section are acknowledged as received by the resident.

H. Upon completion of any transaction, each licensee shall provide to the resident a receipt containing all of the following information:

(1) The name and contact information of the licensee, to answer questions and register complaints.

(2) The type, value, date, and precise time of the transaction.

(3) The fee charged.

(4) The exchange rate, if applicable.

(5) A statement of the liability of the licensee for nondelivery or delayed delivery.

(6) A statement of the refund policy of the licensee.

(7) Any additional information the commissioner may require by rule.

I. Each licensee shall make available to the office, upon request, the form of the receipts it is required to provide to a resident in accordance with Subsection H of this Section.

§1394. Implementation; reporting requirements

A. The commissioner shall adopt rules, in accordance with the Administrative Procedure Act, to implement and enforce the provisions of this Chapter and may issue guidance as appropriate.

B. In addition to any other powers the commissioner may be authorized to exercise pursuant to this Title, the commissioner may adopt and implement emergency rules as the commissioner considers necessary and appropriate to prevent or terminate any condition the commissioner reasonably considers to create an emergency relative to a particular licensee or to licenses in general, including but not limited to suspending the issuance or renewal of licenses or suspending some or all virtual currency business activities in this state.

C. In order to carry out the purposes of this Chapter, the commissioner may do all of the following:

(1) Enter into agreements or relationships with other government officials, federal and state regulatory agencies, and regulatory associations in order to improve efficiencies and reduce regulatory burden by standardizing methods or procedures and sharing records or related information obtained in accordance with this Chapter.

(2) Use, hire, contract, or employ analytical systems, methods, or software in examinations or investigations pursuant to this Chapter.

(3) Consider, accept, and rely upon licensing, examination, or investigative reports prepared by other government agencies or officials within or outside the state.

(4) Consider, accept, and rely upon audit reports prepared by an independent certified public accountant or other qualified third-party auditor for any person subject to the provisions of this Chapter and incorporate all or part of such audit reports in the office's report of examination or investigation.

D.(1) The commissioner shall report all of the following biannually to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection and International Affairs:

(a) The number of applications for each type of license.

(b) The number of applicants who currently have a money transmission license.

(c) The number of licenses granted.

(d) The number of applicants who have been denied.

(e) A list of fees that were assessed during application.

(2) The biannual report shall be submitted on the first day of September and March of each calendar year.

Acts 2020, No. 341, §1; Acts 2023, No. 331, §1, eff. June 13, 2023.

NOTE: The provisions of Acts 2023, No. 331, will terminate on July 1, 2025.