

June 27, 2023

Dear Money Transmitter Licensee:

This letter is being addressed to companies currently licensed as money transmitters by the North Dakota Department of Financial Institutions. The purpose of this letter is to inform you of substantive changes taking effect **August 1, 2023**, as a direct result of the North Dakota 2023 legislative session.

**North Dakota Enacts Money Transmission Modernization Act**

On March 15, 2023, the North Dakota governor signed Senate Bill 2119 to enact the Money Transmission Modernization Act, the money transmitter model law created by industry and state experts. Senate Bill 2119 is an act to create and enact chapter 13-09.1 of the North Dakota Century Code, relating to money transmitters; to amend and reenact subsection 1 of section 6-01-01.1 of the North Dakota Century Code, relating to money transmitters; and to repeal chapter 13-09 of the North Dakota Century Code, relating to money transmitters. Provisions under the Act are intended to (i) reduce regulatory burden by promoting coordination among the states in areas of regulation, licensing, and supervision; (ii) protect the public from financial crime; (iii) standardize activities that are subject to, or otherwise exempt from, licensure; and (iv) modernize safety and soundness requirements to protect customer funds while supporting innovative and competitive business practices.

This chapter goes into effect August 1, 2023. For current licensees, the effective date is upon license renewal, but no later than December 21, 2023.

A full version of Senate Bill 2119 can be reviewed at the following link:

[Enrolled Senate Bill No. 2119 - Sixty-eighth Legislative Assembly of North Dakota - LC Number 23.8085.02000 \(ndlegis.gov\)](https://legis.nd.gov/bills/2019/2119)

**Please review the full law; however, here are some key changes worth noting:**

**Tangible net worth – NDCC 13-09.1-32.** A licensee under this chapter shall 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 dollars to one billion dollars, and one - half percent of additional assets for over one billion dollars.



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**Bonding requirements – NDCC 13-09.1-32.** (1) An applicant for a money transmission license must provide, and a licensee at all times must maintain, security consisting of a surety bond in a form satisfactory to the commissioner or, with the commissioner's approval, a deposit instead of a bond in accordance with this section. (2) The amount of the required security must be: a. The greater of one hundred thousand dollars or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this state calculated for the most recently completed three-month period, up to a maximum of five hundred thousand dollars; or b. In the event that the licensee's tangible net worth exceeds ten percent of total assets, the licensee shall maintain a surety bond of one hundred thousand dollars. (3) A licensee that maintains the maximum bond amount provided for in subdivision a of subsection 2 may not be required to calculate its average daily money transmission liability in this state for purposes of this section. (4) A licensee may exceed the maximum required bond amount pursuant to subdivision e of subsection 1 of section 13-09.1-35.

**Permissible Investments** – Please see NDCC 13-09.1-34 through NDCC 13-09.1-35.

**Payroll processors** – The term “Money transmission” includes payroll processing services. "Payroll processing services" means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. The term "payroll processing services" does not include an employer performing payroll processing services on its own behalf or on behalf of its affiliate, or a professional employment organization subject to regulation under applicable state law.

**Virtual currency – NDCC 13-09.1-44(7)** "Virtual-currency business activity" means:

- 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; or
- c. Exchanging one or more digital representations of value used within one or more online games, game platforms, or family of games for: (1) Virtual currency offered by or on behalf of the same publisher from which the original digital representation of value was received; or (2) Money or bank credit outside 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.

**NDCC 13-09.1-46.** (1) A person may not engage in virtual-currency business activity, or hold itself out as being able to engage in virtual-currency business activity, with or on behalf of another person unless the person is:

- a. Licensed in this state by the commissioner pursuant to section 13-09.1-13; or
- b. Exempt from licensing under section 13 - 09.1 - 02.

(2) A person that is licensed to engage in virtual-currency business activity is engaged in the business of money transmission and is subject to the requirements of this chapter.

The Department will be working to update the FAQs on our website in the near future, however, currently they do not represent the changes taking effect August 1, 2023. The Department has determined we will require licensure for businesses operating bitcoin ATMs/virtual currency kiosks.

Once again, the purpose of this letter is to address implementation of the Money Transmission Modernization Act taking effect August 1, 2023. Should you have any questions, please feel free to contact me directly at [cludwig@nd.gov](mailto:cludwig@nd.gov) or (701) 328-9932.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Ludwig".

Chris Ludwig  
Non-Depository Division Supervisor