

Cal Fin Code § 3211

Deering's California Codes are current through the 2024 Regular Session Ch 1

Deering's California Codes Annotated > FINANCIAL CODE (§§ 1 — 110002) > Division 1.25 Digital Financial Assets Businesses (Chs. 1 — 9) > Chapter 2 Licensure (§§ 3201 — 3225)

§ 3211. Annual report; Pro rata cost share; Noncompliance

- (a) Subject to subdivision (h), between October 1 and November 1 of each year, a licensee shall submit to the department an annual report under subdivision (b).
- (b) The annual report required by subdivision (a) shall be submitted in a form and medium prescribed by the department. The report shall contain all of the following:
 - (1) Either a copy of the licensee's most recent reviewed annual financial statement, if the gross revenue generated by the licensee's digital financial asset business activity in this state was not more than two million dollars (\$2,000,000) for the fiscal year ending before the anniversary date of issuance of its license under this division, or a copy of the licensee's most recent audited annual financial statement, if the licensee's digital financial asset business activity in this state amounted to more than two million dollars (\$2,000,000), for the fiscal year ending before the anniversary date.
 - (2) If a person other than an individual has control of the licensee, a copy of either of the following:
 - (A) The person's most recent reviewed annual financial statement, if the person's gross revenue was not more than two million dollars (\$2,000,000) in the previous fiscal year measured as of the anniversary date of issuance of its license under this division.
 - (B) The person's most recent audited consolidated annual financial statement, if the person's gross revenue was more than two million dollars (\$2,000,000) in the previous fiscal year measured as of the anniversary date of issuance of its license under this division.
 - (3) A description of any of the following:
 - (A) Any material change in the financial condition of the licensee.
 - (B) Any material litigation related to the licensee's digital financial asset business activity and involving the licensee or an executive officer or responsible individual of the licensee.
 - (C) Any international, federal, state, or local investigation of the licensee, where permitted by applicable law.
 - (D)
 - (i) Any data security breach or cybersecurity event of the licensee.
 - (ii) A description of a data security breach pursuant to this subparagraph does not constitute disclosure or notification of a security breach for purposes of Section 1798.82 of the Civil Code.

- (4) Information or records required by Section 3307 that the licensee has not reported to the department.
- (5) The number of digital financial asset business activity transactions with, or on behalf of, residents for the period since, subject to subdivision (h), the later of the date the license was issued or the date the last annual report was submitted.
- (6)
- (A) The amount of United States dollar equivalent of digital financial asset in the control of the licensee at, subject to subdivision (h), the end of the last month that ends not later than 30 days before the date of the annual report.
- (B) The total number of residents for whom the licensee had control of United States dollar equivalent of digital financial assets on that date.
- (7) Evidence that the licensee is in compliance with Section 3503.
- (8) Evidence that the licensee is in compliance with Section 3205.
- (9) A list of all locations where the licensee engages in its digital financial asset business activity.
- (10) The number of residents with whom, or on behalf of, the licensee engaged in digital financial asset business activity between September 30 of the preceding year and October 1 of the year in which the licensee is submitting the annual report.
- (11) Any other information the department requires by rule.
- (c)
- (1) On or before February 28 of each year, a licensee and an applicant operating under this division without a license pursuant to subdivision (b) of Section 3201 shall pay its pro rata cost share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in both the year in which the assessment is made and the preceding year.
- (2) The pro rata cost share described in paragraph (1) shall be the proportion of residents with whom, or on behalf of, a licensee or an applicant operating under this division without a license pursuant to subdivision (b) of Section 3201 engages in digital financial asset business activity bears to the aggregate residents with whom, or on behalf of, all licensees and applicants operating under this division without a license pursuant to subdivision (b) of Section 3201 engage in digital financial asset business activity, as determined by the commissioner, for the costs and expenses reasonably incurred in the administration of this division, not including any costs covered by the fees or cost recoveries under Section 3203 or cost recoveries under Section 3301.
- (3) On or before January 31 of each year, the commissioner shall notify each licensee and applicant operating under this division without a license pursuant to subdivision (b) of Section 3201 of the amount assessed and levied against it.
- (4) The commissioner may use funds obtained by the commissioner through the enforcement of this division, including, but not limited to, moneys received through fines, penalties, settlements, or judgements, for the administration of this division, which shall offset amounts assessed and levied against pursuant to this subdivision.

(5) The department may adopt rules that change the calculation of the pro rata cost share and the dates on which assessment notifications and payments are due pursuant to this subdivision, except that the amount of the pro rata cost share shall not exceed the costs and expenses reasonably incurred in the administration of this division.

(d)

(1) Following at least five business days' notice to the licensee, the commissioner may by order summarily suspend or revoke the license of any licensee that fails to comply with subdivisions (a) to (c), inclusive, by March 31 of the year in which an assessment is made pursuant to subdivision (c).

(2) The licensee may request a hearing on the order within 30 days of receipt of the notice.

(3) If the licensee timely requests a hearing on the order and a hearing is not held within 60 days of that request, the order shall be deemed rescinded as of the effective date of the order.

(e) If the department suspends or revokes a license under this division for noncompliance with subdivisions (a) to (c), inclusive, the department may end the suspension or rescind the revocation and notify the licensee of the action if, subject to subdivision (h), not later than 20 days after the license was suspended or revoked, the licensee files an annual report required by subdivision (a), a pro rata cost share required by subdivision (c), and pays any penalty assessed under Section 3407.

(f) The department shall give prompt notice to a licensee of the lifting of a suspension or rescission of a revocation after the licensee complies with subdivision (e).

(g) Suspension or revocation of a license under this section does not invalidate a transfer or exchange of digital financial assets for, or on behalf of, a resident made during the suspension or revocation and does not insulate the licensee from liability under this division.

(h) The department may extend a period under this section.

History

Added Stats 2023 ch 792 § 1 (AB 39), effective January 1, 2024.