### **CHECKLIST SECTIONS**

- General Information
- License Fees
- Requirements Completed in NMLS
- Requirements/Documents Uploaded in NMLS
- Requirements Submitted Outside of NMLS

### **GENERAL INFORMATION**

### Who Is Required to Have This License?

The license requirements for Licensed Lenders are found primarily in Article 9 of the New York Banking Law (BL) and the regulations thereunder. BL Section 340 provides:

No person or other entity shall engage in the business of making loans in the principal amount of twenty-five thousand dollars or less for any loan to an individual for personal, family, household, or investment purposes and in a principal amount of fifty thousand dollars or less for business and commercial loans, and charge, contract for, or receive a greater rate of interest than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this article and without first obtaining a license from the superintendent.

In addition to the items listed in this <u>checklist below</u>, the New York State Department of Financial Services (NY-DFS) may require, as it deems necessary, the submission of any other information or documentation.

**Note:** If you are seeking the NY Licensed Lender License at more than one location, <u>see the NY Licensed Lender</u> Branch License New Application Checklist for more information.

<u>Please note that this license is NOT required for mortgage-related activity. Please reference the appropriate mortgage related license checklist on the New York State License Requirements page.</u>

#### **Activities Authorized Under This License**

This license authorizes the following activities:

- Consumer loan lending
- Other Consumer Finance
- Premium finance company activities
- Sales finance company activities motor vehicles
- Sales finance company activities general

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# **Pre-Requisites for License Applications**

None.

NY-DFS does issue paper licenses for this license type.

# **Document Uploads Guidance**

Documents that must be uploaded to the *Document Uploads* section of the Company Form (MU1) in NMLS are indicated in the checklist below. When uploading documents:

- Follow the guidance in Document Upload Descriptions and Examples.
- Only upload documents relevant to the company application.
- Only upload documents where there is a selectable document category. If inappropriate documents
  are uploaded that should not be, you will be contacted by your regulator and asked to remove them
  from NMLS.
- Do not upload the same company documents multiple times. Generally, unless the document is state-specific, if the document has already been uploaded for another state, a new upload is not required unless changes have been made.
- If a document previously uploaded has been revised, delete the old document and replace it with the new document (history of the old document will remain in NMLS).
- For state-specific documents (e.g., Certificate of Authority/Good Standing Certificate), be sure to indicate the applicable state.

# **Helpful Resources**

- Company Form (MU1) Filing Instructions
- Document Upload Descriptions and Examples
- Individual Form (MU2) Filing Quick Guide
- Financial Statements Quick Guide
- Payment Options Quick Guide
- <u>License Status Definitions Quick Guide</u>

### **Agency Contact Information**

Contact NY-DFS licensing staff by phone at (212) 709-5507.

For U.S. Postal Service & Overnight Delivery:

New York State Department of Financial Services Licensed Financial Services – Applications Unit One State Street New York, NY 10004-1511

THE APPLICANT/LICENSEE IS FULLY RESPONSIBLE FOR ALL OF THE REQUIREMENTS OF THE LICENSE FOR WHICH THEY ARE APPLYING. THE AGENCY SPECIFIC REQUIREMENTS CONTAINED HEREIN ARE FOR GUIDANCE ONLY TO FACILITATE APPLICATION THROUGH NMLS. SHOULD YOU HAVE QUESTIONS, PLEASE CONSULT LEGAL COUNSEL.

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LICENSE FEES - Fees collected through NMLS are NOT REFUNDABLE OR TRANSFERABLE.		
Complete	NY Licensed Lender License	Submitted via
	NY Application Fee: \$3,000  NMLS Initial Processing Fee: \$0	NMLS (Filing submission)
	Credit Report for Control Persons Fee: \$15 per control person.	NMLS (Filing submission)

REQUIREMENTS COMPLETED IN NMLS		
Complete	NY Licensed Lender License	Submitted via
	Submission of Company Form (MU1): Complete and submit the Company Form (MU1) in NMLS. This form serves as the application for the license/registration through NMLS.	NMLS
	Financial Statements: Upload the two most recent years' Audited financial statements prepared by a Certified Public Accountant in accordance with Generally Accepted Accounting Principles dated within 90 days of your fiscal year end. Financial statements should include a balance sheet, income statement, and statement of cash flows and all relevant notes thereto. If applicant is a start-up company, only an initial statement of condition is required.  If Audited financials are unavailable, provide an Unaudited statement and include an explanation.  Note: Pursuant to Section 341 of the Banking Law and Section 401.1 of the Superintendent's Regulations, an applicant must: (1) have at least \$50,000 in liquid assets available for the operation of each location; (2) demonstrate a net worth of at least \$100,000 and (3) submit written documentation that it has a confirmed line of credit of at least \$100,000 issued by a banking institution incorporated under the laws of the United States or any state or any insurance company for the operation of each location.	Note: Financial statements are uploaded separately under the Filing tab and Financial Statement submenu link. See the Financial Statements Quick Guide for instructions.

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Complete	NY Licensed Lender License	Submitted via
	Other Trade Name: If operating under a name that is different from the applicant's legal name, that name ("Trade Name," "Assumed Name" or "DBA") must be listed under the Other Trade Names section of the Company Form (MU1).	NMLS Upload in NMLS: under the Document Type Trade Name/Assumed
	NY-DFS does not limit the number of other trade names.	Name Registration
	If operating under an "Other Trade Name", upload documentation regarding ability to do business under that trade name. This document should be named [State-License Type] Trade Name – Assumed Name.	Certificates in the Document Uploads section of the Company Form (MU1).
	Note: Corporations, limited liability companies, and limited partnerships proposing to conduct business under an assumed name (e.g., DBA) must apply to the Secretary of State for authorization to do so. Individuals, general partnerships, and limited liability partnerships proposing to conduct business under an assumed name must apply to the County Clerk of each county in which the business will operate for permission to do so. In either case, certified copies of the applicable authorization must also be submitted to NY-DFS.  See also the Restricted Words item below.	
	Resident/Registered Agent: The Resident/Registered Agent must be listed	NMLS
	under the Resident/Registered Agent section of the Company Form (MU1).	MAILS
	Note: The resident/registered agent is the entity that will receive service of legal process on behalf of your company in the state identified.	
	Primary Contact Employees: The following individuals must be entered into the Contact Employees section of the Company Form (MU1).  1. Primary Company Contact.	NMLS
	2. Primary Consumer Complaint Contact.	
	Non-Primary Contact Employees: NY-DFS requires that an individual(s) be identified as a Non-Primary Contact for the following areas. These contacts must be listed in the <i>Contact Employees</i> section of the Company Form (MU1).	NMLS
	<ol> <li>Accounting</li> <li>Licensing</li> <li>Consumer Complaint (Public)</li> <li>Consumer Complaint (Regulator)</li> </ol>	
	5. Legal 6. Pre-Exam Contact	
Note	<b>Bank Account:</b> Bank account information is not required. The <i>Bank Account</i> section of the Company Form (MU1) can be left blank.	N/A

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Complete	NY Licensed Lender License	Submitted via
	Disclosure Questions: Provide a complete and detailed explanation and document upload for each "Yes" response to Disclosure Questions made by the Company or related control persons (MU2).  See the Company Disclosure Explanations Quick Guide for instructions.	Upload in NMLS in the Disclosure Explanations section of the Company Form (MU1) or Individual Form (MU2).
	Qualifying Individual: The applicant for a license shall demonstrate to the Superintendent's satisfaction that it has five years verifiable experience in the business of making consumer loans or similar lending and credit evaluation experience or that it has engaged or will engage in its employ one or more persons having such experience. Such person must be listed in the Qualifying Individual section of the Company Form (MU1).	NMLS
	The Superintendent may permit other relevant educational or business experience to be credited towards satisfaction of the lending and credit evaluation experience requirement.	
	This individual must be listed in the <i>Qualifying Individual</i> section of Company Form (MU1)	
	Control Person (MU2) Attestation: Complete the Individual Form (MU2) in NMLS. This form must be attested to by the applicable control person before it is able to be submitted along with the Company Form (MU1).	NMLS
	Credit Report: Individuals in a position of control are required to authorize a credit report through NMLS. Individuals will be required to complete an Identity Verification Process (IDV) along with an individual attestation before a license request for your company can be filed through NMLS. This authorization is made when the Individual Form (MU2) is submitted as part of the Company Form (MU1).	NMLS
Note	MU2 Individual FBI Criminal Background Check Not Required Through NMLS: Direct Owners/Executive Officers, Indirect Owners, and Qualifying Individuals are NOT required to authorize a FBI criminal background check (CBC) through NMLS.	N/A
	<b>Note:</b> See the <u>Requirements Completed Outside of NMLS</u> section for CBC requirements.	

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REQUIREMENTS/DOCUMENTS UPLOADED IN NMLS		
Complete	NY Licensed Lender License	Submitted via
	<b>Business Plan:</b> Upload a business plan with detailed information in the following areas:	Upload in NMLS: under the Document Type
	Marketing strategies.	Business Plan in the Document Uploads
	Products.	section of the Company
	<ul> <li>Any other business that will be conducted at the proposed licensed location.</li> </ul>	Form (MU1). This document should
	Target markets.	be named [Company
	Fee schedule.	Legal Name] Business Plan.
	<ul> <li>Operating structure the applicant intends to employ.</li> </ul>	Note: If the existing
	<ul> <li>Loan types – secured/unsecured.</li> </ul>	uploaded business plan already includes the
	<ul> <li>Engaging in servicing and/or collection.</li> </ul>	above information, an
	Underwriting standards.	additional document does not need to be
	<ul> <li>Process for maintaining records.</li> </ul>	uploaded. A company
	<ul> <li>Technology or software used for payment processing/collections.</li> </ul>	should only upload a single business plan. If
	<ul> <li>A current financial statement is to be submitted by each applicant. If the corporation is a newly formed corporation, a pro-forma (projection) financial statement for the applicant's first year of operations is to be submitted. Should a net loss be reported, an estimate of the period of time required for the operation to reach a break-even point as to profitability with supporting documentation need to be submitted.</li> </ul>	state-specific material is required, this information should be added to the existing uploaded business plan.
	<ul> <li>A written statement describing the availability of capital and financing with which to handle the projected volume, listing all sources of capital and financing available to the applicant and including copies of written confirmation of extensions of credit to the applicant.</li> </ul>	
	<ul> <li>State Regulators Information - List of all states in which applicant and/or any affiliated company is licensed to operate in the field of finance including banking, insurance, sales finance, small loans, insurance premium finance, etc., together with the name of the operating company and the name, title and address of the state supervisor, that is not already listed in NMLS.</li> </ul>	
	<ul> <li>The applicant should submit any additional information, which it deems pertinent and which may bear upon a determination that the business will be conducted honestly, fairly, and efficiently within the intent and purpose of the law and in such manner as to command the confidence of the community.</li> </ul>	
	<ul> <li>Fair Lending Plan Requirement - NY-DFS must ensure that the application and underwriting processes for loans in New York State made pursuant to the provisions of Article 9 of the Banking Law by licensed lenders do not violate Section 296-a of the Executive Law,</li> </ul>	

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which is New York's Fair Lending Statute. As part of our effort to eliminate prohibited practices, we require applicants seeking a license to become a licensed lender to submit a satisfactory Fair Lending Plan as part of their application. Please be advised that the implementation of this requirement is not an attempt to compel licensed lenders to abandon the use of objective factors in evaluating the creditworthiness of a borrower when determining whether to underwrite a loan. Risk based pricing is and continues to be valid in New York, provided that it is not impermissibly tied to a protected class. Please refer to the July 19, 1999 Industry Letter and the subsequent revision thereto dated December 24, 2003, available on our website, for your guidance.  • According to Article 9, Section 350.3 of the Banking Law, a licensed lender could conduct other consumer finance business(s) on the same premises. Such business(es) may be conducted upon notification to the Superintendent. For all other legal businesses, a request for a dual authorization certificate must be submitted for approval.	
Certificate of Authority/Good Standing Certificate: Upload a State-issued and approved document (typically by the Secretary of State's office), dated not more than 60 days prior to the filing of the application through NMLS that demonstrates authorization to do business in the applicant's state of formation.  This document should be named [[State prefix] Certificate of Authority OR [State prefix] Certificate of Good Standing].	Upload in NMLS: under the Document Type Certificate of Authority/Good Standing Certificate in the Document Uploads section of the Company Form (MU1).
Company Staffing and Internal Policies: Upload document(s) including information on staffing and internal organizational policies and procedures. If submitting multiple policies, upload and name each policy separately.  This document should be named [Name of Policy].	Upload in NMLS: under the Document Type Company Staffing and Internal Policies in the Document Uploads section of the Company Form (MU1).
Document Samples: Upload copies of the following sample documents used in the regular course of business in connection with this license:  a) Submission of Loan Forms and Rate Charts - A copy of the proposed loan instrument and rate chart (or, if a computer program will be used to calculate the required disclosures on the loan form, ten-sample loan instruments with the computer calculated disclosures), which the applicant intends to use, is to be submitted, including the following, if applicable:  1. Any rate chart(s) setting forth rates or amounts of interest to be used in its licensed lender operation.  2. Any form or forms of loan agreement or related security instrument to be used in its licensed lender operation.  3. Every form of loan agreement or related security instrument and every rate chart(s) of which a copy or copies are required to be filed with the Superintendent shall indicate a date of issuance and an identifying symbol consisting of a combination of numbers and/or letters.	Upload in NMLS: under Document Samples in the Document Uploads section of the Company Form (MU1).  This document should be named [Name of Document Sample].

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Complete	NY Licensed Lender License	Submitted via
	Formation Documents: Determine classification of applicant's legal status and submit a State certified copy of the requested applicable documentation detailed below. Submit copies of the original formation documents and all subsequent amendments thereto, including a list of any name changes.	Upload in NMLS: under Formation Document" in the Document Uploads section of the
	detailed below. Submit copies of the original formation documents and all	in the <i>Document</i>
	<ul> <li>Any of the three preceding items described, if that item applies to a         State or national parent organization, together with a statement by         the State or parent organization that the applicant is a local nonprofit         affiliate.     </li> </ul>	
	Trust (Statutory)	
	Certificate of Trust; and	
	<ul> <li>Governing instrument (all amendments).</li> </ul>	

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Complete	NY Licensed Lender License	Submitted via
	<ul> <li>Warehouse Line of Credit Documentation: Submit the following documentation related to a Warehouse Line of Credit:</li> <li>A facility letter from a bank demonstrating access to a line of credit in the amount of \$100,000 or more. This facility letter should be sent directly to the Department. In many cases, the bank providing the credit facility will condition the final approval and availability of this line upon the Department's approval of a license for the proposed location. This condition is acceptable. If the credit officer at the applicant's bank has any questions about the requirements for such a facility, he/she should contact the Department.</li> <li>This document should be named [License Type and Lender Name]</li> </ul>	Upload in NMLS: under the Document Type Warehouse Line of Credit Documentation in the Document Uploads section of the Company Form (MU1).
	Management Chart: Submit a Management chart displaying the applicant's directors, officers, and managers (individual name and title). Must also identify company organization chart indicating all front office business units and back office reporting for compliance, internal audit and IT infrastructure. This document should be named [Company Legal Name] Management Chart.  Note: If the existing uploaded management chart already includes the above information, an additional document does not need to be uploaded. A company should only upload a single management chart.	Upload in NMLS: under Management Chart in the Document Uploads section of the Company Form (MU1).
	Organizational Chart/Description: Submit a chart showing (or a description which includes) the percentage of ownership of:  • Direct Owners (total direct ownership percentage must equate to 100%)  • Indirect Owners  • Subsidiaries and Affiliates of the applicant/licensee  • All 10% or greater owners  Applicants are required to list branches, subsidiaries, affiliates and parent company operating in this state, whether or not engaged in the business of a sales finance company.  Note: If the existing uploaded Organizational Chart/Description already includes the above information, an additional document does not need to be uploaded. A company should only upload a single management chart.	Upload in NMLS: under Organizational Chart/Description in the Document Uploads section of the Company Form (MU1). This document should be named [Company Legal Name] Organizational Chart — Description.

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INDIVIDUAL (MU2) DOCUMENTS UPLOADED IN NMLS		
	Credit Report Explanations: Submit a line by line, detailed letter of explanation of all derogatory credit accounts along with proof of payoffs, payment arrangements and evidence of payments made, or evidence of any formal dispute filed (documents must be dated). Accounts to address include, but are not limited to: collections items, charge offs, accounts currently past due, accounts with serious delinquencies in the last 3 years, repossessions, loan modifications, etc.  Note: Items regarding bankruptcy, foreclosure actions, outstanding judgments	Upload in NMLS: under the Document Type Credit Report Explanations in the Document Uploads section of the Individual Form (MU2).
	or liens, or delinquent child support payments should be addressed in the <i>Disclosure Explanations</i> section of your Individual Form (MU2).	
	This document should be named Credit Report Explanations – Sub Name – Document Creation Date.	
	Legal Name/Status Documentation: - For each individual in a position of control, upload a copy of the individual's driver's license or passport.  This document should be named <i>Driver's License</i> or <i>Passport</i> .	Upload in NMLS: under the Document Type <u>Legal</u> Name/Status
		Documentation in the Document Uploads section of the Individual Form (MU2).
	Personal Financial Statement: The following individuals, as specified below, on the Company Form (MU1) are required to upload a personal financial statement. See here to access the NY-DFS Financial Statement Form.  Direct Owners  10% or more  Executive Officers  All officers	Upload in NMLS: under the Document Type Personal Financial Statement in the Document Uploads section of the Individual Form (MU2).
	<ul> <li>Indirect Owners</li> <li>Involved in the everyday operations of the applicant</li> </ul>	
	Click <u>here</u> to access the form.  This document should be named <i>NY – Personal Financial Statement</i> .	
	Authority to Release Information: Each control individual must submit a Authority to Release Information Form. Click <a href="here">here</a> to access the form. This document should be named NY Authority to Release Information.	Upload in NMLS: under the Document Type State Background Check Authorization in the Document Uploads section of the Individual Form (MU2).

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NMLS ID Number	
<b>Applicant Legal Name</b>	

REQUIREMENTS SUBMITTED OUTSIDE OF NMLS		
Complete	NY Licensed Lender License	Submitted via
	Affidavit of Financial Solvency: Affidavit of financial solvency reflecting liquid assets of at least \$50,000, net worth of at least \$100,000 and a line of credit of at least \$100,000 issued by a banking institution incorporated under the laws of the United States or any state or any insurance company for the operation of each location.	Mail to NY-DFS
	Certificate of Fair Lending Compliance: A Certificate of Fair Lending Compliance, in accordance with Section 296-a(9) of the New York Executive Law, must be completed and submitted to NY-DFS. The proper section of the Banking Law under which application for license is being made is to be entered on the form. Click <a href="https://example.com/here">here</a> access the form.	Mail to NY-DFS
	Restricted Words: If the name of the applicant contains certain words, the approval of the Superintendent must be obtained. This applies to licensees as well as other non-licensed entities. The restricted words include, for example, "acceptance," "bank," "finance," "investment," "loan," "mortgage," "savings," "trust" and their derivatives. The process for approval for the use of any of these restricted words can be found <a href="here">here</a> .	Mail to NY-DFS Attn: Office of General Counsel, Name Approval One State Street New York, NY 10004
	Fingerprints for Control Individuals: Every applicable partner, officer, director, stockholder, and owner of an applicant or, for a change of control, all individuals not currently employed by a licensee, must follow the "Fingerprinting Procedure" posted on the NY-DFS website. If you have any questions concerning this procedure, please contact NY-DFS at (212) 709-5507.  The following material must be submitted for each applicable partner, officer, director, stockholder, and owner of an applicant or, for a change of control, all individuals not currently employed by a licensee:  a. For individuals residing in New York State – a fingerprint receipt from Morpho Trust USA Enrollment Services. Please refer to "Fingerprinting Procedures" posted on our website.  b. For Individuals residing outside of New York State - a set of completed fingerprint cards, a receipt indicating where these fingerprints were taken, and a check payable to Morpho Trust USA Enrollment Services for each set of fingerprints filed.	Mail to NY-DFS

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See here for Fingerprint Instructions.

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Complete	NY Licensed Lender License	Submitted via
	Information Regarding Control Persons Residing in Foreign Jurisdictions: If any control person does not or has not resided in the US for the last 5 years, an investigation background report must be prepared by an acceptable search firm.	Mail to NY-DFS
	At minimum, the firm must demonstrate that they have sufficient resources and are properly licensed to conduct the research of the background and that the firm is not affiliated with or an interest of any of the individuals under investigation. The cost of the report must be borne by the applicant or the individual.	
	The background report must be in English and submitted directly to NY-DFS in addition to other background information required in the application.	
	At minimum the report must contain the following:	
	<ul> <li>A comprehensive credit report/history, including a search of the court data in the countries, states, and towns where the individual resided and worked and in contiguous areas;</li> </ul>	
	- Criminal records for the past 10 years, including felonies, misdemeanors and violations including a search of court data in the countries, states and towns where the individual resided and worked and in contiguous areas;	
	- Employment history;	
	- Media history including an electronic search of national and local publications, wire services and business applications; and	
	Regulatory history, particularly securities, insurance, mortgage-related, real estate, etc., if applicable.	

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