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HOUSE . . . . . No. 4246

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to the regulation of the business of domestic and foreign money transmission by the Division of Banks.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate the business of money transmission, both foreign and domestic, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 167F of the General Laws is hereby amended by striking out section 4, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:--

Section 4. A bank may engage directly in the business of selling, issuing or registering checks.

SECTION 2. The General Laws are hereby amended by striking out chapter 169, as so appearing, and inserting in place thereof the following chapter:--

Chapter 169

Licensing and Supervision of Money Transmitters

Section 1: Definitions

"Authorized agent," a person designated by a licensee under the provisions of this chapter to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee at a location in the Commonwealth.

14 “Branch office”, any office in the Commonwealth operated by a licensee at which the
15 licensee engages in money transmission.

16 “Commissioner,” the commissioner of banks.

17 “FinCEN”, Financial Crimes Enforcement Network of the United States Treasury.

18 “Licensee,” a person licensed under this Chapter to engage in the business of money
19 transmission. The term “licensee” does not mean an “authorized agent.”

20 “Material litigation,” any litigation that, according to generally accepted accounting
21 principles, is deemed significant to an applicant’s or licensee’s financial health and would be
22 required to be referenced in that entity’s annual audited financial statements, report to
23 shareholders or similar documents.

24 “Money transmission,” the sale or issuance of payment instruments or prepaid access or
25 engaging in the business of receiving money for transmission or transmitting money within the
26 United States or to countries other than the United States by any and all means, including but not
27 limited to payment instrument, wire, facsimile or electronic transfer.

28 “Multi-state licensing system”, a system involving 1 or more states, the District of
29 Columbia, or the Commonwealth of Puerto Rico for the sharing of regulatory information and
30 the licensing and application processes, by electronic or other means, for the business of money
31 transmission.

32 “Outstanding payment instrument,” any payment instrument issued by the licensee which
33 has been sold in the United States directly by the licensee or any payment instrument issued by
34 the licensee which has been sold by an authorized agent of the licensee in the United States,
35 which has been reported to the licensee as having been sold and which has not yet been paid by
36 or for the licensee.

37 “Payment instrument,” any electronic or written check, draft, money order, travelers
38 check or other electronic or written instrument or order for the transmission or payment of
39 money, sold or issued to one or more persons, whether or not such instrument is negotiable. The
40 term “payment instrument” does not include any credit card voucher, any letter of credit or any
41 instrument which is redeemable by the issuer in goods or services.

42 “Permissible Investments”

43 (a) Except to the extent otherwise limited by the commissioner pursuant to section
44 17, the following are permissible investments:

45 1. cash, a certificate of deposit, or senior debt obligation of an insured depository
46 institution, as defined in Section 3 of the Federal Deposit Insurance Act [12 U.S.C. Section 1813
47 (1994 & Supp. V. 1999)];

2. banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the Federal Reserve System and is eligible for purchase by a Federal Reserve Bank;

3. an investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

4. an investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a State or a governmental subdivision, agency, or instrumentality thereof;

5. receivables that are payable to a licensee from its authorized agents, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection if the aggregate amount of receivables under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not hold at one time receivables under this paragraph in any one person aggregating more than 10 percent of the licensee's total permissible investments; and;

6. a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940 [15 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999)], and whose portfolio is restricted by the management company's investment policy to investments specified in paragraphs (1) through (4).

(b) The following investments are permissible, but only to the extent specified:

1. an interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold investments under this paragraph in any one person aggregating more than 10 percent of the licensee's total permissible investments;

2. a share of a person traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Companies Act of 1940 [15 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999)], and whose portfolio is restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed 20 percent of the total permissible investments of a licensee and the licensee does not at one time hold investments in any one person aggregating more than 10 percent of the licensee's total permissible investments;

84 3. a demand-borrowing agreement made to a corporation or a subsidiary of a
85 corporation whose securities are traded on a national securities exchange if the aggregate of the
86 amount of principal and interest outstanding under demand-borrowing agreements under this
87 paragraph does not exceed 20 percent of the total permissible investments of a licensee and the
88 licensee does not at one time hold principal and interest outstanding under demand-borrowing
89 agreements under this paragraph with any one person aggregating more than 10 percent of the
90 licensee's total permissible investments; and

91 4. any other investment the commissioner designates, to the extent specified by the
92 commissioner.

93 (c) The aggregate of investments under subsection (b) may not exceed 50 percent of the
94 total permissible investments of a licensee calculated in accordance with section 17.

95 "Person," any individual, partnership, association, joint-stock association, trust, limited
96 liability company, limited liability partnership or corporation.

97 "Prepaid access," access to funds or the value of funds that have been paid in advance
98 and can be retrieved or transferred at some point in the future through an electronic device or
99 vehicle, such as a card, code, electronic serial number, mobile identification number or personal
100 identification number.

101 "Primary business," the principal business of the licensee as determined by the
102 commissioner, exclusive of any business conducted as an agent of the state lottery commission.

103 "Principal shareholder," any person or group of persons acting in concert who is the
104 owner of ten percent or more of any voting class of an applicant's stock.

105 "Remit," either to make direct payment of money to a licensee or its representatives
106 authorized to receive the money, or to deposit money in a bank, credit union or savings and loan
107 association or other similar financial institution in an account specified by the licensee.

108 Section 2. No person or entity shall engage in the business of money transmission
109 without first obtaining a license from the commissioner pursuant to this chapter. If a licensee
110 intends to carry on a business at a location other than its main office, including through an
111 authorized agent, such licensee shall procure a license for each branch office or authorized agent;
112 provided, however, that a license shall not be required for a location of an authorized agent that
113 engages solely in the sale of prepaid access or travelers' checks and is not engaged in any other
114 form of money transmission on behalf of the licensee.

115 Section 3. Nothing in this chapter shall be construed to apply to:

116 (1) the United States or a department, agency, or instrumentality thereof;

117 (2) money transmission by the United States Postal Service or by a contractor on
118 behalf of the United States Postal Service;

119 (3) a State or a governmental subdivision, agency, or instrumentality thereof;

120 (4) a bank, as defined in section one of chapter one hundred and sixty-seven, a
121 national banking association, a federally chartered credit union, a federal savings and loan
122 association, a federal savings bank, or any subsidiary of the above, or any bank, trust company,
123 savings bank, savings and loan association, or credit union organized under the laws of any other
124 state, or any subsidiary of the above, a bank holding company, an office of an international
125 banking corporation, a branch of a foreign bank, a corporation organized pursuant to the Bank
126 Services Act, or a corporation organized under the Edge Act under the laws of a State or the
127 United States if the person does not issue, sell, or provide payment instruments or prepaid access
128 through an authorized agent that is not such a person;

129 (5) electronic funds transfer of governmental benefits for a federal, state, or
130 governmental agency by a contractor on behalf of the United States or a department, agency, or
131 instrumentality thereof, or a State or governmental subdivision, agency, or instrumentality
132 thereof;

133 (6) a board of trade designated as a contract market under the Commodity Exchange
134 Act or a person that, in the ordinary course of business, provides clearance and settlement
135 services for a board of trade to the extent of its operation as or for such a board of trade;

136 (7) a registered futures commission merchant under the federal commodities laws to
137 the extent of its operation as such a merchant;

138 (8) a person that provides clearance or settlement services pursuant to a registration
139 as a clearing agency or an exemption from such registration granted under the federal securities
140 laws to the extent of its operation as such a provider;

141 (9) an operator of a payment system to the extent that it provides processing, clearing,
142 or settlement services, between or among persons excluded by this section, in connection with
143 wire transfers, credit card transactions, debit card transactions, prepaid access transactions,
144 automated clearing house transfers, or similar funds transfers; or

145 (10) a person registered as a securities broker-dealer under federal or state securities
146 laws to the extent of its operation as such a broker-dealer.

147 Section 4. The commissioner may adopt, amend, or repeal rules and regulations, which
148 shall include an adequate capitalization requirement in an amount not to exceed $5,000,000 for
149 entities engaged in the business of money transmission to aid in the administration and
150 enforcement of this chapter. Such regulation may contain such classifications, differentiations,
151 or other provisions, and may provide for such adjustments and exceptions for any class of

152 transactions, as in the judgment of the commissioner are necessary or proper to carry out the
153 purposes of this chapter, to prevent circumvention or evasion thereof, or to facilitate compliance
154 therewith.

155 Notwithstanding any other provision of this chapter, the commissioner may issue an
156 advisory opinion or adopt regulations relative to the business of money transmission for the
157 purpose of maintaining consistency with regulations adopted by a federal regulatory agency and
158 governing provisions similar to those contained in this chapter.

159 Section 5. The application for a license shall be in a form prescribed by the
160 commissioner and shall contain the name and address or addresses where the business of the
161 applicant is located and if the applicant is a partnership, association, corporation, or other form of
162 business organization, the names and addresses of each member, director, principal officer
163 thereof, and any individual acting as a manager of an office location. Such application shall also
164 include a description of the activities of the applicant, in such detail and for such periods as the
165 commissioner may require, as well as such further information as the commissioner may require.
166 The commissioner may require a background investigation of each applicant for a license to
167 engage in the business of money transmission by means of fingerprint and state and national
168 criminal history record checks by the Department of Criminal Justice Information Services
169 pursuant to section 172 of chapter 6 and the Federal Bureau of Investigation. If the applicant is a
170 partnership, association, corporation or other form of business organization, the commissioner
171 may require such background investigation by means of fingerprint checks on each member,
172 director, principal officer of such applicant, and any individual acting as a manager of an office
173 location. Receipt of criminal history record information by a private entity shall be prohibited.
174 Each application for a license shall be accompanied by an investigation fee. Investigation and
175 license fees shall be determined annually by the commissioner of administration under section
176 3B of chapter 7.

177 Upon the filing of an application for a license, if the commissioner finds that the financial
178 responsibility, character, reputation, integrity and general fitness of the applicant, and of the
179 partners or members thereof if the applicant is a partnership or association, and of the officers,
180 directors and principal employees if the applicant is a corporation, are such as to warrant belief
181 that the business will be operated honestly, fairly, soundly and efficiently in the public interest
182 consistent with the purposes of this chapter, he shall thereupon issue the applicant a license to
183 engage in the business of money transmission. If the commissioner shall not so find or, (a) the
184 applicant made a false statement of a material fact in the application for a license; (b) an officer,
185 director or member of the applicant business, including a proposed authorized agent, has, within
186 ten years prior to the filing of the application, been (i) convicted of or pleaded nolo contendere to
187 a felony, or (ii) committed an act involving fraud or deceit, which act is substantially related to
188 the qualifications, functions or duties of a person engaged in the business of money transmission;
189 (c) the applicant violated any of the provisions of this chapter or regulations promulgated
190 hereunder, any similar regulatory scheme of another jurisdiction, or any other law applicable to

191 the conduct of the business sought to be licensed; (d) a licensee or authorized agent of a licensee
192 located at the address at which the applicant intends to operate his business has had any license,
193 registration or other authorization issued by the commissioner suspended or revoked within six
194 months of the date of the new application; he shall not issue a license and he shall notify the
195 applicant of the denial. Within twenty days thereafter, he shall enter upon his records a written
196 decision and findings containing the reasons supporting the denial and shall forthwith give
197 written notice thereof by registered mail to the applicant. Within thirty days after the date of such
198 notice, the applicant may appeal from such denial to the superior court for Suffolk county, sitting
199 in equity. The court shall hear all pertinent evidence and determine the facts and upon the facts
200 as so determined, review said denial and, as justice and equity may require, affirm the same or
201 order the commissioner to issue such license.

202 The commissioner may participate in a multi-state licensing system for entities engaged
203 in the business of money transmission. The commissioner may establish requirements for
204 participation by an applicant in a multi-state licensing system which may vary from the
205 provisions set out in section 5 and section 6. The applicant shall pay directly to such multi-state
206 licensing system any additional fee relating to participation in such multi-state licensing system.

207 Section 6. Each license shall contain such information and shall be displayed as may be
208 required by regulation by the commissioner.

209 Such license shall not be transferable or assignable and shall expire annually at such time
210 as determined by the commissioner. The closing of a location of the licensee at the address
211 stated on the license, including an authorized agent, or a change of location of the licensee at the
212 address stated on the license, including an authorized agent, shall require written notification to
213 the commissioner in accordance with regulations promulgated by the commissioner.
214 Notwithstanding the foregoing, if an authorized agent closes or relocates a licensed location
215 without advance notification to the licensee, the licensee shall notify the commissioner within 15
216 calendar days of being so notified by the authorized agent.

217 If there shall be any change among the officers, partners or directors of any licensee or
218 authorized agent, the licensee shall notify the commissioner of the name, address and occupation
219 of each new officer, partner, director, or authorized agent and provide such other information as
220 the commissioner may require in accordance with regulations promulgated by the commissioner.

221 Section 7. All money received for transmission by any licensee shall be forwarded to the
222 person to whom the same is directed within seven days following receipt thereof. Receipts
223 given for deposits of money received for transmission shall contain all appropriate information
224 relative to the transaction.

225 Section 8. The commissioner may suspend or revoke a license issued pursuant to this
226 chapter if he finds that:

227 (a) the licensee or an authorized agent has violated a provision of this chapter or any rule
228 or regulation adopted hereunder or any other law applicable to the conduct of its business; or

229 (b) a fact or condition exists which, if it had existed at the time of the original application
230 for such license, would have warranted said commissioner in refusing to issue such license.

231 Except as provided in subsection (b) of section nine, no license shall be revoked or
232 suspended except after notice and hearing pursuant to chapter thirty A.

233 A licensee may surrender a license by delivering to the commissioner written notice that
234 it hereby surrenders such license, but such surrender shall not affect the civil or criminal liability
235 of such licensee for acts committed before such surrender.

236 No revocation, suspension or surrender of a license shall impair or affect the obligation of
237 any preexisting lawful contract between the licensee, either directly or through an authorized
238 agent, and any person.

239 In lieu of suspension or revocation of a license issued hereunder, the commissioner may
240 fine a licensee up to a maximum of five hundred dollars per day for each violation.

241 Section 9. (a) If the commissioner determines, after giving notice of and opportunity for a
242 hearing, that a licensee has engaged in or is about to engage in an act or practice constituting a
243 violation of a provision of this chapter or a rule, regulation or order adopted hereunder, said
244 commissioner may order such licensee to cease and desist from such unlawful act or practice and
245 take such affirmative action as in his judgment will effect the purposes of this chapter.

246 (b) If the commissioner makes written findings of fact that the public interest will be
247 irreparably harmed by a delay in issuing an order under subsection (a) he may issue a temporary
248 cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner
249 shall promptly notify, in writing, the licensee affected thereby that such order has been so
250 entered, the reasons therefor, and that within twenty days after the receipt of a written request for
251 a hearing from such licensee, the matter will be scheduled for such hearing to determine whether
252 or not such temporary order shall become permanent and final. If no such hearing is requested
253 and none is ordered by the commissioner, the order shall remain in effect until it is modified or
254 vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after giving
255 notice of and opportunity for a hearing to the licensee subject to such order, shall, by written
256 finding of facts and conclusions of law, vacate, modify or issue a permanent cease and desist
257 order.

258 (c) No order under this section, except an order issued pursuant to subsection (b), may be
259 entered without prior notice and opportunity for a hearing. The commissioner may vacate or
260 modify an order under this section upon a finding that the conditions which required such order
261 have changed and that it is in the public interest to vacate or modify such order.

262 An order issued pursuant to this section shall be subject to review as provided in chapter
263 thirty A.

264 Section 10. A licensee shall, when directed by the commissioner, permit the
265 commissioner or his duly authorized representative to inspect its records and evidence of
266 compliance with this chapter or any rule and regulation issued thereunder and with any other
267 law, rule and regulation applicable to the conduct of its business. The commissioner shall
268 preserve a full record of each such examination of a licensee including a statement of its
269 condition. All records of investigations and reports of examinations by the commissioner,
270 including workpapers, information derived from such reports or responses to such reports, and
271 any copies thereof in the possession of any licensee under the supervision of the commissioner,
272 shall be confidential and privileged communications, shall not be subject to subpoena and shall
273 not be a public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this
274 paragraph, records of investigation and reports of examinations shall include records of
275 investigation and reports of examinations conducted by a financial regulatory agency of the
276 federal government and any other state, and of any foreign government which are considered
277 confidential by such agency or foreign government and which are in possession of the
278 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
279 record protecting the confidentiality of any such record, and other than any such record on file
280 with the court or filed in connection with the court proceeding, and the court may exclude the
281 public from any portion of a proceeding at which any such record may be disclosed. Copies of
282 such reports of examination shall be furnished to a licensee for its use only and shall not be
283 exhibited to any other person, organization or agency without prior written approval by the
284 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the
285 federal government, of other states, or of foreign countries, and any law enforcement agency,
286 such information, reports, inspections and statements relating to the licensees under his
287 supervision.

288 The commissioner, or his examiners or such others of his assistants as he may designate,
289 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
290 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
291 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
292 required or obstructs the person making such examination in the performance of his duty, shall
293 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
294 than one year.

295 Section 11. The commissioner, if he has reason to believe that a person other than a
296 licensee has violated any of the provisions of this chapter, shall be authorized to make such
297 investigations as he shall deem necessary and may examine such other person and shall compel
298 the production of all relevant books, records, accounts and documents.

299 Section 12. Each licensee shall annually, on or before a date to be determined by the
300 commissioner, file a report with the commissioner containing such information as said
301 commissioner may require concerning the business and operations during the preceding calendar
302 year. A licensee neglecting to file such report or failing to amend the same within fifteen days of
303 notice from said commissioner directing the same shall, unless such neglect or failure is due to
304 justifiable cause and not due to willful neglect, pay to the commonwealth fifty dollars for each
305 day during which such neglect or failure continues.

306 A licensee shall keep and use such business records in such form and at such location as
307 said commissioner shall, by regulation, determine, which shall enable said commissioner to
308 determine whether such licensee is complying with the provisions of this chapter and any rules
309 or regulations promulgated hereunder by said commissioner and any other law, rule or regulation
310 applicable to the conduct of the business for which it is licensed under this chapter. Such
311 regulations may contain provisions for the suspension or revocation of licenses for violations
312 hereof and for such records to be recorded, copied or reproduced by photographic, photostatic,
313 microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical
314 imaging, or other process which accurately reproduces or forms a durable medium for
315 reproducing the original record or document or in any other form or manner authorized by the
316 commissioner; provided, however, that nothing in this section shall be construed to permit any
317 such licensee to destroy original records or documents. Each such licensee shall preserve all
318 such business records for as long a period as the commissioner shall prescribe by regulation.
319 Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil
320 Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered
321 to an office of such licensee located within the commonwealth shall be deemed to have been
322 served at the location, whether within or outside the commonwealth, where the original business
323 records or documents are kept or maintained.

324 Section 13. The commissioner or an aggrieved party may enforce the provisions of this
325 chapter, or restrain any violations thereof, by filing a civil action in a court of competent
326 jurisdiction. A violation of this chapter or a rule or regulation adopted hereunder, shall constitute
327 a violation of chapter ninety-three A.

328 Section 14. Whoever violates any provision of this chapter or any rule or regulation
329 made thereunder by the commissioner shall be punished by a fine of not more than five thousand
330 dollars or by imprisonment in state prison for not more than five years, or both. Each day a
331 violation continues shall be deemed a separate offense. The penalty provision of this section
332 shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or
333 other person for violating section two or any rule or regulation made thereunder.

334 Section 15. (a) Whenever the commissioner finds that any licensee or exempt person
335 under section two of this chapter has violated any provision of this chapter or any rule or
336 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct

337 of the business of money transmission, the commissioner may, by order, in addition to any other
338 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty
339 upon such person which shall not exceed five thousand dollars for each violation, up to a
340 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The
341 commissioner may impose a penalty which shall not exceed five thousand dollars for each
342 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a
343 licensee or exempt person under section two of this chapter, plus the costs of investigation.

344 (b) Nothing in this section shall limit the right of any individual or entity who has been
345 injured as a result of any violation of this chapter by a licensee, or any person other than a
346 licensee or exempt person under section two of this chapter, to bring an action to recover
347 damages or restitution in a court of competent jurisdiction.

348 (c) Any findings or order issued by the commissioner pursuant to this section shall be
349 subject to review as provided in chapter thirty A.

350 Section 16. (a) Whenever the commissioner determines that any person has, directly or
351 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
352 applicable to the conduct of the business of money transmission, or any order issued by the
353 commissioner under this chapter or any written agreement entered between such licensee and the
354 commissioner, the commissioner may serve upon such person a written notice of intention:

355 (1) to prohibit such person from performing in the capacity of a principal employee on
356 behalf of any licensee for such period of time that the commissioner deems necessary;

357 (2) to prohibit the person from applying for or obtaining a license from the commissioner
358 for a period up to thirty-six months following the effective date of an order issued under
359 subsection (b) or (c); or

360 (3) to prohibit such person from any further participation, in any manner, in the conduct
361 of the business of money transmission in Massachusetts or to prohibit such person from being
362 employed by, an authorized agent of, or operating on behalf of a licensee under this chapter or
363 any other business which requires a license from the commissioner.

364 (b) A written notice issued under subsection (a) shall contain a written statement of
365 the facts that support the prohibition and shall give notice of an opportunity for a hearing to be
366 held thereon. Such hearing shall be fixed for a date not more than thirty days after the date of
367 service upon the commissioner of such request for a hearing. If such person fails to submit a
368 request for a hearing within twenty days of service of notice under subsection (a), or otherwise
369 fails to appear in person or by a duly authorized representative, such party shall be deemed to
370 have consented to the issuance of an order of such prohibition in accordance with the notice.

371 (c) In the event of such consent under subsection (b), or if after a hearing the
372 commissioner finds that any of the grounds specified in such notice have been established, the
373 commissioner may issue an order of prohibition in accordance with subsection (a) as the
374 commissioner finds appropriate.

375 (d) An order issued under subsection (b) or (c) shall be effective upon service upon
376 the person. The commissioner shall also serve a copy of the order upon the licensee of which the
377 person is an employee or on whose behalf the person is performing. The order shall remain in
378 effect and enforceable until it is modified, terminated, suspended, or set aside by the
379 commissioner or a court of competent jurisdiction.

380 (e) Except as consented to in writing by the commissioner, any person who, pursuant
381 to an order issued under subsection (b) or (c), has been prohibited from participating in whole or
382 in part in the conduct of the business of money transmission in Massachusetts may not, while
383 such order is in effect, continue or commence to perform in the capacity of a principal employee,
384 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the
385 conduct of the affairs of:

386 (1) any licensee under this chapter;

387 (2) any other business which requires a license from the commissioner; or

388 (3) any bank, as defined under section one of chapter one hundred sixty seven, or any
389 subsidiary thereof.

390 Section 17. (a) Except as otherwise provided in subsection (b), a surety bond, letter of
391 credit, or other similar security acceptable to the commissioner in the amount of $50,000 plus
392 $10,000 per location, not exceeding a total addition of $450,000, must accompany an application
393 for a license.

394 (b) Security must be in a form satisfactory to the commissioner, payable to the
395 Commonwealth, and delivered to the state treasurer for the benefit of any claimant against the
396 licensee to secure the faithful performance of the obligations of the licensee with respect to
397 money transmission. The securities deposited with the state treasurer as herein provided and the
398 money which in case of breach of the bond shall be paid by any licensee or surety thereon, shall
399 constitute a trust fund for the benefit of such persons as shall deposit money with the licensee or
400 authorized agent for transmission and such beneficiaries shall be entitled to an absolute
401 preference as to such money or securities over all general creditors of the licensee.

402 (c) The aggregate liability on a surety bond may not exceed the principal sum of the
403 bond. A claimant against a licensee may maintain an action on the bond, or the commissioner
404 may maintain an action on behalf of the claimant.

405 (d) A surety bond must cover claims for so long as the commissioner specifies, but for at
406 least five years after the licensee ceases to provide money services in this State. However, the
407 commissioner may permit the amount of security to be reduced or eliminated before the
408 expiration of that time to the extent the amount of the licensee's payment instruments or prepaid
409 access obligations outstanding in the Commonwealth is reduced. The commissioner may permit
410 a licensee to substitute another form of security acceptable to the commissioner for the security
411 effective at the time the licensee ceases to provide money services in the Commonwealth.

412 (e) In lieu of the security prescribed in this section, an applicant for a license or a licensee
413 may provide security in a form prescribed by the commissioner.

414 (f) The commissioner may increase the amount of security required if the financial
415 condition of a licensee so requires, as evidenced by reduction of net worth, financial losses, or
416 other relevant criteria.

417 Section 18. Authorized agents.

418 (a) A licensee engaged in the business of money transmission who intends to
419 conduct licensed activities through the use of authorized agents shall submit the names and
420 addresses of such persons listed in the original application to the commissioner for his approval.
421 Upon the commissioner's approval, a licensee may authorize any such authorized agent to
422 conduct business as the agent for said licensee at the address approved by the commissioner;
423 provided, however, that an authorized agent that engages solely in the sale or issuance of prepaid
424 access or travelers' checks and is not engaged in any other form of money transmission on behalf
425 of a licensee shall not require the approval of the commissioner. There shall be an express
426 written contract between the parties detailing the duties and responsibilities of such authorized
427 agent. Additional authorized agents shall not be appointed without the prior written approval of
428 the commissioner, and a licensee shall notify the commissioner within 5 business days after the
429 termination of any authorized agent by the licensee.

430 (b) A contract between a licensee and an authorized agent must require the authorized
431 agent to operate in full compliance with this chapter. The licensee shall furnish in a record to
432 each authorized agent policies and procedures sufficient to permit compliance with this chapter.

433 (c) An authorized agent shall remit all money owing to the licensee in accordance with
434 the terms of the contract between the licensee and the authorized agent.

435 (d) An authorized agent may not provide money transmission services outside the scope
436 of activity permissible under the contract between the authorized agent and the licensee.

437 Section 19. Permissible investments.

438 (a) A licensee shall maintain at all times permissible investments that have a market value
439 computed in accordance with generally accepted accounting principles of not less than the

440 aggregate amount of all of its outstanding payment instruments issued or sold and money
441 transmitted by the licensee or its authorized agents.

442 (b) The commissioner, with respect to any licensees, may limit the extent to which a type
443 of investment within a class of permissible investments may be considered a permissible
444 investment, except for money and certificates of deposit issued by a bank. The commissioner by
445 rule may prescribe or by order allow other types of investments that the commissioner
446 determines to have a safety standard substantially equivalent to other permissible investments.

447 (c) Permissible investments, even if commingled with other assets of the licensee, are
448 held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment
449 instruments in the event of bankruptcy or receivership of the licensee.

450 SECTION 3. Section 4 of chapter 169 of the General Laws, inserted by section 2, shall
451 take effect upon its passage. Section 1 and the remainder of section 2 shall take effect 9 months
452 after the date of its passage.

453 SECTION 4. (a) A license issued under chapter 169 of the General Laws or under
454 chapter 167F, section 4 of the General Laws (including all authorized agent location
455 designations) that is in effect immediately before effective date of this chapter remains in force
456 as a license under this chapter. Such licensees will file a renewal application in accordance with
457 section 12.

458 (b) Any person that was not required to obtain a license under chapter 169 of the General
459 Laws or under Chapter 167F, section 4 of the General Laws, but that is now required to obtain a
460 license under this chapter must file an application for a license within 6 months of the effective
461 date of this act in order to continue conducting money transmission in the Commonwealth
462 directly or through authorized agents. If such application is timely filed and pending with the
463 commissioner, that person may continue to conduct money transmission in this state, until such
464 time as the application has been approved, withdrawn or denied.

465 (c) All authorized agent designations under chapter 167F section 4 of the General Laws
466 shall be deemed in compliance with this chapter so long as within 6 months of the effective date
467 of this act, such authorized agents are submitted for approval with the Commissioner.