

HOUSE No. 4329

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 21, 2014.

The committee on Ways and Means, to whom was referred the Bill relative to the regulation of the business of domestic and foreign money transmission by the Division of Banks (House, No. 4246), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4329).

For the committee,

BRIAN S. DEMPSEY.

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.

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

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

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

6 SECTION 2. Chapter 169 of the General Laws is hereby repealed.

7 SECTION 3. The General Laws are hereby amended by inserting after chapter 169A the
8 following chapter:-

9 Chapter 169B

10 Licensing and Supervision of Money Transmitters

11 Section 1. As used in this chapter, the following words shall, unless the context clearly
12 requires otherwise, have the following meanings:

13 “Authorized agent,” a person designated by a licensee under the provisions of this chapter
14 to sell or issue payment instruments or engage in the business of transmitting money on behalf of
15 a licensee at a location in the commonwealth.

16 “Branch office”, any office in the commonwealth operated by a licensee at which the
17 licensee engages in money transmission.

18 “Commissioner,” the commissioner of banks.

19 “Licensee,” a person licensed under this chapter to engage in the business of money
20 transmission; provided, however that the term “licensee” shall not include an “authorized agent.”

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

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

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

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

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

43 “Person,” any individual, partnership, association, joint-stock association, trust, limited
44 liability company, limited liability partnership or corporation.

45 “Prepaid access,” access to funds or the value of funds that have been paid in advance
46 and can be retrieved or transferred at some point in the future through an electronic device or
47 vehicle, such as a card, code, electronic serial number, mobile identification number or personal
48 identification number.

49 “Primary business,” the principal business of the licensee as determined by the
50 commissioner, exclusive of any business conducted as an agent of the state lottery commission.

51 “Principal shareholder,” any person or group of persons acting in concert who is the
52 owner of 10 per cent or more of any voting class of an applicant’s stock.

53 “Remit,” either to make direct payment of money to a licensee or its representatives
54 authorized to receive the money, or to deposit money in a bank, credit union or savings and loan
55 association or other similar financial institution in an account specified by the licensee.

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

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

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

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

67 (3) a state or a governmental subdivision, agency, or instrumentality thereof;

68 (4) a bank, as defined in section 1 of chapter 167, a national banking association, a
69 federally chartered credit union, a federal savings and loan association, a federal savings bank, or
70 any subsidiary of the above, or any bank, trust company, savings bank, savings and loan
71 association, or credit union organized under the laws of any other state, or any subsidiary of the
72 above, a bank holding company, an office of an international banking corporation, a branch of a
73 foreign bank, a corporation organized pursuant to the Bank Services Act, or a corporation
74 organized under the Edge Act under the laws of a state or the United States if the person does not
75 issue, sell, or provide payment instruments or prepaid access through an authorized agent that is
76 not such a person;

77 (5) electronic funds transfer of governmental benefits for a federal, state, or
78 governmental agency by a contractor on behalf of the United States or a department, agency, or
79 instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality
80 thereof;

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

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

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

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

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

95 Section 4. The commissioner may adopt, amend, or repeal rules and regulations, which
96 shall include an adequate capitalization requirement in an amount not to exceed \$5,000,000 for
97 entities engaged in the business of money transmission to aid in the administration and
98 enforcement of this chapter. Such regulation may contain such classifications, differentiations,
99 or other provisions, and may provide for such adjustments and exceptions for any class of
100 transactions, as in the judgment of the commissioner are necessary or proper to carry out the
101 purposes of this chapter, to prevent circumvention or evasion thereof, or to facilitate compliance
102 therewith.

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

107 Section 5. The application for a license shall be in a form prescribed by the
108 commissioner and shall contain the name and address or addresses where the business of the
109 applicant is located and if the applicant is a partnership, association, corporation, or other form of
110 business organization, the names and addresses of each member, director, principal officer
111 thereof, and any individual acting as a manager of an office location. Such application shall also
112 include a description of the activities of the applicant, in such detail and for such periods as the
113 commissioner may require, as well as such further information as the commissioner may require.
114 The commissioner may require a background investigation of each applicant for a license to
115 engage in the business of money transmission by means of fingerprint and state and national
116 criminal history record checks by the department of criminal justice information services
117 pursuant to section 172 of chapter 6 and the Federal Bureau of Investigation. If the applicant is a
118 partnership, association, corporation or other form of business organization, the commissioner
119 may require such background investigation by means of fingerprint checks on each member,
120 director, principal officer of such applicant, and any individual acting as a manager of an office
121 location. Receipt of criminal history record information by a private entity shall be prohibited.
122 Each application for a license shall be accompanied by an investigation fee. Investigation and

123 license fees shall be determined annually by the commissioner of administration under section
124 3B of chapter 7.

125 Upon the filing of an application for a license, if the commissioner finds that the financial
126 responsibility, character, reputation, integrity and general fitness of the applicant, and of the
127 partners or members thereof if the applicant is a partnership or association, and of the officers,
128 directors and principal employees if the applicant is a corporation, are such as to warrant belief
129 that the business will be operated honestly, fairly, soundly and efficiently in the public interest
130 consistent with the purposes of this chapter, the commissioner shall thereupon issue the applicant
131 a license to engage in the business of money transmission. If the commissioner shall not so find
132 or: (a) the applicant made a false statement of a material fact in the application for a license; (b)
133 an officer, director or member of the applicant business, including a proposed authorized agent,
134 has, within 10 years prior to the filing of the application, been (i) convicted of or pleaded nolo
135 contendere to a felony, or (ii) committed an act involving fraud or deceit, which act is
136 substantially related to the qualifications, functions or duties of a person engaged in the business
137 of money transmission; (c) the applicant violated any of the provisions of this chapter or
138 regulations promulgated hereunder, any similar regulatory scheme of another jurisdiction, or any
139 other law applicable to the conduct of the business sought to be licensed; (d) a licensee or
140 authorized agent of a licensee located at the address at which the applicant intends to operate the
141 business has had any license, registration or other authorization issued by the commissioner
142 suspended or revoked within 6 months of the date of the new application; the commissioner
143 shall not issue a license and shall notify the applicant of the denial. Within 20 days thereafter, the
144 commissioner shall enter upon the records a written decision and findings containing the reasons
145 supporting the denial and shall forthwith give written notice thereof by registered mail to the
146 applicant. Within 30 days after the date of such notice, the applicant may appeal from such
147 denial to the superior court for Suffolk county, sitting in equity. The court shall hear all pertinent
148 evidence and determine the facts and upon the facts as so determined, review said denial and, as
149 justice and equity may require, affirm the same or order the commissioner to issue such license.

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

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

157 Such license shall not be transferable or assignable and shall expire annually at such time
158 as determined by the commissioner. The closing of a location of the licensee at the address
159 stated on the license, including an authorized agent, or a change of location of the licensee at the
160 address stated on the license, including an authorized agent, shall require written notification to

161 the commissioner in accordance with regulations promulgated by the commissioner.
162 Notwithstanding the foregoing, if an authorized agent closes or relocates a licensed location
163 without advance notification to the licensee, the licensee shall notify the commissioner within 15
164 calendar days of being so notified by the authorized agent.

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

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

173 Section 8. The commissioner may suspend or revoke a license issued pursuant to this
174 chapter if the commissioner finds that:

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

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

179 Except as provided in subsection (b) of section 9, no license shall be revoked or
180 suspended except after notice and hearing pursuant to chapter 30A.

181 A licensee may surrender a license by delivering to the commissioner written notice that
182 it hereby surrenders such license; provided, however, that such surrender shall not affect the civil
183 or criminal liability of such licensee for acts committed before such surrender.

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

187 In lieu of suspension or revocation of a license issued hereunder, the commissioner may
188 fine a licensee up to a maximum of \$500 per day for each violation.

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

195 (b) If the commissioner makes written findings of fact that the public interest will be
196 irreparably harmed by a delay in issuing an order under subsection (a) the commissioner may
197 issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order,
198 the commissioner shall promptly notify, in writing, the licensee affected thereby that such order
199 has been so entered, the reasons therefor, and that within 20 days after the receipt of a written
200 request for a hearing from such licensee, the matter will be scheduled for such hearing to
201 determine whether or not such temporary order shall become permanent and final. If no such
202 hearing is requested and none is ordered by the commissioner, the order shall remain in effect
203 until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the
204 commissioner, after giving notice of and opportunity for a hearing to the licensee subject to such
205 order, shall, by written finding of facts and conclusions of law, vacate, modify or issue a
206 permanent cease and desist order.

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

211 An order issued pursuant to this section shall be subject to review as provided in chapter
212 30A.

213 Section 10. A licensee shall, when directed by the commissioner, permit the
214 commissioner or a duly authorized representative to inspect its records and evidence of
215 compliance with this chapter or any rule and regulation issued thereunder and with any other
216 law, rule and regulation applicable to the conduct of its business. The commissioner shall
217 preserve a full record of each such examination of a licensee including a statement of its
218 condition. All records of investigations and reports of examinations by the commissioner,
219 including workpapers, information derived from such reports or responses to such reports, and
220 any copies thereof in the possession of any licensee under the supervision of the commissioner,
221 shall be confidential and privileged communications, shall not be subject to subpoena and shall
222 not be a public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this
223 paragraph, records of investigation and reports of examinations shall include records of
224 investigation and reports of examinations conducted by a financial regulatory agency of the
225 federal government and any other state, and of any foreign government which are considered
226 confidential by such agency or foreign government and which are in possession of the
227 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
228 record protecting the confidentiality of any such record, and other than any such record on file
229 with the court or filed in connection with the court proceeding, and the court may exclude the
230 public from any portion of a proceeding at which any such record may be disclosed. Copies of
231 such reports of examination shall be furnished to a licensee for its use only and shall not be
232 exhibited to any other person, organization or agency without prior written approval by the
233 commissioner. The commissioner may furnish to regulatory agencies of the federal government,

234 of other states, or of foreign countries, and any law enforcement agency, such information,
235 reports, inspections and statements relating to the licensees under supervision of the division.

236 The commissioner, or an examiner or such others of the commissioner's assistants as may
237 be designated by the commissioner, may summon the directors, officers or agents of a licensee,
238 or any other witnesses, and examine them relative to the affairs, transactions and condition of the
239 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
240 to appear and testify when so required or obstructs the person making such examination in the
241 performance of such duties, shall be punished by a fine of not more than \$1,000 or by
242 imprisonment for not more than 1 year.

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

247 Section 12. Each licensee shall annually, on or before a date to be determined by the
248 commissioner, file a report with the commissioner containing such information as said
249 commissioner may require concerning the business and operations during the preceding calendar
250 year. A licensee neglecting to file such report or failing to amend the same within 15 days of
251 notice from said commissioner directing the same shall, unless such neglect or failure is due to
252 justifiable cause and not due to willful neglect, pay to the commonwealth \$50 for each day
253 during which such neglect or failure continues.

254 A licensee shall keep and use such business records in such form and at such location as
255 said commissioner shall, by regulation, determine, which shall enable said commissioner to
256 determine whether such licensee is complying with the provisions of this chapter and any rules
257 or regulations promulgated hereunder by said commissioner and any other law, rule or regulation
258 applicable to the conduct of the business for which it is licensed under this chapter. Such
259 regulations may contain provisions for the suspension or revocation of licenses for violations
260 hereof and for such records to be recorded, copied or reproduced by photographic, photostatic,
261 microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical
262 imaging, or other process which accurately reproduces or forms a durable medium for
263 reproducing the original record or document or in any other form or manner authorized by the
264 commissioner; provided, however, that nothing in this section shall be construed to permit any
265 such licensee to destroy original records or documents. Each such licensee shall preserve all
266 such business records for as long a period as the commissioner shall prescribe by regulation.
267 Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil
268 Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered
269 to an office of such licensee located within the commonwealth shall be deemed to have been
270 served at the location, whether within or outside the commonwealth, where the original business
271 records or documents are kept or maintained.

272 Section 13. The commissioner or an aggrieved party may enforce the provisions of this
273 chapter, or restrain any violations thereof, by filing a civil action in a court of competent
274 jurisdiction. A violation of this chapter or a rule or regulation adopted hereunder, shall constitute
275 a violation of chapter 93A.

276 Section 14. Whoever violates any provision of this chapter or any rule or regulation
277 made thereunder by the commissioner shall be punished by a fine of not more than \$5,000 or by
278 imprisonment in state prison for not more than 5 years, or both. Each day a violation continues
279 shall be deemed a separate offense. The penalty provision of this section shall be in addition to,
280 and not in lieu of, any other provision of law applicable to a licensee or other person for violating
281 section 2 or any rule or regulation made thereunder.

282 Section 15. (a) Whenever the commissioner finds that any licensee or exempt person
283 under section 2 has violated any provision of this chapter or any rule or regulation adopted
284 thereunder, or any other law of the commonwealth applicable to the conduct of the business of
285 money transmission, the commissioner may, by order, in addition to any other action authorized
286 under this chapter or any rule or regulation made thereunder, impose a penalty upon such person
287 which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000 for such
288 violation plus the costs of investigation. The commissioner may impose a penalty which shall not
289 exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted thereunder, by
290 a person other than a licensee or exempt person under section 2, plus the costs of investigation.

291 (b) Nothing in this section shall limit the right of any individual or entity who has been
292 injured as a result of any violation of this chapter by a licensee, or any person other than a
293 licensee or exempt person under section 2, to bring an action to recover damages or restitution in
294 a court of competent jurisdiction.

295 (c) Any findings or order issued by the commissioner pursuant to this section shall be
296 subject to review as provided in chapter 30A.

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

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

304 (ii) to prohibit the person from applying for or obtaining a license from the commissioner
305 for a period up to 36 months following the effective date of an order issued under subsection (b)
306 or (c); or

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

311 (b) A written notice issued under subsection (a) shall contain a written statement of
312 the facts that support the prohibition and shall give notice of an opportunity for a hearing to be
313 held thereon. Such hearing shall be fixed for a date not more than 30 days after the date of
314 service upon the commissioner of such request for a hearing. If such person fails to submit a
315 request for a hearing within 20 days of service of notice under subsection (a), or otherwise fails
316 to appear in person or by a duly authorized representative, such party shall be deemed to have
317 consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

327 (e) Except as consented to in writing by the commissioner, any person who, pursuant
328 to an order issued under subsection (b) or (c), has been prohibited from participating in whole or
329 in part in the conduct of the business of money transmission in the commonwealth shall not,
330 while such order is in effect, continue or commence to perform in the capacity of a principal
331 employee, or otherwise participate in any manner, if so prohibited by order of the commissioner,
332 in the conduct of the affairs of:

333 (i) any licensee under this chapter;

334 (ii) any other business which requires a license from the commissioner; or

335 (iii) any bank, as defined under section 1 of chapter 167, or any subsidiary thereof.

336 Section 17. (a) Except as otherwise provided in subsection (b), a surety bond, letter of
337 credit, or other similar security acceptable to the commissioner in the amount of \$50,000 plus
338 \$10,000 per location, not exceeding a total addition of \$450,000, shall accompany an application
339 for a license.

340 (b) Security shall be in a form satisfactory to the commissioner, payable to the
341 commonwealth, and delivered to the state treasurer for the benefit of any claimant against the

342 licensee to secure the faithful performance of the obligations of the licensee with respect to
343 money transmission. The securities deposited with the state treasurer as herein provided and the
344 money which in case of breach of the bond shall be paid by any licensee or surety thereon, shall
345 constitute a trust fund for the benefit of such persons as shall deposit money with the licensee or
346 authorized agent for transmission and such beneficiaries shall be entitled to an absolute
347 preference as to such money or securities over all general creditors of the licensee.

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

351 (d) A surety bond shall cover claims for so long as the commissioner specifies, but for at
352 least 5 years after the licensee ceases to provide money services in the commonwealth; provided,
353 . however, that the commissioner may permit the amount of security to be reduced or eliminated
354 before the expiration of that time to the extent the amount of the licensee's payment instruments
355 or prepaid access obligations outstanding in the commonwealth is reduced. The commissioner
356 may permit a licensee to substitute another form of security acceptable to the commissioner for
357 the security effective at the time the licensee ceases to provide money services in the
358 commonwealth.

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

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

364 Section 18. (a) A licensee engaged in the business of money transmission who intends to
365 conduct licensed activities through the use of authorized agents shall submit the names and
366 addresses of such persons listed in the original application to the commissioner for his approval.
367 Upon the commissioner's approval, a licensee may authorize any such authorized agent to
368 conduct business as the agent for said licensee at the address approved by the commissioner;
369 provided, however, that an authorized agent that engages solely in the sale or issuance of prepaid
370 access or travelers' checks and is not engaged in any other form of money transmission on behalf
371 of a licensee shall not require the approval of the commissioner. There shall be an express
372 written contract between the parties detailing the duties and responsibilities of such authorized
373 agent. Additional authorized agents shall not be appointed without the prior written approval of
374 the commissioner, and a licensee shall notify the commissioner within 5 business days after the
375 termination of any authorized agent by the licensee.

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

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

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

383 Section 19. (a) Except to the extent otherwise limited by the commissioner pursuant to
384 section 17, the following shall be considered permissible investments:

385 (i) cash, a certificate of deposit, or senior debt obligation of an insured depository
386 institution, as defined in section 3 of the Federal Deposit Insurance Act 12 U.S.C. Section 1813
387 (1994 & Supp. V. 1999);

388 (ii) banker's acceptance or bill of exchange that is eligible for purchase upon endorsement
389 by a member bank of the Federal Reserve System and is eligible for purchase by a Federal
390 Reserve Bank;

391 (iii) an investment bearing a rating of one of the three highest grades as defined by a
392 nationally recognized organization that rates securities;

393 (iv) an investment security that is an obligation of the United States or a department,
394 agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to
395 principal and interest by the United States; or an investment in an obligation of a State or a
396 governmental subdivision, agency, or instrumentality thereof;

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

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

408 (b) The following investments shall be permissible, but only to the extent specified in this
409 subsection:

410 (i) an interest-bearing bill, note, bond, or debenture of a person whose equity shares are
411 traded on a national securities exchange or on a national over-the-counter market, if the
412 aggregate of investments under this paragraph does not exceed 20 percent of the total permissible

413 investments of a licensee and the licensee does not at one time hold investments under this
414 paragraph in any one person aggregating more than 10 percent of the licensee's total permissible
415 investments;

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

425 (iii) a demand-borrowing agreement made to a corporation or a subsidiary of a
426 corporation whose securities are traded on a national securities exchange if the aggregate of the
427 amount of principal and interest outstanding under demand-borrowing agreements under this
428 paragraph does not exceed 20 percent of the total permissible investments of a licensee and the
429 licensee does not at one time hold principal and interest outstanding under demand-borrowing
430 agreements under this paragraph with any one person aggregating more than 10 percent of the
431 licensee's total permissible investments; and

432 (iv) any other investment the commissioner designates, to the extent specified by the
433 commissioner.

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

436 Section 20. (a) A licensee shall maintain at all times permissible investments that have a
437 market value computed in accordance with generally accepted accounting principles of not less
438 than the aggregate amount of all of its outstanding payment instruments issued or sold and
439 money transmitted by the licensee or its authorized agents.

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

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

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

451 SECTION 5. (a) A license issued pursuant to chapter 169 of the General Laws or
452 section 4 of chapter 167F of the General Laws, including all authorized agent location
453 designations, that is in effect immediately before the effective date of this act shall remain in
454 force as a license under said chapter 169. Such licensees shall file a renewal application in
455 accordance with section 12 of chapter 169B of the General Laws.

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

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