HOUSE DOCKET, NO. 3278 FILED ON: 1/18/2013

HOUSE . . . . . No. 893

The Commonwealth of Massachusetts

PRESENTED BY:

Michael A. Costello

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act modernizing the banking laws and enhancing the competitiveness of state-chartered banks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael A. Costello	*1st Essex*

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HOUSE . . . . . No. 893

By Mr. Costello of Newburyport, a petition (accompanied by bill, House, No. 893) of Michael A. Costello relative to the investment of municipal trust funds, including cemetery perpetual care funds, the modernizing the banking laws and enhancing the competitiveness of state-chartered banks. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act modernizing the banking laws and enhancing the competitiveness of state-chartered banks.

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. Section 54 of chapter 44 of the General Laws, as appearing in the 2010 official edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:—

Trust funds, including cemetery perpetual care funds, unless otherwise provided or directed by the donor thereof, shall be deposited in a trust company, co-operative bank or savings bank, if such bank or trust company is organized or exists under the laws of the commonwealth or any other state of the United States or is otherwise authorized to transact business in the commonwealth and has its main office or a branch office in the commonwealth; a national bank, federal savings bank, federal savings and loan association, if such bank is authorized to transact business and has its main office or a branch office in the commonwealth; provided that any such state-chartered or federally chartered bank shall be insured by the Federal Deposit Insurance Corporation or its successor; or invested by cities and towns in participation units in a combined investment fund under section 38A of chapter 29 in an amount not exceeding $250,000, or in bonds or notes which are legal investments for savings banks.

SECTION 2. Said chapter 44 is hereby further amended by striking out section 55A, as so appearing, and inserting in place thereof the following section:—

Section 55A. A city, town, district or regional school district officer receiving public money and lawfully and in good faith and in the exercise of due care depositing the same in a

trust company, co-operative bank or savings bank, if such bank or trust company is organized or exists under the laws of the commonwealth or any other state of the United States or is otherwise authorized to transact business in the commonwealth and has its main office or a branch office in the commonwealth; a national bank, federal savings bank or federal savings and loan association, if such bank or association is authorized to transact business and has its main office or branch office in the commonwealth; or in participation units in a combined investment fund under section 38A of chapter 29, or, in the case of the city of Boston, in accordance with the provisions of section 55 in a national bank or trust company in the city of New York, provided that any such state-chartered or federally chartered bank shall be insured by the Federal Deposit Insurance Corporation or its successor; shall not be personally liable to the city, town, district or regional school district for any loss of such money by reason of the closing or liquidation of any such depository institution described above.

SECTION 3. Section 83 of chapter 62C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 68 to 69, the words:— or comparable reports filed with the office of thrift supervision.

SECTION 4. Section 34 of chapter 93 of the General Laws is hereby repealed.

SECTION 5. Section 1 of chapter 140D of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:—

"Bureau", the bureau of consumer financial protection.

SECTION 6. Section 1 of said chapter 140D is hereby further amended by striking out the definition of "person" and inserting in place thereof the following definition:--

"Person", a natural born person or organization other than a co-operative bank, a federal bank, foreign bank, out-of-state bank, out-of-state federal bank, savings bank or trust company as those words are defined in section 1 of chapter 167.

SECTION 7. Section 3 of said chapter 140D, as so appearing, is hereby amended by striking out, in lines 13, 16, 21 and 23, the word "board", and inserting in place thereof the word:— bureau.

SECTION 8. Section 18 of said chapter 140D, as so appearing, is hereby amended by striking out, in lines 5 and 11, the word "board", and inserting in place thereof the word:— bureau.

SECTION 9. Section 31 of said chapter 140D, as so appearing, is hereby amended by striking out, in line 6, the word "board" and inserting in place thereof the word:— bureau.

SECTION 10. Chapter 140E of the General Laws is hereby repealed.

53 SECTION 11. Chapter 167 of the General Laws is hereby amended by striking section
54 1A as appearing in the 2010 Official Edition, and inserting in place thereof the following
55 section:—

56 Section 1A. The commissioner shall promulgate rules and regulations establishing
57 minimum standards relative to the security and protection of credit unions under his supervision,
58 both for the benefit of employees as well as the general public, including the requirement for the
59 installation, maintenance and operation of security devices and procedures and to assist in the
60 identification and apprehension of criminals.

61 Said rules and regulations shall fix the time limit within which each such credit union
62 shall comply with the standards so established and may require the submission, in writing, of
63 periodic reports and other information necessary to ensure compliance with such rules and
64 regulations. A credit union which violates any rule or regulation promulgated pursuant to this
65 section shall forfeit to the commonwealth one hundred dollars for each day during which such
66 violation continues, to be recovered by an information in equity in the name of the attorney
67 general at the request of the commissioner, commenced in the supreme judicial court for Suffolk
68 county.

69 SECTION 12. Section 1B of chapter 167 of the General Laws is hereby repealed.

70 SECTION 13. Section 2 of chapter 167 of the General Laws, as appearing in the 2010
71 Official Edition, is hereby amended by striking out, in lines 54 to 55, the words "Office of Thrift
72 Supervision" and inserting in place thereof the words:— Bureau of Consumer Financial
73 Protection.

74 SECTION 14. Section 2 of said chapter 167, as so appearing, is hereby further amended
75 by adding the following subsection:—

76 (d) Notwithstanding the provisions of any general or special law to the contrary, the
77 commissioner may establish a tiered regulatory structure for the supervision and examination of
78 savings banks, co-operative banks and trust companies. The criteria for the tiered regulatory
79 structure may include, but need not be limited to, the following: asset size; level of capital;
80 balance sheet composition; the so-called CAMELS rating; record of performance under the
81 community reinvestment act; compliance with laws and regulations and such other factors as the
82 commissioner may determine. In establishing the tiered regulatory structure the commissioner
83 shall seek to effect cost reductions and reduce the regulatory burden for savings banks, co-
84 operative banks and trust companies. The commissioner may promulgate rules and regulations
85 to carry out the provisions of this subsection.

86 SECTION 15. Said chapter 167 as appearing is hereby amended by inserting after section
87 2G the following three sections:—

88 Section 2H. Notwithstanding any general or special law to the contrary, the commissioner
89 may approve, subject to such terms and conditions as he may impose, an application by a savings
90 bank, a co-operative bank or a trust company to engage in any activity or invest in any products
91 or services which are related or incidental to banking and not prohibited by law and do not pose a
92 substantial risk to the safety and soundness of the savings bank, co-operative bank or trust
93 company.

94 Section 2I. A bank shall comply with the following federal laws and federal regulations
95 subject to the terms and conditions imposed by this section.

96 (a) The Expedited Funds Availability Act 12 USC 4001 et seq. and regulations
97 promulgated thereunder.

98 (b) The Federal Fair Credit Billing Act 15 USC 1666 to 1666j, inclusive and the
99 regulations promulgated thereunder.

100 (c) The Electronic Fund Transfer Act 15 USC 1693 et seq. and the regulations provided
101 there under but the maximum liability of a consumer under 15 USC 1693g shall be limited to
102 $50.00

103 (d) The Truth in Lending Act 15 USC 1601 et seq. and regulations promulgated
104 thereunder. This subsection shall not apply if the Commonwealth has a separate law, other than
105 chapter 140D, which governs a type or class of credit transactions and any substantially similar
106 federal law is implemented solely through regulations promulgated under 15 USC 1601 et seq.

107 (e) A bank shall comply with the regulations of a federal banking agency of which it is a
108 member or by which its deposits or accounts are insured which regulations govern the manner of
109 safeguarding the bank's monies and securities and the deposit of its securities or substantially the
110 same subject matter.

111 (f) A bank shall comply with the provisions of 12 CFR Part 326 which govern the
112 minimum security devices and procedures and Bank Secrecy Act compliance or other applicable
113 regulations of a federal banking agency of which the bank is a member or by which its deposits
114 or accounts are insured which regulations govern substantially the same subject matter.

115 (g) A bank shall comply with the provisions of 12 CFR Part 215 which govern loans to
116 executive officers, directors or principal shareholders of a bank or federal regulations of a federal
117 banking agency of which it is a member or by which its deposits or accounts are insured which
118 regulations govern substantially the same subject matter.

119 Notwithstanding the provisions of this section, the commissioner shall retain jurisdiction
120 over a bank to examine, supervise, take enforcement action against and assist consumers in
121 matters relative to compliance with the cited federal laws or federal regulations. Nothing in this
122 section shall affect the commissioner's jurisdiction relative to other federal laws or federal

123 regulations. For the purposes of this section, a bank shall mean a savings bank, a co-operative
124 bank or a trust company. A federal bank, a foreign bank and an out-of-state bank shall comply
125 with subsections (c) and (d).

126 Section 2J. A savings bank, co-operative bank or trust company, federal bank, out-of-
127 state bank, foreign bank or limited purpose trust company may request that specific information
128 in any application filed with the commissioner be treated as confidential. The following
129 information shall be eligible for confidential treatment: (i) personal information, the release of
130 which would constitute a clearly unwarranted invasion of privacy; (ii) commercial or financial
131 information, the disclosure of which could result in substantial competitive harm to the
132 submitter; (iii) information, the disclosure of which could seriously affect the financial condition
133 of any such bank. The commissioner may determine that certain information should be treated
134 as confidential and withhold that information from the public file.

135 If any such bank requests confidential treatment for information that the commissioner
136 determines is not eligible for confidential treatment, the commissioner may include that
137 information in the public file after notifying the bank.

138 SECTION 16. Said chapter 167 is hereby further amended by striking section 6 as
139 appearing and inserting in place thereof the following section:—

140 Section 6. The commissioner may prescribe the manner and form of keeping the books
141 and accounts of a bank, the extent to which they shall be audited and for a credit union, the
142 manner of safeguarding its money and securities and regulations under which credit union may
143 deposit its securities with savings banks, co-operative banks, trust companies or banking
144 associations for safekeeping.

145 SECTION 17. Section 15 of said chapter 167, as so appearing, is hereby amended by
146 striking out, in lines 17 to 18, the words “Federal Home Loan Bank Board” and inserting in place
147 thereof the words:— Board of Governors of the Federal Reserve System.

148 SECTION 18. Said chapter 167 is hereby further amended by striking section 15A and
149 15B as appearing and inserting in place thereof the following:—

150 Section 15A. (a) As used in sections 15A to 15K, inclusive, the term "legal list” or "legal
151 investments" shall mean the list of securities approved for investment by the commissioner.

152 (b) On or before July 1 of each year, the commissioner shall prepare a list of all stocks,
153 bonds, notes and other interest-bearing obligations which are then legal investments under any
154 provision of sections 15B through 15K, inclusive, provided that all privately placed or held
155 issues may, in the discretion of the commissioner, be omitted. An entity issuing such an
156 instrument shall identify itself directly to the commissioner as being eligible to be included on
157 such list under the authorities specified in section 15E though 15K, inclusive, provided however

158 that the commissioner shall have the discretion as to whether to add any such entity and
159 instrument to the list. Such list shall include the name of any investment fund, approved by the
160 commissioner, which invests only in such stocks, bonds, notes and other interest bearing
161 obligations. The shares of any such investment fund so approved shall be legal investments
162 pursuant to this section to the same extent as any such stocks, bonds, notes and other interest
163 bearing obligations. Said list shall at all times be public. In the preparation of any list hereunder
164 which the commissioner is required to prepare or furnish, he may employ such expert assistance
165 as he deems proper or may rely upon information contained in publications which he deems
166 authoritative in reference to such matters, and he shall be in no way held responsible or liable for
167 the omission from such list of the name of any state or political subdivision or authority thereof
168 or of any corporation or association the stocks, bonds, notes or other interest bearing obligations
169 of which conform or any investment fund which conforms to this chapter, or for the omission of
170 any investment funds, stocks, bonds, notes or other interest bearing obligations which so
171 conform; nor shall he be held responsible or liable for the inclusions in such list of any such
172 names or of any investment funds, stocks, bonds, notes or other interest bearing obligations
173 which do not so conform.

174 (c) Officers and members of a board of a bank or credit union may rely upon the legal list
175 referred to in this section as representing an accurate listing of investment funds, stocks, bonds,
176 notes and other interest bearing obligations eligible for investment by it; and no such officer or
177 member shall be personally liable for any loss incurred by such bank arising from the purchase in
178 good faith of any shares in an investment fund or security appearing on said list at the time of
179 such purchase.

180 (d) Subsequent to the annual preparation of such list, the commissioner may add the
181 name of any investment fund which meets the requirements of this section.

182 (e) Before making any such investment under this section an entity shall conduct an
183 appropriate level of due diligence to determine if an investment is both permissible and
184 appropriate. This may include both internal as well as external analysis. For debt instruments,
185 such analysis shall not rely solely on one or more credit rating agencies and such entity shall
186 determine that such instrument has both a low risk of default by the obligor and that the full and
187 timely repayment is expected over the expected life of the investment.

188 Section 15B. (a) The list of legal investments prepared pursuant to section 15A may
189 include securities that are approved for investment in accordance with this section.

190 (b) The securities eligible for approval for investment under this section may include: (1)
191 interest bearing obligations of any state, county, city, town or district or any subdivision or
192 instrumentality thereof, and of any authority established under the laws of the United States or
193 any state, county, town or district, including obligations of any of the foregoing payable from
194 specified revenues; (2) interest bearing obligations of any corporation organized under the laws

195 of the United States or any state and of any association, the business of which is conducted or
196 transacted by trustees under a written instrument or declaration of trust, having its principal place
197 of business in the commonwealth, and (3) preferred and common stock of any corporation
198 described in the foregoing clause (2). Obligations to be eligible pursuant to clauses (1) and (2)
199 shall have an initial offering of at least $50,000,000 and be rated at least a single A.

200 (c) Upon application by 3 credit unions which have been chartered pursuant to chapter
201 171, which have submitted in such form and under such conditions as the commissioner may
202 require, requesting authority to invest their deposits and the income derived therefrom in any of
203 the interest bearing obligations or stocks referred to in paragraph 1 of this section, said credit
204 unions may request the commissioner, in such form and under such conditions as in his
205 discretion he may require, authorize, notwithstanding any general or special law to the contrary,
206 the investment in any such interest bearing obligations or stock.

207 (d) If the commissioner grants such authority he shall forthwith add the name of such
208 investment to the list provided for in section 15A. At any time thereafter the commissioner may,
209 on his own initiative, revoke such authority.

210 (e) If the commissioner shall have authorized investment in an issue of bonds in
211 accordance with any of the provisions of this section, and if thereafter but before such
212 authorization shall have been revoked the issuer shall issue bonds the proceeds of which are to be
213 used solely to refund the issue previously authorized for investment or another issue of equal or
214 shorter maturity and of equal or prior security and if such new bonds shall be of equal security
215 with the previously authorized issue and of equal or shorter maturity the commissioner may
216 authorize investment in such refunding bonds, and thereafter may revoke such authority on his
217 own initiative. If the commissioner shall have authorized investment in an issue of bonds in
218 accordance with any of the provisions of this section, and if thereafter but before such
219 authorization shall have been revoked the issuer shall issue bonds of which at least 90 per cent of
220 the proceeds are to be• used to refund the issue previously authorized for investment or another
221 issue of equal or prior security, the security for the new bonds is not less than that for the
222 previously authorized issue then the commissioner may authorize investment in such new bonds
223 and thereafter may revoke such authority on his own initiative.

224 (f) In determining that any investments authorized under the provisions of this section
225 should be included in the list of legal investments or deleted from said list, the commissioner
226 may employ such expert assistance as he deems proper or may rely upon information contained
227 in publications which he deems authoritative in reference to such matters.

228 (g) Not more than 10 per cent of the assets of such entity shall be invested in investments
229 authorized under this section.

230 Section 15C. An entity authorized to invest pursuant to section 15A or the legal list may
231 invest in bonds, notes or other interest bearing obligations of the following classes:

232 (1) direct obligations of the United States, or in such obligations as are unconditionally
233 guaranteed as to the payment of principal and interest by the United States;

234 (2) legally issued, assumed or unconditionally guaranteed bonds, notes or other interest
235 bearing obligations of the commonwealth, including legally issued bonds, notes or other
236 indebtedness of an entity established as a public instrumentality by general or special law;

237 (3) legally issued, assumed or unconditionally guaranteed bonds, notes or other interest
238 bearing obligations of any state of the United States other than this commonwealth, which has:
239 not within the 20 years prior to the making of such investment defaulted for a period of more
240 than 120 days in the payment of any part of either principal or interest of any legally issued or
241 assumed obligation; provided, that the full faith and credit of such state is pledged for the
242 payment of the principal and interest of such obligations;

243 (4) bonds, notes or other obligations issued or guaranteed as to both principal and interest
244 by the Dominion of Canada or any of its provinces provided, (a) that such bonds, notes or
245 obligations shall be payable in United States funds either unconditionally or at the option of the
246 holder thereof, and (b) that at the date of investment the said Dominion of Canada or the
247 applicable province of Canada shall not have been in default in the payment of interest or
248 principal of any of its obligations for a period in excess of 31 days at any time within the 20
249 years preceding such date of investment. Not more than 5 per cent of the assets of an entity
250 authorized to invest pursuant to section 15A or the legal list, so called, may be invested in
251 obligations authorized under this paragraph;

252 (5) bonds, notes or obligations issued, assumed or guaranteed by the International Bank
253 for Reconstruction and Development, the Inter-American Development Bank or the Asian
254 Development Bank containing an unconditional promise to pay, or an unconditional guarantee of
255 the payment of, the interest thereon regularly, and the principal thereof on or before a specified
256 date, in lawful currency of the United States; provided, that not more than 3 per cent of the assets
257 of an entity authorized to invest pursuant to section 15A or the legal list, so called, shall be
258 invested in such bonds, notes or obligations; and provided, further, that the commissioner may at
259 any time on his own initiative suspend the authorization granted by this paragraph for such
260 period or periods as he may determine;

261 (6) obligations of, or instruments issued by and fully guaranteed as to principal and
262 interest by, the Federal National Mortgage Association, established under the National Housing
263 Act, as amended;

264 (7) debentures, bonds or other obligations issued by any federal home loan bank or
265 consolidated federal home loan bank debentures or bonds issued by the federal home loan bank
266 board under the Federal Home Loan Bank Act, as amended;

267 (8) debentures issued by the central bank for co-operatives or consolidated debentures
268 issued by said central bank and the 12 regional banks for co- operatives under the Farm Credit
269 Act of 1933, as amended;

270 (9) collateral trust debentures or other similar obligations issued by any federal
271 intermediate credit bank or consolidated debentures or other similar obligations issued by the
272 federal intermediate credit banks under the Federal Farm Loan Act, as amended;

273 (10) farm loan bonds issued by any federal land bank under the Federal Farm Loan Act,
274 as amended;

275 (11) promissory notes representing domestic farm labor housing loans authorized by
276 federal law when such notes are fully guaranteed as to principal and interest by the Farmers
277 Home Administration of the United States Department of Agriculture;

278 (12) bonds, notes or obligations issued, assumed or guaranteed by the Export-Import
279 Bank of the United States;

280 (13) obligations of any person, including any form of mortgage backed security, as to
281 which the payment of principal and interest according to the terms of such obligations is
282 guaranteed by the Government National Mortgage Association under the provisions of the
283 National Housing Act, as amended;

284 (14) certificates issued by the Federal Home Loan Mortgage Corporation representing
285 interests in mortgage loans made, acquired or participated in by the said Federal Home Loan
286 Mortgage Corporation; and

287 (15) system-wide obligations issued under the provisions of the Farm Credit Act of 1971,
288 as amended, by institutions included in the federal farm credit system.

289 Section 15D. An entity authorized to invest pursuant to section 15A or the legal list may
290 invest in bond, notes or other interest bearing obligations of the following classes:

291 (1) legally issued or assumed bonds, notes or other interest bearing obligation of a
292 county, city town or legally established district of this commonwealth; and

293 (2) legally issued or assumed bonds, notes or other interest bearing obligation of a county
294 city town or legally established district of this commonwealth; provided, however, that this
295 provision shall not authorize investments in obligations of any city or town situated outside the
296 commonwealth which has been in default for more than 120 days in the payment of any part of
297 principal and interest of all bonds notes or other interest bearing obligations legal for investment
298 under any provision of this section.

The full faith and credit of the county, city, town or district shall be pledged for the full payment of principal and interest of all bonds, notes or other interest bearing obligations legal for investment under any provision of this section.

Section 15E. (a) An entity authorized to invest pursuant to section 15A or the legal list may invest in bonds, notes or other interest bearing obligations of railroad corporations subject to the conditions, limitations and requirements of this section.

(b) With respect to bonds, such obligations shall be those of a railroad incorporated in the United States or any state thereof and which is doing business principally within the United States and shall contain an unconditional promise to pay the interest thereon regularly and to pay the principal at a specified date, which promise may be modified, if at all, only by vote of holders of at least 75 per cent in amount of such bonds. Not more than 20 per cent of the assets of such entity shall be invested in such railroad obligations.

(c) Investments in railroad equipment obligations shall be those of, or guaranteed by, a railroad incorporated in the United States or any state thereof and which is doing business principally within the United States.

Section 15F. (a) As used in section 15F and 15G, the term "bond" includes a note or debenture.

(b) An entity authorized to invest pursuant to section 15A or the legal list may invest in the bonds of any company which at the time of such investment is incorporated under the laws of the United States or any state thereof, or the District of Columbia, and authorized to engage, and engaging, in the business of furnishing telephone service in the United States, subject to the following conditions: (1)The bonds shall be part of an original issue of not less than $25,000,000 in principal amount when the company is not incorporated in the commonwealth; and (2) not more than 20 per cent of the assets of such entity shall be invested in the bonds of telephone companies.

Section 15G. (a) An entity authorized to invest pursuant to section 15A or the legal list may invest in bonds, notes or other interest bearing obligations of a gas, electric light or water company incorporated or doing business in this commonwealth and subject to the control and supervision thereof.

(b) An entity authorized to invest pursuant to section 15A or the legal list, so called, may invest in the bonds of any company which at the time of such investment is incorporated under the laws of the United States or any state thereof, or the District of Columbia, and transacting the business of supplying electrical energy or artificial gas, or natural gas purchased from another company and supplied in substitution for, or in mixture with, artificial gas, for light, heat, power and other purposes, or transacting any or all of such business. The bonds shall be part of an original issue of not less than $25,000,000 in principal amount.

335 (c) Not more than 25 per cent of the assets of such entity shall be invested in obligations
336 under this section, nor shall more than 4 per cent be invested in the obligations of any one such
337 company.

338 Section 15H. (a) An entity authorized to invest pursuant to section 15A or the legal list
339 may invest in the common stock of the following banking corporations and bank holding
340 companies subject to the conditions, limitations and requirements of this section.

341 (b) In the common stock, provided there is no preferred stock outstanding, of a bank in
342 stock form incorporated under the laws of and doing business within the commonwealth, or in
343 the common stock, provided there is no preferred stock outstanding, of a federally chartered bank
344 in stock form doing business within the commonwealth. Such state-chartered or federally-
345 chartered bank shall be well capitalized under bank regulatory criteria.

346 (c) In the common stock of a state-chartered bank or federally chartered bank doing
347 business anywhere within the United States, which is a member of the federal reserve system and
348 is well capitalized under bank regulatory criteria.

349 (d)(1) In the common stock of a bank holding company, as defined in chapter 167A,
350 provided such stock is received pursuant to an offer made by such bank holding company to
351 exchange shares of its common stock for shares of a bank in stock form incorporated under the
352 laws of the commonwealth or for shares of a federally-chartered bank doing business in the
353 commonwealth, or provided that such stock is received pursuant to a plan for the merger or
354 consolidation of any such bank with or into, or the transfer, sale or exchange of property or of
355 assets of such bank or with a bank in stock form incorporated under the laws of this
356 commonwealth or a federally- chartered bank doing business in this commonwealth the stock of
357 such bank, as the case may be, is at the time owned by such bank holding company.

358 (2) In the common stock of a bank holding company, as defined in chapter 167A,
359 acquired otherwise than as set forth in the foregoing provisions of clause (a), or in the common
360 stock of a bank holding company, as defined in the federal Bank Holding Company Act of 1956.
361 The holding company shall own 80 per cent or more of the voting stock of the qualifying bank. If
362 at any time after an investment in the common stock of any such bank holding company, no bank
363 of such holding company meets the requirements of paragraph 1 or 2, such holding company's
364 stock shall be disposed of within such reasonable time as the commissioner shall determine.

365 (e) In the common stock of a company as defined in chapter one hundred and sixty-seven
366 A or in the federal Bank Holding Company Act of 1956, provided such banking institution or
367 bank is of the kind referred to in paragraph 1 or 2 and such stock of such banking institution or
368 bank represents at least 50 per cent of such company's assets at book value at the end of its fiscal
369 year immediately preceding the date of investment or at the date of investment in the case of a
370 newly formed company.

371 Section 15I. Subject to applicable banking law, an entity authorized to invest pursuant to
372 section 15A or the legal list, so called, may purchase the whole or any part of the stock of a
373 savings bank, co-operative bank, federal savings and loan association or federal savings bank
374 provided that any such bank or association is well capitalized under bank regulatory criteria.

375 Section 15J. An entity authorized to invest pursuant to section 15A or the legal list, so
376 called, may invest in the capital stock of any insurance company authorized to conduct a fire and
377 casualty insurance business in the commonwealth, subject to the conditions, limitations and
378 requirements of this section.

379 No insurance stock shall be purchased if the cost thereof added to the cost of insurance
380 stocks and bank stocks already owned shall exceed 66 2/3 per cent of the total of the assets of
381 such entity.

382 Section 15K. An entity authorized to invest pursuant to section 15A or the legal list, so
383 called, may invest in securities of any of the classes described below in this section.

384 Debentures, convertible debentures, notes or other evidences of indebtedness of (a) a
385 banking corporation in the common stock of which such corporation may invest pursuant to
386 paragraph 1 of section 15H; provided, that such entity authorized to invest pursuant to section
387 15A or the legal list, so called, is well capitalized under regulatory criteria, (b) a banking
388 corporation in the common stock of which such corporation may invest pursuant to paragraph 2
389 of said section 15H is well capitalized under regulatory criteria.

390 SECTION 19. Sections 38 to 39C, inclusive of said chapter 167 are hereby repealed.

391 SECTION 20. Section 40 of said chapter 167, as so appearing, is hereby amended by
392 striking out, in line 31 the words “Office of Thrift Supervision” and inserting in place thereof the
393 words:— Bureau of Consumer Financial Protection.

394 SECTION 21. Sections 43 and 43A of said chapter 167 are hereby repealed.

395 SECTION 22. Section 3 of chapter 167A, as appearing in the 2010 Official Edition, is
396 hereby amended by adding the following paragraph:—

397 The provisions contained in section 2 shall not apply to the acquisition by a bank holding
398 company, or a company or a banking institution which would become a bank holding company,
399 of a banking institution or other bank holding company is

400 merged, consolidated, its assets purchased or established on an interim basis
401 simultaneously with the acquisition of the shares of the banking institution or other bank holding
402 company, and the company or bank holding company is not operated by the acquiring bank
403 holding company, company or banking institution, as a separate entity other than as the survivor
404 of the merger, consolidation or asset purchase; and

405 the transaction requires the approval of the commissioner under the General Laws.

406 The provisions of section 4 relative to the Massachusetts Housing Partnership Fund shall
407 apply to any transaction which but for the exemption provided for in this paragraph would have
408 been subject to such provisions. The commissioner shall not approve any transaction referred to
409 in clause (ii) until he has received notice from the Massachusetts Housing Partnership Fund that
410 satisfactory arrangements have been made under said section 4.

411 SECTION 23. Said chapter 167A is hereby further amended by adding the following
412 section:—

413 Section 8. A banking institution, a bank holding company, a company or a mutual
414 holding company defined in section 1 of chapter 167H may request that specific information in
415 any application filed with the board of bank incorporation shall be eligible for confidential
416 treatment. The following information generally is considered confidential: (i) personal
417 information, the release of which would constitute a clearly unwarranted invasion of privacy; (ii)
418 commercial or financial information, the disclosure of which could result in substantial
419 competitive harm to the submitter; (iii) information, the disclosure of which could seriously
420 affect the financial condition of any such banking institution, bank holding company, company
421 or mutual holding company. The board may determine that certain information should be treated
422 as confidential and withhold that information from the public file.

423 If any such banking institution, bank holding company, or company requests confidential
424 treatment for information that the board determines not to be confidential, the board may include
425 that information in the public file after notifying the banking institution, bank holding company,
426 company or mutual holding company.

427 SECTION 24. Chapter 167B of the General laws is hereby amended by striking out
428 section 1 as appearing in the 2010 Official Edition and inserting in place thereof the following
429 section:—

430 Section 1. The following words as used in this chapter, unless the context otherwise
431 requires, shall have the following meanings:—

432 "Accepted access device", an access device to a consumer's account for the purpose of
433 initiating electronic fund transfers when the consumer to whom such card, code, or other means
434 of access was issued has requested, received and signed a receipt for, or has signed, or has used,
435 or authorized another to use such card, code, or other means of access for the purpose of
436 transferring money between accounts or obtaining money, property, labor or services.

437 "Access device", a card, code, or other means of access or any combination thereof, other
438 than a check, draft or similar paper instrument, by the use of which a consumer may initiate an
439 electronic fund transfer.

440 “Account”, demand deposit, negotiable withdrawal order account, savings deposit, share
441 account or other consumer asset account, other than an occasional or incidental credit balance in
442 an open end credit plan as defined in chapter one hundred and forty D, established primarily for
443 personal, family or household purposes, but such term does not include an account held by a
444 financial institution pursuant to a bona fide trust agreement.

445 “Bank” any association or corporation chartered by the commonwealth under chapter
446 171, or any individual, association, partnership or corporation incorporated or doing a banking
447 business subject to supervision of the commissioner, provided however, that a bank shall not
448 include a co-operative bank, a federal bank, a foreign bank, an out-of-state bank, an out-of-state
449 federal bank, a savings bank or a trust company as defined in section 1 of chapter 167.

450 “Bureau”, the bureau of consumer financial protection.

451 “Business day”, any day on which the offices of the consumer’s financial institution
452 involved in an electronic fund transfer are open to the public for carrying on substantially all of
453 its business functions.

454 “Central routing unit”, a facility where electronic impulses or other indicia of a
455 transaction originating at an electronic branch are received and are routed and transmitted to a
456 financial institution, or to a data processing center, or to another central routing unit, wherever
457 located.

458 “Commissioner”, the commissioner of banks.

459 “Consumer”, a natural person.

460 “Data processing center”, a facility, wherever located, at which electronic impulses or
461 other indicia of a transaction originating at an electronic branch are received and are processed in
462 order to enable the electronic branch to perform any authorized function.

463 “Electronic branch”, an electronic device, other than a telephone operated by a consumer,
464 through which a consumer may initiate an electronic fund transfer. Such term includes, but is not
465 limited to automated teller machines and cash dispensing machines. Such term does not include a
466 teller machine or similar device located on the premises of and operated solely by an employee
467 of a financial institution or a point-of-sale terminal as hereinafter defined. An electronic branch
468 shall not be considered a branch in chapter 171.

469 “Electronic fund transfer”, any transfer of funds, other than a transaction originated by
470 check, draft, or similar paper instrument, which is initiated through an electronic branch
471 telephone instrument, or computer or magnetic tape or point-of-sale terminal so as to order,
472 instruct, or authorize a financial institution to debit or credit an account. Such term includes, but
473 is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or
474 withdrawals of funds, and transfers initiated by telephone. Such term shall not include:

475 (a) check guarantee or authorization service which does not directly result in a debit or
476 credit to a consumer's account.

477 (b) any transfer of funds, other than those processed by automated clearinghouse, made
478 by a financial institution on behalf of a consumer by means of a service that transfers funds held
479 at either Federal Reserve banks or other depository institutions and which is not designed
480 primarily to transfer funds on behalf of a consumer.

481 (c) any transfer, the primary purpose of which is the purchase or sale of securities or
482 commodities regulated by the Securities and Exchange Commission or the Commodities Futures
483 Trading Commission.

484 (d) any transfer under an agreement between a consumer and a financial institution which
485 provides that the institution will initiate individual transfers without a specific request from the
486 consumer, (1) between a consumer's accounts within the financial institution, such as a transfer
487 from a checking account to a savings account; (2) into a consumer's account by the financial
488 institution, such as the crediting of interest to a savings account, provided that the financial
489 institution shall be subject to clause (2) of section 7 and sections 20 and 21; or (3) from a
490 consumer's account to an account of the financial institution, such as a loan payment, provided
491 that the financial institution shall be subject to clause (1) of section 7 and sections 20 and 21.

492 (e) any transfer of funds which is initiated by a telephone conversation between a
493 consumer and an officer or employee of a financial institution which is not pursuant to a
494 prearranged plan and under which periodic or recurring transfers are not contemplated.

495 "Error", an error consists of:

496 (1) an unauthorized electronic fund transfer;

497 (2) an incorrect electronic fund transfer from or to the consumer's account;

498 (3) the omission from a periodic statement of an electronic fund transfer affecting the
499 consumer's account which should have been included;

500 (4) a computational error by the financial institution;

501 (5) the consumer's receipt of an incorrect amount of money from an electronic branch;

502 (6) a consumer's request for additional information or clarification concerning an
503 electronic fund transfer or any documentation required by this chapter; or

504 (7) any other error described in regulations of the commissioner.

505 "Financial Institution"; a bank, federal credit union or any other person who (a) directly
506 or indirectly holds an account belonging to a consumer, or (b) issues an access device and agrees

507 with a consumer to provide electronic fund transfer services; provided, however, that a person
508 shall not include a co-operative bank, a federal bank, a foreign bank, an out-of-state bank, an out
509 of state federal bank, a savings bank or a trust company as defined in section 1 of chapter 167.

510 "Merchant", any person, corporation, association, partnership or other entity which
511 provides a location for a point-of-sale terminal and contracts with a financial institution or an
512 approved organization for electronic fund transfer services.

513 "Office", shall mean a main office or branch office as are authorized in chapter 171. An
514 electronic branch shall not be considered an office.

515 "Official bureau interpretation", a formal interpretation issued by the bureau and
516 designated by the bureau as constituting an official bureau interpretation.

517 "Official staff interpretation", an interpretation issued by an official duly
518 authorized by the bureau to issue such interpretation, and designated by the official as
519 constituting an official staff interpretation.

520 "Organization", any person, corporation, association of partnership which assists or
521 provides services to a financial institution or merchant in order to make available electronic fund
522 transfers. A financial institution or merchant shall not be considered an organization.

523 "Point-of-sale terminal", an electronic terminal located on the premises of a merchant
524 when such terminal is used with the assistance of an employee of a merchant for a customer's
525 purchase or lease of goods or services sold or leased by such merchant or adjustments thereto or
526 the receipt of cash by the customer which is ancillary to the customer's purchase or lease of
527 goods or services from such merchant; provided, however, that such terminal shall be deemed an
528 electronic branch for the purposes of this chapter whenever it is used for any other electronic
529 fund transfer, or for an electronic fund transfer involving a customer's account held by an
530 organization, or for an electronic fund transfer solely for customers of a single financial
531 institution or bank holding company subject to the provisions of chapter 167A or the Bank
532 Holding Company Act of 1956, 12 USC 1841 et seq.

533 "Preauthorized electronic fund transfers", an electronic fund transfer authorized in
534 advance to recur at substantially regular intervals.

535 "Unauthorized electronic fund transfer", an electronic fund transfer from a consumer's
536 account initiated by a person other than the consumer without actual authority to initiate such
537 transfer and from which the consumer receives no benefit, but the term does not include any
538 electronic fund transfer (a) initiated by a person other than the consumer who was intentionally
539 furnished with the access device to such a consumer's account by such a consumer unless the
540 consumer has notified the financial institution involved that transfers by such other person are no

541 longer authorized, (b) initiated with fraudulent intent by the consumer or any person acting in
542 concert with the consumer.

543 SECTION 25. Section 2 of said chapter 167B, as so appearing, is hereby amended by
544 striking out, in lines 5, 7, 10, 18, 22, 25, 29, 31, 55, 71, and 73, the word "board", and inserting
545 in place thereof the word:— bureau.

546 SECTION 26. Said section 2 of said chapter 167B is hereby further amended by striking
547 out, in lines 9, 10, 12, and 75 the word "board's", and inserting in place thereof the word:—
548 bureau's.

549 SECTION 27. Subsection (d) of section 20 of said chapter 167B, as so appearing, is
550 hereby amended by striking out paragraphs (1) and (2) and inserting in place thereof the
551 following two paragraphs:—

552 (1) any act done or omitted in good faith in conformity with any rule, regulation, or
553 interpretation thereof by the bureau or by the commissioner or in conformity with any
554 interpretation or approval by an official or employee of the bureau duly authorized by the bureau
555 to issue such interpretations or approvals under such procedures as the bureau may prescribe
556 therefor or in conformity with any advisory ruling by the commissioner; or

557 (2) any failure to make disclosure in proper form if a financial institution utilized an
558 appropriate model clause issued by the bureau or the commissioner, notwithstanding that after
559 such act, omission, or failure has occurred, such rule, regulation, interpretation, approval, or
560 model clause is amended, rescinded, or determined by judicial or other authority to be invalid for
561 any reason.

562 SECTION 28. Chapter 167C of the General Laws is hereby amended by striking out
563 section 1, as appearing in the 2010 Official Edition, and inserting in place thereof the following
564 section:—

565 Section 1. As used in this chapter, the following words shall, unless the context otherwise
566 requires, have the following meanings:—

567 "Bank", an association or corporation chartered by the commonwealth under chapter 168,
568 170 and 172.

569 "Commissioner", the commissioner of banks.

570 "Electronic branch", an electronic device, other than a telephone operated by a consumer,
571 through which a consumer may initiate an electronic fund transfer. Such term includes, but is not
572 limited to automated teller machines and cash dispensing machines. Such term does not include a
573 teller machine or similar device located on the premises of and operated solely by an employee

574 of a financial institution or a point-of-sale terminal as hereinafter defined. An electronic branch
575 shall not be considered a main office or a branch office in this chapter.

576 "Financial institution", a bank, federal bank, federal credit union, foreign bank, out-of-
577 state bank, out-of-state federal bank or any other person who (a) directly or indirectly holds an
578 account belonging to a consumer, or (b) issues an access device and agrees with a consumer to
579 provide electronic fund transfer services; provided, however, that said term shall mean a bank for
580 the purposes of the first, second and third paragraphs of section 3 and for the purposes of section
581 4.

582 "Foreign bank", an association or corporation authorized to do a banking business in the
583 commonwealth, the main office of which is located outside the commonwealth, and which exists
584 by authority of a country other than the United States.

585 "Governing board", the board of directors, the board of trustees or similar board of a
586 bank.

587 "Organization", any person, corporation, association of partnership which assists or
588 provides services to a financial institution or merchant in order to make available electronic fund
589 transfers. A financial institution or merchant shall not be considered an organization.

590 "Out-of-state bank", an association or corporation authorized to do a banking business in
591 the commonwealth, the main office of which is located outside the commonwealth, and which
592 exists by the authority of a state of the United States except the commonwealth.

593 "Out-of-state branch", a branch of a bank located outside the commonwealth.

594 "Out-of-state federal bank", a national banking association, savings and loan association
595 or savings bank that exists by authority of the United States, the main office of which is located
596 outside the commonwealth.

597 "Point-of-sale terminal", an electronic terminal located on the premises of a merchant
598 when such terminal is used with the assistance of an employee of a merchant for a customer's
599 purchase or lease of goods or services sold or leased by such merchant or adjustments thereto or
600 the receipt of cash by the customer which is ancillary to the customer's purchase or lease of
601 goods or services from such merchant; provided, however, that such terminal shall be deemed an
602 electronic branch for the purposes of this chapter whenever it is used for any other electronic
603 fund transfer, or for an electronic fund transfer involving a customer's account held by an
604 organization, or for an electronic fund transfer solely for customers of a single financial
605 institution or bank holding company subject to the provisions of chapter one hundred and sixty-
606 seven A or the Bank Holding Company Act of 1956, 12 USC 1841 et seq.

607 SECTION 29. Chapter 167C is hereby further amended by striking out section 2, as so
608 appearing, and inserting in place thereof the following section:—

609 Section 2. The main office of a bank shall be in the town specified in its charter or in its
610 agreement of association, or in such other town to which the office has been lawfully moved or
611 to which it may be moved as provided in this section. The location of the main office of a bank
612 may be changed to a point in the town of its location or to another town within the
613 commonwealth with the written consent of the commissioner.

614 SECTION 30. Said chapter 167C is hereby further amended by striking out section 6, as
615 so appearing, and inserting in place thereof the following section:—

616 Section 6. A bank, upon approval by the commissioner of an application therefor in
617 prescribed manner and form and in accordance with applicable law, may establish and maintain
618 branches through a merger or consolidation with or by the purchase of the whole or any part of
619 the assets or stock of a foreign bank, out-of-state bank or out-of-state federal bank. A request for
620 the approval by the commissioner shall be accompanied by an investigation fee the amount of
621 which shall be determined annually by the commissioner of administration under the provisions
622 of section 3B of chapter 7.

623 The offices of a foreign bank, out-of-state bank or out-of-state federal bank merged or
624 consolidated with or whose assets or stock were purchased pursuant to this section, may be
625 maintained as branch offices of the bank; but, the a resulting branch outside the commonwealth
626 shall be considered to be an out-of-state branch and subject to the supervision of the
627 commissioner and the applicable laws of the jurisdiction in which the out-of-state branch is
628 located.

629 SECTION 31. Chapter 167C, as so appearing, is hereby further amended by adding the
630 following 6 sections:—

631 Section 12. After a vote of its board of trustees or directors, a bank, except as otherwise
632 provided in this section, may purchase, establish, install, operate, lease or use individually or
633 with any other financial institution or organization or share with any other financial institution or
634 organization any number of manned or unmanned electronic branches at which a customer may
635 make deposits, withdrawals, transfers of funds, obtain advances against preauthorized lines of
636 credit, cash checks or pay obligations, and any number of point-of-sale terminals; provided,
637 however, that withdrawals from such electronic branches, other than those located at an office of
638 a bank, shall be made only from a demand deposit account, negotiable withdrawal order account,
639 or statement account or against a preauthorized line of credit; and provided, further that the bank,
640 shall have applied for and obtained the approval of the commissioner for such electronic branch
641 except that a bank at whose office such electronic branch is located need not have applied for or
642 obtained such approval. The commissioner shall approve such application if, in his opinion, such
643 action will promote a sound banking system which provides for the needs of the people and
644 business, encourages competition, discourages monopolies and does not ignore legislative
645 policies.

646 There shall be no geographical limitation on the location of electronic branches which a
647 bank may purchase, establish, install, operate, lease or use individually or with any other
648 financial institution or organization or share with any other financial institution or organization;
649 provided, however, that the site location for such electronic branches, other than an electronic
650 branch located at an office of a financial institution or in another state, shall be subject to
651 approval by, and regulation of, the commissioner. An electronic branch may be located in a
652 mobile unit under such conditions and limitations as the commissioner, by regulation, shall
653 establish. No electronic branch shall be located upon premises where there occurs legalized
654 gambling, other than a state lottery.

655 A financial institution or organization shall adopt and maintain safeguards to insure the
656 safety of a customer using the electronic branch, to insure the safety of the funds, items and other
657 information at the electronic branch and to assist in the identification of criminals. The
658 commissioner shall promulgate rules and regulations establishing minimum standards for such
659 safeguards. Such safeguards shall be in place and operational at the time such electronic branch
660 begins to transact business; provided, however, that such safeguards shall not apply to an
661 electronic branch located at an office of a financial institution.

662 No such electronic branch located at other than the office of a financial institution shall
663 be manned or operated at any time by an employee of any financial institution, holding company
664 of a financial institution or affiliate thereof, or any organization except on a temporary basis for
665 the purpose of instructing operators or customers, servicing the electronic branch or for the
666 purpose of using such electronic branch on said employee's own behalf.

667 Section 13. Any out-of-state bank or out-of-state federal bank, if such bank is expressly
668 authorized to do so by the laws under which it is organized and operates, may, upon approval by
669 the commissioner of an application thereof in prescribed manner and form, establish and
670 maintain branches through a merger or consolidation with or the purchase of assets or stock of
671 any Massachusetts bank; provided, however, that in each instance the laws of the jurisdiction in
672 which such out-of-state bank or out-of-state federal bank has its principal place of business
673 expressly authorize, under conditions no more restrictive than those imposed by this chapter as
674 so determined by the commissioner, a bank to exercise like authority therein.

675 Any such out-of-state bank shall, upon any such merger or consolidation with or purchase
676 the assets or stock of a bank, operate the same as a branch under the supervision of the
677 commissioner and in accordance with all applicable laws which govern such activities by banks.

678 Any out-of-state federal bank shall, upon such merger or consolidation with or purchase
679 of assets or stock of a bank, shall operate the same as a branch which shall be subject to all laws
680 of the commonwealth relative to community reinvestment, consumer protection, fair lending,
681 establishment of intra-state branches, and the application or administration of any tax or method
682 of taxation including, but not limited to, sections 1to 14A of chapter 93 and applicable sections

683 of chapters 93A, 167 to 167J, inclusive, and all other applicable laws, including all rules and
684 regulations established thereunder pursuant to law, and to such other laws of the commonwealth
685 as are applicable to a national bank with its main office in the commonwealth.

686 Any such merger, consolidation or purchase of assets shall comply with all applicable
687 provisions of law relative to filing requirements of out-of-state non-banking corporations doing
688 business in the commonwealth. The commissioner shall not approve any such application if the
689 bank sought to be acquired has been in existence for a period of less than 3 years or if, as a result
690 thereof, the applicant would control in excess of 30 percent of the total deposits, exclusive of
691 foreign deposits, of all depository institutions in the commonwealth insured by the Federal
692 Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the
693 commissioner may waive either said age requirement or concentration limit, or both, if it is
694 deemed that economic conditions warrant granting such waiver. For the purposes of this section,
695 the term "foreign deposits" shall mean deposits received in a foreign country and deposits in
696 Edge and Agreement subsidiaries and international banking facilities.

697 Section 14. A foreign bank, out-of-state bank, or out-of-state federal bank, if such bank
698 does not operate a branch in the commonwealth, may, upon approval by the commissioner of an
699 application thereof in prescribed manner and form and in accordance with the requirements of
700 section 13 establish and maintain a branch de novo in the commonwealth or may purchase a
701 branch of a bank without purchasing the bank; provided, however, that in each instance the laws
702 of the jurisdiction in which such bank has its principal place of business expressly authorize,
703 under conditions no more restrictive than those imposed by this chapter as so determined by the
704 commissioner, a bank to establish therein a branch de novo or to acquire a branch of a bank
705 without acquiring the bank. Any foreign bank or out-of-state bank shall operate the same as a
706 branch under the supervision of the commissioner and in accordance with all applicable laws
707 which govern such activities by banks.

708 Any out-of-state federal bank shall operate the same as a federal branch which shall be
709 subject to all laws of the commonwealth relative to community reinvestment, consumer
710 protection, fair lending, establishment of intra-state branches, and the application or
711 administration of any tax or method of taxation including, but not limited to, sections 1 to 14A,
712 inclusive, of chapter 93, and the applicable sections of chapters 93A, 167 to 167J, inclusive, and
713 any other applicable laws, including all rules and regulations promulgated thereunder, and to
714 such other laws of the commonwealth as are applicable to a national bank with its main office in
715 the commonwealth.

716 Section 15. No foreign bank shall, except as herein provided, transact a banking business
717 in the commonwealth, other than as provided in this chapter; provided, however, that the
718 commissioner may, conditioned upon the performance of such requirements as to auditing as
719 commissioner may prescribe, grant a certificate authorizing the same to any such bank. The
720 commissioner, upon application thereof which shall be accompanied by an investigation fee, the

721 amount of which shall be determined annually by the commissioner of administration under the
722 provisions of section 3B of chapter 7, except that such fee shall not be less than $10,000, may
723 grant such certificate in accordance with the provisions of this section. Any such bank
724 transacting banking business in the commonwealth pursuant to such certificate shall be subject to
725 the commissioner and shall comply with all laws of the commonwealth applicable to a bank.

726 In deciding whether or not to issue such certificate, the commissioner shall determine
727 whether the applicant is adequately capitalized, as defined in the Federal Deposit Insurance Act
728 12 USC 1811 et seq., whether competition among banking institutions will be unreasonably
729 affected and whether public convenience and advantage will be promoted. In making such
730 determination, the commissioner shall consider, but not be limited to, the applicant's record of
731 compliance with all applicable community reinvestment requirements and a showing of net new
732 benefits. For the purposes of this section, the term "net new benefits" shall mean initial capital
733 investments, job creation plans, consumer and business services including small business loans,
734 farm loans, commitments to maintain and open branch offices within a bank's delineated local
735 community, as such term is used within section 14 of chapter 167, and such other matters as the
736 commissioner may deem necessary or advisable.

737 The commissioner shall not issue such certificate until the commissioner has received
738 notice from the Massachusetts Housing Partnership Fund established by section 35 of chapter
739 405 of the acts of 1985, that arrangements satisfactory to such fund have been made for such
740 foreign bank to make ninety hundredths of one percent of its assets in the commonwealth
741 available for call by said fund for a period of 10 years for the purpose of providing loans to said
742 fund for financing, down payment assistance, share loans, closing costs and other costs related to
743 creating affordable rental housing, limited equity cooperatives and affordable home ownership
744 opportunities, and tenant management programs and tenant unit acquisition or ownership
745 programs in state funded public housing developments. All of the benefits and assistance
746 provided by said fund under funds made available by this section shall be to persons with
747 incomes of less than 80 percent of the area-wide median income as determined from time to time
748 by the United States Department of Housing and Urban Development; provided, however, that at
749 least 25 percent of such assistance shall be to persons with incomes of less than 50 percent of
750 said area-wide median income. All loans made to the fund by such banks shall be deemed to be
751 legal investments for such banks; provided, however, that (a) such loans shall be evidenced by
752 notes, or other evidence of indebtedness of the fund, which shall bear interest at rates approved
753 by the commissioner which shall be based upon the costs, not to include any so-called lost
754 opportunity costs, incurred by the bank in making funds available to the fund; provided,
755 however, that the fund may, by agreement with such bank, accept a reduction in the amount of
756 said call based upon a lower rate of interest; and (b) no loan to the fund shall be secured in any
757 manner unless all outstanding loans to the fund shall be secured equably and ratably in
758 proportion to the unpaid balance of such loans and in the same manner.

759 Said fund shall file with the commissioner a report subsequent to any call to borrow
760 funds pursuant to this section. Such report shall contain the total amount of the call, the
761 allocation of the call to each such bank, the amount loaned by each to the fund, and the rate of
762 interest thereon. Said report shall be filed within 60 days of any such call.

763 No such certificate shall be issued until the commissioner has received written assurances
764 from such foreign bank that a resident or residents of the commonwealth shall occupy a position
765 of an executive officer in any resulting bank or branch. For the purposes of this section, the term
766 "executive officer" shall have the same meaning as contained in section 4 of chapter 167A.

767 Section 16. Any foreign bank which has obtained a certificate issued by the
768 commissioner in accordance with section 38, if such bank is expressly authorized to do so by the
769 laws under which it is organized and operates, may, upon approval by the commissioner of an
770 application thereof in prescribed manner and form, establish and maintain branches through a
771 merger or consolidation with any bank or federal bank; provided, however, that in each instance
772 the laws of the jurisdiction in which such foreign bank has its principal place of business
773 expressly authorize, under conditions no more restrictive than those imposed by this chapter as
774 so determined by the commissioner, any bank or federal bank to exercise like authority therein.

775 Any foreign bank which establishes a branch through such merger, consolidation or
776 purchase of assets or stock of any bank, shall operate the same as a branch under the supervision
777 of the commissioner and in accordance with all applicable laws which govern such activities by
778 banks.

779 Any foreign bank which establishes a branch through such merger, consolidation or
780 purchase of assets or stock of any federal bank, shall operate the same as a federal branch which
781 shall be subject to all laws of the commonwealth relative to community reinvestment, consumer
782 protection, fair lending, establishment of intra-state branches, and the application or
783 administration of any tax or method of taxation including, but not limited to, sections 1 to 14A of
784 chapter 93 and applicable sections of chapters 93A, 167 to 167J, inclusive, and all other
785 applicable laws including all rules and regulations established thereunder pursuant to law, and to
786 other laws of the commonwealth as are applicable to a national bank with its main office in the
787 commonwealth.

788 Any merger, consolidation or purchase of assets shall comply with all applicable
789 provisions of law relative to filing requirements of out-of-state non-banking corporations doing
790 business in the commonwealth. The commissioner shall not approve any such application if the
791 bank or federal bank sought to be acquired thereby has been in existence for a period of less than
792 3 years or if, as a result thereof, the applicant would control in excess of 30 percent of the total
793 deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth
794 insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto;
795 provided, however, that the commissioner may waive either said age requirement or

796 concentration limit, or both, if it is deemed that economic conditions warrant granting a waiver.
797 For the purposes of this section, the term "foreign deposits" shall mean deposits received in a
798 foreign country and deposits in Edge and Agreement subsidiaries and international banking
799 facilities.

800 Section 17. The commissioner may, subject to any conditions as he may prescribe, grant
801 to an out-of-state bank, an out-of-state federal bank, or a foreign bank a certificate authorizing it
802 to act in a fiduciary capacity under the provisions, so far as applicable, of chapter 167G;
803 provided, however, that such bank is authorized so to act by the laws of the jurisdiction where its
804 principal office is located; and provided, further, that the laws of such jurisdiction, as determined
805 by the commissioner, grant a similar privilege or privileges to a bank. Any out-of-state bank, out-
806 of-state federal bank, or a foreign bank holding a certificate as aforesaid and appointed a
807 fiduciary shall be subject to the provisions of General Laws with respect to the appointment of
808 agents by fiduciaries and to the same taxes, obligations and penalties, with respect to its activities
809 as fiduciary and the property held by it in its fiduciary capacity, as banks, and no certificate shall
810 be issued to any out-of-state bank, out-of-state federal bank, or a foreign bank until it has filed
811 with the commissioner an agreement in writing in which it binds itself to perform said
812 obligations and pay any such taxes and penalties as aforesaid as may be levied or imposed upon
813 it in this commonwealth. A bank, to the extent only that it acts as fiduciary as hereinbefore
814 authorized, shall not be deemed to transact business in the commonwealth for the purposes of
815 sections 40 to 42, inclusive.

816 SECTION 32. The General Laws, as appearing in the 2010 Official Edition, is hereby
817 amended by striking out chapter 167D and inserting in place thereof the following chapter:—

818 CHAPTER 167D

819 DEPOSITS AND ACCOUNTS

820 Section 1. In this chapter, unless the context otherwise requires, the following words shall
821 have the following meanings:—

822 "Bank", a savings bank, co-operative bank or trust company incorporated as such in the
823 commonwealth.

824 "Board", the board of trustees or directors, as the case may be in a bank.

825 "Commissioner", the commissioner of banks.

826 "Federally-chartered bank", a national bank association, a federal savings and loan
827 association, a federal savings bank or a federal credit union authorized to do business in the
828 commonwealth.

829 Section 2. Every bank in its banking department shall, subject to any limitations imposed
830 by this chapter, have the following powers and whatever further incidental powers may fairly be
831 implied from those expressly conferred and such as are reasonably necessary to enable it to
832 exercise fully those powers according to common banking customs and usages:

833 1. To receive deposits as authorized by this chapter.

834 2. To receive on deposit, storage or otherwise, money, government securities, stocks,
835 bonds, coin, jewelry, plate, valuable papers and documents, evidences of debt, and other property
836 of any kind, upon such terms and conditions as may be agreed upon between the depositor and
837 the bank; and to collect and disburse, at the request of the depositor, the interest or income or
838 principal of said property upon terms to be prescribed by such bank.

839 Section 3. A bank may receive demand, time and other types of deposits without
840 limitation and upon such terms and conditions as may be agreed upon between the depositor and
841 the bank. Such deposits may include, but are not limited to:

842 (a) any bank or federally-chartered bank may receive deposits in the name of two or more
843 persons as joint tenants, payable to two or more persons or the survivor or survivors of them, and
844 any part or all of the deposits and interest represented by joint accounts may be withdrawn,
845 assigned or transferred in whole or in part by any of the individual parties. Payments to any of
846 the parties to a joint account while all of them are living shall discharge the liability of the bank
847 or federally chartered bank to all persons and, in the event of the death of any of them, the bank
848 or federally chartered bank shall be liable only to the survivor or survivors and the payment to
849 any of the survivors shall discharge the liability of the bank or federally chartered bank to all
850 persons.

851 The surviving owner or owners of a joint account may maintain the balance of the
852 account in the amount appearing at the time of the decease of a joint owner, and such bank or
853 federally chartered bank may allow interest additions and accumulations thereon.

854 Such deposits or any part thereof, or any interest thereon, may be paid to any of such
855 persons or to any assignee or pledgee of any of such persons, whether the other such persons be
856 living or not, provided they are not then attached at law or in equity in a suit against any such
857 person, and the bank or federally chartered bank then has no notice in writing of any assignment
858 or pledge of the account by any of such persons to any person other than the person to whom
859 payment is being made hereunder. All such payments shall be valid and discharge the liability of
860 the bank to all persons.

861 (b) Any bank or federally-chartered bank may receive deposits made by 1 or 2 persons in
862 trust for other persons. The name, residence and date of birth of the person or persons for whom
863 such deposit is being made shall be disclosed and the deposit shall be credited to the depositors
864 as trustees for such persons. Payments may be made to the trustee, or if there are 2 trustees, to

865 both or to either or the survivor. If no other notice of the existence and terms of a trust has been
866 received in writing by the bank or federally-chartered bank upon the death of the trustee or, if
867 there are 2 trustees, upon the death of both of them, the amount then on deposit together with the
868 interest thereon shall be paid to the persons who survive the death of the last surviving trustee in
869 an equal portion of the funds for whom such deposit was made or to their legal representatives.
870 Each person or his representative claiming to be a beneficiary under this section shall provide
871 such identification and other information as requested by the bank or federally-chartered bank.
872 Withdrawals and payments made in accordance with this section shall fully discharge the
873 liability of the bank or federally-chartered bank to all persons.

874 (c) Any bank or federally-chartered bank having funds on deposit in the name of a minor
875 may, unless in violation of a written agreement to which such bank or federally-chartered bank is
876 a party, pay the same in whole or in part directly to such minor, to his legal representative, to
877 either parent of such minor or to others on his written order; and any such payments shall
878 discharge the liability of such bank or federally-chartered bank to all persons to the extent of
879 such payment.

880 Section 4. (a) A bank may receive deposits into a deposit account held in the name of a
881 natural person and established for personal, family or household purposes. The deposits, interest
882 and other credits represented by the account may be withdrawn, assigned or transferred in whole
883 or in part by the account holder only, except as otherwise provided in this section.

884 (b) Notwithstanding subsection (a), a holder of the account may provide for limited
885 access to the account by another person to act as a signatory to the account pursuant to a
886 declaration of intent in the form of a written statement, signed and sworn to by the account
887 holder, evidencing his intent to designate another person as signatory to the account for the
888 purpose of exercising, on behalf of the account holder, such powers with respect to the account
889 as shall be expressed in the declaration.

890 The declaration of intent shall include the following:

891 (1) the name of the financial institution holding said account;

892 (2) the account number;

893 (3) the date of execution;

894 (4) the name and signature of the account holder; and

895 (5) the powers granted relative to the use of and withdrawals from the account by the
896 signatory.

897 (c) The provisions of the declaration relative to the account shall become effective upon
898 the filing of the declaration with the financial institution, if the following documents are
899 executed contemporaneously with, or on the same document as the declaration:

900 (1) a statement, signed by the signatory, accepting the appointment;

901 (2) a statement disclosing that any acts by a signatory relative to the account not
902 specifically authorized in the declaration of intent may subject the signatory to civil or criminal
903 liability;

904 (3) a statement, signed and sworn to by the signatory, acknowledging receipt of an
905 attested copy of the declaration of intent and the statement required by clause (2).

906 The declaration submitted to effect the establishment of the account, and documents
907 related thereto, shall be maintained by the financial institution with the records of the account.

908 (d) Unless otherwise provided in the declaration of intent, all assets of the account shall
909 be the property solely of the principal, and nothing in this section shall be construed to vest any
910 rights relative to the account in the signatory; and in the event of the death of the principal while
911 the declaration of intent is in effect, no right of survivorship shall accrue to a signatory.

912 (e) An amendment to or revocation of a declaration of intent, unless otherwise provided
913 in the declaration, may be effected only by the principal or by a court appointed fiduciary in
914 accordance with the intent of this section, and shall be filed forthwith with the financial
915 institution holding the account.

916 (f)(1) In the event of the incapacity or death of the principal, and receipt of written notice
917 by the financial institution holding the account, withdrawals shall not be permitted, except by a
918 court appointed fiduciary, unless otherwise provided for in the declaration of intent. Notice of the
919 death or incapacity of the principal of a limited access deposit account shall be given, in the case
920 of a bank or federally chartered bank, to the main office of the bank.

921 (2) A bank shall not be required to monitor the limited access deposit account in a
922 manner different from its other checking or savings accounts. A bank shall not be liable for
923 withdrawals and payments made by the signatory before it receives notice of amendments or
924 revocation of the declaration of intent, or before it receives notice of the death or incapacity of
925 the principal.

926 (g) A signatory to the account shall maintain accurate records of his activity as a
927 signatory and shall make the same available whenever requested to do so by the holder, his legal
928 representative, or by a court appointed fiduciary.

929 (h) A signatory who violates the terms of a declaration of intent, with intent to defraud,
930 and converts or secretes with intent to convert, the assets of the account, shall be guilty of
931 larceny and subject to penalties contained in section 30 of chapter 266.

932 Section 5. A natural person 18 years of age or under or 65 years of age or older may
933 choose 1 demand deposit account and 1 savings account which, in each instance, shall include a
934 joint account in which the spouse of the eligible depositor, regardless of age, is the joint tenant
935 therein or the joint tenant would otherwise be an eligible depositor, and which has been
936 established and used for personal, family or household purposes, upon which no service,
937 maintenance or other similar charge shall be imposed. No such account shall be subject to: (i) a
938 minimum balance requirement; (ii) a charge for a deposit or withdrawal; or (iii) a fee for the
939 initial order or subsequent refills of the basic line of checks offered by the bank, which shall
940 include the name of the depositor. For the purposes of this subparagraph, the term "savings
941 account" shall include a regular passbook, regular statement savings or regular NOW account,
942 so-called. A savings account in trust for another person shall be covered by the notice, services,
943 fee and charge provisions of this subparagraph only if the trustee is a person 18 years of age or
944 under or 65 years of age or older. A consumer shall notify a bank of his eligibility for such
945 accounts and provide proof of age in a form acceptable to the bank. A bank may, however, assess
946 a fee for certain services in accordance with the bank's published service charge schedule which
947 shall include, stop payment orders, wire transfers, certified or bank checks, money orders,
948 deposit items returned, transactions at electronic branches and through other electronic devices a
949 reasonable charge, as determined by the commissioner, against any such account when payment
950 on a check or other transaction on the account has been refused because of insufficient funds or
951 paid despite insufficient funds. A bank shall post in each of its banking offices a notice
952 informing consumers of the availability of the banking services prescribed by this subparagraph.
953 A bank shall, in addition to the notice posting requirement, disclose annually to all depositors, in
954 a manner of its choosing, the provisions of this subparagraph applicable to a person 18 years of
955 age or younger or 65 years of age or older. For the purposes of this subparagraph, the term
956 "check or other transaction" shall include, but not be limited to, a check for purposes of the
957 Check Clearing for the 21st Century Act, 12 USC Sec. 5001 et seq., an electronic funds transfer
958 as defined in section 1 of chapter 167B or regulations thereunder or a transaction processed by an
959 automated clearinghouse.

960 Section 6. No bank shall assess any fee, charge or other assessment against any account,
961 established for personal, family or household purposes, of a depositor who, as the payee of a
962 check, draft or money order, of which the payee is not also the maker, deposits the same therein
963 and payment on any such instrument is refused by the depository institution upon which it is
964 drawn because of insufficient funds or because the maker thereof did not have an account at such
965 depository institution; provided, further, that a bank may assess a reasonable fee, charge or
966 assessment that represents its direct costs, as established annually by the commissioner of banks,
967 incurred for processing such check, draft or money order.

968 Section 7. A bank or federally-chartered bank which accepts a deposit for demand deposit
969 or other account subject to withdrawal by negotiable or transferable instrument for the purpose of
970 making a transfer to a third party shall, if requested by the depositor, provide without charge not
971 less than 25 cancelled instruments or legible copies of the fronts and backs thereof per calendar
972 year; but, if requested by a depositor who is blind the bank shall make additional
973 accommodations to provide additional cancelled instruments or information thereon as is
974 possible in accordance with the Check Clearing for the 21st Century Act, 12 USC 5001 et seq.,
975 and regulations promulgated thereunder. Section 4-406 of chapter 106 shall be subject to this
976 section.

977 Section 8. No bank shall give collateral or other security for a deposit of money received
978 in its banking department, except that such bank may make such a deposit of securities or satisfy
979 and provision as may be required by the laws of the United States or the rules and regulations of
980 any department, agency or instrumentality thereof as security for deposits of funds made by the
981 United States or any department, agency or instrumentality thereof with such bank and may give
982 such collateral or other security for deposits of public or other funds as may be required by any
983 public authority making such deposits or controlling the terms upon which they may be made
984 and except as provided in section 8 of chapter 167G.

985 Section 9. Any bank or federally-chartered bank may establish an account to receive
986 deposits from a lessor acting as a trustee for funds received and held by such trustee pursuant to
987 paragraph (a) of subsection (3) of section 15 B of chapter 186. Such account may be established
988 as required by said section 15 B for the purpose of holding security deposits taken by a lessor of
989 residential dwelling units owned or managed by said lessor, but the terms of said account shall
990 be such as to place said deposit beyond the claim of a creditor of the lessor, including a
991 foreclosing mortgagee or trustee in bankruptcy, and as will provide for the transfer of said
992 deposit to a subsequent owner of any property for which such security deposit was taken. Interest
993 accruing on said deposit shall be paid to the lessor pursuant to the terms of the deposit.
994 Withdrawals and payments made by the corporation from said account shall discharge the
995 liability of said corporation to all persons.

996 Section 10. Any bank or federally chartered bank may establish an account or accounts to
997 receive deposits from a manager or managing agent acting as a trustee for funds received and
998 held by such trustee pursuant to paragraph (2) of subsection (f) of section 10 of chapter 183A.
999 Such account or accounts may be established as required by said section ten for the purpose of
1000 holding condominium funds taken by a manager or managing agent, but the terms of said
1001 account or accounts shall be such as to place said deposit beyond the claim of a creditor of the
1002 manager or managing agent, including a foreclosing mortgagee or trustee in bankruptcy, and as
1003 will provide for the transfer of said deposit to the organization of unit owners or subsequent
1004 manager or managing agent, as determined by the organization of unit owners. Interest accruing
1005 on said deposit shall be paid to the organization of unit owners pursuant to the terms of the
1006 deposit. Withdrawals and payments made by the bank or federally chartered bank from said

1007 account or accounts shall discharge the liability of said bank or federally chartered bank to all
1008 persons.

1009 Section 11. When a passbook or other instrument as evidence of a depositor's account
1010 issued by any bank has been lost, stolen or destroyed, the person in whose name it was issued, or
1011 in the case of a joint account, by the joint owners thereof may make written application to such
1012 bank for payment of the amount of the deposit represented by said book or other instrument or
1013 for issuance of a duplicate book or other instrument therefor. The application shall include an
1014 affidavit signed and sworn to that the person, or persons, making such application is a lawful
1015 owner, or are the lawful owners, of said passbook or other instrument, that said passbook or
1016 other instrument has been lost, stolen or destroyed, and that no lawful owner has, in any way,
1017 transferred, pledged or assigned said passbook or other instrument or any interest in the deposits
1018 therein. The application shall further include an agreement, in writing, to indemnify the bank
1019 from and against any and all claims, expenses and liabilities in any way resulting from the bank's
1020 action on the application by the payment of amounts due on said passbook or other instrument or
1021 by the issuance of a duplicate book or other instrument therefor. All signatures contained with
1022 such application shall be duly notarized. Upon receipt of such application, the bank may pay the
1023 amount due on said passbook or other instrument or may issue a duplicate book or other
1024 instrument therefor. The provisions of this section shall apply to passbooks and other instruments
1025 issued by a bank which subsequently has merged in, consolidated with or transferred its deposit
1026 liabilities to another bank.

1027 When payment is made or a duplicate book or other instrument is issued in accordance
1028 with this section and after presentation of reasonable identification, a bank shall not be liable to
1029 any person on account of its action on the application, payments of the amount due on said
1030 passbook or other instrument or issuance of a duplicate book or other instrument therefor, except
1031 that a bank may be liable to a transferee, pledgee or assignee who, prior to such action, payment
1032 or issuance, has given the bank written notice of the transfer, pledge or assignment.

1033 Section 12. Deposits standing in the individual name of a deceased depositor of a bank or
1034 federally chartered bank shall be paid to his legal representative, but if the deposit does not
1035 exceed $10,000 and there has been no demand for payment from a duly appointed executor or
1036 administrator, payment may be made, in the discretion of the treasurer or other duly authorized
1037 officer of the bank or federally chartered bank, or pursuant to special vote of its board, after the
1038 expiration of 30 days from the death of such depositor, to the surviving spouse of said deceased
1039 depositor or if there be no surviving spouse, to the next of kin of such deceased upon
1040 presentation of a copy of the decedent's death certificate and the surrender of the deposit book or
1041 other instrument, if any, evidencing the deposit. Any such bank or federally chartered bank may
1042 pay an order, drawn by a person who has funds on deposit to meet the same, notwithstanding the
1043 death of the drawer, if presentation is made within thirty days after the date of such order, and at
1044 any time if the corporation has not received written notice of the death of the drawer; provided,
1045 however, that in either event, that such funds would, on the date of such payment, have been

1046 subject to withdrawal by the drawer if living. Payments made under authority of any provision of
1047 this section shall discharge the liability of the bank or federally chartered bank to all persons to
1048 the extent of such payments.

1049 Section 13. Whenever in the judgment of the board there is an unusual demand by such
1050 depositors for withdrawals the bank may, with the approval of the commissioner, and whenever
1051 in the opinion of the commissioner there is such an unusual demand the bank shall upon his
1052 order, require such a depositor to give written notice of his intention to withdraw the whole or
1053 any part of such deposits or to apply for a loan secured by such deposit, such notice to be for
1054 such period not exceeding 6 months, as may be determined by the commissioner, which period
1055 may, in his discretion, be extended but not beyond 1 year from the date of notice, and until such
1056 a requirement has been revoked by the commissioner, the foregoing limitations as to payments
1057 by way of withdrawal or loan applicable in case of a general requirement as aforesaid shall apply
1058 to such deposits.

1059 Such bank shall not advertise for such deposits in newspapers, by posters or other written
1060 solicitation, while any requirement of notice of intention to withdraw is in effect, unless the
1061 advertisement shall contain, in type not smaller than the largest type thereof, a statement that
1062 such deposits may not be paid out, by way of withdrawal or loan, except in accordance with the
1063 terms of the requirement, which terms shall be set forth in such statement.

1064 Section 14. Any agreement between a depositor and any bank which exculpates such
1065 bank when a deposit account, or any part thereof, is paid by such bank to a person unlawfully
1066 presenting a passbook, or other instrument as evidence of such account is hereby declared to be
1067 contrary to public policy and void.

1068 Section 15. Any designation of any beneficiary in connection with and as provided by an
1069 instrument intended to establish a pension, profit-sharing, or other deferred compensation or
1070 retirement plan, trust or custodial account described in one or more of the following sections of
1071 the Internal Revenue Code of the United States, and in effect from time to time, shall be effective
1072 according to its terms, notwithstanding any purported testamentary disposition allowed by
1073 statute, by operation of law or otherwise to the contrary; section 401(a), section 401(f), section
1074 403(b)(7), section 405(a), section 408(a), and section 408(h). Nothing in this section is intended
1075 to limit, by implication or otherwise, any nonstatutory right of an employee to designate one or
1076 more beneficiaries of the employee's interest under any retirement plan not described in this
1077 section or under any other employee benefit plan.

1078 Section 16. Whenever a bank as a consequence of a default of a debt owed to said bank
1079 by a depositor or shareholder, makes a transfer of funds of such depositor or shareholder to
1080 reduce or extinguish said debt, such depositor or shareholder shall be notified forthwith of such
1081 transfer by written notice sent by first class mail directed to his last known address; provided,
1082 however, that no such transfer shall be made if such debt is the result of consumer credit granted

1083 under the Truth-in-Lending act, 15 USC 1601 et. seq. A depositor or shareholder to whom such
1084 notice has not been sent shall be entitled to recover the amount of any actual damages.

1085 Section 17. A person indebted to a bank may, when proceeded against for the collection
1086 of such indebtedness or for the enforcement of any security therefor, set off or recoup the amount
1087 of a deposit in such bank held and owned by him at the time of the commencement of such
1088 proceeding; provided, however, that if a proceeding in equity has been commenced to restrain
1089 the bank from doing its actual business, or if possession of such bank has been taken over by the
1090 commissioner as provided in section 22 of chapter 167 or as otherwise provided by law, no
1091 deposit shall be so set off or recouped by any such person unless held and owned by him on the
1092 date of the commencement of such proceeding or of possession so taken, and the right of set off
1093 or recoupment shall be determined as of such date whether the indebtedness of the depositor, or
1094 the deposit, is then due or payable or becomes due or payable at a later date. Any indebtedness
1095 against which a deposit is permitted to be set off or recouped as aforesaid may be secured or
1096 unsecured. Section three of chapter 232 shall not apply to a set off hereunder, except that any
1097 party to a joint account may set off the joint deposit against his individual debt to such bank.
1098 Notwithstanding the foregoing, a judgment shall not be rendered against such bank in favor of
1099 the defendant for any balance found due from it if a proceeding in equity has been commenced
1100 against the bank or possession thereof has been taken as aforesaid. The word "deposit", as used
1101 in this section, shall include interest due thereon.

1102 Section 18. If, in an action against a bank for money on deposit therewith, it appears that
1103 the same fund is claimed by another party than the plaintiff, whether by the husband or wife of
1104 the plaintiff, or otherwise, the court in which such action is pending, on the petition of the bank
1105 and on such notice to the plaintiff and to such claimants as the court considers proper, may order
1106 the proceedings to be amended by making such claimants defendants thereto, and thereupon the
1107 rights and interests of the several parties in and to said funds shall be heard and determined. Such
1108 deposits may remain with the bank until final judgment and shall be paid as the court orders, or
1109 may be paid into court to await final judgment, and when so paid into court, the action shall be
1110 discontinued as to such bank and its liability for such deposit shall cease. The taxable costs of the
1111 bank in such actions shall be in the discretion of the court and may be charged upon the fund.

1112 Section 19. No bank, federally-chartered bank or other corporation doing a banking
1113 business in the commonwealth, in this section called the depository, shall be required to
1114 recognize an adverse claim to a deposit standing on his or its books to the credit of or to
1115 securities held for the account of any person, except by virtue of the service upon him or it of
1116 appropriate process issued by a court of competent jurisdiction in a suit or action to which such
1117 person, or his executors or administrators, has been made a party, unless the adverse claimant
1118 gives bond satisfactory to the depository and the adverse claimant to hold harmless and
1119 indemnify it from any liability, loss, damage, costs and expenses whatsoever on account of such
1120 adverse claim, or files with the depository an affidavit setting forth facts showing a reasonable

1121 cause for belief that a fiduciary relationship exists between such person and said adverse
1122 claimant and that such person is about to misappropriate the deposit or securities in question.

1123 Section 20. Notwithstanding the provisions of any general or special law to the contrary,
1124 a bank, a federal bank or a Massachusetts branch as defined in section 1 of chapter 167, shall not
1125 be required to repay any deposit made at a branch of such bank, federal bank or Massachusetts
1126 branch located in a foreign country, or any deposit made with any of the foregoing in the
1127 currency of a foreign country if repayment of such deposit or the use of such assets denominated
1128 in said foreign currency is prevented, prohibited or otherwise blocked due to (a) an act of war,
1129 insurrection or civil strife; or (b) any action by a foreign government or instrumentality, or
1130 authority asserting governmental, military or police power of any kind, whether such authority
1131 be recognized as a de facto or de jure government, or by any entity, political or revolutionary
1132 movement or otherwise that usurps, supervenes or otherwise materially impairs the normal
1133 operation of civil authority; or (c) the closure of such foreign branch in order to prevent, in the
1134 reasonable judgment of the bank, harm to the bank's employees or property.

1135 The obligation to repay any such deposit shall not be transferred to and may not be
1136 enforced against any other branch of such bank, federal bank or Massachusetts branch.

1137 Prior to the opening of any account for a retail customer that is subject to this section and
1138 with respect to any such account in existence on the effective date of this section, upon said
1139 effective date, such bank, federal bank or Massachusetts branch shall disclose to the prospective
1140 account holder the effect of the provisions of this section. Such bank, federal bank or
1141 Massachusetts branch shall also disclose to all current account holders the effect of the
1142 provisions of this section. Any such bank, federal bank or Massachusetts branch which fails to
1143 provide such disclosure shall not be entitled to avail itself of the provisions of this section.

1144 SECTION 33. Section 3 of chapter 167E of the General Laws is hereby amended by
1145 striking out subsection (f) as appearing in the 2010 Official Edition and inserting in place thereof
1146 the following subsection:—

1147 (f) Notwithstanding subsection (a) to (e), inclusive reverse mortgage loans on owner
1148 occupied dwellings shall be subject to sections 7 and 7A.

1149 SECTION 34. Section 2 of chapter 167F of the General Laws, as appearing in the 2010
1150 Official Edition, is hereby amended by striking out paragraphs 7 and 7A and inserting in place
1151 thereof the following three paragraphs:—

1152 7. To invest in the capital stock or shares of one or more wholly owned subsidiary
1153 corporations, limited liability corporations or trusts, including any corporation or trust which is
1154 treated as a real estate mortgage investment conduit under 26 U.S.C. 860D, or such other forms
1155 of organization permitted by the commissioner, organized and operated solely for the purpose of
1156 performing functions that the bank itself is empowered to perform directly; provided however,

1157 that if the aggregate amount invested or proposed to be invested in any one subsidiary exceeds 5
1158 percent of the assets of the bank that excess investment shall be made only with the approval of
1159 the commissioner and under the limitations and conditions he may impose.

1160 7A. To invest subject to the approval of the commissioner and under such limitations or
1161 conditions as he may impose, in the capital stock or shares of one or more wholly owned
1162 subsidiary corporations, limited liability corporations or trusts or such other forms of
1163 organization permitted by the commissioner, organized and operated solely for the purpose
1164 holding or investing in other real estate owned.

1165 7B. To merge with one or more of its nonbank subsidiaries or affiliates with the bank as
1166 the continuing entity.

1167 SECTION 35. Paragraph 22 of section 2 of said chapter 167F, as so appearing, is hereby
1168 further amended by striking out, in lines 256 and 257, the words "subject to such restrictions as
1169 may be imposed by the commissioner, to" and inserting in place thereof the word:— To

1170 SECTION 36. Section 2 of said chapter 167F, as so appearing, is hereby further amended
1171 by striking out paragraphs 31 and 32 and inserting in place thereof the following two
1172 paragraphs:—

1173 31. To exercise any power and engage in any activity that is permissible for a federal
1174 bank or out-of-state bank, as defined in section 1 of chapter 167, by providing 30 days written
1175 notice in advance to the commissioner; provided, however, that the activity is not otherwise
1176 prohibited under the laws of the commonwealth; provided, further, that the activity shall be
1177 subject to the same limitations and restrictions that are applicable to the federal or out-of-state
1178 bank; and provided, further, that the activity authorized for the out-of-state bank has been
1179 permitted by the Federal Deposit Insurance Corporation under section 24 of the Federal Deposit
1180 Insurance Act and Part 362 of the regulations thereunder. In the event that federal or out-of-state
1181 banks lose the authority to exercise any power or engage in any activity based upon which
1182 comparable authority was granted to state chartered banks pursuant to this paragraph, then unless
1183 such authority is authorized by another law of the commonwealth, or a rule, regulation or policy
1184 adopted pursuant to such other law of the commonwealth, or by a judicial decision, the authority
1185 shall be revoked for state chartered banks pursuant to this paragraph.

1186 32. To engage in an activity and to acquire and retain the shares of any company engaged
1187 in any activity that the bank determines to be financial in nature or incidental to the financial
1188 activity that is complementary to a financial activity and does not pose a substantial risk to the
1189 safety and soundness of the bank by providing 30 days written notice in advance to the
1190 commissioner. In determining whether an activity is financial in nature or incidental or
1191 complementary thereto, the bank shall consider, but shall not be limited to, those activities
1192 considered to be financial in nature or incidental to the financial activity or an activity that is
1193 complementary to a financial activity under section 103, section 121 and section 122 of Public

1194 Law 106-102, entitled the "Gramm-Leach-Bliley Act of 1999". Notwithstanding any general or
1195 special law to the contrary, this chapter does not authorize a bank or a subsidiary or affiliate of a
1196 bank to sell title insurance.

1197 SECTION 37. Section 6 of said chapter 167F is hereby repealed.

1198 SECTION 38. Said chapter 167F, as so appearing, is hereby further amended by adding
1199 the following section:—

1200 Section 10. A bank may or in participation with a federal bank, a foreign bank, an out-of-
1201 state bank or an out-of state federal bank as defined in section 1 of chapter 167 invest in,
1202 establish, operate or subscribe for services from another bank, federal bank, foreign bank, out-of-
1203 state bank or out-of-state federal bank or a subsidiary thereof or any other business entity for the
1204 purpose of obtaining for or furnishing to the bank technology, compliance, internal audits,
1205 human resource or other operation functions, management

1206 or staff generally required by a bank.

1207 SECTION 39. Section 3 of chapter 167G, as appearing in the 2010 Official Edition, is
1208 hereby amended by striking out paragraphs 1 and 2 and inserting in place thereof the following 2
1209 paragraphs:—

1210 1. To hold money or property in trust or on deposit from, personal representatives,
1211 voluntary personal representatives, assignees, conservators and trustees upon such terms and
1212 conditions as may be agreed upon;

1213 2. To be appointed and to act as personal representative, voluntary personal
1214 representative of a will of the estate of any person, receiver, assignee, guardian, conservator or
1215 trustee under a will or instrument creating a trust for the care and management of property, under
1216 the same circumstances, in the same manner, and subject to the same control by the court having
1217 jurisdiction of the same, as a legally qualified individual; to act in any other fiduciary capacity
1218 not expressly prohibited by the laws of this commonwealth.

1219 SECTION 40. Said section 3 of said chapter 167G is hereby further amended by striking
1220 the second paragraph of paragraph 9 and inserting in place thereof the following paragraph:—

1221 Any such collective investment fund shall be administered in accordance with a written
1222 declaration of trust which shall provide that if property is held by such corporation or association
1223 as a fiduciary together with a co-fiduciary or co-fiduciaries, such property may be invested in
1224 such collective investment fund only with the written consent of such co-fiduciary or co-
1225 fiduciaries, but that in no case shall any other notice or consent be required for the making of any
1226 such investment. An account of the administration of each such collective investment fund shall
1227 be prepared annually, shall be audited by an independent certified public accountant and a copy
1228 of such account and of the audit report thereon shall be made available to any interested party

1229 upon written request. All expenses of the administration of such collective investment fund,
1230 including the cost of the annual audit, shall be borne by the fund, but the corporation or
1231 association shall absorb the costs of establishing any such collective investment fund.

1232 SECTION 41. Said section 3 of chapter 167G is hereby further amended by striking out
1233 paragraph 11 and inserting in place thereof the following paragraph:—

1234 11. Any association or corporation authorized to do a banking business and to exercise
1235 trust powers in the commonwealth while acting as a fiduciary is authorized, in the absence of an
1236 express provision to the contrary in the instrument, judgment, decree or order creating a trust or
1237 other fiduciary relationship, to purchase for the fiduciary estate, directly from underwriters or
1238 distributors or in the secondary market, bonds, or other securities which are underwritten or
1239 distributed by such association or corporation or an affiliate thereof or by any syndicate which
1240 includes such association or corporation or affiliate thereof and securities of any investment
1241 company or investment trust for which such association or corporation or any affiliate thereof
1242 acts as adviser, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing
1243 agent, custodian, broker, dealer, or lender of money or securities; provided, however, that (1)
1244 nothing in this section shall affect the degree of prudence which is required of fiduciaries
1245 generally under the common law of the commonwealth or the charging of reasonable
1246 compensation and (2) any such bonds or securities so purchased shall have sufficient liquidity
1247 and quality to satisfy the principles of fiduciary investment. Any such association or corporation
1248 purchasing bonds or securities pursuant to this paragraph shall, in any written communication or
1249 account statement reflecting such purchase, disclose the fact that it or an affiliate may have an
1250 interest in the underwriting or distribution of such bonds or securities and any capacities in
1251 which it or an affiliate acts for the issuer of such securities. Any such association or corporation
1252 purchasing securities of an investment company or investment trust pursuant to this paragraph
1253 shall disclose the provision of the stated services, and the receipt of compensation for such
1254 services, annually by mailing a statement or letter describing the same, to the last known address
1255 of each person to whom statements for the fiduciary estate are rendered.

1256 SECTION 42. Said chapter 167G is hereby further amended by striking out section 8, as
1257 so appearing, and inserting in place thereof the following section:—

1258 Section 8. Notwithstanding any provision of section four, funds held in the trust
1259 department of any bank awaiting investment or distribution may be deposited in its banking
1260 department if such bank shall first transfer to its trust department, to be held as security therefor,
1261 bonds, notes, bills and certificates of indebtedness of the United States, of this commonwealth, or
1262 of any of the states or any other securities in which the bank may legally invest, of an aggregate
1263 value of not less in amount than funds so deposited, and such bank shall at all times maintain the
1264 value of such security at such amount; provided, however, that such security shall not be
1265 required to the extent that the funds so deposited are insured by the Federal Deposit Insurance
1266 Corporation.

1267 SECTION 43. Section 1 of chapter 167H as appearing in the 2010 Official Edition is
1268 hereby amended by inserting after the definition of "Commissioner" the following definition:—

1269 "Interim Bank", a Massachusetts or federal bank, out-of-state bank or out-of-state federal
1270 bank organized solely to participate in and facilitate an acquisition, reorganization or other
1271 corporate transaction. A Massachusetts bank which is an interim bank shall be organized under
1272 chapter 167I.

1273 SECTION 44. Section 2 of Chapter 167H of the General Laws, as so appearing, is hereby
1274 amended by striking out said section 2 and inserting in place thereof the following section:—

1275 Section 2. (a) Notwithstanding the provisions of any general or special law to the
1276 contrary, a mutual banking institution that is a savings bank may reorganize so as to become a
1277 mutual holding company by (1) establishing a subsidiary banking institution as a stock savings
1278 bank in accordance with section three, and transferring to such subsidiary banking institution the
1279 substantial part of its assets and liabilities, including all of its deposit liabilities or (2) by
1280 structuring the reorganization under any procedures acceptable to the commissioner, including
1281 but not limited to the merger of the existing mutual bank with and into a savings bank
1282 established for the purpose of completing the reorganization; provided, that for the purpose of
1283 facilitating a multi-step reorganization the commissioner may, subject to such terms and
1284 conditions as he may impose, grant any and all certificates and approvals to establish and control
1285 a new mutual savings bank. Upon such reorganization, all persons who prior thereto held
1286 depository rights with respect to or other rights as creditors of such mutual banking institution
1287 shall have such rights solely with respect to the said subsidiary banking institution and the
1288 corresponding liability or obligation of the mutual banking institution to such persons shall be
1289 assumed by the subsidiary banking institution. All persons who had liquidation rights pursuant to
1290 section 33 of chapter 168 with respect to the mutual banking institution shall continue to have
1291 such rights solely with respect to said mutual holding company.

1292 (b) Notwithstanding the provisions of any general or special law to the contrary, a mutual
1293 banking institution that is a cooperative bank may reorganize so as to become a mutual holding
1294 company by (1) establishing a subsidiary banking institution as a stock cooperative bank in
1295 accordance with section three, and transferring to such subsidiary banking institution the
1296 substantial part of its assets and liabilities, including all of its deposit liabilities or (2) by
1297 structuring the reorganization under any procedures acceptable to the commissioner, including
1298 but not limited to the merger of the existing mutual bank with and into a cooperative bank
1299 established for the purpose of completing the reorganization; provided, that for the purpose of
1300 facilitating a multi-step reorganization the commissioner may, subject to such terms and
1301 conditions as he may impose, grant any and all certificates and approvals to establish and control
1302 a new cooperative bank. Upon such reorganization, all persons who prior thereto held depository
1303 rights with respect to or other rights as creditors of such mutual banking institution shall have
1304 such rights solely with respect to the said subsidiary banking institution and the corresponding

1305 liability or obligation of the mutual banking institution to such persons shall be assumed by the
1306 subsidiary banking institution. All persons who had liquidation rights pursuant to section 27 of
1307 chapter 170 with respect to the mutual banking institution shall continue to have such rights
1308 solely with respect to said mutual holding company.

1309 (c) Any reorganization of a mutual banking institution pursuant to subsection (a) shall be
1310 approved by a majority of the board of trustees and by a majority of the corporators present and
1311 voting in each case at the annual meeting or at a special meeting called, in accordance with the
1312 by-laws, for such purpose. Any such reorganization pursuant to subsection (b) shall be approved
1313 by a majority of the board of directors and by a majority of the shareholders present and voting
1314 in each case at the annual meeting or at a special meeting called, in accordance with the by-laws,
1315 for such purpose.

1316 SECTION 45. Section 7 of chapter 167H as so appearing, is hereby amended by striking
1317 out clause (2) and inserting in place the following new clause:—

1318 (2) Acquire a mutual banking institution, a credit union, as defined in chapter 171, a
1319 federal credit union, as defined in chapter 171, a federal bank, as defined in section 1 of chapter
1320 167 in mutual form, an out-of-state bank, as defined in section 1 of chapter 167 in mutual form,
1321 and an out-of-state federal bank, as defined in section 1 of chapter 167 in mutual form through
1322 consolidation or merger of such institution with the subsidiary banking institution or interim
1323 bank subsidiary of the mutual holding company.

1324 SECTION 46. Chapter 167H, as so appearing, is hereby further amended by adding the
1325 following section:—

1326 Section 12. A mutual company directly or indirectly controlling or owning one or more
1327 wholly owned stock bank subsidiaries or stock holding companies may elect to convert from a
1328 mutual holding company to a mutual banking institution organized under the original charter of
1329 its subsidiary banking institution subject to approval of the commissioner and subject to the
1330 following conditions.

1331 (a) The conversion of the mutual holding company to a mutual banking institution shall
1332 be effected pursuant to a plan of conversion approved by the commissioner and a vote of two-
1333 thirds of the corporators of the mutual holding company;

1334 (b) All direct or indirect wholly owned stock bank subsidiaries and stock holding
1335 companies of the mutual holding company shall be merged into the resulting mutual banking
1336 institution;

1337 (c) The reorganized mutual banking institution shall assume all assets and liabilities of
1338 any direct or indirect wholly owned stock bank subsidiary or stock holding company and shall

1339 retain deposit insurance from the Federal Deposit Insurance Corporation and the excess deposit
1340 insurer of its subsidiary banking institution;

1341 (d) Such other provisions as the commissioner may require. The commissioner may
1342 promulgate rules and regulations to carry out the provisions of this section.

1343 SECTION 47. The General Laws are hereby amended by inserting after chapter 167H the
1344 following two chapters:—

1345 CHAPTER 167I

1346 CORPORATE BANK TRANSACTIONS: MERGERS, CONSOLIDATIONS,
1347 PURCHASE OF ASSETS AND CONVERSIONS

1348 Section 1. As used in this chapter, the following words shall, unless the context otherwise
1349 requires, have the following meanings:—

1350 "Bank", an association or corporation chartered by the commonwealth under chapter 168,
1351 170 or 172.

1352 "Board", the board of trustees or directors, as the case may be, of a bank or thrift
1353 institution, and the board of directors of a federally chartered stock bank.

1354 "Capital stock", the sum of the par value of the preferred and common shares of capital
1355 stock of a stock bank, issued and outstanding.

1356 "Commissioner", the commissioner of banks.

1357 "Co-operative bank", a bank governed by the provisions of chapter 170.

1358 "Credit union", a corporation organized under chapter 171 or corresponding provisions of
1359 earlier law.

1360 "Federally-chartered bank", a national banking association, or federal savings and loan
1361 association or federal savings bank in stock form, the main office of which is located in the
1362 commonwealth or in another state.

1363 "Federally-chartered credit union", a credit union organized under the Federal Credit
1364 Union Act.

1365 "Foreign bank" an association or corporation authorized to do banking business which
1366 exists by authority of a country other than the United States.

1367 "Mutual bank", a savings bank chartered by the commonwealth pursuant to chapter 168
1368 or a co-operative bank chartered by the commonwealth pursuant to chapter 170 in mutual form.

1369 “Mutual holding company” a holding company organized under chapter 167H.

1370 “Out-of-state bank”, an association or corporation in stock form authorized to do banking
1371 business, the main office of which is located outside the commonwealth and which exists by
1372 authority of a state of the United States other than the commonwealth.

1373 “Savings bank”, a bank governed by the provisions of chapter 168.

1374 “Stock bank”, an association or corporation chartered in stock form by the
1375 commonwealth under the provisions of chapter 168 or 170, or which has reorganized or
1376 converted to become a stockholder form of organization under the provisions of chapter 168 or
1377 170, or a trust company as defined in chapter 172.

1378 “Subsidiary banking institution”, the banking institution which is the direct or indirect
1379 subsidiary of a mutual holding company.

1380 “Surplus account”, an account so designated on the books of a bank and consisting of
1381 amounts required by law.

1382 “Thrift institution”, a banking institution in mutual or cooperative form organized
1383 under the laws of another state or a federal savings and loan association or federal savings bank
1384 in mutual form the main office of which is located in the commonwealth or in another state .

1385 “Trust company”, a bank governed by the provisions of chapter 172.

1386 “Voting body”, shall mean corporators of a savings bank in mutual form, shareholders of
1387 a co-operative bank not in stock form, and the stockholders of a stock bank with rights to vote in
1388 corporate transactions.

1389 Section 2. One or more mutual banks may merge or consolidate into a single mutual
1390 bank, and one or more mutual banks and one or more thrift institutions may merge or consolidate
1391 into a single mutual bank or thrift institution , upon such terms as shall have been approved by a
1392 vote of at least two-thirds of the board of each mutual bank and, in the case of a merger or
1393 consolidation of one or more mutual banks and thrift institutions, by the board of each thrift
1394 institution in accordance with the laws under which each such thrift institution is organized, and
1395 as shall have been approved in writing by the commissioner. The terms of any such merger or
1396 consolidation shall be approved by a two-thirds vote of the voting body of each mutual bank and,
1397 in the case of a merger or consolidation of one or more mutual banks and thrift institutions, by
1398 the depositors, corporators, shareholders or members, as applicable, of each thrift institution in
1399 accordance with the laws under which such thrift institution is organized. A request for such
1400 approval by the commissioner shall be accompanied by an investigation fee the amount of which
1401 shall be determined annually by the commissioner of administration under the provisions of
1402 section three B of chapter seven, a copy of the terms of any definitive merger or consolidation
1403 agreement reached by the merging or consolidating institutions, and certified copies of the vote

1404 of the board of each mutual bank and, in the case of a merger or consolidation of one or more
1405 mutual banks and thrift institutions, certified copies of the vote of the board of each thrift
1406 institution. If the commissioner, after such notice and hearings as he may require, is satisfied that
1407 a merger or consolidation can be effected on terms approved by him and he finds that such a
1408 merger or consolidation is in the interests of the depositors of any merging or consolidating
1409 savings bank and the shareholders of any merging or consolidating co-operative bank, such
1410 merger or consolidation may be approved by him subject to his direction. Before becoming
1411 effective, any merger or consolidation authorized by this section, hereinafter referred to as a
1412 "consolidation", shall have been approved by a vote of at least two-thirds of the voting body of
1413 each mutual bank at meetings specially called to consider the subject and, in the case of a merger
1414 or consolidation of one or more mutual banks and thrift institutions, approved by a vote of the
1415 depositors, corporators, shareholders or members, as applicable, of each such thrift institution in
1416 accordance with the laws under which each such thrift institution is organized; provided,
1417 however, that in the case of a co-operative bank the consolidation shall be approved by vote of at
1418 least two-thirds of those shareholders present, qualified to vote and voting at each such meeting.

1419 Notice of such meetings shall be given in accordance with applicable law and the by-laws
1420 of such merging or consolidating institutions. A certificate under the hands of the presidents and
1421 clerks or other duly authorized officers of all merging or consolidating institutions setting forth
1422 that each institution, respectively, has complied with the requirements of this section shall be
1423 submitted to the commissioner who, if he shall approve such consolidation, shall endorse his
1424 approval upon such certificate. No such transaction under this section shall be consummated
1425 until arrangements satisfactory to any excess deposit insurer of each mutual bank have been
1426 made and notice thereof has been received by the commissioner.

1427 The offices and depots of any mutual bank and the offices of any thrift institution merged
1428 or consolidated under the provisions of this section, may be maintained as branch offices or
1429 depots, respectively, of the continuing institution with the written permission of, and under such
1430 conditions, if any, as may be approved by the commissioner.

1431 If the merging or consolidating corporations or thrift institutions are chartered by or, in
1432 the case of federal savings and loan associations or federal mutual savings banks, have their main
1433 offices located in and are authorized to do business in different states, then from and after the
1434 effective date of the merger or consolidation, the citizenship and residency requirements set forth
1435 in the General Laws shall no longer apply, and any citizen of the United States may serve the
1436 continuing corporation.

1437 In making a finding that such merger or consolidation is in the interests of depositors and
1438 shareholders, the commissioner shall also determine whether or not competition among banking
1439 institutions will be unreasonably affected and whether or not public convenience and advantage
1440 will be promoted. In making such determination, the commissioner shall consider, but not be
1441 limited to, a showing of net new benefits. For the purpose of this section, the term "net new

1442 benefits" shall mean initial capital investments, job creation plans, consumer and business
1443 services, commitments to maintain and open branch offices within the continuing institution's
1444 Community Reinvestment Act assessment area, and such other matters as the commissioner may
1445 determine.

1446 Section 3. One or more stock banks may merge or consolidate into a single stock bank,
1447 and one or more stock banks, federally-chartered banks, and out-of-state banks may merge or
1448 consolidate into a single stock bank, federally-chartered bank or out-of-state bank upon such
1449 terms as shall have been approved by a vote of at least two-thirds of the board of each stock bank
1450 and, in the case of a merger or consolidation of one or more stock banks with one or more
1451 federally-chartered banks or out-of-state banks, by the board of each out-of-state bank or
1452 federally-chartered bank in accordance with the laws under which each such out-of-state bank or
1453 federally-chartered bank is organized, and as shall have been approved in writing by the
1454 commissioner. The terms of any such merger or consolidation shall be approved by a two-thirds
1455 vote of the voting body of each stock bank and, in the case of a merger or consolidation of one or
1456 more stock banks with one or more federally-chartered banks or out-of-state banks, by the
1457 stockholders of such out-of-state bank or federally-chartered bank with rights to vote on the
1458 merger or consolidation in accordance with the laws under which such out-of-state bank or
1459 federally-chartered bank is organized. A request for approval by the commissioner of such a
1460 consolidation or merger shall be accompanied by an investigation fee, the amount of which shall
1461 be determined annually by the commissioner of administration under the provision of section
1462 three B of chapter seven, a copy of the terms of any definitive merger or consolidation agreement
1463 reached by the merging or consolidating institutions, and certified copies of the vote of the board
1464 of each stock bank and, in the case of a merger or consolidation of one or more stock banks with
1465 one or more out-of-state banks or federally-chartered banks, certified copies of the vote of the
1466 board of each out-of-state bank or federally-chartered bank. If the commissioner, after such
1467 notice and hearings as he may require, is satisfied that a merger or consolidation can be effected
1468 on terms consistent with the standards set forth in this section, such merger or consolidation may
1469 be approved by him subject to his direction. Before becoming effective, any merger or
1470 consolidation authorized by this section, hereinafter referred to as a "consolidation", shall have
1471 been approved by a vote of at least two-thirds of the voting body of each stock bank at meetings
1472 specially called to consider the subject and, in the case of a merger or consolidation of one or
1473 more stock banks with one or more out-of-state banks or federally-chartered banks, by the
1474 stockholders of such out-of-state bank or federally-chartered bank with rights to vote on the
1475 merger or consolidation in accordance with the laws under which such out-of-state bank or
1476 federally-chartered bank is organized. A certificate under the hands of the presidents and clerks
1477 or other duly authorized officers of all merging or consolidating institutions setting forth that
1478 each institution, respectively, has complied with the requirements of this section shall be
1479 submitted to the commissioner who, if he shall approve such consolidation, shall endorse his
1480 approval upon such certificate. No such transaction under this section shall be consummated
1481 until arrangements satisfactory to any excess deposit insurer of each stock bank, if applicable,

1482 have been made and notice thereof has been received by the commissioner. The offices and
1483 depots of any stock bank and the offices of any other institution merged or consolidated under
1484 this section may be maintained as branch offices or depots, respectively, of the continuing
1485 institution with the written permission of and under such conditions, if any, as may be approved
1486 by the commissioner.

1487 If a federally-chartered bank or out-of-state bank is the continuing institution, then from
1488 and after the effective date of the merger or consolidation, the citizenship and residency
1489 requirements for directors set forth in the General Laws shall no longer apply.

1490 For the purposes of this section, the value of the stock of stockholders of a stock bank
1491 who have, as provided in section 13.21 and section 13.23 of chapter 156D, objected to any action
1492 authorized herein shall be ascertained in the manner provided in sections 13.01 and 13.03 to
1493 section 13.31 inclusive, of chapter 156D.

1494 The provisions of section 11.07 of chapter 156D shall apply to consolidations and
1495 mergers of state-chartered stock corporations authorized under this section provided that, for this
1496 purpose, references in said section 11.07 to said chapter 156D shall be deemed to be the chapter
1497 of the General Laws governing such stock corporation, and references in said section 11.07 to
1498 articles of organization shall be deemed to be to the articles of organization, including any
1499 special act of incorporation, as from time to time amended.

1500 In deciding whether or not to approve such consolidation or merger the commissioner
1501 shall determine whether or not competition among banking institutions will be unreasonably
1502 affected and whether or not public convenience and advantage will be promoted. In making such
1503 determination, the commissioner shall consider, but not be limited to, a showing of net new
1504 benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital
1505 investments, job creation plans, consumer and business services, commitments to maintain and
1506 open branch offices within the continuing institution's Community Reinvestment Act assessment
1507 area, and such other matters as the commissioner may determine.

1508 Section 4. Any one or more mutual banks or subsidiary banking institutions and any one
1509 or more credit unions, or federal credit unions may merge or consolidate into a single mutual
1510 bank or subsidiary banking institution upon such terms as shall have been approved by a vote of
1511 at least two-thirds of the board of each mutual bank and the board of directors of each credit
1512 union, and shall have been approved in writing by the commissioner. The terms of any such
1513 merger or consolidation shall be approved by the voting body of each mutual bank and the
1514 shareholders of each credit union in the manner prescribed herein. A request for such approval
1515 by the commissioner shall be accompanied by an investigation fee, the amount of which shall be
1516 determined annually by the commissioner of administration under the provisions of section three
1517 B of chapter seven, a copy of the terms of any agreement reached by the respective boards, and
1518 certified copies of the votes of such boards. If the commissioner, after such notice and hearing as

1519 he may require, is satisfied that a merger or consolidation can be effected on terms approved by
1520 him and he finds that such merger or consolidation is in the interests of the depositors and
1521 shareholders of the institutions concerned, such merger or consolidation may be approved by him
1522 subject to his direction. In making a finding that any such merger or consolidation is in the
1523 interests of depositors and shareholders, the commissioner shall also determine whether or not
1524 competition among banking institutions will be unreasonably affected and whether or not public
1525 convenience and advantage will be promoted. In making such determination, the commissioner
1526 shall consider, but not be limited to, a showing of net new benefits. For the purposes of this
1527 section, the term "net new benefits" shall mean initial capital investments, job creation plans,
1528 consumer and business services, commitments to maintain and open branch offices within the
1529 bank's delineated community, as such term is used within section fourteen of chapter one
1530 hundred and sixty-seven, and such other matters as the commissioner may determine.

1531 Before becoming effective, any merger or consolidation authorized by this section,
1532 hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at
1533 least two-thirds of the voting body of each mutual bank or subsidiary banking institution present,
1534 qualified to vote and voting at a meeting specially called to consider the subject and approved by
1535 a vote of at least a majority of the shareholders of each credit union present, qualified to vote,
1536 and voting at a meeting specially called for that purpose. Notice for such meetings shall be given
1537 in accordance with the relevant provisions of law. A certificate under the hands of the presidents
1538 and clerks or other duly authorized officers of all merging or consolidating corporations and
1539 credit unions setting forth that each institution, respectively, has complied with the requirements
1540 of this section shall be submitted to the commissioner who, if he shall approve such
1541 consolidation, shall endorse his approval upon such certificate. No such transaction under this
1542 section shall be consummated until arrangements satisfactory to any excess deposit insurer of
1543 each such bank or credit union, if applicable have been made and notice thereof has been
1544 received by the commissioner.

1545 The offices and depots of any credit union merged or consolidated under this section may
1546 be maintained as branch offices or depots of the continuing corporation with the written
1547 permission of, and under such conditions, if any, as approved by the commissioner.

1548 Section 5. If the commissioner has certified to the Depositors Insurance Fund or the Co-
1549 operative Central Bank that it is unsafe or inexpedient for a member bank to continue to transact
1550 business, as provided in section 4 of chapter 43 of the acts of 1934 or section 4 of chapter 73 of
1551 the acts of 1934, such member bank may be consolidated with or sell its assets to another savings
1552 bank or co-operative bank as applicable on an expedited basis, notwithstanding any inconsistent
1553 provisions contained in other laws governing such transactions provided that the following
1554 conditions are satisfied:

1555 (1) The terms and conditions of the proposed consolidation or purchase and sale of assets
1556 are set forth in a written plan or agreement between the continuing corporation and the

1557 Depositors Insurance Fund or the Co-operative Central Bank on behalf of the certified member
1558 bank.

1559 (2) The consolidation or purchase and sale of assets and the written plan or agreement
1560 setting forth such arrangement be approved by a vote of at least two-thirds of the board of the
1561 continuing corporation at a meeting duly called for such purpose and by a vote of at least two-
1562 thirds of the board of directors of the Depositors Insurance Fund or the Co-operative Central
1563 Bank at a meeting duly called for such purpose.

1564 (3) The commissioner determines that (a) failure to take immediate action to effect a
1565 consolidation or sale of assets of the certified member bank with or to another savings bank or
1566 co-operative bank as applicable is likely to undermine public confidence in banks, (b) the best
1567 interests of the depositors of the certified member bank, the depositors of the continuing
1568 corporation and the Depositors Insurance Fund or the Co-operative Central Bank will be served
1569 by an expedited consolidation or sale of assets, and (c) the public convenience and advantage
1570 will be served by the proposed consolidation or sale of assets.

1571 (4) The commissioner approves in writing the proposed consolidation or purchase and
1572 sale of assets, subject to such terms and conditions as may be deemed appropriate by him.

1573 Upon the effective date of any consolidation pursuant to this section, the rights and
1574 obligations of the certified member bank, the continuing corporation and their respective
1575 depositors, debtors and creditors shall be governed by section 7.

1576 A certificate endorsed by the president and clerk, or two other duly authorized officers of
1577 the continuing corporation and the Depositors Insurance Fund or the Co-operative Central Bank
1578 on behalf of the certified member bank stating that each corporation, respectively, has complied
1579 with the requirements of this section, shall be submitted to the commissioner who, if he approves
1580 such consolidation or sale of assets, shall endorse said approval upon such certificate and
1581 thereupon such consolidation or sale of assets shall become effective at the close of business on
1582 such date.

1583 At any time, and from time to time after the consolidation has become effective, copies of
1584 the certificate may be certified and issued by the commissioner and may be filed in the several
1585 registries of deeds and land court registry districts of the commonwealth and in any filing offices
1586 established under chapter 106. Such certification shall be conclusive evidence for all purposes of
1587 the succession by the continuing corporation to all rights and interests of the certified
1588 corporation.

1589 In the event the Deposit Insurance Fund of the Depositors Insurance Fund or the Share
1590 Insurance Fund of the Co-operative Central Bank ceases to insure the deposits or shares of a
1591 member bank and the commissioner determines that grounds exist to require his immediate
1592 assumption of possession and control of its assets under section 22 of chapter 167, he shall, upon

1593 assumption of possession and control of such member bank's assets, have all powers granted in
1594 this section to the Deposit Insurance Fund or the Co-operative Central Bank to effect a
1595 consolidation or sale of assets on behalf of such corporation.

1596 For the purposes of this section, the term "member bank" shall mean a savings bank in
1597 the Depositors Insurance Fund and a co-operative bank in the Co-operative Central Bank.

1598 Section 6. The commissioner shall not approve an application for a merger or
1599 consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for
1600 a period of less than 3 years or if, as a result of any such merger, the applicant would control in
1601 excess of 30 percent of the total deposits, exclusive of foreign deposits, of all depository
1602 institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any
1603 successor corporation thereto; provided, however, that either said age requirement or
1604 concentration limit, or both, may be waived by the commissioner if economic conditions warrant
1605 such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits
1606 received in a foreign country and deposits in Edge and Agreement subsidiaries and international
1607 banking facilities.

1608 Section 7. For any consolidation or merger under the preceding sections Articles of
1609 consolidation or merger shall be filed with the state secretary which shall set forth the due
1610 adoption of an agreement of consolidation or merger and shall state: (i) the names of the
1611 corporations and the name of the resulting or surviving corporation; (ii) the effective date of the
1612 consolidation or merger determined pursuant to the agreement of consolidation or merger; and,
1613 (iii) any amendment to the articles of organization of the surviving corporation to be effected
1614 pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by
1615 the president or a vice president and the clerk or an assistant clerk of each corporation, who shall
1616 state under the penalties of perjury that the agreement of consolidation or merger has been duly
1617 executed on behalf of such corporation and has been approved as required.

1618 The form on which articles of consolidation or merger are filed shall also contain the
1619 following information which shall not for any purpose be treated as a permanent part of the
1620 articles of organization of the resulting or surviving corporation:

1621 (1) the post office address of the initial principal office of the resulting or surviving
1622 corporation in the commonwealth;

1623 (2) the name, residence and post office address of each of the initial trustees or directors
1624 and the president, treasurer and clerk of the resulting or surviving corporation;

1625 (3) the fiscal year of the resulting or surviving corporation initially adopted;

1626 (4) the date initially fixed in the by-laws for the annual meeting of the shareholders or
1627 members of the resulting or surviving corporation.

1628 The consolidation or merger shall become effective when the articles of consolidation or
1629 merger are filed in accordance with sections 1.23 and 1.25 six of chapter 156D, unless said
1630 articles specify a later effective date, in which event the consolidation or merger shall become
1631 effective on such later date. Upon consolidation of any such institutions, as herein provided:

1632 1. The corporate existence of all but one of the consolidating institutions shall be
1633 discontinued and consolidated into that of the remaining institution, which shall continue. All
1634 and singular the rights, privileges and franchises of each discontinuing institution and its right,
1635 title and interest to all property of whatever kind, whether real, personal or mixed, and things in
1636 action, and every right, privilege, interest or asset of conceivable value or benefit then existing
1637 which would inure to it under an unconsolidated existence, shall be deemed fully and finally, and
1638 without any right of reversion, transferred to or vested in the continuing institution, without
1639 further act or deed, and such continuing institution shall have and hold the same in its own right
1640 as fully as if the same was possessed and held by the discontinuing institution from which it was,
1641 by operation of the provisions hereof, transferred, and other provisions of law relative to
1642 limitations on the number of directors, corporators or trustees and on the investment of funds of
1643 such institutions shall not apply.

1644 2. A discontinuing institution's rights, obligations and relations to any shareholder, or
1645 depositor, creditor, trustee or beneficiary of any trust, or other person, as of the effective date of
1646 the consolidation, shall remain unimpaired, and the continuing institution shall, by the
1647 consolidation, succeed to all such relations, obligations and liabilities, as though it had itself
1648 assumed the relation or incurred the obligation or liability; and its liabilities and obligations to
1649 creditors existing for any cause whatsoever shall not be impaired by the consolidation; nor shall
1650 any obligation or liability of any shareholder or depositor in any such institution, continuing or
1651 discontinuing, which is party to the consolidation, be affected by any consolidation, but such
1652 obligations and liabilities shall continue as fully and to the same extent as the same existed
1653 before the consolidation, and the provisions relative to the limitations on shares and deposits,
1654 shall not apply.

1655 3. A pending action or other judicial proceeding to which any of the consolidating
1656 institutions is a party shall not be deemed to have abated or to have discontinued by reason of the
1657 consolidation, but may be prosecuted to final judgment, order or decree in the same manner as if
1658 the consolidation has not been made; or the continuing institution may be substituted as a party
1659 to any such action or proceeding to which the discontinuing institution was a party, and any
1660 judgment, order or decree may be rendered for or against the continuing institution that might
1661 have been rendered for or against such discontinuing institution if such consolidation had not
1662 occurred.

1663 4. After such consolidation, a foreclosure of a mortgage begun by any discontinuing
1664 institution may be completed by the continuing institution, and publication begun by the
1665 discontinuing institution may be continued in the name of the discontinuing institution. Any

1666 certificate of possession, affidavit of sale or foreclosure deed relative to such foreclosure shall be
1667 executed by the proper officers in behalf of whichever of such institution actually took
1668 possession or made the sale, but any such instrument executed in behalf of the continuing
1669 institution shall recite that it is the successor of the discontinuing institution which commenced
1670 the foreclosure.

1671 5. A new name may be adopted as the name of the continuing institution at the special
1672 meetings called as herein provided, and it shall become the name of the continuing institution
1673 upon the approval of the consolidation, without further action under the laws of the
1674 commonwealth as to change or adoption of a new name on the part of the continuing institution.

1675 6. Any consolidation may be approved and effected pursuant to this section,
1676 notwithstanding that the percentage which the aggregate value of the guaranty fund, surplus and
1677 other reserves, of any of the consolidating institutions, bears to its liabilities including share
1678 liabilities, exceeds such percentage of any of the other consolidating institutions, and any
1679 consolidating institution having such an excess of percentage shall not be required to make any
1680 distribution to its shareholders or depositors.

1681 Section 8. With the approval of the commissioner, any bank may advance or loan upon or
1682 purchase the whole or any part of the assets or stock of any bank, out-of-state bank, federally-
1683 chartered bank, thrift institution, credit union or federally-chartered credit union including any
1684 state-chartered bank in possession of the commissioner under sections 22 to 36, inclusive, of
1685 chapter 167 and any state-chartered bank assisted by or in possession of its insurer and may
1686 participate in such an advance, loan or purchase with one or more banks so located. The request
1687 for such approval shall be accompanied by an investigation fee, the amount of which shall be
1688 determined annually by the commissioner of administration under the provision of section 3B of
1689 chapter 7. Such advance, loan or purchase may be made upon such terms and conditions as shall
1690 have been approved by vote of at least two-thirds of the board of the bank and the applicable
1691 board of such other bank or federally chartered bank.

1692 Such bank or banks making or participating in such an advance, loan or purchase for the
1693 purpose of effecting the same, may assume and agree to pay the whole or any part of the deposit
1694 and other liabilities of any other bank, out-of-state bank, federally-chartered bank, thrift
1695 institution, credit union or federally-chartered credit union upon such terms and conditions and
1696 subject to such adjustments as may be approved by the commissioner. In the event of such
1697 approval by the commissioner, other provisions of law applicable to the investment of funds of a
1698 savings bank therein shall not apply.

1699 No such transaction under this section shall be consummated until arrangements
1700 satisfactory to any excess deposit insurer of each such bank, if applicable, have been made and
1701 notice thereof has been received by the commissioner.

1702 The commissioner may impose such conditions and restrictions as he may deem
1703 necessary or advisable in respect to the deposit or other liabilities as hereinbefore provided. In
1704 the case of any new bank formed for the purpose of purchasing any or all the assets and
1705 assuming any or all the liabilities of any bank in possession or assisted as aforesaid, the
1706 commissioner may impose such other and further conditions and restrictions concerning the
1707 business, investments and operations of such new bank as he may deem necessary or advisable.
1708 So much of section 8 of chapter 167J as provide that no person shall hold an office in two banks
1709 at the same time shall not prevent an officer, trustee or director of any other bank from serving as
1710 an officer, trustee or director of such new bank, or of a bank or federally-chartered bank the
1711 assets and liabilities or stock of which shall have been purchased and assumed by a bank
1712 hereunder.

1713 Before all or substantially all of the assets or stock of any bank shall be sold, such action
1714 shall be approved by the voting body of the bank, out-of-state bank, federally-chartered bank,
1715 thrift institution, credit union or federally-chartered credit union at a special meeting called for
1716 that purpose, of the corporation proposing to sell its assets or stock by a two-thirds vote of the
1717 voting body present, qualified to vote and voting of a mutual bank and by the voting body in a
1718 stock bank. Notice of such special meeting shall be given by the clerk in accordance with the
1719 provisions of section 9A.

1720 In deciding whether or not to approve any such advance, loan or purchase, the
1721 commissioner shall determine whether or not competition among banking institutions will be
1722 unreasonably affected and whether or not public convenience and advantage will be promoted. In
1723 making such determination, the commissioner shall consider, but not be limited to, a showing of
1724 net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial
1725 capital investments, job creation plans, consumer and business services, commitments to
1726 maintain and open branch offices within a bank's delineated local community, as such term is
1727 used within section 14 of chapter 167, and such other matters as the commissioner may
1728 determine.

1729 Section 9. Notwithstanding any general or special law to the contrary, a mutual bank,
1730 subject to approval of the commissioner, may convert to a stock bank.

1731 Any mutual bank which converts to a stock bank shall have all the powers and privileges
1732 of a savings bank or co-operative bank as applicable.

1733 The commissioner shall have the authority to conduct a supervisory conversion of a
1734 mutual bank to stock form if the commissioner determines that upon liquidation of the mutual
1735 bank there would be no equity value realizable by the depositors of the mutual bank.

1736 The commissioner shall prescribe from time to time such rules and regulations as may be
1737 necessary or proper in carrying out the provisions of this section.

1738 Section 10. A credit union may convert to a mutual bank pursuant to section 80A of
1739 chapter 171. A federally-chartered credit union may convert to a mutual bank pursuant to the
1740 provisions of the Federal Credit Union Act subject to the approval of the commissioner under
1741 such conditions as he may impose and applicable provisions of subsection (m) of section 80A of
1742 chapter 171.

1743 Section. 11. A mutual bank or stock bank, by vote at least two-thirds of its voting body,
1744 at a meeting duly called for the purpose, preceded by a notice in writing sent to each member of
1745 the voting body and to the commissioner by mail at least 60 days before said meeting, may
1746 consolidate or merge into or convert into a federally-chartered bank or thrift institution in
1747 accordance with the laws of the United States and without the approval of any authority of the
1748 commonwealth.

1749 Section 12. By any votes required under federal law and the filing of such documents as
1750 the commissioner shall prescribe and under such terms and conditions as he may impose, a
1751 federally-chartered bank or thrift institution, upon approval by the commissioner, shall be
1752 converted into a bank chartered under chapters 168, 170 or 172, and shall not, in connection with
1753 or upon such conversion, be subject to the requirements of the General Laws with respect to the
1754 organization and commencement of business of such a bank; provided, however, that such
1755 conversion shall not be in contravention of the laws of the United States.

1756 Section 13. A company having capital stock which desires to acquire all the capital stock
1757 of any stock bank shall, together with such stock bank, submit, to the commissioner a written
1758 plan of acquisition of such stock. Such plan shall be in form satisfactory to the commissioner,
1759 shall specify the stock bank the stock of which is to be acquired by the company shall prescribe
1760 the terms and conditions of the acquisition and the mode of carrying it into effect, including the
1761 manner of exchanging the shares of the corporation for shares or other securities of the company.
1762 Any such plan may provide for the payment of cash in lieu of the issuance of fractional shares of
1763 the company. At the time of submitting said written plan of acquisition, an investigation fee, the
1764 amount of which shall be determined annually by the commissioner of administration under the
1765 provisions of section 3B of chapter 7, shall be paid to the commissioner of banks by the
1766 company.

1767 There shall also be submitted with said plan of acquisition of stock, a certificate of any
1768 officer or duly authorized representative, certifying that such plan has been approved by the
1769 board of directors or other governing body of the company by a majority vote of all the members
1770 thereof, and a certificate of any officer or duly authorized representative of each stock bank, the
1771 acquisition of all the capital stock of which is provided for, certifying that such plan has been
1772 approved by the board of directors of such corporation by a majority vote of all the members
1773 thereof, and that such plan was thereafter submitted to the stockholders of such stock bank at a
1774 meeting thereof held upon notice of at least 15 days, specifying the time, place and object of
1775 such meeting and addressed to each stockholder at the address appearing upon the books of the

1776 corporation and that such plan has been approved at such meeting by the vote of stockholders
1777 owning at least two-thirds in amount of the stock of such corporation.

1778 The commissioner shall examine the plan of acquisition of stock so submitted, and after
1779 making such investigation thereof as he deems appropriate he shall, within 60 days after receipt
1780 thereof approve or disapprove such plan of acquisition in case such company is not, and would
1781 not upon the effectiveness of such plan become, a bank holding company. In approving any such
1782 plan, the commissioner may attach such conditions thereto as he deems advisable.

1783 If the commissioner finds that competition among banking institutions will not be
1784 unreasonably affected and that public convenience and advantage will be promoted he shall
1785 approve such plan of acquisition, and shall endorse his approval thereon and a copy of the plan
1786 bearing such endorsement shall be filed within 30 days thereafter in the office of the
1787 commissioner. Upon such filing, the plan, and the acquisition provided for therein, shall become
1788 effective, unless a later date is specified in the plan, in which event the plan and such acquisition
1789 shall become effective upon such later date.

1790 A stockholder of any such corporation which shall have approved such plan of
1791 acquisition, who objects to such action, in the manner provided in sections 13.21 and 13.23 of
1792 chapter 156D, shall be entitled, if such plan shall have become effective, to demand payment for
1793 his stock from such corporation and an appraisal thereof in accordance with the provisions of
1794 sections 13.01 and 13.03 to 13.31, inclusive, of chapter 156D, which provisions, as modified for
1795 the purposes of this paragraph by the provisions hereof, are hereby made applicable in all such
1796 cases, and such stockholder and such corporation shall have the rights and duties and follow the
1797 procedure set forth in said sections.

1798 Any stock bank shall have the power to organize a company for the purposes
1799 contemplated by this section; and in connection with such organization and the development of a
1800 plan of acquisition, any such corporation may incur organization and other expenses in such
1801 amounts, in the aggregate, not exceeding two percent of its capital stock, surplus account and
1802 undivided profits as the commissioner may approve.

1803 Any such company shall engage directly or indirectly only in such activities as are now
1804 or may hereafter be proper activities for bank holding companies registered under the Bank
1805 Holding Company Act of 1956, including, without limiting the generality of the foregoing, the
1806 issuance and sale of commercial paper and acquiring, managing or controlling a bank, a
1807 federally-chartered bank or an out-of-state bank.

1808 The provisions of the following section shall not apply to an acquisition under this
1809 section. A company which acquires any such corporation under this section shall be deemed a
1810 bank holding company subject to the provisions of section 5 of chapter 167A. For the purposes
1811 of this section, the word “company” shall have the same meaning as defined in subparagraph (c)
1812 of section 1 of chapter 167A.

1813 Section 14. No person, acting directly or indirectly or through or in concert with one or
1814 more other persons, shall acquire control of any stock bank, through a purchase, assignment,
1815 transfer, pledge or other disposition of voting stock of such bank unless the commissioner has
1816 been given sixty days prior written notice of such proposed acquisition and within said 60 days
1817 the commissioner has not issued a notice disapproving the proposed acquisition or extending for
1818 up to another 30 days the period during which such a disapproval may issue. The period for
1819 disapproval may be further extended only if the commissioner determines that the acquiring
1820 party has not furnished all the material required hereinafter for a notice of proposed acquisition
1821 or that in the commissioner's judgment any material information submitted is substantially
1822 inaccurate. An acquisition may be made prior to expiration of the disapproval period if the
1823 commissioner issues written notice of the commissioner's intent not to disapprove the action. A
1824 notice of proposed acquisition filed pursuant to this section shall contain the following
1825 information:

1826 (1) The identity, personal history, business background and experience of each person by
1827 whom or on whose behalf the acquisition is to be made, including his material business activities
1828 and affiliations during the past 5 years, and a description of any material pending legal or
1829 administrative proceedings in which he is a party and any criminal indictment or conviction of
1830 such person by a state or federal court.

1831 (2) A statement of the assets and liabilities of each person by whom or on whose behalf
1832 the acquisition is to be made, as of the end of the fiscal year for each of the 5 fiscal years
1833 immediately preceding the date of the notice, together with related statements of income and
1834 source and application of funds for each of the fiscal years then concluded, all prepared in
1835 accordance with generally accepted accounting principles consistently applied, and an interim
1836 statement of the assets and liabilities for each such person, together with related statements of
1837 income and source and application of funds, as of a date not more than 90 days prior to the date
1838 of the filing of the notice.

1839 (3) The terms and conditions of the proposed acquisition and the manner in which the
1840 acquisition is to be made.

1841 (4) The identity, source and amount of the funds or other consideration used or to be used
1842 in making the acquisition, and if any part of these funds or other consideration has been or is to
1843 be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the
1844 transaction, the names of the parties, and any arrangements, agreements, or understandings with
1845 such persons.

1846 (5) Any plans or proposals which any acquiring party making the acquisition may have to
1847 liquidate the stock bank, to sell its assets or merge it with any company or to make any other
1848 major change in its business or corporate structure or management.

1849 (6) The identification of any person employed, retained, or to be compensated by the
1850 acquiring party, or by any person on his behalf, to make solicitations or recommendations to
1851 stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of
1852 such employment, retainer or arrangement for compensation.

1853 (7) Copies of all invitations or tenders or advertisements making a tender offer to
1854 stockholders for purchase of their stock to be used in connection with the proposed acquisition.

1855 (8) Any additional relevant information and in such form as the commissioner may
1856 require by specific request in connection with any particular notice.

1857 The commissioner may disapprove any proposed acquisition if: (1) the proposed
1858 acquisition of control would result in a monopoly; (2) the effect of the proposed acquisition of
1859 control may be substantially to lessen competition or to tend to create a monopoly or the
1860 proposed acquisition of control would in any other manner be in restraint of trade and the anti-
1861 competitive effects of the proposed acquisition of control are not clearly outweighed in the
1862 public interest by the probable effect of the transaction in meeting the convenience and needs of
1863 the community to be served; (3) the financial condition of any acquiring person is such as might
1864 jeopardize the financial stability of the stock bank or prejudice the interests of the depositors of
1865 such bank; (4) the competence, experience, or integrity of any acquiring person or of any of the
1866 proposed management personnel indicates that it would not be in the interest of the depositors of
1867 such bank, or in the interest of the public to permit such person to control the stock bank; or (5)
1868 any acquiring person neglects, fails or refuses to furnish all the information required by the
1869 commissioner. Any disapproval shall be in writing to the acquiring party and shall include a
1870 statement of the basis for such disapproval. Within 10 days of the receipt of a notice of
1871 disapproval the acquiring party may request a hearing to be held by the commissioner or his
1872 designee. Such hearing shall be held under the provisions of chapter 30A and regulations issued
1873 thereunder.

1874 For the purposes of this section, the term “person” shall mean an individual or a
1875 corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship,
1876 unincorporated organization, or any other form of entity not specifically listed herein; and the
1877 term “control” shall mean the power, directly or indirectly, to direct the management or policies
1878 of any such corporation or to vote 25 per centum or more of any class of voting securities of any
1879 such corporation.

1880 The provisions of this section do not alter or amend the authorities of the commissioner
1881 or the Board of Bank Incorporation set out in any other sections of law.

1882 Whoever violates the provisions of this section shall be punished by a fine of not more
1883 than $500 or by imprisonment for not more than 6 months, or both such fine and imprisonment.

1884 Section 15. Subject to the written approval of the commissioner, a bank may be dissolved
1885 and liquidate its affairs if authorized by a vote passed, at a meeting specially called to consider
1886 the subject, by at least two-thirds of the voting body of the bank. A committee of 3 members
1887 shall thereupon be elected, and, under such regulations as may be prescribed by the
1888 commissioner, shall liquidate the assets, and after satisfying all debts of the bank shall distribute
1889 the remaining proceeds among those entitled thereto in proportion to their respective interests
1890 therein.

1891 For the purposes of this section the word "members" shall mean trustees in a savings
1892 bank in mutual form; shareholders in a co-operative bank in mutual form; and stockholders in a
1893 bank in stock form.

1894 Section 16. (a) Upon a merger or a consolidation by a savings bank with and into a bank,
1895 a federally-chartered bank or an out-of-state bank, other than a savings bank, such savings bank,
1896 hereinafter referred to as a former member bank, shall cease to be a member bank in the
1897 Depositors Insurance Fund. Notwithstanding any other provision of law, upon any such merger
1898 or consolidation, such savings bank shall not succeed to or acquire any rights, including but not
1899 limited to rights to dividends or to the proceeds of any distribution in complete or partial
1900 dissolution or liquidation, in the Depositors Insurance Fund, or in its Liquidity Fund or Deposit
1901 Insurance Fund.

1902 A savings bank shall send a notice in writing by registered mail to the Depositors
1903 Insurance Fund at least 60 days before the meeting of the corporators or stockholders, as
1904 applicable, to vote on the merger or consolidation with and into a bank, a federally-chartered
1905 bank or an out-of-state bank, other than a savings bank.

1906 (b) Upon the acceptance by a savings bank of a federal charter it shall cease to be a
1907 member bank in the Depositors Insurance Fund. Notwithstanding any other provision of law,
1908 following its acceptance of a federal charter such corporation shall not retain, succeed to, or
1909 acquire any rights, including but not limited to rights to dividends or to the proceeds of any
1910 distribution in complete or partial dissolution or liquidation, in the Depositors Insurance Fund, or
1911 in its Liquidity Fund or Deposit Insurance Fund, except to the extent specifically provided in this
1912 paragraph. In the event that such corporation shall, subsequent to its acceptance of a federal
1913 charter, (i) convert to a Massachusetts-chartered savings bank and become a member of the
1914 Depositors Insurance Fund, or (ii) become a federal member of the Depositors Insurance Fund,
1915 such corporation shall, for so long as it shall remain a member or federal member bank of the
1916 Depositors Insurance Fund participate in any dividends paid pursuant to section 3 of chapter 43
1917 of the acts of 1934 and in any distributions made pursuant to section 10 of said chapter 43, and in
1918 any dividends paid and any withdrawals or returns of deposits authorized pursuant to section 4 of
1919 chapter 44 of the acts of 1932, in each case based upon the retained amounts paid in by such
1920 corporation to the Deposit Insurance Fund and the Liquidity Fund, respectively, without regard
1921 to whether such amounts were paid before or after acceptance of a federal charter, or upon the

1922 unexpended portion thereof, in the same manner and to the same extent as it would have been
1923 entitled to participate if such corporation had not accepted a federal charter.

1924 Upon the conversion of any such corporation into a federal charter, the corporate
1925 existence of such bank shall not terminate, but such federally-chartered bank shall be deemed to
1926 be a continuation of the entity of the savings bank so converted and all property of the converted
1927 savings bank, including its rights, titles, and interests in and to all property of whatsoever kind,
1928 whether real, personal or mixed, and things in action, and every right, privilege, interest and asset
1929 of any conceivable value or benefit then existing, or pertaining to it or which would inure to it,
1930 shall immediately, by act of law and without any conveyance or transfer and without any further
1931 act or deed, remain and be vested in and continue and be the property of such federally-chartered
1932 bank into which the savings bank has converted itself, and such federal bank shall have, hold and
1933 enjoy the same in its own right as fully and to the same extent as the same was possessed, held
1934 and enjoyed by the converting savings bank, and such federal bank as of the time of the taking
1935 effect of such conversion shall continue to have and succeed to all the rights, obligations, and
1936 relations of the converting savings bank. All pending actions and other judicial proceedings to
1937 which the converting savings bank is a party shall not be deemed to have been abated or to have
1938 been discontinued by reason of such conversion, but may be prosecuted to final judgment, order,
1939 or decree in the same manner as if such conversion into such federal bank had not been made and
1940 such federal bank resulting from such conversion may continue such action in its corporate name
1941 as a federal bank, and any judgment, order or decree may be rendered for or against it, which
1942 might have been rendered for or against the converting savings bank theretofore involved in such
1943 judicial proceedings.

1944 The predecessor corporation or the succeeding association shall pay to said deposit
1945 insurance fund or make provision for payment thereto of a sum equal to 3 annual assessments, at
1946 the percentage rate in effect at the time the predecessor corporation ceased to be a member bank
1947 and computed on the basis of its deposits as shown by its last annual report to the commissioner
1948 preceding such conversion or, at its option or at the option of the succeeding association, as
1949 shown by the records of the predecessor corporation on the effective date of conversion. Until
1950 such sum shall have been paid in full, payments on account thereof shall be made annually or
1951 oftener by the predecessor corporation or the succeeding association; provided, that not less than
1952 one-third of such sum shall be paid annually. If any such one-third shall not be so paid or if, at
1953 the end of 3 years from the time the predecessor corporation ceased to be a member bank such
1954 sum shall not have been paid in full, the entire balance thereof may be recovered by the Fund,
1955 together with interest thereon, in any manner provided by law for the collection of debts. The
1956 predecessor corporation or the succeeding association may authorize the deduction of such sum
1957 in whole or in part, from the amount, if any, of the portions of said other assessments to which
1958 the succeeding association may be entitled as hereinbefore provided. If, however, by federal law
1959 or regulation a federal bank converting therefrom to a savings bank, is required to pay to the
1960 federal deposit insurance corporation a sum equal to annual premiums or assessments for other

1961 than a period of 3 years, then the number of annual assessments payable to said share insurance
1962 fund under this section shall be for the same number of years as is so required.

1963 Any such corporation which accepts or has accepted a federal charter after January 1,
1964 1983 may apply to the Depositors Insurance Fund for insurance coverage of its deposits in
1965 excess of the amount insured by a federal deposit insurance agency, hereinafter referred to as
1966 "excess insurance", in accordance with the requirements of chapter 44 of the acts of 1932 and
1967 chapter 43 of the acts of 1934; provided, however, that no such corporation shall apply for such
1968 excess insurance unless such corporation shall have capital and surplus if a stock institution or
1969 surplus if a mutual institution, less any intangible asset value, equal to or greater than six per cent
1970 of total assets. The Depositors Insurance Fund shall not accept for excess insurance coverage any
1971 such corporation which fails to meet the requirements specified above or the requirements set out
1972 in section 19 of said chapter 43. For purposes of this section, federal deposit insurance agency
1973 shall mean Federal Deposit Insurance Corporation or any successor to such corporation.

1974 The commissioner may establish the procedure to be followed by a federally-chartered
1975 bank converting into a savings bank; provided, however, that no such conversion shall become
1976 effective unless approved in writing by the commissioner; and provided, further, that the
1977 commissioner shall not grant such approval until he has received notice from the Depositors
1978 Insurance Fund that arrangements satisfactory to it have been made for such conversion.

1979 (c) Upon the conversion of a federally-chartered bank authorized to conduct business in
1980 the commonwealth the corporate existence of such association or bank shall not terminate, but
1981 the state-chartered savings bank shall be deemed to be a continuation of the entity of the
1982 association or bank so converted and all property of the converted association or bank including
1983 its rights, titles and interests in and to all property of whatsoever kind, whether real, personal, or
1984 mixed, and things in action, and every right, privilege, interest, and asset of any conceivable
1985 value or benefit then existing, or pertaining to it, or which would inure to it, shall immediately by
1986 act of law and without any conveyance or transfer and without any further act or deed remain
1987 and be vested in and continue and be the property of such savings bank into which the federal
1988 bank has converted itself, and such savings bank shall have, hold and enjoy the same in its own
1989 right as fully and to the extent as the same was possessed, held and enjoyed by the converting
1990 association or bank and such savings bank as of the time of the taking effect of such conversion
1991 shall continue to have and succeed to all the rights, obligations, and relations of the converting
1992 association or bank. All pending actions and other judicial proceedings to which the converting
1993 federal bank is a party shall not be deemed to have been abated or to have been discontinued by
1994 reasons of such conversion, but may be prosecuted to final judgment, order or decree in the same
1995 manner as if such conversion into such savings bank had not been made and such savings bank
1996 resulting from such conversion may continue such action in its corporate name as a savings bank,
1997 and any judgment, order or decree may be rendered for or against it, which might have been
1998 rendered for or against such converting federal association or bank theretofore involved in such
1999 judicial proceedings.

2000 Upon the completion of the conversion of a federal bank into a savings bank under the
2001 provisions of this chapter, said savings bank shall become a member of the Depositors Insurance
2002 Fund, hereinafter called the Fund, and of the Deposit Insurance Fund thereof. Before such
2003 succeeding corporation shall commence business as a savings bank, it shall pay into the
2004 Liquidity Fund of the Fund, an amount equal to the deposit required of a member bank thereof a
2005 similar size, as of the date of said certificate, plus such additional amount based upon the surplus
2006 of said Reserve Fund, as the directors of the Fund, with the approval of the commissioner, shall
2007 determine to be equitable. In addition to the payment to said Reserve Fund, the succeeding
2008 corporation shall pay to the Deposit Insurance Fund such proportion of the current and annual
2009 assessment as shall have accrued to the date of said certificate.

2010 After compliance with the foregoing requirements, the succeeding corporation shall
2011 thereafter be entitled to exercise all of the rights and privileges, and shall be subject to all of its
2012 duties and obligations of a savings bank and shall conduct its business subject to the provisions
2013 of this chapter and of other applicable laws; provided, however, that, with the approval of the
2014 commissioner, the succeeding corporation shall have reasonable time after the effective date of
2015 the conversion within which to comply with any particular provisions of such laws not
2016 hereinbefore specifically provided for and which it shall be unable to comply with on or before
2017 said date.

2018 Section 17. (a) Upon a proposal to merge or consolidate a co-operative bank with and
2019 into a bank, other than a co-operative bank, a federally-chartered bank or an out-of-state bank or
2020 conversion to a federal charter such co-operative bank shall send a notice in writing by registered
2021 mail to the Co-operative Central Bank, hereinafter call the central bank, at least 60 days before
2022 the meeting of the directors to vote on the merger, consolidation or conversion.

2023 (b) Upon the acceptance by a co-operative bank of a federal charter and the commissioner
2024 has received from the state secretary a certificate that such co-operative bank, hereinafter
2025 referred to as the predecessor corporation, has been duly recorded for dissolution, the following
2026 further provisions shall apply:

2027 1. The central bank shall pay to said succeeding association from the fund representing
2028 deposits of member banks made pursuant to said chapter 45, hereinafter called the Reserve Fund,
2029 an amount equal to not more than the aggregate of all deposits made by the predecessor
2030 corporation held in said Reserve Fund on the effective date of the conversion, less all
2031 indebtedness of such corporation to the central bank; provided, however, that no part of the
2032 income, surplus, undivided profits or other reserves held by the central bank in said Reserve
2033 Fund shall be so paid.

2034 2. All amounts required to be paid by the predecessor corporation while a member bank
2035 to the Share Insurance Fund of the central bank pursuant to section 1 of chapter 73, including the
2036 income, surplus, undivided profits and other reserves of the Share Insurance Fund, shall be

2037 retained by the central bank as a charge for insurance of the shares of such corporation while a
2038 member of the said Share Insurance Fund. Such corporation shall, participate in any distributions
2039 authorized and made pursuant to section 9 of chapter 73 of the acts of 1934, but the aggregate
2040 amount of such distributions shall be limited to an amount equal to the amount the corporation
2041 would have received had the Share Insurance Fund been liquidated at the time such corporation
2042 accepted its federal charter. Thereafter the succeeding bank shall be entitled to receive from the
2043 central bank the portions, if any, of such other assessments not so paid or required as shall be
2044 determined by the central bank with the approval of the commissioner, and such determination
2045 shall be final and conclusive upon the central bank, the predecessor corporation and the
2046 succeeding bank and all other persons then or thereafter interested; provided, that the supreme
2047 judicial court shall have jurisdiction to review and to confirm or modify such determination upon
2048 the petition of the predecessor corporation or the succeeding bank filed within 10 days after
2049 receipt thereby of notice of such determination. The central bank, in its discretion and subject to
2050 the approval of the commissioner, may make disposition of such other assessments, at any time
2051 after such conversion is completed, by adjustment pursuant to an agreement with the predecessor
2052 corporation or the succeeding bank and may pay thereto such amount as may be so agreed upon.

2053 3. The predecessor corporation or the succeeding bank shall, subject to the last sentence
2054 of this paragraph, pay to said share insurance fund or make provision for payment thereto of a
2055 sum equal to 3 annual assessments, referred to in said section 1 of chapter 73 at the percentage
2056 rate in effect at the time the predecessor corporation ceased to be a member bank and computed
2057 on the basis of its share liabilities and notes payable as shown by its last annual report to the
2058 commissioner preceding such conversion or, at its option or at the option of the succeeding
2059 associations, as shown by the records of the predecessor corporation on the effective date of
2060 conversion. Until such sum shall have been paid in full, payments on account thereof shall be
2061 made annually or oftener by the predecessor corporation or the succeeding bank; provided,
2062 however, that not less than one-third of such sum shall be paid annually. If any such one-third
2063 shall not be so paid or if, at the end of 3 years from the time the predecessor corporation ceased
2064 to be a member bank such sum shall not have been paid in full, the entire balance thereof may be
2065 incurred by the central bank, together with interest thereon, in any manner provided by law for
2066 the collection of debts. The predecessor corporation or the succeeding bank may authorize the
2067 deduction of such sum in whole or in part, from the amount, if any, of the portions of said other
2068 assessments to which the succeeding bank may be entitled as hereinbefore provided. If, however,
2069 by federal law or regulation a federal bank converting therefrom to a co-operative bank, is
2070 required to pay to the federal deposit insurance corporation a sum equal to annual premiums or
2071 assessments for other than a period of three years, then the number of annual assessments
2072 payable to said share insurance fund under this section shall be for the same number of years as
2073 is so required.

2074 (c) The commissioner may establish the procedure to be followed by a federal bank or
2075 federal thrift converting into a co-operative bank; provided, however, that no such conversion

2076 shall become effective unless approved in writing by the commissioner. The commissioner shall
2077 not grant such approval until the commissioner has received notice from the Share Insurance
2078 Fund of the Co-operative Central Bank established under chapter 73 of the acts of 1934,
2079 hereinafter called the central bank, that arrangements satisfactory to it have been made for such
2080 conversion.

2081 If an application for conversion is approved by the commissioner as above provided, such
2082 federal bank or federal thrift shall cause to be filed with the state secretary the name, residence
2083 and post-office address of each of the officers and directors of such federal bank or federal thrift,
2084 a copy of its proposed by-laws amended to conform with the requirements of section 7 and such
2085 other information as said secretary may require.

2086 After approval of such conversion by the commissioner, and receipt by the commissioner
2087 of satisfactory evidence that all federal laws and regulations relative to such conversion have
2088 been or will be duly complied with, the commissioner shall cause to be filed with the state
2089 secretary a certificate of the commissioner's approval. After receipt of such certificate by said
2090 state secretary, if the state secretary finds that the requirements of this section have been
2091 satisfactorily complied with, the state secretary shall so certify and upon receipt of a fee, the
2092 amount of which shall be determined annually by the secretary of administration and finance
2093 under section 3B of chapter 7, said state secretary shall issue to said officers and directors in such
2094 form as the state secretary may prescribe, a certificate of incorporation as a co-operative bank.

2095 Simultaneously with the receipt of such certificate, such bank, hereinafter referred to as
2096 the succeeding corporation, shall become a member of the central bank and of the Share
2097 Insurance Fund thereof. Before such succeeding corporation shall commence business as a co-
2098 operative bank, it shall pay into the Reserve Fund of the central bank, established under chapter
2099 45 of the acts of 1932, an amount equal to the deposit required of a member bank thereof of
2100 similar size, as of the date of said certificate, plus such additional amount based upon the surplus
2101 of said reserve fund, as the directors of the central bank, with the approval of the commissioner,
2102 shall determine to be equitable.

2103 In addition to the payment to said reserve fund, the succeeding corporation shall pay to
2104 said Share Insurance Fund or make provision for payment thereto of such a sum as the directors
2105 of the central bank, with the approval of the commissioner, shall determine to be equitable; and
2106 provided, that the succeeding corporation shall pay to said Share Insurance Fund such proportion
2107 of any current annual assessment as shall have accrued to the date of said certificate.

2108 After compliance with the foregoing requirements, the succeeding corporation shall
2109 thereafter be entitled to exercise all of the rights and privileges and shall be subject to all of the
2110 duties and obligations of a co-operative bank and shall conduct its business subject to this
2111 chapter and of other applicable laws; provided that, with the approval of the commissioner, the
2112 succeeding corporation shall have reasonable time after the effective date of the conversion

2113 within which to comply with any particular laws not hereinbefore specifically provided for and
2114 which it shall be unable to comply with on or before said date.

2115 Section 18. Notwithstanding the provisions of any general or special law to the contrary,
2116 the commissioner may, subject to such terms and conditions as he may impose, grant a certificate
2117 to establish an interim bank, which may be a savings bank, co-operative bank or a trust company,
2118 owned by a bank holding company or a banking institution as defined in chapter 167A or a
2119 mutual holding company as defined in chapter 167H for the sole purpose of facilitating a multi-
2120 step corporate transaction involving a bank as defined in chapter 167; provided, however, that
2121 the interim bank under this chapter, chapter 167A, 167H, 167I or any other chapter shall not
2122 receive deposits, or otherwise carry on a banking business under the laws of the commonwealth.

2123 CHAPTER 167J

2124 CORPORATE GOVERNANCE PROVISIONS AND REQUIREMENTS

2125 Section 1. As used in this chapter, the following words shall, unless the context otherwise
2126 requires, have the following meanings:—

2127 "Bank", an association or corporation chartered by the commonwealth under chapter
2128 167H, 168, 170 or 172.

2129 "Board", the board of trustees or directors, as the case may be, in a bank.

2130 "Capital stock", the sum of the par value of the preferred and common shares of capital
2131 stock of a stock corporation, issued and outstanding.

2132 "Commissioner", the commissioner of banks.

2133 "Mutual Bank", an association or corporation chartered by the commonwealth under
2134 chapter 168 or 170 which is in mutual form.

2135 "Stock corporation", a savings bank under the provisions of chapter 168, a cooperative
2136 bank under the provisions of chapter 170, which has been chartered, converted or reorganized to
2137 a stockholder form of corporation, or a trust company under chapter 172.

2138 "Surplus account", an account so designated on the books of a bank and consisting of
2139 amounts required by law.

2140 Section 2. Officers and employees of a bank shall be bonded to the extent and in the form
2141 determined by the board of directors or board of trustees.

2142 Section 3. In addition to the duties imposed by law upon the treasurer of a bank, or the
2143 officer or employee thereof charged with the duties and functions usually performed by the
2144 treasurer, he shall also be responsible for the performance of all acts and duties required of such

2145 corporation by the provisions of chapters 167, 167A to 167J, inclusive, 168, 170, 172 and other
2146 laws as such provisions are applicable to such officer or to such bank except in so far as such
2147 performance has been expressly imposed on some other officer or employee of such bank by its
2148 regulations or by-laws or by provision of law.

2149 Section 4. Any officer, trustee, director, agent or employee of any bank, who knowingly
2150 and willfully does any act forbidden to him or to such bank by any provision of chapters 167,
2151 167A to 167J, inclusive, 168, 170, 172, and other laws as such provisions are applicable to such
2152 officer or to such bank, or who knowingly and willfully aids or abets the doing of any act so
2153 forbidden to such bank or to any other officer, director, agent or employee thereof, or who
2154 knowingly and willfully fails to do any act required of him by any such provision, or who
2155 knowingly and willfully fails to do any act which is required of such bank by any such provision
2156 the performance of which is imposed on him by the by-laws or regulations of the bank or by law
2157 or the responsibility for the non-performance of which is placed upon him by law shall, if no
2158 other penalty against him in his aforesaid capacity is specifically provided, be punished by a fine
2159 of not more than $1,000 or by imprisonment for not more than 1 year, or both.

2160 Section 5. No officer, director, trustee, employee or attorney of such corporation shall be
2161 a beneficiary of or receive, directly or indirectly, any fee, commission, gift or other consideration
2162 for or in connection with any business of such corporation. This section shall not prohibit any
2163 such officer, director, trustee, employee or attorney from receiving interest on a deposit made by
2164 him or his usual salary or fee as such director or trustee or a reasonable fee for services rendered
2165 to such corporation or from borrowing from such corporation in accordance with law, or from
2166 sharing in commissions, profits or other benefits derived by any firm, association or corporation,
2167 in which he is interested, arising out of any transaction with said corporation if such transaction
2168 is made in the regular course of business upon terms as favorable to the corporation as those
2169 offered to other persons. The commissioner may require a full disclosure to be made on such
2170 forms as he may prescribe by regulations or otherwise, of all commissions, profits or other
2171 benefits realized in any such transaction.

2172 Section 6. Whoever violates any provisions of sections 5 and 10 shall be punished by a
2173 fine of not more than $5,000 or by imprisonment for not more than 1 year, or both such fine and
2174 imprisonment.

2175 Section 7. A bank may pay interest on deposit accounts in accordance with applicable
2176 law. Rates of interest may vary based on the type of account or on the terms and conditions
2177 applicable to the account. Such corporation by its by-laws, may provide that fractional parts of a
2178 dollar shall not be included in principal in computing interest, and may provide that interest shall
2179 not be paid on deposits of less than 10 dollars.

2180 Section 8. A trustee, a director or other officer of bank may at the same time be a
2181 director, trustee or other officer of a savings bank, co-operative bank or credit union, state or

2182 federally chartered savings and loan association, trust company, or national banking association
2183 if, in such case, there is in force a permit therefor issued by the commissioner in writing with the
2184 reasons thereon stating why the public interest warrants its issuance, after reasonable notice and
2185 an opportunity to be heard, who is hereby authorized to issue such permit if, in his judgment, it is
2186 not incompatible with the public interest, and to revoke any such permit whenever he finds, after
2187 reasonable notice and opportunity to be heard, that the public interest warrants its revocation
2188 except that the provisions of this section shall not apply to any director or other officer who held
2189 such position at the incorporation of said trust company. Any person serving as a director, trustee
2190 or other officer of a bank that does not make real estate mortgage loans and does not accept
2191 savings deposits from natural persons, may at the same time serve as a director, corporator,
2192 trustee or other officer of a savings bank, co-operative bank, trust company, state or federally
2193 chartered savings and loan association, or national banking association.

2194 Notwithstanding the provisions of this section, a director, officer or employee of a bank
2195 may at the same time be a director, officer or employee of a banking institution if such bank and
2196 banking institution are affiliates of the same bank or mutual holding company. For the purposes
2197 of this section, the terms "banking institution" and "affiliate" shall have the same meanings as set
2198 forth in section 1 of chapter 167A.

2199 Section 9. Each bank shall, annually, within 30 days after the last business day of
2200 December make a report to the commissioner in such form as he may prescribe showing
2201 accurately its condition at the close of business on that day, and containing such other
2202 information as the commissioner may require. A statement of condition of a bank shall be
2203 available for examination for reasonable purposes by stockholders or their authorized agents at
2204 the principal office during business hours.

2205 Each such corporation shall prepare a balance sheet, in accordance with generally
2206 accepted accounting principles, which presents fairly its condition as of the last business day of
2207 its fiscal year. A copy of a statement of condition shall be made available to a depositor upon
2208 request.

2209 Section 10. An officer, director or trustee of a bank, except as provided in this section,
2210 shall not borrow from or otherwise become indebted to the bank of which he is an officer,
2211 director or trustee and a bank, except as provided in this section, shall not make a loan or extend
2212 credit in any other manner to any of its officers, directors or trustees. An officer, director or
2213 trustee of a bank may borrow and a bank may make a loan or extend credit to its officers,
2214 directors or trustees subject to the terms and conditions in compliance with subsection (g) of
2215 section 2I of chapter 167.

2216 Section 11. At intervals that shall not be less frequent than quarterly, the treasurer or
2217 other officer or committee designated by the board of directors or trustees shall submit to a
2218 meeting of the board, or to a meeting of a committee, if the receipt of the reports has been

2219 delegated by the board to that committee, a written report, over his signature, for the period
2220 running from the closing date of the last report to a date not more than 18 days before the date of
2221 the meeting at which the report is submitted. The report shall be filed with the records of the
2222 meeting and shall be retained for a period of 6 years from the date of the meeting. The report
2223 shall provide a summary of the transactions and other information requested by the board.

2224 Section 12. At least once during each 12 months following their elections and more often
2225 if required by the commissioner, the auditing committee of a mutual bank shall have an audit
2226 made of the balance sheet of the bank and such other financial statements as it may prescribe.

2227 The audit shall be made by an independent certified public accountant as set forth in the
2228 last paragraph of section 33 of chapter 13 in accordance with generally accepted auditing
2229 standards and in such other form and manner at such time within said 12 months as the auditing
2230 committee may prescribe. Within 30 days after its election, the auditing committee shall appoint
2231 an accountant.

2232 The accountant shall report in writing to the auditing committee the results of the audit.
2233 At the next meeting of the trustees or directors of the mutual institution thereafter, the auditing
2234 committee shall render a report, which shall be read and signed by the committee, stating the
2235 nature, extent and results of the audit and whether it accepts the accountant's report.

2236 The auditing committee shall file with the commissioner a copy of the accountant's
2237 report within 30 days after its receipt and maintain another copy with the records of the bank. If
2238 the auditing committee fails to have an audit as herein provided, the commissioner shall have an
2239 audit made by an independent certified public accountant as set forth in the last paragraph of
2240 section 33 of chapter 13 in such form and manner as the commissioner may prescribe, and the
2241 expense shall be paid by the bank.

2242 Section 13. A bank shall maintain capital and surplus if a stock corporation or a surplus
2243 account if a mutual institution necessary to be deemed, at a minimum, adequately capitalized as
2244 determined by the federal deposit insurance agency which insures the deposits of the bank or, if
2245 applicable, by the Commissioner.

2246 Section 14. The capital stock of a stock corporation shall be subject to the following
2247 provisions:

2248 A. Classes. — The capital stock of such corporation may consist of common stock and 1
2249 or more classes of preferred stock. The issuance of any such capital stock shall require the prior
2250 approval of the commissioner, and shall be subject to such conditions as the commissioner may
2251 impose.

2252 B. Preferred Stock. — The preferred stock may contain such provisions relative to
2253 preferences, voting powers, retirement, dividend and conversion rights and participation in

2254 control and management as the by-laws and articles of organization may, with the approval of
2255 the commissioner, provide; but the holders thereof shall not be held individually responsible as
2256 such holders for any debts, contracts or engagements of such corporation and shall not be liable
2257 for assessments to restore impairments in its capital. In case dividends on the preferred stock are
2258 to be cumulative, no dividends shall be declared or paid on common stock until all such
2259 cumulative dividends shall have been paid in full and all requirements of any retirement fund
2260 shall have been met; and if such corporation is placed in voluntary liquidation, or a conservator
2261 is appointed therefor, or possession of its property and business has been taken by the
2262 commissioner, no payments shall be made to the holders of the common stock until the holders
2263 of the preferred stock shall have been paid in full such amounts as may, with the approval of the
2264 commissioner, be provided in the articles of organization or amendments thereof, not in excess
2265 of the purchase price or other consideration received by the corporation for such preferred stock,
2266 plus all accumulated unpaid dividends.

2267 C. Issue. — No stock specified in the agreement of association shall be issued until the
2268 par value and pro rata portion of surplus account and undivided profits account shall be paid in
2269 full in cash. No additional stock shall be issued until the par value thereof is paid in full in cash
2270 or such other consideration as shall be approved by the commissioner or is in its possession as
2271 surplus account; provided, that no stock shall be issued against the surplus account unless, after
2272 such issue, the surplus account shall amount to at least fifty per cent of the total capital stock.

2273 D. Increase or Reduction. — Any such corporation may, subject to the approval of the
2274 commissioner, increase or reduce its capital stock in the manner provided by section 10.03 of
2275 chapter 156D; provided, however, that the capital stock shall not be reduced to less than the
2276 minimum amounts set forth by law; and provided, further, that, in the case of reorganization of
2277 any such corporation in possession of the commissioner under section 22 of chapter 167 or in
2278 possession of a conservator under chapter 167, the capital stock outstanding at the time of
2279 possession taken by the commissioner or conservator may be cancelled in whole or in part or
2280 other disposition thereof made in accordance with any plan of reorganization approved by the
2281 commissioner and the supreme judicial court.

2282 E. Change of Par Value. — Any such stock corporation may change the par value of its
2283 shares in the manner provided by section 10.03 of chapter 156D.

2284 F. Rights and Options. — The terms and conditions of any rights or options issued by any
2285 such stock corporation, including those outstanding on the effective date of this section, may
2286 include, without limitation, restrictions or conditions that preclude or limit the exercise, transfer,
2287 receipt or holding of such rights or options by any person or persons owning or offering to
2288 acquire a specified number or percentage of the outstanding stock or other securities of the
2289 corporation, or any transferees of any such persons, or that preclude or limit such actions based
2290 on such other factors, including the nature or identity of such persons, as the directors determine
2291 to be reasonable and in the best interests of the corporation. Nothing contained in this section

2292 shall affect the duties or standard of care of a director. The issuance of any shares of the capital
2293 stock of the corporation upon the exercise of any such options or rights shall require the prior
2294 approval of the commissioner and shall be subject to such conditions as the commissioner may
2295 impose.

2296 Section 15. The registrar, transfer agent or other officer or agent of any such stock
2297 corporation having charge of its stockholders' records or ledger shall, within 10 days after
2298 recording thereon any transfer of stock of the corporation which makes the transferee the owner
2299 of record of 10 per cent or more of the outstanding stock with voting power, report such transfer
2300 to the commissioner. Any agent or broker holding 10 per cent or more of such stock for the
2301 benefit of one or more persons shall, upon written request of the commissioner, report to him the
2302 names of such persons. Whoever violates this section shall be punished by a fine of not more
2303 than $500 or by imprisonment for not more than 6 months, or both.

2304 Section 16. The directors may fix in advance a time, which, unless a shorter period is
2305 provided in the by-laws, shall be not more than 60 days before the date of any meeting of the
2306 stockholders or the date for the payment of any dividend or the making of any distribution to
2307 stockholders or the last day on which the consent or dissent of stockholders may be effectively
2308 expressed for any purpose, as the record date for determining the stockholders having the right to
2309 notice of and to vote at such meeting and any adjournment thereof or the right to receive such
2310 dividend or distribution or the right to give such consent or dissent, and in such case only
2311 stockholders of record on such record date shall have such right, notwithstanding any transfer of
2312 stock on the books of the bank after the record date; or without fixing such record date the
2313 directors may for any of such purposes close the transfer books for all or any part of such period.

2314 Section 17. The board of directors may declare from net profits cash dividends annually,
2315 semi-annually or quarterly, but not more frequently, and noncash dividends at any time. No
2316 dividends shall be declared, credited or paid so long as there is any impairment of capital stock.
2317 No stock corporation having outstanding preferred stock shall, except as otherwise authorized by
2318 the commissioner, declare dividends upon common stock for any period other than a period for
2319 which dividends are declared upon preferred stock.

2320 The approval of said commissioner shall be required if the total of all dividends declared
2321 by a stock corporation in any calendar year shall exceed the total of its net profits for that year
2322 combined with its retained net profits of the preceding 2 years, less any required transfer to
2323 surplus or a fund for the retirement of any preferred stock.

2324 For the purposes of this section, the words net profits shall mean the remainder of all
2325 earnings from current operations plus actual recoveries on loans and investments and other assets
2326 after deducting from the total thereof all current operating expenses, actual losses, accrued
2327 dividends on preferred stock, if any, and all federal and state taxes.

2328 Section 18. Such stock corporation may grant options to purchase, issue and sell shares of
2329 its capital stock to its directors, officers and employees, or to a trustee on their behalf, without
2330 first offering the same to its shareholders, for such consideration, not less than par value, and
2331 upon such terms and conditions as shall be approved by its board of directors, by the holders of a
2332 majority of the stock entitled to vote with respect thereto, and by the commissioner. In the
2333 absence of fraud, the sufficiency of consideration as so approved shall be conclusively presumed.

2334 Section 19. Such corporation may establish stock purchase plans, restricted stock
2335 purchase plans and stock grant plans for employees, officers and directors thereof, whether such
2336 director is an employee or non-employee of the corporation. Any such plan shall be subject to
2337 such terms and conditions as shall be approved by the board of directors of the bank, by the
2338 holders of a majority of the stock thereof entitled to vote with respect thereto, and by the
2339 commissioner. In the absence of fraud, the sufficiency of consideration as so approved shall be
2340 conclusively presumed. Notwithstanding the provisions of subsection C of section 14, stock may
2341 be issued for intangible property or services if permitted by the plan approved as provided in this
2342 section, without the approval of the specific form of such non-cash consideration by the
2343 commissioner.

2344 Section 20. A. A stock company may, subject to the approval of the commissioner and
2345 upon vote of the holders of at least two-thirds of each class of its capital stock at an annual
2346 meeting or a special meeting duly called for the purpose, preceded in either case by a notice in
2347 writing sent to each stockholder of record by registered mail at least 10 days before said meeting,
2348 issue and sell its capital notes or debentures of any maturity. The indebtedness evidenced by any
2349 such capital notes or debentures, including the principal thereof and premium, if any, and interest
2350 thereon, shall be subordinate to the claims of depositors and other creditors of such corporation,
2351 except claims in respect of other capital notes or debentures of such corporation at least equally
2352 subordinated, in accordance with such provisions for subordination as shall be approved by the
2353 commissioner, and such subordination shall be specifically enforceable by any interested person,
2354 including the commissioner or any conservator appointed by the commissioner whenever
2355 possession of the property and business of such corporation shall have been taken by the
2356 commissioner or such conservator. Any such issue of capital notes or debentures may contain
2357 such other provisions as the commissioner may approve, including provision for conversion
2358 rights. The commissioner in his discretion may by regulation provide that any such capital notes
2359 or debentures shall to the extent set forth in such regulation be treated as part of the capital funds
2360 of the issuing stock corporation for purposes of any of the provisions of this chapter.

2361 B. Nothing in subsection A shall be construed as limiting the power of any such
2362 corporation to borrow money otherwise than through the issuance and sale of such capital notes
2363 or debentures, provided that no such corporation shall engage in the business of issuing and
2364 selling to depositors, customers or others its unsecured promissory notes except in accordance
2365 with such regulations as the commissioner in his discretion may adopt as to the conduct of such
2366 business or, in the absence of such regulations, with the prior approval of the commissioner. Any

2367 regulations adopted by the commissioner in accordance with the foregoing provisions of this
2368 subsection B may impose limitations on the aggregate amount of such promissory notes at any
2369 time outstanding, and the interest cost thereof, and may further require that reserves shall be
2370 maintained against the indebtedness evidenced thereby, all by classes of trust companies or
2371 otherwise.

2372 SECTION 48. The General Laws are hereby amended by striking out chapter 168, as
2373 appearing in the 2010 Official Edition, and inserting in place thereof the following chapter: —

2374 CHAPTER 168

2375 SAVINGS BANKS

2376 Section 1. The following words as used in this chapter, unless the context otherwise
2377 requires, shall have the following meanings:—

2378 "Board", or "Board of Bank Incorporation", a board consisting of the commissioner of
2379 banks, the commissioner of revenue and the state treasurer.

2380 "Capital Stock"' the sum of the par value of the preferred and common shares of capital
2381 stock, issued and outstanding.

2382 "Commissioner", the commissioner of banks.

2383 "Corporator"' a original incorporator

2384 "Incorporators", subscribers to the agreement of association for the purpose of forming a
2385 savings bank under the provisions of this chapter.

2386 "Mutual bank", a savings bank, institution for savings or savings institution incorporated
2387 as such in the commonwealth in mutual form.

2388 "Savings bank", a savings bank, institution for savings or savings institution incorporated
2389 as such in this commonwealth.

2390 "Stock bank", a savings bank, institution for savings or savings institution incorporated as
2391 such in the commonwealth in stock form which has been chartered or reorganized or converted
2392 to a stockholder form of corporation.

2393 "Stockholder", a registered owner of shares of capital stock of a stock savings bank

2394 "Such corporation" or "such bank", a savings bank, institution for savings and a savings
2395 institution incorporated as such in this commonwealth.

2396 Section 2. A savings bank shall have all the powers expressly granted by law and
2397 whatever further incidental powers may fairly be implied from those expressly conferred and

2398 such as are reasonably necessary to enable it to exercise fully those powers according to common
2399 or accepted banking customs and usages.

2400 Section 3. Any such corporation organized prior to January 1, 1955 shall be subject to
2401 this chapter and chapters 167C to 167G, inclusive, Chapter 167I and 167J so far as is consistent
2402 with the provisions of its charter, and may, by vote of its corporators at its annual meeting or at a
2403 meeting called for the purpose, accept any provision of this chapter which is inconsistent with its
2404 charter. Any such corporation organized after January 1, 1955, shall be subject to this chapter
2405 and chapters 167C to 167G, inclusive and Chapters 167I and 167J.

2406 Section 4. A savings bank shall upon its incorporation have such capital structure as the
2407 board of bank incorporation shall deem adequate. Such capital structure may vary by the board
2408 based on the application and business plan submitted.

2409 Section 5. Fifteen or more individuals who associate themselves by a written agreement
2410 for the purpose of forming a savings bank may, upon compliance with sections 4 to 9, inclusive,
2411 become a corporation, with all the powers and privileges and subject to all the duties, restrictions
2412 and liabilities set forth in all general laws relating to such corporations. The agreement of
2413 association shall specifically state:

2414 (a) That the incorporators thereto associate themselves with the intention of forming a
2415 corporation;

2416 (b) The name by which the corporation shall be known;

2417 (c) The location of the principal office of the corporation, which shall be within the
2418 commonwealth;

2419 (d) The purposes for which the corporation is formed and the nature of the business to be
2420 transacted;

2421 (e) The amount and classes of its capital stock, and the number of shares into which any
2422 class is to be divided; the amount of the surplus account and the amount of the undivided profits
2423 account for a stock bank, the amount of the surplus account for a mutual bank; and

2424 (f) The name of each incorporator and his residence, post office address, and the number
2425 of shares of capital stock, if any, which he agrees to take and the class or classes of such shares.

2426 Each incorporator shall subscribe his name to the agreement of association.

2427 Section 6. A notice of the intention of the incorporators to form such a savings bank shall
2428 be given to the board of bank incorporation.

2429 A notice in such form as said board shall approve, shall be published at least once a
2430 week, for 3 successive weeks, in 1 or more newspapers designated by the board, and published in

2431 the city or town in which it is proposed to establish the savings bank, or if there is no newspaper
2432 in such city or town, in a newspaper published in the city or town which is nearest to the
2433 proposed location. Such notice shall specify the names of the proposed incorporators, the name
2434 of the corporation and the location of the same. The subscribers to said agreement shall apply to
2435 the board for a certificate that public convenience and advantage will be promoted by the
2436 establishment of such savings bank. Such an application for a proposed savings bank shall be
2437 accompanied by an investigation fee, the amount of which shall be determined by the
2438 commissioner of administration under the provision of section 3B of chapter 7. In determining
2439 whether the public convenience and advantage will be promoted by the establishment of such
2440 savings bank, the board shall consider the adequacy of its capital structure, the general character
2441 of its management, the adequacy of banking facilities in the area, and the convenience and needs
2442 of the community to be served. The board may grant such certificate, which shall be deemed to
2443 be revoked if the applicants therefor do not become incorporated and begin business within 1
2444 year after its date of issue. If the board refuses to issue such certificate, no further proceeding
2445 may be taken by the applicant during the year next following the date of such refusal except with
2446 the approval of the board, but the applicant may renew his application as of right after 1 year
2447 from the date of such refusal, and he may dispense with further notice or publication unless the
2448 board orders such notice or publication.

2449 Section 7. The first meeting of the incorporators shall be called by a notice signed either
2450 by that incorporator who is designated in the agreement for the purpose, or by a majority of the
2451 incorporators, and such notice shall state the time, place and purposes of the meeting. A copy of
2452 the notice shall, at least 7 days before the day appointed for the meeting, be given to each
2453 incorporator or left at his residence or usual place of business, or deposited in the post office,
2454 postage prepaid, and addressed to him at his residence or usual place of business, and another
2455 copy thereof and an affidavit of one of the signers that the notice has been duly served shall be
2456 recorded with the records of the corporation. If all the incorporators shall, in writing endorsed
2457 upon the agreement of association, waive such notice and fix the time and place of the meeting,
2458 no notice shall be required. At such first meeting, or at any adjournment thereof, the
2459 incorporators shall organize by the choice by ballot of a temporary clerk who shall be sworn, by
2460 the adoption of by-laws and by the election in such manner as the by-laws may determine, a
2461 clerk or secretary, and such other officers as the by-laws may prescribe, trustees for a mutual
2462 bank or directors for a stock bank. The temporary clerk shall make and attest a record of the
2463 proceedings until the clerk or secretary has been chosen and sworn, including a record of such
2464 choice and qualification.

2465 Section 8. The president, clerk or secretary and a majority of the trustees or directors, as
2466 applicable, elected at such first meeting shall make and sign under penalties of perjury articles of
2467 organization in duplicate, setting forth—

2468 (a) A true copy of the agreement of association, the names of the subscribers thereto, and
2469 the name, residence and post office address of each of the officers and directors or trustees as
2470 applicable;

2471 (b) The date of the first meeting and the successive adjournments thereof, if any.

2472 One duplicate original of the articles so signed shall be submitted to the commissioner,
2473 and the other, together with the records of the proposed corporation, to the state secretary, who
2474 shall examine the same, and who may require such amendment thereof or such additional
2475 information as he may consider necessary. If he finds that the articles conform to the 4 preceding
2476 sections relative to the organization of the corporation and that section 6 has been complied with,
2477 he shall so certify and endorse his approval thereon. The articles shall be filed within 30 days
2478 thereafter in the office of the state secretary, who, upon receipt of a fee, the amount of which
2479 shall be determined annually by the commissioner of administration under the provision of
2480 section 3 B of chapter 7, said state secretary shall issue a certificate of incorporation in the
2481 following form:

2482 COMMONWEALTH OF MASSACHUSETTS

2483 Be it known that whereas (the names of the subscribers to the agreement of association)
2484 have associated themselves with the intention of forming a corporation under the name of (the
2485 name of the corporation), for the purpose (the purpose declared in the agreement of association),
2486 with a capital stock or surplus, as applicable, of (the amount fixed in the agreement of
2487 association), and have complied with the statutes of the commonwealth in such case made and
2488 provided, as appears from the articles of organization of said corporation, duly approved by the
2489 state secretary and recorded in this office: Now, therefore, I (the name of the state secretary),
2490 secretary of the commonwealth of Massachusetts, do hereby certify that said (the names of the
2491 subscribers to the agreement of association), their associates and successors, are legally
2492 organized and established as, and are hereby made, an existing corporation under the name of
2493 (name of the corporation), with the powers, rights and privileges, and subject to the limitations,
2494 duties and restrictions, which by the law appertain thereto.

2495 Witness my official signature hereunto subscribed and the great seal of the
2496 commonwealth of Massachusetts hereunto affixed, this day of in the year (the date of the filing
2497 of the articles of organization).

2498 The state secretary shall sign the certificate of incorporation and cause the great seal of
2499 the commonwealth to be thereto affixed, and such certificate shall have the force and effect of a
2500 special charter. The existence of every such corporation shall begin upon the filing of the articles
2501 of organization in the office of the state secretary. He shall also cause a record of the certificate
2502 of incorporation to be made, and such certificate, or such record, or a certified copy thereof, shall
2503 be conclusive evidence of the existence of such corporation.

2504 A bank may amend its articles of organization if approved by its board and submitted to
2505 and approved by the bank's governing body except as provided in sections 10.05, 10.07 and
2506 14.34 of chapter 156D. After approval by the board and governing body, the amendment shall be
2507 submitted to the commissioner for his endorsement thereon before delivering the amendment to
2508 the secretary of state for filing.

2509 Section 9. When all the capital stock has been issued for a stock bank, a list of the
2510 stockholders, with the name, residence and post office address of each, and the number of shares
2511 in each class held by each stockholder, shall be filed with the board of bank incorporation, which
2512 list shall be verified by the clerk of the corporation. Upon receipt of such list the board shall
2513 cause an examination to be made of the method of payment of the capital stock, or the surplus
2514 account if a mutual bank of the personnel of the corporation, including the officers and directors
2515 or trustees thereof, and if, after such examination, it appears that the whole capital stock, surplus
2516 account and undivided profits account for a stock bank or surplus account for a mutual bank have
2517 been paid in cash, that all requirements of law have been complied with, that the bank is a
2518 member of the Federal Deposit Insurance Corporation, and that the qualifications of the
2519 personnel are satisfactory, the board shall, if satisfied that the public convenience and advantage
2520 will be promoted thereby, issue a certificate authorizing such corporation to begin the transaction
2521 of business. No such corporation shall begin the transaction of business until such a certificate
2522 has been granted.

2523 Section 10. A mutual bank shall be subject to sections 11 to 21A, inclusive and a stock
2524 bank shall be subject to sections 21A to 26 inclusive.

2525 Section 11. Meetings of the corporators, board of trustees and board of investment of a
2526 mutual bank shall be held in the town wherein the main office of the corporation is located, or at
2527 any other place within the counties in which the bank has a branch office.

2528 Section 12. A mutual bank shall have at least 25 corporators and may, at a legal meeting
2529 of the corporators, elect by ballot to be a corporator any person who is a resident of the
2530 commonwealth, or any person who resides in another state; provided, however, that not less than
2531 three-fourths of said corporators shall be citizens of the commonwealth and residents therein at
2532 any one time. Corporators shall be elected for a term of 10 years, but a corporator shall not serve
2533 beyond the retirement age as established by the bank's by-laws. No person shall serve as a
2534 corporator of more than one savings bank, and no corporator shall, after January 1, 1975, serve
2535 as an officer or director of a national bank, trust company, co-operative bank, savings and loan
2536 association or credit union. A corporator shall, at the time of his election or within 30 days
2537 thereafter, be a depositor of such corporation. Any person serving as a corporator of a savings
2538 bank may at the same time serve as a director or, other officer of a trust company or a national
2539 bank that does not make real estate mortgage loans and does not accept savings deposits from
2540 natural persons.

2541 No person shall continue to be a corporator after removing from the commonwealth
2542 unless, at the annual meeting following such removal, the corporators shall vote to continue such
2543 person as a corporator subject to the limitations of this section applicable to nonresident
2544 corporators.

2545 Any person may, at an annual or special meeting of the corporators, cease to be a
2546 corporator if, at least 3 days before such meeting, he has filed with the clerk a written notice of
2547 his intention so to do. If a corporator fails to attend 2 consecutive annual meetings, his
2548 membership may, by vote of the corporators at their next annual meeting, be declared forfeited;
2549 and such action and vote when recorded shall be evidence of such forfeiture. Not more than
2550 three-fifths of the corporators of any such corporation shall be trustees or officers thereof at any
2551 one time.

2552 Section 13. The annual meeting of the corporators of a mutual bank shall be held at a
2553 time as the by-laws direct. Special meetings may be held by order of the trustees or upon written
2554 request of at least 10 corporators addressed to the clerk who shall give notice of special
2555 meetings upon that order or request. In the absence or inability of the clerk to serve, the president
2556 or a vice president may give the notice required by this section. At least 7 days before the date
2557 of the meeting, written notice of the meeting shall be mailed to each corporator. The names of
2558 those present at a meeting shall be entered in the records of the corporation. A quorum shall
2559 consist of not less than 13 corporators or 25 per cent of the total number of corporators,
2560 whichever is the greater; but, not more than 50 corporators shall be necessary to constitute a
2561 quorum.

2562 Section 14. A mutual bank shall have a board of trustees, subject to the following
2563 provisions:—

2564 1. Number. — The board shall consist of not less than 11 trustees and such additional
2565 number, if any, as may be provided in the by-laws.

2566 2. Qualifications. — The business of the corporation shall be managed by a board of
2567 trustees, of which not less than a majority shall be citizens of the commonwealth. A trustee at the
2568 time of his election or within 30 days thereafter, shall be a depositor of the corporation. At least 2
2569 trustees of the board at the time of their election shall be residents of the city or town where the
2570 main office or a branch office of the corporation is located.

2571 3. Election. — All trustees shall be elected by and from the corporators, except that any
2572 vacancy in the board arising between annual meetings from death, resignation or otherwise, may
2573 be filled by the trustees until the next annual meeting at which the corporators may elect a trustee
2574 for the balance, if any, of the unexpired term. The trustees shall be divided into 3 groups as
2575 nearly equal in number as possible, and one of such groups shall be elected annually for a term
2576 of 3 years, provided, however, that during the minimum time necessary to accomplish the
2577 foregoing, one of said groups may be elected for a term of 1 year and one for a term of 2 years.

2578 Upon the election as trustee of a person who has not been theretofore a trustee of such
2579 corporation, the clerk shall send forthwith to the commissioner the name and address of such
2580 person and the clerk shall transmit to such person a copy of the laws relating to savings banks. A
2581 number of trustees, not exceeding two, may be elected by vote of a majority of the trustees then
2582 in office if the by-laws so proscribe.

2583 4. Termination of Office. — If a trustee fails to attend four consecutive regular quarterly
2584 meetings of the board of trustees, said board may declare his office to be vacant at its next
2585 regular quarterly meeting, and if a trustee fails to attend eight consecutive regular quarterly
2586 meetings of said board, it shall declare his office to be vacant at its next regular quarterly
2587 meeting, but this provision shall not apply to a trustee while he is serving on active duty as a
2588 member of the Armed Forces of the United States. Any trustee whose office is declared to be
2589 vacant as provided in this paragraph shall not be re-elected as a trustee except upon vote of at
2590 least two-thirds of all the corporators of such corporation passed at a subsequent annual meeting.

2591 The by-laws may authorize the continuance, as honorary trustees, of those persons who
2592 shall have served as trustee for 10 years or more. Such honorary trustee may be elected for an
2593 indefinite term and shall not be included in determining the minimum number of trustees
2594 provided under paragraph 1, or the number of trustees to be elected annually as provided in
2595 paragraph 4 of this section. Such honorary trustee shall not be deemed to be an officer or
2596 member of the board of trustees of such corporation, shall not receive compensation or be
2597 required to attend meetings or be authorized or required to perform any duties.

2598 The office of any trustee who seeks, or against whom, an order of relief is entered in a
2599 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
2600 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
2601 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
2602 trustee whose office is so vacated shall again be eligible to serve as a trustee upon the receipt of a
2603 discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all payments
2604 required pursuant to a plan of reorganization under Chapter 11 thereof; the completion of all
2605 payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said
2606 judgment.

2607 The commissioner may recommend the removal of any trustee, officer or employee who
2608 in his opinion has abused his trust, or has been negligent in the performance of his duties, and
2609 upon such recommendation the trustees may remove or discharge such trustee, officer or
2610 employee. The trustees shall act upon such recommendation within 30 days after receiving the
2611 same and neither such trustees nor the commissioner shall be personally liable for any action
2612 taken by them in good faith in connection with any such recommendation or removal.

2613 Section 15. A regular meeting of the board of trustees of a mutual bank shall be held at
2614 least once in 3 months, for the purposes set forth in this section and for the transaction of other

2615 business. Special meetings may be called by the president, or shall be called by the clerk if
2616 requested in writing by at least 3 trustees. Notices of meetings shall be given in the manner and
2617 to the extent provided in the by-laws. Unless the articles of incorporation, the by-laws or a
2618 resolution of the board otherwise provide, members of the board of trustees or any committee
2619 designated thereby may participate in a meeting of such board or committee by means of a
2620 conference telephone or similar communications equipment by means of which all persons
2621 participating in the meeting may simultaneously hear each other, and participation by such
2622 means shall constitute presence in person at a meeting. Members may transmit any written
2623 authorizations that may be required during the meeting by electronic facsimile or other
2624 commercially acceptable transmission. A quorum shall consist of not less than a majority of the
2625 trustees, and if there be less than a quorum then a majority of those present may adjourn the
2626 meeting until the next regular meeting or until another time or times prior thereto.

2627 A record shall be made by the clerk at each meeting of the transactions of the trustees and
2628 of the names of those present, and a copy of the aforesaid report of the board of investment shall
2629 be filed and preserved with the records of the corporation.

2630 Section 16. (a) A mutual bank shall have a board of investment of not less than 5
2631 members, who shall be trustees of the corporation. Only 1 of the persons holding the office or
2632 performing the duties of president, executive vice president, senior vice president or treasurer
2633 shall at the same time be a member of the board of investment. The board shall elect a clerk who
2634 may, but need not be a member of the board. The board of investment may invite 1 or more
2635 trustees who are not members of the board to attend its meetings during the monthly, quarterly or
2636 semi-annual periods as the board may determine.

2637 (b) At least quarterly, the treasurer or other officer designated by the board of investment
2638 shall submit to the board of investment, a written report, over his signature, covering the period
2639 for which the report has not yet been submitted.

2640 Section 17. In addition to the trustees and members of the board of investment, the
2641 officers of a mutual bank shall be a president, 1 or more vice presidents, a treasurer, a clerk and,
2642 subject to applicable provisions of the by-laws, such other officers as from time to time may be
2643 determined by the trustees to be necessary for the management of the affairs of such corporation,
2644 provided that the duties of any such other officer shall not be in conflict with those of the
2645 president or treasurer. As used in this section and in section 20 and sections 2 and 5 of
2646 chapter167J, the term “operating officers” shall mean and include the president, vice presidents,
2647 any assistant vice presidents, the treasurer, any vice treasurer, assistant treasurers, any branch
2648 managers, any person performing the duties of auditor, and such other officers as may be
2649 designated as operating officers by vote of the board of trustees.

2650 The president shall be a trustee. A vice president may perform the duties of the president
2651 to the extent authorized in the by-laws. The treasurer may at the same time be a vice president. A

2652 vice treasurer or an assistant treasurer may perform all the duties of the treasurer. The clerk shall
2653 be the clerk of the corporation and clerk of the trustees.

2654 An operating officer of the corporation shall not hold the office or perform the duties of
2655 president, vice president, cashier or treasurer of a national banking association or a trust
2656 company, and the operating officer shall be governed by section 8 of chapter 167J with respect to
2657 holding office in another savings bank or in a co-operative bank or federal savings and loan
2658 association.

2659 Section 18. The clerk of a mutual bank and such members of the board of trustees as may
2660 be required to be elected under the provisions of section 14 shall be elected at the annual meeting
2661 or at a special meeting of the corporators between meetings of the corporation. The president
2662 shall be elected by the trustees. If any such office becomes vacant during the year the trustees
2663 may, except as otherwise provided in this chapter, fill the vacancy or approve a new officer until
2664 the next annual meeting.

2665 The members of the board of investment, the treasurer, vice treasurer, assistant treasurers,
2666 vice presidents and such other officers as may be determined to be necessary as provided in
2667 section 17, shall be elected by the trustees and shall hold office during their pleasure, and the
2668 trustees may fill vacancies in such offices at any time.

2669 All trustees and other officers shall be sworn, and shall hold their several offices until
2670 others are elected and qualified in their stead; and a record of such qualification shall be made
2671 and preserved with the records of such corporation. If a person elected as trustee or other officer
2672 of such corporation does not, within 45 days thereafter, take the oath of office, his office
2673 thereupon shall become vacant; provided, that such oath may be taken in person at any office of
2674 such corporation or may be taken in writing before a notary public or justice of the peace and
2675 transmitted to such corporation within said period.

2676 Section 19. Each person elected to office at the annual meeting or at any other meeting of
2677 the corporators or trustees, who is not present at the meeting at which he was elected shall be
2678 notified, in writing, of his election by the clerk of the corporation. The notice shall be sent within
2679 10 days after the meeting to the last known address of that person. Within 60 days after the
2680 annual meeting, the clerk shall cause to be filed with the records of the corporation a list
2681 containing the following information: (1) the names of the corporators indicating those who are
2682 trustees; and (2) the names of the president, vice presidents, treasurer, members of the board of
2683 investment, and members of the auditing committee. A copy of the list shall be furnished to the
2684 commissioner within 10 days after filing with the records of the corporation.

2685 Section 20. At least once during each 12 month period, the trustees shall elect an auditing
2686 committee of not less than 3 trustees who shall not be operating officers or members of the board
2687 of investment. The members of such committee shall take an oath of office in the manner and
2688 within the period prescribed by section 14, and a record thereof shall be made and preserved as

2689 provided in said section. The trustees may elect or authorize to be appointed such other
2690 committees as the by-laws may provide or as the trustees from time to time may determine. The
2691 trustees shall authorize the compensation, if any, to be paid to the members of the committees.

2692 Section 21. The by-laws of the corporation may provide for any and all matters relative to
2693 the business and affairs of the corporation as appropriate to exercise all powers necessary,
2694 convenient or incidental to the purposes for which the corporation was formed.

2695 Section 21A. The following provisions shall apply to meetings of the board and its
2696 committees for both a savings bank in mutual form or in stock form.

2697 (a) Unless the articles of organization or bylaws provide that action required or permitted
2698 by this chapter or other provisions of the General Laws to be taken by the directors may be taken
2699 only at a meeting, the action may be taken without a meeting if the action is taken by the
2700 unanimous consent of the members of the board of directors. The action must be evidenced by 1
2701 or more consents describing the action taken, in writing, signed by each director, or delivered to
2702 the corporation by electronic transmission, to the address specified by the corporation for the
2703 purpose or, if no address has been specified, to the principal office of the corporation, addressed
2704 to the secretary or other officer or agent having custody of the records of proceedings of
2705 directors, and included in the minutes or filed with the corporate records reflecting the action
2706 taken.

2707 (b) Action taken under this section is effective when the last director signs or delivers the
2708 consent, unless the consent specifies a different effective date.

2709 (c) A consent signed or delivered under this section has the effect of a meeting vote and
2710 may be described as such in any document.

2711 (d) The provisions of this section shall also apply to committees and their members.

2712 Section 22. A stock bank may adopt by-laws for the proper management of its affairs and
2713 as appropriate to exercise all powers necessary, convenient or incidental to the purposes for
2714 which the corporation was formed. It may also establish regulations controlling the assignment
2715 and transfer of its shares. A majority in interest of the stockholders entitled to vote shall
2716 constitute a quorum at any meeting unless the by-laws require more than a majority.

2717 Section 23. Stockholders entitled to vote may vote in person or by proxy. No proxy dated
2718 more than 6 months before the date of the meeting named therein shall be valid, and no proxy
2719 shall be valid after the final adjournment of such meeting. A proxy with respect to stock held in
2720 the name of 2 or more persons shall be valid if executed by any one of them unless at or prior to
2721 the exercise of the proxy such corporation receives a specific written notice to the contrary from
2722 any 1 of them. A proxy purporting to be executed by or on behalf of a stockholder shall be
2723 deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity

2724 shall rest on the challenger. Except as otherwise provided in the articles of organization or by-
2725 laws of the corporation, special meetings of the stockholders may be called pursuant to the
2726 provisions of section 7.02 of chapter 156D.

2727 Section 24. The business of a stock bank shall be managed by a board of not less than 7
2728 nor more than 25 directors. A majority of the directors shall be citizens of the commonwealth
2729 and resident therein. The directors shall be elected, in such manner as is provided in the by-laws,
2730 by the stockholders at their annual meeting or at a special meeting called for the purpose;
2731 provided, however, that if the by-laws so prescribe, a number of directors, not exceeding 2, may
2732 be elected by vote of a majority of the directors then in office. The directors shall hold office for
2733 such term, not exceeding 3 years, as is provided in the by-laws and until their successors are
2734 selected and have qualified. A director shall be eligible for reelection. Any vacancy in the board
2735 may be filled by appointment by the remaining directors and any director so appointed shall hold
2736 his office until the next election.

2737 Each director shall own, in his own right and free of any lien or encumbrance, common
2738 stock, either of such corporation or of a company owning 75 per cent or more of the stock of
2739 such corporation, having a par value, or a fair market value on the date the person became a
2740 director, of not less than $1,000. Any director who ceases to be the owner of the required number
2741 of shares of stock, or who becomes in any other manner disqualified, shall vacate his office
2742 forthwith. Each director, when appointed or elected, shall take an oath that he will faithfully
2743 perform the duties of his office and that he is the owner, in his own right and free of any lien or
2744 encumbrance, of the amount of stock required by this section. The oath shall be taken before a
2745 notary public or justice of the peace, who is not an officer of such corporation, and a record of
2746 the oath shall be made a part of the records of such corporation.

2747 The office of any director who seeks, or against whom, an order of relief is entered in a
2748 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
2749 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
2750 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
2751 director whose office is so vacated shall again be eligible to serve as or director upon the receipt
2752 of a discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all payments
2753 required pursuant to a plan of reorganization under Chapter 11 thereof; the completion of all
2754 payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said
2755 judgment.

2756 In determining what he or she reasonably believes to be in the best interests of such
2757 corporation, in considering proposed business combinations, as defined in paragraph (c) of
2758 section 3 of chapter 110F, a director may consider the interests of the corporation's employees,
2759 suppliers, creditors and customers; the economy of the state, region and nation, community and
2760 societal considerations, and the long-term and short-term interests of the corporation and its

2761 stockholders, including the possibility that these interests may be best served by the continued
2762 independence of the corporation.

2763 Each stock bank shall have an executive committee of not less than 3 members, who shall
2764 be elected by and from the directors and shall hold office during their pleasure. An executive
2765 committee may take any action that could be taken by the board of directors except that an
2766 executive committee may not: (1) authorize dividends or other distributions to shareholders; (2)
2767 approve or propose to the corporation's shareholders actions that require the approval of the
2768 corporation's shareholders; (3) change the number of members of the board of directors, remove
2769 directors from office or fill vacancies on the board of directors; (4) amend the corporation's
2770 articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6) authorize or
2771 approve reacquisition of shares of capital stock, except according to a formula or method
2772 prescribed by the board of directors; (7) take any action specifically required by law or
2773 regulation to be taken by the entire board of directors, or (8) approve a transaction described in
2774 section 8 of chapter 167I.

2775 Section 25. The clerk or secretary shall be elected by the stockholders at their annual
2776 meeting or at a special meeting duly called for the purpose.

2777 The president shall be elected by and from the board of directors and shall be chairman
2778 thereof unless the board designates a director in lieu of the president to be chairman. The
2779 directors shall elect the treasurer and any other officers. The president as may be required or
2780 permitted by law or by-law may select other officers. The officers elected by the board shall hold
2781 their respective offices during the pleasure of the directors. The directors may fill a vacancy in
2782 the office of clerk or secretary until the next meeting of the stockholders.

2783 Section 26. The board of directors shall meet at intervals, that shall not be less frequent
2784 than quarterly, but, upon application in writing by the corporation, the commissioner may waive
2785 or modify this requirement. Unless the articles of organization, the by-laws, or a resolution of the
2786 board otherwise provide, members of the board of directors or a committee designated thereby
2787 may participate in a meeting of the board or committee by means of a conference telephone or
2788 similar communications equipment by means of which all persons participating in the meeting
2789 may simultaneously hear each other, and participation by those means shall constitute presence
2790 in person at a meeting. Members may transmit written authorizations that may be required during
2791 the meeting by electronic facsimile or other commercially acceptable transmission.

2792 Section 27. Fifteen or more savings banks may form the Savings Banks Employees
2793 Retirement Association in this section, and in sections 28 and 29, called the association for the
2794 purpose of providing retirement benefits services through retirement plans that are qualified
2795 under section 401 of the federal Internal Revenue Code, to members of the association and their
2796 customers, as hereinafter provided. The association, in its name and by or through its authorized
2797 officers, may (a) make agreements and investments subject to limitations as from time to time

2798 may be prescribed by law or the by-laws of the association, (b) sue and be sued, plead and be
2799 impleaded, (c) enforce liens and other obligations and foreclose mortgages held by the
2800 association on or with respect to real or personal property situated in the commonwealth or in
2801 any state or territory of the United States, (d) adopt an official seal and alter the same at pleasure,
2802 and (e) do other acts and things necessary to carry out the powers conferred upon it by law and
2803 its by-laws.

2804 Any bank or credit union chartered by the commonwealth, any bank or credit union
2805 which has converted to federal charter and has its main office located in the commonwealth, any
2806 bank or credit union chartered by the federal government, by a state of the United States other
2807 than the commonwealth or by the District of Columbia and which has its main office or a branch
2808 office located in the commonwealth, the Massachusetts Bankers Association and its successors
2809 and any bank which is a voting member thereof, the Savings Banks Employees Retirement
2810 Association, the Depositors Insurance Fund, and other banking institutions with their main office
2811 or any branch office located in the commonwealth, as may from time to time be provided for in
2812 the by-laws of the association, and the respective employees of each of the foregoing, shall be
2813 eligible for membership in the association; but, no bank that was eligible to be a member of the
2814 association before January 1, 2004, shall be eligible to become a member of the Cooperative
2815 Banks Employees Retirement Association or the Credit Union Employees Retirement
2816 Association unless and until the Cooperative Banks Employees Retirement Association and the
2817 Credit Union Employees Retirement Association permits a member to transfer from any or all of
2818 the qualified plans provided by said association, assets and liabilities, attributed to the member's
2819 employees, to 1 or more qualified plans not provided by said association. For the purposes of this
2820 section and sections 28 and 29, a reference to "bank" or "banks" shall, unless the context
2821 otherwise requires, mean any or all of the organizations named or referred to in this paragraph, a
2822 reference to "trustees" of a bank shall, unless the context otherwise requires, mean the governing
2823 body of any such organization, including, if applicable, the board of directors; and a reference to
2824 "customer" shall mean any person or business who has established a contractual relationship for
2825 banking business purposes with any banking institution located in the commonwealth which is a
2826 member of the association.

2827 Eligible employees may contribute a portion of their salaries or wages, to be deducted by
2828 the employing banks and paid to the plans or the retirement association. A participating bank
2829 may contribute to or under plans of the retirement association for its employees to the extent
2830 determined by its board of trustees. Contributions and benefits under the plans of the retirement
2831 association shall not exceed the limits, if any, imposed on such plans by the Internal Revenue
2832 Code and the Employees Retirement Income Security Act of 1974, in this section called the
2833 Code and ERISA, respectively.

2834 If the commissioner finds that the continuation of contributions by a participating bank
2835 subject to his authority may affect its safety and soundness, including reducing its risk-based
2836 capital ratio below any prescribed regulatory level, said commissioner may order the bank to (a)

2837 freeze its benefits and cease further funding for future benefit accruals under any plans qualified
2838 under section 401 of the federal Internal Revenue Code; (b) revise its benefits for future service
2839 under any such plans so that contributions on account of any employee will be limited to an
2840 appropriate percentage of compensation; or (c) terminate its participation in any such plans.

2841 The funds contributed by participating banks and their employees shall be held or used by
2842 the trustees of the association for the purchase of annuities or payment of retirement benefits to
2843 eligible employees, for payments to beneficiaries or representatives of any member employee of
2844 the participating bank dying before reaching the age of retirement, and for the payment to any
2845 employee retiring from service before becoming entitled to a pension or annuity. Funds held
2846 under any of the said plans shall be held or used by the retirement association to the extent
2847 required by the Code and ERISA for the exclusive purpose of providing plan benefits to
2848 participating members; but, to the extent permitted by law, funds of the plans may be used to
2849 defray reasonable expenses of administering the retirement association and the plans, and
2850 expenses of investing the assets of the plans may be charged against the funds of the plans. To
2851 the extent that expenses of the retirement association or said plans are not otherwise paid, they
2852 shall be paid by participating banks on a proportionate basis, as provided in the by-laws of the
2853 retirement association. The association shall annually provide to each member a report of assets
2854 and liabilities attributable to its participants in any or all qualified plans adopted by a member.

2855 A participating bank, by vote of its board of directors, and a customer may adopt 1 or
2856 more of the plans of the retirement association for the benefit of its employees. Any such bank
2857 which has adopted a plan of the retirement association for its employees may, if it is otherwise
2858 eligible, also establish an employee stock ownership plan.

2859 In any calendar year, the association or bank by vote of its governing board, may directly
2860 supplement the retirement benefits being paid to retired employees or their beneficiaries on
2861 account of service; but, no supplement of a retirement benefit shall exceed the retirement benefit
2862 multiplied by the increase in the cost of living since the retirement began. The increase in the
2863 cost of living is the percentage by which the national monthly consumer price index for all urban
2864 consumers issued by the bureau of labor statistics of the United States Department of Labor for
2865 the last November before the year in which payment is made is greater than the beginning index
2866 figure. The beginning index figure is the average of such monthly consumer price index figures
2867 for the year in which a retirement benefit was first paid to or with respect to a former employee.
2868 No bank may become obligated to pay in future years any supplement authorized by this
2869 paragraph.

2870 Membership in the association is voluntary and any bank may establish or provide
2871 qualified retirement plans for its employees independent of the association; but, nothing
2872 contained herein shall be construed so as to require any bank to provide qualified retirement
2873 plans to its employees.

2874 Section 28. The by-laws of the association shall be submitted to the commissioner and
2875 shall prescribe the manner in which, and the officers and agents by whom, the association may
2876 be conducted and the manner in which its funds may be invested and paid out. Such association
2877 shall be formed when its by-laws have been approved and agreed to by a majority of the trustees
2878 of each of 15 or more savings banks, and have been approved by the commissioner. Such
2879 association shall annually, on or before December 1, report to the commissioner such statements
2880 of its membership and financial transactions for the year ending on the preceding October 31 as
2881 the commissioner may consider necessary to show its business and standing. The commissioner
2882 may verify such statement by an examination of the books and papers of the association.

2883 The association shall not be subject to chapter 32 or chapter 175 or to such other
2884 provisions of law as relate to insurance companies or other retirement associations.

2885 Section 29. The property of the association, the portion of the wages or salary of any
2886 employee deducted or to be deducted under sections 39 and 40, the right of an employee to an
2887 annuity or pension, and all his rights in the funds of the association, shall be exempt from
2888 taxation and from the operation of any law relating to insolvency, and shall not be attached or
2889 taken on execution or other process to satisfy any debt or liability of the association, a
2890 participating bank, or any employee member of the association. No assignment of any right in or
2891 to said funds or of any pension or annuity payable under section thirty-nine shall be valid, except
2892 that deferred annuity contracts purchased by a participating bank on account of past service of
2893 eligible employees may be assigned to such bank prior to actual retirement.

2894 Nothing in this section shall prevent an employee's annuity or pension from being
2895 attached, taken on execution, assigned, or subject to other process to satisfy a support order
2896 under chapters 208, 209, or 273.

2897 Section 30. The participating members of the Savings Banks Employees Retirement
2898 Association, established by section 39 shall constitute as the Savings Banks Employees Benefit
2899 Association, in this section and in sections 43 and 44 called the benefit association, for the
2900 purpose of providing retirement benefits through retirement plans which are not qualified plans
2901 under section 401 of the Internal Revenue Code of the United States and for establishing
2902 employee welfare benefit plans, in this section called plans, for eligible employees of
2903 participating organizations. The benefit association, in its name and by or through its authorized
2904 officers, may (a) establish plans and related trusts for eligible members participating therein, (b)
2905 make agreements, establish trusts and make or cause to be made investments subject to such
2906 limitations as may from time to time be prescribed by law or by the by-laws of the benefit
2907 association, (c) sue and be sued, plead and be impleaded, (d) enforce liens and other obligations
2908 and foreclose mortgages held by the benefit association on or with respect to real or personal
2909 property situated in the commonwealth or in any state or territory of the United States, (e) adopt
2910 an official seal and alter the same at pleasure, and (f) do such other acts that may be necessary to
2911 carry out the powers conferred upon it by law and its by-laws.

2912 For the purposes of this section and sections 43 and 44, reference to “bank” and “banks”
2913 shall, unless the context otherwise requires, mean and include any or all member organizations
2914 and a reference to “trustees” of a bank shall, unless the context otherwise requires, mean and
2915 include the governing body of each of such organizations.

2916 Eligible employees may contribute a portion of their salaries or wages to or under plans
2917 established by the benefit association, to be deducted by the employing banks and paid to the
2918 benefit association. A participating bank may contribute to or under plans of the benefit
2919 association to the extent determined by its trustees. Contributions and benefits under the plans of
2920 the benefit association shall not exceed the limits, if any, imposed on such plans by the Internal
2921 Revenue Code of 1954, as amended, and the Employee Retirement Income Security Act of 1974,
2922 as amended, in this section called the Code and ERISA, respectively.

2923 All plans maintained by the benefit association shall conform to the Code and funds held
2924 under the plans of the benefit association shall be invested in such manner as the benefit
2925 association shall determine, consistent with the by-laws. Funds held under plans of the benefit
2926 association shall be held by or used by the benefit association for the exclusive purpose of
2927 providing plan benefits to eligible members and, as determined by the benefit association, may
2928 be used to defray reasonable expenses of administering the plans and investing the assets of the
2929 plans. To the extent that expenses necessary for the administration of the benefit association or
2930 the plans of the benefit association are not paid from the plans, they shall be paid by participating
2931 banks on a proportionate basis, as provided in the by-laws.

2932 A participating bank, by vote of its trustees, may adopt one or more of the plans of the
2933 benefit association for the benefit of its employees and their beneficiaries. Nothing in this section
2934 shall be construed so as to prevent any such bank from establishing its own employee welfare
2935 benefit plans or non-qualified retirement plan.

2936 Section 31. The trustees of the Savings Banks Employees Retirement Association, on the
2937 effective date of this section, shall prepare the by-laws of the benefit association and file the
2938 same with the commissioner. The said by-laws shall prescribe the manner in which, and the
2939 officers and agents by whom, the benefit association will be conducted and the manner in which
2940 its funds may be invested and paid out. They shall also provide that the said trustees of the
2941 Savings Banks Employees Retirement Association shall serve as the initial trustees of the benefit
2942 association and shall continue such service for the term prescribed in such by-laws and for the
2943 election of subsequent trustees. Such benefit association shall annually, within 6 months after the
2944 close of its fiscal year, report to the commissioner such statements of its membership and
2945 financial transactions as the commissioner may consider necessary to show its business and
2946 standing. The commissioner may verify such statement by an examination of the books and
2947 papers of the benefit association.

2948 The benefit association shall not be subject to chapter thirty-two or chapter one hundred
2949 and seventy-five or to such other provisions of law as relate to insurance companies or other
2950 benefit associations.

2951 Section 32. The property of the benefit association shall be exempt from taxation and
2952 from the operation of any law relating to insolvency, and shall not be attached or taken on
2953 execution or other process to satisfy any debt or liability of the benefit association, a
2954 participating bank, or any employee member of the benefit association. No assignment of any
2955 right in or to said funds or of any pension or annuity payable under section forty-two shall be
2956 valid, except that deferred annuity contracts purchased by a participating bank on account of past
2957 service of eligible employees may be assigned to such bank prior to actual retirement.

2958 Nothing in this section shall prevent an employee's annuity or pension from being
2959 attached, taken on execution, assigned, or subject to other process to satisfy a support order
2960 under chapter 208, 209, or 273.

2961 SECTION 49. The General Laws are hereby amended by striking out Chapter 170 as
2962 appearing in the 2010 Official Edition and inserting in place thereof the following Chapter
2963 172:—

2964 CHAPTER 170

2965 CO-OPERATIVE BANKS

2966 Section 1. The following words as used in this chapter, unless the context otherwise
2967 requires, shall have the following meanings:—

2968 "Board or board of bank incorporation", a board consisting of the commissioner of banks,
2969 the commissioner of revenue, and the commissioner.

2970 "Capital Stock", the sum of the par value of the preferred and common shares of capital
2971 stock, issued and outstanding.

2972 "Commissioner", the commissioner of banks.

2973 "Corporation" or "bank", a co-operative bank incorporated as such in this
2974 commonwealth.

2975 "Mutual bank", a co-operative bank incorporated as such in the commonwealth in mutual
2976 form.

2977 "Shareholder" or "member", a depositor or holder of any shares or accounts referred to in
2978 chapter 167D.

2979 “Shareholders’ meeting” or “meeting of shareholders”, any annual or special meeting of
2980 members of the corporation entitled to vote.

2981 “Stock bank”, a co-operative bank incorporated as such in the commonwealth in stock
2982 form which has been chartered or reorganized or converted to a stockholder form of corporation.

2983 “Surplus account”, an account so designated on the books of a stock co-operative bank
2984 and consisting of such amounts as shall be required by law or shall be transferred thereto by vote
2985 of the board of directors.

2986 Section 2. A co-operative bank shall have all the powers expressly granted by law and
2987 whatever further incidental powers may fairly be implied from those expressly conferred and
2988 such as are reasonably necessary to enable it to exercise fully those powers according to common
2989 or accepted banking customs and usages.

2990 Section 3. A corporation formed pursuant to section 2 may authorize, at a meeting duly
2991 called for the purpose, by vote of two-thirds of the shareholders present and voting a change of
2992 its corporate name. Within 60 days after any meeting at which such change has been authorized,
2993 articles of amendment, signed under the penalties of perjury by the executive officer and by the
2994 clerk, setting forth such change and the due adoption thereof, shall be delivered to the state
2995 secretary for filing.

2996 Section 4. A co-operative bank shall upon its incorporation have such capital structure as
2997 the board of bank incorporation shall deem adequate. Such capital structure may vary by the
2998 board based on the application and business plan submitted.

2999 Section 5. Fifteen or more individuals who associate themselves by a written agreement
3000 for the purpose of forming a co-operative bank may, upon compliance with sections 4 to 9,
3001 inclusive, become a corporation, with all the powers and privileges and subject to all the duties,
3002 restrictions and liabilities set forth in all laws relating to such corporations. The agreement of
3003 association shall specifically state:

3004 (a) That the subscribers thereto associate themselves with the intention of forming a
3005 corporation;

3006 (b) The name by which the corporation shall be known;

3007 (c) The location of the principal office of the corporation, which shall be within the
3008 commonwealth;

3009 (d) The purposes for which the corporation is formed and the nature of the business to be
3010 transacted;

3011 (e) The amount and classes of its capital stock, and the number of shares into which any
3012 class is to be divided; the amount of the surplus account and the amount of the undivided profits
3013 account for a stock bank, the amount of the surplus account for a co-operative bank; and

3014 (f) The name of each incorporator and his residence, post office address, and the number
3015 of shares of capital stock, if any, which he agrees to take, and the class or classes of such shares.

3016 Each incorporator shall subscribe his name to the agreement of association.

3017 Section 6. A notice of the intention of the subscribers to form such a co-operative bank
3018 shall be given to the board of bank incorporation. A notice in such form as said board shall
3019 approve, shall be published at least once a week, for 3 successive weeks, in 1 or more
3020 newspapers designated by the board, and published in the city or town in which it is proposed to
3021 establish the co-operative bank, or if there is no newspaper in such city or town, in a newspaper
3022 published in the city or town which is nearest to the proposed location. Such notice shall specify
3023 the names of the proposed incorporators, the name of the corporation and the location of the
3024 same. The subscribers to said agreement shall apply to the board for a certificate that public
3025 convenience and advantage will be promoted by the establishment of the co-operative bank.
3026 Such an application for a proposed co-operative bank shall be accompanied by an investigation
3027 fee, the amount of which shall be determined by the commissioner of administration under the
3028 provision of section 3B of chapter 7. In determining whether the public convenience and
3029 advantage will be promoted by the establishment of such co-operative bank, the board shall
3030 consider the adequacy of its capital structure, the general character of its management, the
3031 adequacy of banking facilities in the area, and the convenience and needs of the community to be
3032 served. The board may grant such certificate, which shall be deemed to be revoked if the
3033 applicants therefor do not become incorporated and begin business within 1 year after its date of
3034 issue. If the board refuses to issue such certificate, no further proceeding may be taken by the
3035 applicant during the year next following the date of such refusal except with the approval of the
3036 board, but the applicant may renew his application as of right after 1 year from the date of such
3037 refusal, and he may dispense with further notice or publication unless the board orders such
3038 notice or publication.

3039 Section 7. The first meeting of the incorporators shall be called by a notice signed either
3040 by that incorporator who is designated in the agreement for the purpose, or by a majority of the
3041 incorporators, and such notice shall state the time, place and purposes of the meeting. A copy of
3042 the notice shall, at least 7 days before the day appointed for the meeting, be given to each
3043 incorporator or left at his residence or usual place of business, or deposited in the post office,
3044 postage prepaid, and addressed to him at his residence or usual place of business, and another
3045 copy thereof and an affidavit of one of the signers that the notice has been duly served shall be
3046 recorded with the records of the corporation. If all the incorporators shall, in writing endorsed
3047 upon the agreement of association, waive such notice and fix the time and place of the meeting,
3048 no notice shall be required. At the first meeting, or at any adjournment thereof, the incorporators

3049 shall elect by ballot a temporary clerk who shall be sworn, adopt by-laws and in such manner as
3050 the by-laws may determine, elect directors, a clerk or secretary, and such other officers as the
3051 by-laws may prescribe. The temporary clerk shall make and attest a record of the proceedings
3052 until the clerk or secretary has been chosen and sworn, including a record of such choice and
3053 qualification.

3054 Section 8. The president, clerk or secretary and a majority of the directors, as applicable,
3055 elected at such first meeting shall make and sign under penalties of perjury articles of
3056 organization in duplicate, setting forth—

3057 (a) A true copy of the agreement of association, the names of the subscribers thereto, and
3058 the name, residence and post office address of each of the officers and directors as applicable of
3059 the company;

3060 (b) The date of the first meeting and the successive adjournments thereof, if any.

3061 One duplicate original of the articles so signed shall be submitted to the commissioner,
3062 and the other, together with the records of the proposed corporation, to the state secretary, who
3063 shall examine the same, and who may require such amendment thereof or such additional
3064 information as he may consider necessary. If the commissioner finds that the articles conform to
3065 the 4 preceding sections relative to the organization of the corporation and that section 6 has
3066 been complied with, he shall so certify and endorse his approval thereon. The articles shall be
3067 filed within 30 days thereafter in the office of the state secretary, who, upon receipt of a fee, the
3068 amount of which shall be determined annually by the commissioner of administration under the
3069 provision of section 3 B of chapter 7, the state secretary shall issue a certificate of incorporation
3070 in the following form:

3071 COMMONWEALTH OF MASSACHUSETTS

3072 Be it known that whereas (the names of the subscribers to the agreement of association)
3073 have associated themselves with the intention of forming a corporation under the name of (the
3074 name of the corporation), for the purpose (the purpose declared in the agreement of association),
3075 with a capital stock or surplus, as applicable, of (the amount fixed in the agreement of
3076 association), and have complied with the statutes of the commonwealth in such case made and
3077 provided, as appears from the articles of organization of said corporation, duly approved by the
3078 state secretary and recorded in this office: Now, therefore, I (the name of the state secretary),
3079 secretary of the commonwealth of Massachusetts, do hereby certify that said (the names of the
3080 subscribers to the agreement of association), their associates and successors, are legally
3081 organized and established as, and are hereby made, an existing corporation under the name of
3082 (name of the corporation), with the powers, rights and privileges, and subject to the limitations,
3083 duties and restrictions, which by the law appertain thereto.

3084 Witness my official signature hereunto subscribed and the great seal of the
3085 commonwealth of Massachusetts hereunto affixed, this day of in the year (the date of the filing
3086 of the articles of organization).

3087 The state secretary shall sign the certificate of incorporation and cause the great seal of
3088 the commonwealth to be thereto affixed, and such certificate shall have the force and effect of a
3089 special charter. The existence of every such corporation shall begin upon the filing of the articles
3090 of organization in the office of the state secretary. He shall also cause a record of the certificate
3091 of incorporation to be made, and such certificate, or such record, or a certified copy thereof, shall
3092 be conclusive evidence of the existence of such corporation.

3093 A bank may amend its articles of organization if approved by its board and submitted to
3094 and approved by the bank's governing body except as provided in sections 10.05, 10.07 and
3095 14.34 of chapter 156D. After approval by the board and governing body, the amendment shall be
3096 submitted to the commissioner for his endorsement thereon before delivering the amendment to
3097 the secretary of state for filing.

3098 Section 9. When all the capital stock has been issued for a stock bank, a list of the
3099 stockholders, with the name, residence and post office address of each, and the number of shares
3100 in each class held by each stockholder, shall be filed with the board of bank incorporation, which
3101 list shall be verified by the clerk of the corporation. Upon receipt of such list the board shall
3102 cause an examination to be made of the method of payment of the capital stock, or the surplus
3103 account if a mutual bank of the personnel of the corporation, including the officers and directors
3104 or trustees thereof, and if, after such examination, it appears that the whole capital stock, surplus
3105 account and undivided profits account for a stock bank or surplus account for a mutual bank have
3106 been paid in cash, that all requirements of law have been complied with, that the bank is a
3107 member of the Federal Deposit Insurance Corporation, and that the qualifications of the
3108 personnel are satisfactory, the board shall, if satisfied that the public convenience and advantage
3109 will be promoted thereby, issue a certificate authorizing such corporation to begin the transaction
3110 of business. No such corporation shall begin the transaction of business until such a certificate
3111 has been granted.

3112 Section 10. A mutual bank shall be subject to sections 11 to 15, inclusive and a stock
3113 bank shall be subject to sections 16 to 21 inclusive. Section 21 shall apply to both a mutual and a
3114 stock bank.

3115 Section 11. The shareholders of a mutual bank shall make and adopt the necessary by-
3116 laws consistent with law for the government of its affairs. The by-laws may provide for matters
3117 relative to the business and affairs of the corporation as appropriate to exercise all powers
3118 necessary, convenient or incidental to the purposes for which the corporation was formed.

3119 The clerk of the corporation shall give notice of all regular and special meetings of the
3120 shareholders by publishing notice thereof, at least 7 days before the meeting, in one or more

3121 newspapers published in the city or town wherein the main office of the corporation is situated
3122 or, if there is no newspaper published therein, then in a newspaper published in a nearby city or
3123 town in the same county; and for this purpose a newspaper which by its title page purports to be
3124 printed or published in such city, town or county and which has a circulation therein, shall be
3125 deemed to have been published therein. Such notice shall state the day, hour and place of the
3126 meeting and shall contain a brief statement of the nature of the business to be acted upon, except
3127 as may be provided in the by-laws with respect to the removal of officers and directors.

3128 The board of directors shall meet at intervals of not more than 2 months; provided
3129 however, that upon application in writing by the corporation, the commissioner may waive or
3130 modify this requirement. Unless the articles of incorporation, the by-laws or a resolution of the
3131 board otherwise provide, members of the board of directors or any committee designated thereby
3132 may participate in a meeting of such board or committee by means of a conference telephone or
3133 similar communications equipment by means of which all persons participating in the meeting
3134 may simultaneously hear each other, and participation by such means shall constitute presence in
3135 person at a meeting. Members may transmit any written authorizations that may be required
3136 during the meeting by electronic facsimile or other commercially acceptable transmission.

3137 Section 12. Each person who is recorded on the books of the corporation as the holder of
3138 one or more shares or accounts referred to in chapter 167D shall be deemed a member and
3139 shareholder of and depositor in the corporation.

3140 Each member shall be entitled to 1 vote at all shareholders' meetings, subject to the
3141 limitations contained in this section and such limitations, if any, as may be contained in the by-
3142 laws.

3143 At any meeting, no person who votes in 1 capacity shall be entitled to vote in any other
3144 capacity. A co-owner of any shares or accounts who does not vote in any other capacity may
3145 vote as the representative of the co-owners. A corporate fiduciary or other corporation or a
3146 partnership or association may vote by a person duly authorized, if such person does not
3147 otherwise vote, but a fiduciary, whether individual, corporate or otherwise, may vote on behalf of
3148 one trust or estate only. No person shall be entitled to vote either as a member or in any
3149 representative capacity unless such person shall have attained the age of 18 years. No person
3150 shall vote by proxy except as otherwise may be expressly authorized by law.

3151 Section 13. The business and affairs of every such corporation shall be managed by a
3152 board of not less than 5 and, except as otherwise provided by law, not more than 15 directors.
3153 The shareholders shall elect the directors, each of whom shall be a citizen of the United States
3154 and at least a majority of whom shall be citizens of the commonwealth and residents therein.
3155 Directors shall be divided into three classes as nearly equal in number as possible, and one of
3156 such classes shall be elected annually for a term of three years; provided, that during the
3157 minimum time necessary to accomplish the foregoing, one of said classes may be elected for a

3158 term of 1 year and one for a term of 2 years. All vacancies in the board or in any office may be
3159 filled by the board of directors for the unexpired term. A number of directors, not exceeding
3160 two, may be elected by vote of a majority of the directors then in office if the by-laws so
3161 proscribe. The directors may employ such additional assistance and appoint or constitute such
3162 committees and advisory directors as they may deem necessary and determine the reasonable
3163 compensation therefor. The directors may authorize the continuance as honorary directors of
3164 those persons who shall have served as directors for ten years or more and such honorary
3165 directors may be designated by the directors for an indefinite term and shall not be included in
3166 determining the minimum number of directors or the number of directors to be elected annually
3167 as provided herein. No such honorary director shall be deemed to be an officer or member of the
3168 board of directors of such corporation, nor shall he receive compensation or be required to attend
3169 meetings or be authorized or required to perform any duties. Except as otherwise provided in the
3170 by-laws, the directors may delegate to any officers, assistants and employees such functions,
3171 powers and authority as the directors deem advisable.

3172 The clerk of the corporation shall be chosen by the shareholders, and the president, vice
3173 president, treasurer, assistant treasurers, if any, and other officers whose election is not otherwise
3174 herein expressly provided for, shall be chosen by the board of directors.

3175 All directors and other officers shall be elected by ballot and shall be shareholders when
3176 nominated and elected. Each officer when appointed or elected shall take an oath that he will
3177 faithfully and impartially discharge the duties devolving upon him, and the fact that the oath has
3178 been taken shall be entered in the records of the corporation; and if a person appointed or elected
3179 does not, within 30 days thereafter, take the oath, his office shall thereupon become vacant. All
3180 officers shall continue to hold their offices until their successors shall have been chosen and
3181 qualified.

3182 If an officer ceases to be a shareholder, his office may be declared vacant by the board of
3183 directors. If a director fails both to attend the regular meetings of the board and to perform any of
3184 the duties devolving upon him as such director for 6 consecutive months, his office may be
3185 declared to be vacant by the board at the next regular meeting and if he so fails for 12
3186 consecutive months, his office shall be declared to be vacant by the board at the next regular
3187 meeting. A record of any vacancy shall be entered upon the books of the corporation, and a
3188 transcript shall be sent by mail to the person whose office has been made vacant.

3189 The office of any director who seeks, or against whom, an order of relief is entered in a
3190 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
3191 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
3192 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
3193 director whose office is so vacated shall again be eligible to serve as a trustee or director upon
3194 the receipt of a discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all
3195 payments required pursuant to a plan of reorganization under Chapter 11 thereof; the completion

3196 of all payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said
3197 judgment.

3198 The records of all meetings of the corporation shall be read at such meetings by a
3199 shareholder other than the clerk and the records of all meetings of the board of directors shall be
3200 read at such meetings by a director.

3201 Section 14. At the first meeting of the board of directors, after the annual meeting of
3202 shareholders, the board shall elect from its own members a security committee of at least 3
3203 members, at least 2 of whom shall report upon all real estate offered as security for loans made
3204 by the corporation, after having examined such real estate or after it shall have been examined by
3205 1 or more appraisers considered to be qualified by the directors and appointed by them for that
3206 purpose. In no case, however, shall any member of the security committee or any appraiser make
3207 an official report upon property offered as security for a loan if he has a personal interest in the
3208 property or in the proposed loan.

3209 The security committee shall perform other duties as may be required by law, and
3210 exercise other powers as delegated to it by the board of directors. At each meeting of the board
3211 of directors, the security committee or an officer designated by it shall submit a report to the
3212 board of directors.

3213 At the first meeting of the board of directors after the annual meeting of a mutual bank,
3214 the board shall elect an audit committee of not less than 3 directors who shall not be operating
3215 officers or members of the security committee. The members of the audit committee shall take an
3216 oath of office in the manner and within the period prescribed by section 9 and a record thereof
3217 shall be made and preserved as provided in said section 9. The directors shall determine the
3218 compensation, if any, to be paid to the members of the security committee and the audit
3219 committee.

3220 Section 15. The treasurer shall keep the financial accounts and have charge of all books
3221 and papers necessary therefor, and dispose of and secure the safekeeping of all money, securities
3222 and property of the corporation, in the manner and subject to the limitations from time to time
3223 designated by the board of directors, subject to applicable provisions of law.

3224 Such corporation may provide in its by-laws for assistant treasurers. An assistant
3225 treasurer may perform all the duties of the treasurer.

3226 Section 16. Such corporation may adopt by-laws for the proper management of its affairs
3227 and as appropriate to exercise all powers necessary, convenient or incidental to the purposes for
3228 which the corporation was formed. It may also establish regulations controlling the assignment
3229 and transfer of its shares. A majority in interest of the stockholders entitled to vote shall
3230 constitute a quorum at any meeting unless the by-laws require more than a majority.

3231 Section 17. Stockholders entitled to vote may vote in person or by proxy. No proxy dated
3232 more than six months before the date of the meeting named therein shall be valid, and no proxy
3233 shall be valid after the final adjournment of such meeting. A proxy with respect to stock held in
3234 the name of 2 or more persons shall be valid if executed by any 1 of them unless at or prior to the
3235 exercise of the proxy such corporation receives a specific written notice to the contrary from any
3236 1 of them. A proxy purporting to be executed by or on behalf of a stockholder shall be deemed
3237 valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest
3238 on the challenger. Except as otherwise provided in the articles of organization or by-laws of the
3239 corporation, special meetings of the stockholders may be called pursuant to the provisions of
3240 section 7.02 of chapter 156D.

3241 Section 18. The business of such corporation shall be managed by a board of not less than
3242 7 nor more than 25 directors. A majority of the directors shall be citizens of the commonwealth
3243 and resident therein. The directors shall be elected, in such manner as is provided in the by-laws,
3244 by the stockholders at their annual meeting or at a special meeting called for the purpose;
3245 provided, however, that if the by-laws so prescribe, a number of directors, not exceeding 2, may
3246 be elected by vote of a majority of the directors then in office. The directors shall hold office for
3247 such term, not exceeding three years, as is provided in the by-laws and until their successors are
3248 selected and have qualified. A director shall be eligible for reelection. Any vacancy in the board
3249 may be filled by appointment by the remaining directors and any director so appointed shall hold
3250 his office until the next election.

3251 A director of a stock bank shall own, in his own right and free of any lien or
3252 encumbrance, common stock, either of such corporation or of a company owning 75 per cent or
3253 more of the stock of such corporation, having a par value, or a fair market value on the date the
3254 person became a director, of not less than $1,000. Any director who ceases to be the owner of the
3255 required number of shares of stock shall vacate his office forthwith. Each director, when
3256 appointed or elected, shall take an oath that he will faithfully perform the duties of his office and
3257 that he is the owner, in his own right and free of any lien or encumbrance, of the amount of stock
3258 required by this section. The oath shall be taken before a notary public or justice of the peace,
3259 and a record of the oath shall be made a part of the records of such corporation.

3260 The office of any director who seeks, or against whom, an order of relief is entered in a
3261 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
3262 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
3263 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
3264 director whose office is so vacated shall again be eligible to serve as or director upon the receipt
3265 of a discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all payments
3266 required pursuant to a plan of reorganization under Chapter 11 thereof; the completion of all
3267 payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said
3268 judgment.

3269 In determining what he or she reasonably believes to be in the best interests of such
3270 corporation, in considering proposed business combinations, as defined in paragraph (c) of
3271 section three of chapter 110F, a director may consider the interests of the corporation's
3272 employees, suppliers, creditors and customers; the economy of the state, region and nation,
3273 community and societal considerations, and the long-term and short-term interests of the
3274 corporation and its stockholders, including the possibility that these interests may be best served
3275 by the continued independence of the corporation.

3276 Each such corporation shall have an executive committee of not less than 3 members,
3277 who shall be elected by and from the directors and shall hold office during their pleasure. An
3278 executive committee may take any action that could be taken by the board of directors except
3279 that an executive committee may not: (1) authorize dividends or other distributions to
3280 shareholders; (2) approve or propose to the corporation's shareholders actions that require the
3281 approval of the corporation's shareholders; (3) change the number of members of the board of
3282 directors, remove directors from office or fill vacancies on the board of directors; (4) amend the
3283 corporation's articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6)
3284 authorize or approve reacquisition of shares of capital stock, except according to a formula or
3285 method prescribed by the board of directors; (7) take any action specifically required by law or
3286 regulation to be taken by the entire board of directors, or (8) approve a transaction described in
3287 section 8 of chapter 167I.

3288 Section 19. The clerk or secretary shall be elected by the stockholders at their annual
3289 meeting or at a special meeting duly called for the purpose.

3290 The president shall be elected by and from the board of directors and shall be chairman
3291 thereof unless the board designates a director in lieu of the president to be chairman. The
3292 directors shall elect the president, the vice president(s), treasurer and any other officers. The
3293 president as may be permitted by law or by-law may select other officers. The officers elected by
3294 the board shall hold their respective offices during the pleasure of the directors. The directors
3295 may fill a vacancy in the office of clerk or secretary until the next meeting of the stockholders.

3296 Section 20. The following provisions shall apply to meetings of the board and its
3297 committees for both a savings bank in mutual form or in stock form.

3298 (a) Unless the articles of organization or bylaws provide that action required or permitted
3299 by this chapter or other provisions of the General Laws to be taken by the directors may be taken
3300 only at a meeting, the action may be taken without a meeting if the action is taken by the
3301 unanimous consent of the members of the board of directors. The action must be evidenced by 1
3302 or more consents describing the action taken, in writing, signed by each director, or delivered to
3303 the corporation by electronic transmission, to the address specified by the corporation for the
3304 purpose or, if no address has been specified, to the principal office of the corporation, addressed
3305 to the secretary or other officer or agent having custody of the records of proceedings of

3306 directors, and included in the minutes or filed with the corporate records reflecting the action
3307 taken.

3308 (b) Action taken under this section is effective when the last director signs or delivers the
3309 consent, unless the consent specifies a different effective date.

3310 (c) A consent signed or delivered under this section has the effect of a meeting vote and
3311 may be described as such in any document.

3312 (d) The provisions of this section shall also apply to committees of the board and the
3313 members thereof.

3314 Section 21. Fifteen or more cooperative banks may form the Cooperative Banks
3315 Employees Retirement Association, in this section and in sections 22 and 23 called the
3316 retirement association, for the purpose of providing retirement benefits services through
3317 retirement plans which are qualified under Section 401 of the Internal Revenue Code, in this
3318 section called plans, to employees and customers of members of the association, as hereinafter
3319 provided. The retirement association, in its name and by and through its authorized officers, may
3320 (a) establish plans and related trusts for its members, (b) make agreements and investments
3321 subject to such limitations as from time to time may be prescribed by law or the by-laws of the
3322 retirement association, (c) establish divisions, departments and other operating units within the
3323 retirement association, and provide the same with appropriate names or other identifications, to
3324 assist the retirement association in carrying out the powers conferred upon it by law and its by-
3325 laws, (d) sue and be sued, plead and be impleaded, (e) enforce liens and other obligations and
3326 foreclose mortgages held by the retirement association on or with respect to real or personal
3327 property situated in the commonwealth or in any state or territory of the United States, (f) adopt
3328 an official seal and alter the same at pleasure, and (g) do such other acts and things as may be
3329 necessary to carry out the powers conferred upon it by law and its by-laws.

3330 Any bank or credit union chartered by the commonwealth, any such bank or credit union
3331 which has converted to federal charter and has its main office located in the commonwealth, any
3332 bank or credit union chartered by the federal government, by a state of the United States other
3333 than the commonwealth or by the District of Columbia and which has its main office or a branch
3334 office located in the commonwealth, the Massachusetts Bankers Association and its successors
3335 and any bank which is a voting member thereof, the Cooperative Banks Employees Retirement
3336 Association, the Cooperative Central Bank, and such other banking institutions with their main
3337 office or any branch office located in the commonwealth, as may from time to time be provided
3338 for in the by-laws of the association, and the respective employees of each of the foregoing, shall
3339 be eligible for membership in the association; but, no bank that was eligible to be a member of
3340 the association before January 1, 2004, shall be eligible to become a member of the Savings
3341 Banks Employees Retirement Association or the Credit Union Employees Retirement
3342 Association, unless and until the Savings Banks Employees Retirement Association and the

3343 Credit Union Employees Retirement Association permits a member to transfer from any or all of
3344 the qualified plans provided by said association, assets and liabilities, attributed to the member's
3345 employees, to 1 or more qualified plans not provided by said association. For the purposes of this
3346 section, and sections 22 and 23, a reference to "bank" or "banks" shall, unless the context
3347 otherwise requires, mean and include any or all of the organizations named or referred to in this
3348 paragraph, reference to "board of directors" of a bank shall also, unless the context otherwise
3349 requires, mean and include the governing body of such organizations, and reference to
3350 "customer" shall mean any person or business who has established a contractual relationship for
3351 banking business purposes with any banking institution located in the commonwealth which is a
3352 member of the association.

3353 Eligible employees may contribute a portion of their salaries and wages to or under plans
3354 established by the retirement association, to be deducted by the employing banks and paid to the
3355 plans or the retirement association. A participating bank may contribute to or under plans of the
3356 retirement association to the extent determined by its board of trustees. Contributions and
3357 benefits under the plans of the retirement association shall not exceed the limits, if any, imposed
3358 on such plans by the Internal Revenue Code of 1954 and the Employees Retirement Income
3359 Security Act of 1974, in this section called the Code and ERISA, respectively.

3360 If the commissioner finds that the continuation of contributions by a participating bank
3361 subject to his authority may affect its safety and soundness, including reducing its risk-based
3362 capital ratio below any prescribed regulatory level, said commissioner may order the bank to (a)
3363 freeze its benefits and cease further funding for future benefit accruals under any plans qualified
3364 under section 401 of the federal Internal Revenue Code; (b) revise its benefits for future service
3365 under any such plans so that contributions on account of any employee will be limited to an
3366 appropriate percentage of compensation; or (c) terminate its participation in any such plans.

3367 All plans maintained by the retirement association shall conform to the Code and ERISA
3368 and funds held under any such plans shall be invested in a manner as the retirement association
3369 shall determine. Copies of all plans shall be filed with the commissioner. Funds held under any
3370 of said plans shall be held by or used by the retirement association to the extent required by the
3371 Code and ERISA for the exclusive purpose of providing plan benefits to participating members;
3372 but, to the extent permitted by law, funds of the plans may be used to defray reasonable expenses
3373 of administering the retirement association and the plans, and expenses of investing the assets of
3374 the plans may be charged against the funds of the plans. To the extent that expenses necessary
3375 for the administration of the retirement association or the said plans are not paid from the plans,
3376 they shall be paid by participating banks on a proportionate basis, as provided in the by-laws of
3377 the retirement association. The association shall annually provide to each member a report of
3378 assets and liabilities attributable to its participants in any or all qualified plans adopted by a
3379 member.

3380 A participating bank, by vote of its board of directors, and a customer may adopt 1 or
3381 more of the plans of the retirement association for the benefit of its employees. Any bank which
3382 has adopted a plan of the retirement association for its employees may, if it is otherwise eligible,
3383 also establish an employee stock ownership plan.

3384 A bank, by vote of its board of directors, may directly or indirectly by means of a
3385 contribution to 1 or more of the trust funds held by the trustees of the retirement association
3386 supplement the retirement benefits being paid to its former employees or their beneficiaries on
3387 account of bank service; but, no supplement of a retirement benefit shall exceed the retirement
3388 benefit multiplied by the increase in the cost of living since the retirement began. The increase in
3389 the cost of living is the percentage by which the national monthly consumer price index for all
3390 urban consumers issued by the bureau of labor statistics of the United States Department of
3391 Labor for the last November before the year in which payment is made is greater than the
3392 beginning index figure. The beginning index figure is the average of such monthly consumer
3393 price index figures for the year in which a retirement benefit was first paid to or with respect to a
3394 former employee. Except with respect to supplements first voted by a financial institution's
3395 governing board on or after January 1, 1981, and which are paid through 1 or more of the trust
3396 funds held by the trustees of the retirement association, no employing unit may become obligated
3397 to pay in future years any supplement authorized by this paragraph.

3398 Membership in the association is voluntary and any bank may establish or provide
3399 qualified retirement plans for its employees independent of the association; but, nothing
3400 contained herein shall be construed as requiring any bank to provide qualified retirement plans to
3401 its employees.

3402 Section 22. The by-laws of the retirement association, and any amendments thereto, shall
3403 be submitted to the commissioner and shall prescribe the manner in which, and the officers and
3404 agents by whom, the retirement association may be conducted and the manner in which its funds
3405 may be invested and paid out. Such retirement association shall be formed when its by-laws have
3406 been approved and agreed to by a majority of the trustees of each of 15 or more cooperative
3407 banks and have been approved by the commissioner. The association shall annually, on or before
3408 August 1 report to the commissioner such statements of its membership and financial
3409 transactions for the year ending on the preceding December 31st as the commissioner may
3410 consider necessary to show its business and standing. The commissioner may verify such
3411 statement by an examination of the books and papers of the retirement association. The
3412 retirement association shall not be subject to chapter 32 or chapter 175 or other laws as relate to
3413 insurance companies or other retirement associations.

3414 Section 23. The property of the retirement association, the portion of the wages or salary
3415 of any employee deducted or to be deducted under sections 30 and 31, the right of an employee
3416 to an annuity or pension, and all his rights in the funds of the retirement association, shall be
3417 exempt from taxation and from the operation of any law relating to insolvency, and shall not be

3418 attached or taken on execution or other process to satisfy any debt or liability of the retirement
3419 association, a participating bank, or any employee member of the retirement association. No
3420 assignment of any right in or to said funds or of any pension or annuity payable under section
3421 thirty shall be valid, except that deferred annuity contracts purchased by a participating bank on
3422 account of past service of eligible employees may be assigned to such bank prior to actual
3423 retirement.

3424 Nothing in this section shall prevent an employee's annuity or pension from being
3425 attached, taken on execution, assigned, or subject to other process to satisfy a support order
3426 under chapter 208, 209, or 273.

3427 Section 24. The participating members of the Co-operative Banks Employees Retirement
3428 Association, established by section thirty, shall constitute as the Co-operative Banks Employees
3429 Benefit Association, in this section and in sections thirty-four and thirty-five called the benefit
3430 association, for the purpose of providing retirement benefits through retirement plans which are
3431 not qualified plans under Section 401 of the Internal Revenue Code of the United States and for
3432 establishing employee welfare benefit plans, in this section called plans, for eligible employees
3433 of participating organizations. The benefit association, in its name and by or through its
3434 authorized officers, may (a) establish plans and related trusts for eligible members participating
3435 therein, (b) make agreements, establish trusts and make or cause to be made investments subject
3436 to such limitations as may from time to time be prescribed by law or by the by-laws of the
3437 benefit association, (c) sue and be sued, plead and be impleaded, (d) enforce liens and other
3438 obligations and foreclose mortgages held by the benefit association on or with respect to real or
3439 personal property situated in the commonwealth or in any state or territory of the United States,
3440 (e) adopt an official seal and alter the same at pleasure, and (f) do such other acts that may be
3441 necessary to carry out the powers conferred upon it by law and its by-laws.

3442 For the purposes of this section and sections 22 and 23, reference to "bank" and "banks"
3443 shall, unless the context otherwise requires, mean and include any or all member organizations
3444 and a reference to "directors" of a bank shall, unless the context otherwise requires, mean and
3445 include the governing body of each of such organizations.

3446 Eligible employees may contribute a portion of their salaries or wages to or under plans
3447 established by the benefit association, to be deducted by the employing banks and paid to the
3448 benefit association. A participating bank may contribute to or under plans of the benefit
3449 association to the extent determined by its directors. Contributions and benefits under the plans
3450 of the benefit association shall not exceed the limits, if any, imposed on such plans by the
3451 Internal Revenue Code of 1986 as amended, and the Employee Retirement Income Security Act
3452 of 1974, as amended, in this section called the Code and ERISA, respectively.

3453 All plans maintained by the benefit association shall conform to the Code and funds held
3454 under the plans of the benefit association shall be invested in such manner as the benefit

3455 association shall determine, consistent with the by-laws. Funds held under plans of the benefit
3456 association shall be held by or used by the benefit association for the exclusive purpose of
3457 providing plan benefits to eligible members and, as determined by the benefit association, may
3458 be used to defray reasonable expenses of administering the plans and investing the assets of the
3459 plans. To the extent that expenses necessary for the administration of the benefit association or
3460 the plans of the benefit association are not paid from the plans, they shall be paid by participating
3461 banks on a proportionate basis, as provided in the by-laws.

3462 A participating bank, by vote of its directors may adopt one or more of the plans of the
3463 benefit association for the benefit of its employees and their beneficiaries.

3464 Nothing in this section shall be construed so as to prevent any such bank from
3465 establishing its own employee welfare benefit plans or non-qualified retirement plan.

3466 Section 25. The trustees of the Co-operative Banks Employees Retirement Association
3467 shall prepare the by-laws of the benefit association and file the same with the commissioner. Said
3468 by-laws shall prescribe the manner in which, and the officers and agents by whom, the benefit
3469 association will be conducted and the manner in which its funds may be invested and paid out.
3470 They shall also provide that the said trustees of the Co-operative Banks Employees Retirement
3471 Association shall serve as the initial trustees of the benefit association and shall continue such
3472 service for the term prescribed in such by-laws and for the election of subsequent trustees.

3473 Such benefit association shall annually, within 6 months after the close of its fiscal year,
3474 report to the commissioner such statements of its membership and financial transactions as the
3475 commissioner may consider necessary to show its business and standing. The commissioner may
3476 verify such statement by an examination of the books and papers of the benefit association.

3477 The benefit association shall not be subject to chapter thirty-two or chapter one hundred
3478 and seventy-five or to such other provisions of law as relate to insurance companies or other
3479 benefit associations.

3480 Section 26. The property of the benefit association shall be exempt from taxation and
3481 from the operation of any law relating to insolvency, and shall not be attached or taken on
3482 execution or other process to satisfy any debt or liability of the benefit association, a
3483 participating bank, or any employee member of the benefit association. No assignment of any
3484 right in or to said funds or of any pension or annuity payable under section 33 shall be valid,
3485 except that deferred annuity contracts purchased by a participating bank on account of past
3486 service of eligible employees may be assigned to such bank prior to actual retirement.

3487 Nothing in this section shall prevent an employee's annuity or pension from being
3488 attached, taken on execution, assigned, or subject to other process to satisfy a support order
3489 under 208, 209, or 273.

3490 SECTION 50. Chapter 171 of the General Laws is hereby amended by striking out
3491 sections 78A and 78B as appearing in the 2010 Official Edition and inserting in place thereof the
3492 following section:—

3493 Section 78A. Any one or more credit unions may merge or consolidate with one or more
3494 savings banks as defined in section 1 of chapter 168 or one or more co-operative banks as
3495 defined in section 1 of chapter 170 or one or more subsidiary banking institutions as defined in
3496 section 1 of chapter 168H and section 4 of chapter 167I.

3497 SECTION 51. The General Laws are hereby amended by striking out Chapter 172 as
3498 appearing in the 2010 Official Edition and inserting in place thereof the following Chapter
3499 172:—

3500 CHAPTER 172

3501 TRUST COMPANIES

3502 Section 1. Wherever used in this chapter, unless the context otherwise requires, the
3503 following words shall have the following meanings:—

3504 "Board" or "board of bank incorporation", a board consisting of the commissioner of
3505 banks, the commissioner of revenue, and the state treasurer.

3506 "Capital stock", the sum of the par value of the preferred and common shares of capital
3507 stock, issued and outstanding.

3508 "Commissioner", the commissioner of banks.

3509 "Common stock", the shares of capital stock of a trust company, other than preferred
3510 stock..

3511 "Incorporators", subscribers to the agreement of association for the purpose of forming a
3512 trust company under the provisions of this chapter.

3513 "Officer", any individual designated as such in accordance with the by-laws including,
3514 whether or not so designated, the president, vice-president, treasurer, and the clerk or secretary,
3515 or any individual who performs the duties appropriate to those offices.

3516 "Stockholder", a registered owner of shares of capital stock of a trust company.

3517 "Surplus account", an account so designated on the books of a trust company and
3518 consisting of such amounts as shall be required by law or shall be transferred thereto by vote of
3519 the board of directors.

3520 "Trust company" or "such corporation", a trust company incorporated as such in the
3521 commonwealth.

3522 Section 2. A trust company shall have all the powers expressly granted by law and
3523 whatever further incidental powers may fairly be implied from those expressly conferred and
3524 such as are reasonably necessary to enable it to exercise fully those powers according to common
3525 or accepted banking customs and usages.

3526 Section 3. No person, other than a trust company, shall use the words "trust company",
3527 even though said words may be separated by one or more other words, as part of his or its name
3528 or in any representation describing his or its business, powers, services or functions. Any person
3529 who violates this section shall be punished by a fine of $100 for each day during which such
3530 violation continues.

3531 Section 4. A trust company shall upon its incorporation have such capital structure as the
3532 board of bank incorporation shall deem adequate. Such capital structure may vary by the board
3533 based on the application and business plan submitted.

3534 Section 5. Fifteen or more individuals who associate themselves by a written agreement
3535 for the purpose of forming a trust company may, upon compliance with sections 4 to 9,
3536 inclusive, become a corporation, with all the powers and privileges and subject to all the duties,
3537 restrictions and liabilities set forth in all general laws relating to such corporations. The
3538 agreement of association shall specifically state:

3539 (a) That the subscribers thereto associate themselves with the intention of forming a
3540 corporation;

3541 (b) The name by which the corporation shall be known;

3542 (c) The location of the principal office of the corporation, which shall be within the
3543 commonwealth;

3544 (d) The purposes for which the corporation is formed and the nature of the business to be
3545 transacted;

3546 (e) The amount and classes of its capital stock, and the number of shares into which any
3547 class is to be divided;

3548 (f) the amount of the surplus account;

3549 (g) the amount of the undivided profits account; and

3550 (h) the name of each incorporator and his residence, post office address, and the number
3551 of shares of capital stock, if any, which he agrees to take and the class or classes of such shares.

3552 Each incorporator shall subscribe his name to the agreement of association.

3553 Section 6. A notice of the intention of the subscribers to form such a trust company shall
3554 be given to the board of bank incorporation.

3555 A notice in such form as said board shall approve, shall be published at least once a
3556 week, for 3 successive weeks, in 1 or more newspapers designated by the board, and published in
3557 the city or town in which it is proposed to establish the trust company, or if there is no newspaper
3558 in such city or town, in a newspaper published in the city or town which is nearest to the
3559 proposed location. Such notice shall specify the names of the proposed incorporators, the name
3560 of the corporation and the location of the same. The subscribers to said agreement shall apply to
3561 the board for a certificate that public convenience and advantage will be promoted by the
3562 establishment of such trust company. Such an application for a proposed trust company shall be
3563 accompanied by an investigation fee, the amount of which shall be determined by the
3564 commissioner of administration under the provision of section 3B of chapter 7. In determining
3565 whether the public convenience and advantage will be promoted by the establishment of such
3566 trust company, the board shall consider the adequacy of its capital structure, the general character
3567 of its management, the adequacy of banking facilities in the area, and the convenience and needs
3568 of the community to be served. The board may grant such certificate, which shall be deemed to
3569 be revoked if the applicants therefor do not become incorporated and begin business within one
3570 year after its date of issue. If the board refuses to issue such certificate, no further proceeding
3571 may be taken by the applicant during the year next following the date of such refusal except with
3572 the approval of the board, but the applicant may renew his application as of right after 1 year
3573 from the date of such refusal, and he may dispense with further notice or publication unless the
3574 board orders such notice or publication.

3575 Section 7. The first meeting of the incorporators shall be called by a notice signed either
3576 by that incorporator who is designated in the agreement for the purpose, or by a majority of the
3577 incorporators, and such notice shall state the time, place and purposes of the meeting. A copy of
3578 the notice shall, at least 7 days before the day appointed for the meeting, be given to each
3579 incorporator or left at his residence or usual place of business, or deposited in the post office,
3580 postage prepaid, and addressed to him at his residence or usual place of business, and another
3581 copy thereof and an affidavit of 1 of the signers that the notice has been duly served shall be
3582 recorded with the records of the corporation. If all the incorporators shall, in writing endorsed
3583 upon the agreement of association, waive such notice and fix the time and place of the meeting,
3584 no notice shall be required. At such first meeting, or at any adjournment thereof, the
3585 incorporators shall organize by the choice by ballot of a temporary clerk who shall be sworn, by
3586 the adoption of by-laws and by the election in such manner as the by-laws may determine, of
3587 directors, a clerk or secretary, and such other officers as the by-laws may prescribe. The
3588 temporary clerk shall make and attest a record of the proceedings until the clerk or secretary has
3589 been chosen and sworn, including a record of such choice and qualification.

3590 Section 8. The president, clerk or secretary and a majority of the directors as applicable
3591 elected at such first meeting shall make and sign under penalties of perjury articles of
3592 organization in duplicate, setting forth—

3593 (a) A true copy of the agreement of association, the names of the subscribers thereto, and
3594 the name, residence and post office address of each of the officers and directors or trustees as
3595 applicable of the company;

3596 (b) The date of the first meeting and the successive adjournments thereof, if any.

3597 One duplicate original of the articles so signed shall be submitted to the commissioner,
3598 and the other, together with the records of the proposed corporation, to the state secretary, who
3599 shall examine the same, and who may require such amendment thereof or such additional
3600 information as he may consider necessary. If he finds that the articles conform to the 4 preceding
3601 sections relative to the organization of the corporation and that section 6 has been complied with,
3602 he shall so certify and endorse his approval thereon. The articles shall be filed within 30 days
3603 thereafter in the office of the state secretary, who, upon receipt of a fee, the amount of which
3604 shall be determined annually by the commissioner of administration under the provision of
3605 section 3 B of chapter 7, said state secretary shall issue a certificate of incorporation in the
3606 following form:

3607 COMMONWEALTH OF MASSACHUSETTS

3608 Be it known that whereas (the names of the subscribers to the agreement of association)
3609 have associated themselves with the intention of forming a corporation under the name of (the
3610 name of the corporation), for the purpose (the purpose declared in the agreement of association),
3611 with a capital stock of (the amount fixed in the agreement of association), and have complied
3612 with the statutes of the commonwealth in such case made and provided, as appears from the
3613 articles of organization of said corporation, duly approved by the state secretary and recorded in
3614 this office: Now, therefore, I (the name of the state secretary), secretary of the commonwealth of
3615 Massachusetts, do hereby certify that said (the names of the subscribers to the agreement of
3616 association), their associates and successors, are legally organized and established as, and are
3617 hereby made, an existing corporation under the name of (name of the corporation), with the
3618 powers, rights and privileges, and subject to the limitations, duties and restrictions, which by the
3619 law appertain thereto.

3620 Witness my official signature hereunto subscribed and the great seal of the
3621 commonwealth of Massachusetts hereunto affixed, this day of in the year (the date of the filing
3622 of the articles of organization).

3623 The state secretary shall sign the certificate of incorporation and cause the great seal of
3624 the commonwealth to be thereto affixed, and such certificate shall have the force and effect of a
3625 special charter. The existence of every such corporation shall begin upon the filing of the articles

3626 of organization in the office of the state secretary. He shall also cause a record of the certificate
3627 of incorporation to be made, and such certificate, or such record, or a certified copy thereof, shall
3628 be conclusive evidence of the existence of such corporation.

3629 A bank may amend its articles of organization if approved by its board and submitted to
3630 and approved by the bank's governing body except as provided in sections 10.05, 10.07 and
3631 14.34 of chapter 156D. After approval by the board and governing body, the amendment shall be
3632 submitted to the commissioner for his endorsement thereon before delivering the amendment to
3633 the secretary of state for filing.

3634 Section 9. When all the capital stock has been issued, a list of the stockholders, with the
3635 name, residence and post office address of each, and the number of shares in each class held by
3636 each stockholder, shall be filed with the board of bank incorporation, which list shall be verified
3637 by the clerk of the corporation. Upon receipt of such list the board shall cause an examination to
3638 be made of the method of payment of the capital stock, of the personnel of the corporation,
3639 including the officers and directors thereof, and if, after such examination, it appears that the
3640 whole capital stock, surplus account and undivided profits account have been paid in cash, that
3641 all requirements of law have been complied with, that the bank is a member of the Federal
3642 Deposit Insurance Corporation, and that the qualifications of the personnel are satisfactory, the
3643 board shall, if satisfied that the public convenience and advantage will be promoted thereby,
3644 issue a certificate authorizing such corporation to begin the transaction of business. No such
3645 corporation shall begin the transaction of business until such a certificate has been granted.

3646 Section 9A. After notice of intent, application and hearing as the commissioner may
3647 require and with his written permission and under conditions he may impose, the commissioner
3648 may, if he is satisfied that public convenience and advantage will be promoted and that
3649 competition among banking institutions will not be unreasonably affected, grant a certificate to
3650 establish a limited purpose trust company for the purpose of conducting trust and fiduciary
3651 business authorized under chapter 167G and other law applicable to a state-chartered bank;
3652 provided, however, that it will have sufficient capital to support its business operations; provided
3653 further that any such limited purpose trust company shall not accept deposits, make loans or
3654 otherwise carry on a banking business in the commonwealth; and provided, further, that this
3655 section shall not apply to an attorney licensed to practice law in the commonwealth or to a
3656 person exercising trust or fiduciary powers in the commonwealth under lawful authority.

3657 A person seeking authority to establish a limited purpose trust company under this
3658 section shall file a notice and an application for a certificate with the commissioner, together
3659 with a fee, the amount of which shall be determined by the commissioner of administration under
3660 the provisions of section 3B of chapter 7. The application shall include the following:—

3661 (a) the name under which the corporation will conduct business;

3662 (b) the name, residence and post office address of each officer of the corporation;

3663 (c) the location of the principal office thereof which shall be within the commonwealth;

3664 (d) the purpose for which the corporation is formed and the nature of the business to be
3665 transacted;

3666 (e) the amount and classes of its capital stock, and the number of shares into which any
3667 class is to be divided; and

3668 (f) such other information as the commissioner considers necessary.

3669 Upon receipt of the certificate from the commissioner, the corporation shall file its
3670 articles of organization with the state secretary and shall thereupon become eligible to conduct
3671 business; but, the certificate shall be considered to be revoked if the corporation does not
3672 commence business within 1 year after the date of issuance thereof by the commissioner.

3673 In the transaction of business, a limited purpose trust company shall be subject to sections
3674 10 to 13, inclusive, and other applicable sections of this chapter, section 36A of chapter 167,
3675 sections 13 and 14 of chapter 167I, and sections 2 to 6, inclusive, 8 to 11, inclusive and 14 to 20,
3676 inclusive of chapter 167J.

3677 A limited purpose trust company may establish and maintain a trust office or a
3678 representative trust office in any state other than the commonwealth. A company intending to
3679 establish a trust office or representative trust office in the other state shall file a notice with the
3680 commissioner. The notice shall be in a form prescribed by the commissioner and shall contain
3681 the name and address of the limited purpose trust company, the location of the proposed office,
3682 and be accompanied by a copy of the resolution of its board of directors authorizing the
3683 establishment of the out-of-state office.

3684 The company may commence business at the out-of-state trust office or representative
3685 trust office upon the expiration of 30 days from the date the required notice is received by the
3686 commissioner; but, the 30 day period may be extended by the commissioner upon notice in
3687 writing to the company that additional information is required to be submitted to him. For the
3688 purposes of this section, a trust office shall mean the business office of the limited purpose trust
3689 company at which its licensed business activities are transacted; and a representative trust office
3690 shall mean an office established by the company in order to market and solicit business and
3691 provide administrative support but at which, licensed business activities of the company could
3692 not be conducted.

3693 A limited purpose trust company, or any similar institution as determined by the
3694 commissioner, established under the laws of any other state or the United States may, with the
3695 approval of the commissioner, establish and maintain an office in the commonwealth; if the laws
3696 of the state in which such company or similar institution was established expressly authorize,
3697 under conditions no more restrictive than those imposed by the laws of the commonwealth, as

3698 determined by the commissioner, the establishment of an office in said state by a limited purpose
3699 trust company chartered in the commonwealth.

3700 The commissioner may establish rules and regulations necessary to carry out this section
3701 and to govern the affairs of the company, including an examination thereof by him. The
3702 regulations may specify which provisions of chapters 167 through 167G, chapters 183 and 184,
3703 and other laws of the commonwealth shall be applicable to any such limited purpose trust
3704 company.

3705 A limited purpose trust company may be merged, consolidated, converted, liquidated,
3706 dissolved or its charter cease to exist in such manner as the commissioner may prescribe and
3707 subject to such terms and conditions he may impose.

3708 Section 4 of chapter 167A relative to the Massachusetts Housing Partnership Fund shall
3709 apply to any subsequent transaction involving an unaffiliated entity and a limited purpose trust
3710 company that had converted from a trust company to a limited purpose trust company and that,
3711 but for such conversion, would have been subject to said section 4. The commissioner shall not
3712 approve any transaction subject to this paragraph until the commissioner has received notice
3713 from the Massachusetts Housing Partnership Fund that satisfactory arrangements have been
3714 made.

3715 Section 10. Such corporation may adopt by-laws for the proper management of its affairs
3716 and as appropriate to exercise all powers necessary, convenient or incidental to the purposes for
3717 which the corporation was formed. It may also establish regulations controlling the assignment
3718 and transfer of its shares. A majority in interest of the stockholders entitled to vote shall
3719 constitute a quorum at any meeting unless the by-laws require more than a majority.

3720 Section 11. Stockholders entitled to vote may vote in person or by proxy. No proxy dated
3721 more than 6 months before the date of the meeting named therein shall be valid, and no proxy
3722 shall be valid after the final adjournment of such meeting. A proxy with respect to stock held in
3723 the name of 2 or more persons shall be valid if executed by any one of them unless at or prior to
3724 the exercise of the proxy such corporation receives a specific written notice to the contrary from
3725 any one of them. A proxy purporting to be executed by or on behalf of a stockholder shall be
3726 deemed valid unless challenged at or prior to its exercise and the burden of proving invalidity
3727 shall rest on the challenger. Except as otherwise provided in the articles of organization or by-
3728 laws of the corporation, special meetings of the stockholders may be called pursuant to the
3729 provisions of section 7.02 of chapter 156D.

3730 Section 12. The business of such corporation shall be managed by a board of not less than
3731 7 nor more than 25 directors. A majority of the directors shall be citizens of the commonwealth
3732 and resident therein. The directors shall be elected, in such manner as is provided in the by-laws,
3733 by the stockholders at their annual meeting or at a special meeting called for the purpose;
3734 provided, however, that if the by-laws so prescribe, a number of directors, not exceeding 2, may

3735 be elected by vote of a majority of the directors then in office. The directors shall hold office for
3736 such term, not exceeding 3years, as is provided in the by-laws and until their successors are
3737 selected and have qualified. A director shall be eligible for reelection. Any vacancy in the board
3738 may be filled by appointment by the remaining directors and any director so appointed shall hold
3739 his office until the next election.

3740 Each director shall own, in his own right and free of any lien or encumbrance, common
3741 stock, either of such corporation or of a company owning 75 per cent or more of the stock of
3742 such corporation, having a par value, or a fair market value on the date the person became a
3743 director, of not less than $1,000. Any director who ceases to be the owner of the required
3744 number of shares of stock, or who becomes in any other manner disqualified, shall vacate his
3745 office forthwith. Each director, when appointed or elected, shall take an oath that he will
3746 faithfully perform the duties of his office and that he is the owner, in his own right and free of
3747 any lien or encumbrance, of the amount of stock required by this section. The oath shall be taken
3748 before a notary public or justice of the peace, and a record of the oath shall be made a part of the
3749 records of such corporation.

3750 The office of any director who seeks, or against whom, an order of relief is entered in a
3751 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
3752 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
3753 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
3754 director whose office is so vacated shall again be eligible to serve as or director upon the receipt
3755 of a discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all payments
3756 required pursuant to a plan of reorganization under Chapter 11 thereof; the completion of all
3757 payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said
3758 judgment.

3759 In determining what he or she reasonably believes to be in the best interests of such
3760 corporation, in considering proposed business combinations, as defined in paragraph (c) of
3761 section 3 of chapter 110F, a director may consider the interests of the corporation's employees,
3762 suppliers, creditors and customers; the economy of the state, region and nation, community and
3763 societal considerations, and the long-term and short-term interests of the corporation and its
3764 stockholders, including the possibility that these interests may be best served by the continued
3765 independence of the corporation.

3766 Each such corporation shall have an executive committee of not less than 3 members,
3767 who shall be elected by and from the directors and shall hold office during their pleasure. An
3768 executive committee may take any action that could be taken by the board of directors except
3769 that an executive committee may not: (1) authorize dividends or other distributions to
3770 shareholders; (2) approve or propose to the corporation's shareholders actions that require the
3771 approval of the corporation's shareholders; (3) change the number of members of the board of
3772 directors, remove directors from office or fill vacancies on the board of directors; (4) amend the

3773 corporation's articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6)
3774 authorize or approve reacquisition of shares of capital stock, except according to a formula or
3775 method prescribed by the board of directors; (7) take any action specifically required by law or
3776 regulation to be taken by the entire board of directors, or (8) approve a transaction described in
3777 section 8 of chapter 167I.

3778 Section 13. The clerk or secretary shall be elected by the stockholders at their annual
3779 meeting or at a special meeting duly called for the purpose.

3780 The president shall be elected by and from the board of directors and shall be chairman
3781 thereof unless the board designates a director in lieu of the president to be chairman. The
3782 directors shall elect the treasurer and any other officers including an executive vice president.
3783 The president as may be required or permitted by law or by-law may select other officers. The
3784 officers elected by the board shall hold their respective offices during the pleasure of the
3785 directors. The directors may fill a vacancy in the office of clerk or secretary until the next
3786 meeting of the stockholders.

3787 Section 14. The following provisions shall apply to meetings of the board and its
3788 committees.

3789 (a) The board of directors shall meet at intervals, that shall not be less frequent than
3790 quarterly, but, upon application in writing by the corporation, the commissioner may waive or
3791 modify this requirement. Unless the articles of organization, the by-laws, or a resolution by the
3792 board otherwise provide, members of the board of directors or a committee designated thereby
3793 may participate in a meeting of the board or committee by means of a conference telephone or
3794 similar communications equipment by means of which all persons participating in the meeting
3795 may simultaneously hear each other, and participation by those means shall constitute presence
3796 in person at a meeting. Members may transmit written authorizations that may be required during
3797 the meeting by electronic facsimile or other commercially acceptable transmission.

3798 (b) Unless the articles of organization or bylaws provide that action required or permitted
3799 by this chapter or other provisions of the General Laws to be taken by the directors may be taken
3800 only at a meeting, the action may be taken without a meeting if the action is taken by the
3801 unanimous consent of the members of the board of directors. The action must be evidenced by 1
3802 or more consents describing the action taken, in writing, signed by each director, or delivered to
3803 the corporation by electronic transmission, to the address specified by the corporation for the
3804 purpose or, if no address has been specified, to the principal office of the corporation, addressed
3805 to the secretary or other officer or agent having custody of the records of proceedings of
3806 directors, and included in the minutes or filed with the corporate records reflecting the action
3807 taken.

3808 (c) Action taken under this section is effective when the last director signs or delivers the
3809 consent, unless the consent specifies a different effective date.

3810 (d) A consent signed or delivered under this section has the effect of a meeting vote and
3811 may be described as such in any document.

3812 (e) The provisions of this section shall also apply to committees and their members.

3813 SECTION 52. Section 2 of chapter 183C of the General Laws, as so appearing, is hereby
3814 amended by striking out, in lines 5 to 6, the words "Federal Reserve Board" and inserting in
3815 place thereof the words:— bureau of consumer financial protection.

3816 SECTION 53. Said section 2 of said chapter 183C, as so appearing, is further amended
3817 by striking out, in line 31, the citation "12 C.F.R. 226.32(a)(1)(i)" and inserting in place thereof
3818 the citation:— 12 C.F.R. 1026.226.32(a)(1)(i).

3819 SECTION 54. Said section 2 of said chapter 183C is further amended by striking out, in
3820 lines 67 to 68, the citations "226.4(a) and 226.4(b)" and inserting in place thereof the citation:—
3821 1026.4(a) and 1026.4(b).

3822 SECTION 55. Said section 2 of said chapter 183C is further amended by striking out, in
3823 line 72, the citation "226.4(c)(7)" and inserting in place thereof the citation:— 1026.4(c)(7).

3824 SECTION 56. Said section 2 of said chapter 183C is further amended by striking out, in
3825 line 100, the citation "226.4(d)(2)" and inserting in place thereof the citation:— 1026.4(d)(2)

3826 SECTION 57. Section 3 of Chapter 203A of the General Laws as appearing in the 2010
3827 Official Edition is hereby amended by striking out the first sentence and replacing it with the
3828 following:—

3829 An account of the administration of each common trust fund shall be prepared annually,
3830 shall be audited by an independent certified public accountant and a copy of such account and of
3831 the audit report thereon shall be made available to any interested party upon written request.

3832 SECTION 58. Section 1 of chapter 255F of the General Laws, as so appearing, is hereby
3833 amended by striking out, in lines 17 to 18, the words:— the Director of the Office of Thrift
3834 Supervision,.