

SENATE No. 2378

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Fourteen
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SENATE, Thursday, October 2, 2014

The committee on Ways and Means, to whom was referred the House Bill modernizing the banking laws and enhancing the competitiveness of state-chartered banks (House, No. 4110); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2378.

For the committee,
Stephen M. Brewer

SENATE No. 2378

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

1 SECTION 1. Section 83 of chapter 62C of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out, in lines 68 and 69, the words “or comparable
3 reports filed with the office of thrift supervision”.

4 SECTION 2. Section 34 of chapter 93 of the General Laws is hereby repealed.

5 SECTION 3. Section 1 of chapter 140D of the General Laws, as appearing in the 2012
6 Official Edition, is hereby amended by striking out the definition of “board” and inserting in
7 place thereof the following definition:-

8 “Bureau”, the federal Bureau of Consumer Financial Protection.

9 SECTION 4. Section 3 of said chapter 140D, as so appearing, is hereby amended by
10 striking out, in lines 13, 16, 21 and 23, the word “board” and inserting in place thereof, in each
11 instance, the following word:- bureau.

12 SECTION 5. Subsection (a) of said section 3 of said chapter 140D, as so appearing, is
13 hereby amended by adding the following 2 paragraphs:-

14 If a provision of the federal Truth in Lending Act, 15 USC 1601 et seq., the bureau’s
15 Regulation Z, 12 C.F.R. § 1206 et seq., the official staff commentary or a disclosure or model

16 form provided by a creditor thereunder is in conflict with a provision of this chapter or 209 CMR
17 32.00 et seq. and if the commissioner does not deem said federal provision to be substantially
18 less consumer protective, the commissioner may waive, in writing, the provision of this chapter
19 or 209 CMR 32.00 et seq. The waiver shall be filed with the state secretary and shall, unless
20 otherwise provided by law, become effective on the sixtieth day following the date of the filing.
21 A copy of the waiver shall be filed simultaneously with the house and senate chairs of the joint
22 committee on financial services.

23 Creditors in the commonwealth shall comply with the federal Truth in Lending Act, 15
24 USC 1601 et seq., and regulations implemented by the bureau unless and until the commissioner
25 promulgates regulations that are substantially similar to or afford more protection to consumers
26 than those issued by the bureau.

27 SECTION 6. Section 18 of said chapter 140D, as so appearing, is hereby amended by
28 striking out, in lines 5 and 11, the word “board” and inserting in place thereof, in each instance,
29 the following word:- bureau.

30 SECTION 7. Section 19 of said chapter 140D, as so appearing, is hereby amended by
31 striking out, in line 3, the word “fifteen” and inserting in place thereof the following figure:- 14.

32 SECTION 8. Section 22 of said chapter 140D, as so appearing, is hereby amended by
33 striking out, in line 43, the words “equal to or”.

34 SECTION 9. Section 31 of said chapter 140D, as so appearing, is hereby amended by
35 striking out, in line 6, the word “board” and inserting in place thereof the following word:-
36 bureau.

37 SECTION 10. Said chapter 140D is hereby amended by adding the following section:-

38 Section 36. The commissioner may take any action necessary, including but not limited
39 to promulgating regulations under chapter 30A, to apply for or to preserve a determination by the
40 bureau, or its successor agency, that under the laws of the commonwealth any class of credit
41 transactions within the commonwealth shall be subject to requirements substantially similar to
42 the federal requirements and that there are adequate provisions for enforcement of such
43 requirements.

44 SECTION 11. Chapter 140E of the General Laws is hereby repealed.

45 SECTION 12. Chapter 167 of the General Laws is hereby amended by striking out
46 section 1A, as appearing in the 2012 Official Edition, and inserting in place thereof the following
47 section:-

48 Section 1A. The commissioner shall promulgate rules and regulations establishing
49 minimum standards relative to the security and protection of credit unions under the
50 commissioner's supervision, both for the benefit of employees as well as the general public,
51 including the requirement for the installation, maintenance and operation of security devices and
52 procedures and to assist in the identification and apprehension of criminals.

53 Said rules and regulations shall fix the time limit within which each such credit union
54 shall comply with the standards so established and may require the submission, in writing, of
55 periodic reports and other information necessary to ensure compliance with such rules and
56 regulations. A credit union which violates any rule or regulation promulgated pursuant to this
57 section shall forfeit to the commonwealth \$100 for each day during which such violation

58 continues, to be recovered by an information in equity in the name of the attorney general at the
59 request of the commissioner, commenced in the supreme judicial court for Suffolk county.

60 SECTION 13. Section 1B of said chapter 167 is hereby repealed.

61 SECTION 14. Section 2 of said chapter 167, as appearing in the 2012 Official Edition, is
62 hereby amended by inserting after the word “section”, in line 5, the following words:- , or as
63 authorized under subsection (d).

64 SECTION 15. Said section 2 of said chapter 167, as so appearing, is hereby further
65 amended by striking out, in lines 54 and 55, the words “Office of Thrift Supervision” and
66 inserting in place thereof the following words:- federal Bureau of Consumer Financial
67 Protection.

68 SECTION 16. Said section 2 of said chapter 167, as so appearing, is hereby further
69 amended by adding the following subsection:-

70 (d) Notwithstanding any general or special law to the contrary, the commissioner may
71 establish a tiered regulatory structure for the supervision and examination of savings banks, co-
72 operative banks and trust companies. The criteria for the tiered regulatory structure may include,
73 but shall not be limited to, the following: asset size; level of capital; balance sheet composition;
74 the rating under the Uniform Financial Institutions Rating System, so-called CAMELS rating;
75 record of performance under the federal Community Reinvestment Act of 1977; compliance with
76 laws and regulations; and such other factors as the commissioner may determine. In establishing
77 the tiered regulatory structure the commissioner shall seek to effect cost reductions and reduce
78 the regulatory burden for savings banks, co-operative banks and trust companies. The
79 commissioner may promulgate rules and regulations necessary to carry out this subsection.

80 SECTION 17. Said chapter 167 is hereby further amended by inserting after section 2G
81 the following 3 sections:-

82 Section 2H. Notwithstanding any general or special law to the contrary, a savings bank,
83 co-operative bank or a trust company may engage in any activity or invest in any products or
84 services which are related or incidental to banking, are not prohibited by law and do not pose a
85 substantial risk to the safety and soundness of the savings bank, co-operative bank or a trust
86 company with 30 days notice to the commissioner. Upon the expiration of the notice period, the
87 bank may engage in any such activity or invest in any such products or services. At the time of
88 the notice or at any time the notice is pending, the bank may request that the commissioner waive
89 the remaining notice period. During the notice period, the commissioner may extend the notice
90 period for 30 days for additional review. During such extended period, the commissioner may:
91 make no comment, which would allow the bank to proceed at the end of the period; subject the
92 bank's activity or investment to such terms and conditions as the commissioner may impose; or
93 deny the bank to proceed with any such activity or investment.

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 (1) the federal Expedited Funds Availability Act, 12 USC § 4001 et seq., and regulations
97 promulgated thereunder;

98 (2) the federal Fair Credit Billing Act, 15 USC §§ 1666 to 1666j, inclusive, and the
99 regulations promulgated thereunder;

100 (3) the federal Electronic Fund Transfer Act, 15 USC § 1693 et seq., and the regulations
101 promulgated thereunder; provided, however, that the maximum liability of a consumer under 15
102 USC § 1693g shall be limited to \$50;

103 (4) a bank shall comply with the regulations of the federal banking agency, of which it is
104 a member or by which its deposits or accounts are insured, that govern the manner of
105 safeguarding the bank's monies and securities and the deposit of its securities or substantially the
106 same subject matter;

107 (5) a bank shall comply with 12 CFR Part 326, which governs the minimum security
108 devices and procedures and Bank Secrecy Act compliance, and other applicable regulations of a
109 federal banking agency of which the bank is a member or by which its deposits or accounts are
110 insured which regulations govern substantially the same subject matter; and

111 (6) a bank shall comply with 12 CFR Part 215, which governs loans to executive officers,
112 directors or principal shareholders of a bank, and federal regulations of a federal banking agency
113 of which it is a member or by which its deposits or accounts are insured which regulations
114 govern substantially the same subject matter.

115 Notwithstanding this section, the commissioner shall retain jurisdiction over a bank to
116 examine, supervise, take enforcement action against and assist consumers in matters relative to
117 compliance with the federal laws or federal regulations enumerated in clauses (1) through (6),
118 inclusive. Nothing in this section shall affect the commissioner's jurisdiction relative to other
119 federal laws or federal regulations. For the purposes of this section, a bank shall mean a savings
120 bank, a co-operative bank or a trust company. A federal bank, a foreign bank and an out-of-state
121 bank shall comply with clause (3).

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

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

134 SECTION 18. Said chapter 167 is hereby further amended by striking out section 6, as
135 appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

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

141 SECTION 19. Section 15 of said chapter 167, as so appearing, is hereby amended by
142 striking out, in lines 17 and 18, the words "Federal Home Loan Bank Board" and inserting in
143 place thereof the following words:- Board of Governors of the Federal Reserve System.

144 SECTION 20. Sections 38 to 39C, inclusive, of said chapter 167 are hereby repealed.

145 SECTION 21. Section 40 of said chapter 167, as appearing in the 2012 Official Edition,
146 is hereby amended by striking out, in line 31, the words “Office of Thrift Supervision” and
147 inserting in place thereof the following words:- federal Bureau of Consumer Financial
148 Protection.

149 SECTION 22. Sections 43 and 43A of said chapter 167 are hereby repealed.

150 SECTION 23. Section 3 of chapter 167A of the General Laws, as appearing in the 2012
151 Official Edition, is hereby amended by adding the following paragraph:-

152 Section 2 shall not apply to the acquisition by a bank holding company, or a company or
153 a banking institution which would become a bank holding company if: a banking institution or
154 other bank holding company is merged, consolidated, its assets purchased or established on an
155 interim basis simultaneously with the acquisition of the shares of the banking institution or other
156 bank holding company; and the company or bank holding company is not operated by the
157 acquiring bank holding company, company or banking institution, as a separate entity other than
158 as the survivor of the merger, consolidation or asset purchase; and said transaction requires the
159 approval of the commissioner under the General Laws. The provisions of section 4 relative to the
160 Massachusetts Housing Partnership Fund shall apply to any transaction which but for the
161 exemption provided for in this paragraph would have been subject to such provisions. The
162 commissioner shall not approve any transaction until the commissioner has received notice from
163 the Massachusetts Housing Partnership Fund that satisfactory arrangements have been made
164 under said section 4.

165 SECTION 24. Said chapter 167A is hereby further amended by adding the following
166 section:-

167 Section 8. A banking institution, a bank holding company, a company or a mutual
168 holding company, as defined in section 1 of chapter 167H, may request that specific information
169 in any application filed with the board of bank incorporation be eligible for confidential
170 treatment. The following information shall be eligible for confidential treatment: (i) personal
171 information, the release of which would constitute a clearly unwarranted invasion of privacy; (ii)
172 commercial or financial information, the disclosure of which could result in substantial
173 competitive harm to the submitter; and (iii) information, the disclosure of which could seriously
174 affect the financial condition of any such banking institution, bank holding company, company
175 or mutual holding company. The board may determine that certain information should be treated
176 as confidential and withhold that information from the public file.

177 If any such banking institution, bank holding company, company or mutual holding
178 company requests confidential treatment for information that the board determines not to be
179 confidential, the board may include that information in the public file after notifying the banking
180 institution, bank holding company, company or mutual holding company.

181 SECTION 25. Chapter 167B of the General laws is hereby amended by striking out
182 section 1, as appearing in the 2012 Official Edition, and inserting in place thereof the following
183 section:-

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

186 “Accepted access device”, an access device to a consumer’s account for the purpose of
187 initiating electronic fund transfers when the consumer to whom such card, code or other means
188 of access was issued has requested, received and signed a receipt for, or has signed, or has used,
189 or authorized another to use such card, code or other means of access for the purpose of
190 transferring money between accounts or obtaining money, property, labor or services.

191 “Access device”, a card, code or other means of access or any combination thereof, other
192 than a check, draft or similar paper instrument, by the use of which a consumer may initiate an
193 electronic fund transfer.

194 “Account”, demand deposit, negotiable withdrawal order account, savings deposit, share
195 account or other consumer asset account, other than an occasional or incidental credit balance in
196 an open end credit plan as defined in section 1 of chapter 140D, established primarily for
197 personal, family or household purposes; provided, however, such term shall not include an
198 account held by a financial institution pursuant to a bona fide trust agreement.

199 “Bureau”, the federal Bureau of Consumer Financial Protection.

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

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

207 “Commissioner”, the commissioner of banks.

208 “Consumer”, a natural person.

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

212 “Electronic branch”, an electronic device, other than a telephone operated by a consumer,
213 through which a consumer may initiate an electronic fund transfer. Such term includes, but is not
214 limited to automated teller machines and cash dispensing machines. Such term shall not include
215 a teller machine or similar device located on the premises of and operated solely by an employee
216 of a financial institution or a point-of-sale terminal.

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

223 (a) a check guarantee or authorization service which does not directly result in a debit or
224 credit to a consumer’s account;

225 (b) any transfer of funds, other than those processed by automated clearinghouse, made
226 by a financial institution on behalf of a consumer by means of a service that transfers funds held

227 at either Federal Reserve banks or other depository institutions and which is not designed
228 primarily to transfer funds on behalf of a consumer;

229 (c) any transfer, the primary purpose of which is the purchase or sale of securities or
230 commodities regulated by the Securities and Exchange Commission or the Commodities Futures
231 Trading Commission;

232 (d) any transfer under an agreement between a consumer and a financial institution which
233 provides that the institution will initiate individual transfers without a specific request from the
234 consumer (1) between a consumer's accounts within the financial institution, such as a transfer
235 from a checking account to a savings account, (2) into a consumer's account by the financial
236 institution, such as the crediting of interest to a savings account; provided that the financial
237 institution shall be subject to clause (2) of section 7 and sections 20 and 21 or (3) from a
238 consumer's account to an account of the financial institution, such as a loan payment; provided
239 that the financial institution shall be subject to clause (1) of section 7 and sections 20 and 21; or

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

243 "Error", an error consists of:

244 (1) an unauthorized electronic fund transfer;

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

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

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

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

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

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

254 "Financial Institution", any person who (a) directly or indirectly holds an account
255 belonging to a consumer or (b) issues an access device and agrees with a consumer to provide
256 electronic fund transfer services; provided, however, that a person shall not include a co-
257 operative bank, a credit union, a federal bank, a foreign bank, an out-of-state bank, an out of state
258 federal bank, a savings bank or a trust company, as defined in section 1 of chapter 167, and a
259 federal credit union and a foreign credit union, as defined in section 1 of chapter 171.

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

263 "Non-bank ATM provider", a person holding a consumer's account, providing or making
264 available electronic fund transfer services to consumers through a non-bank electronic branch;
265 provided, that "non-bank ATM provider" shall not include a bank, a federal bank, an out-of-state
266 bank and an out-of-state federal bank, as defined in section 1 of chapter 167, or a credit union, a
267 federal credit union and a foreign credit union, as defined in section 1 of chapter 171.

268 “Non-bank electronic branch”, an electronic branch owned, leased or operated by a non-
269 bank ATM provider; provided, that “non-bank electronic branch” shall not include a point of
270 sale terminal owned or operated by a merchant.

271 “Official bureau interpretation”, a formal interpretation issued by the bureau and
272 designated by the bureau as constituting an official bureau interpretation.

273 “Official staff interpretation”, an interpretation issued by an official duly authorized by
274 the bureau to issue such interpretation and designated by the official as constituting an official
275 staff interpretation.

276 “Organization”, any person, corporation, association or partnership which assists or
277 provides services to a financial institution or merchant in order to make available electronic fund
278 transfers; provided, that a financial institution or merchant shall not be considered an
279 organization.

280 “Point-of-sale terminal”, an electronic terminal located on the premises of a merchant
281 when such terminal is used with the assistance of an employee of a merchant for a customer’s
282 purchase or lease of goods or services sold or leased by such merchant or adjustments thereto or
283 the receipt of cash by the customer which is ancillary to the customer’s purchase or lease of
284 goods or services from such merchant; provided, however, that such terminal shall be deemed an
285 electronic branch for the purposes of this chapter whenever it is used for any other electronic
286 fund transfer, or for an electronic fund transfer involving a customer’s account held by an
287 organization, or for an electronic fund transfer solely for customers of a single financial
288 institution or bank holding company subject to chapter 167A or the federal Bank Holding
289 Company Act of 1956, 12 USC § 1841 et seq.

290 “Preauthorized electronic fund transfers”, an electronic fund transfer authorized in
291 advance to recur at substantially regular intervals.

292 “Unauthorized electronic fund transfer”, an electronic fund transfer from a consumer’s
293 account initiated by a person other than the consumer without actual authority to initiate such
294 transfer and from which the consumer receives no benefit; provided, however, that “unauthorized
295 electronic fund transfer” shall not include any electronic fund transfer (a) initiated by a person
296 other than the consumer who was intentionally furnished with the access device to such a
297 consumer’s account by such a consumer unless the consumer has notified the financial institution
298 involved that transfers by such other person are no longer authorized, or (b) initiated with
299 fraudulent intent by the consumer or any person acting in concert with the consumer.

300 SECTION 26. Section 2 of said chapter 167B, as so appearing, is hereby amended by
301 striking out, in lines 5, 7, 10, 18, 22, 25, 29, 31, 55, 71 and 73, the word “board” and inserting in
302 place thereof, in each instance, the following word:- bureau.

303 SECTION 27. Said section 2 of said chapter 167B, as so appearing, is hereby further
304 amended by striking out, in lines 9, 10, 12 and 75, the word “board’s” and inserting in place
305 thereof, in each instance, the following word:- bureau’s.

306 SECTION 28. Subsection (d) of section 20 of said chapter 167B, as so appearing, is
307 hereby amended by striking out paragraphs (1) and (2) and inserting in place thereof the
308 following 2 paragraphs:-

309 (1) any act done or omitted in good faith in conformity with any rule, regulation or
310 interpretation thereof by the bureau or by the commissioner or in conformity with any
311 interpretation or approval by an official or employee of the bureau duly authorized by the bureau

312 to issue such interpretations or approvals under such procedures as the bureau may prescribe or
313 in conformity with any advisory ruling by the commissioner; or

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

319 SECTION 29. Said chapter 167B is hereby further amended by striking out section 24, as
320 so appearing, and inserting in place thereof the following section:-

321 Section 24. The commissioner of banks shall make an assessment in each fiscal year
322 against all electronic branches established and operated under this chapter or chapters 167C or
323 171. Said assessments shall be made at rates as shall be determined by the commissioner as
324 sufficient to produce revenue to reimburse the commonwealth for all costs and expenses incurred
325 by the division of banks for such fiscal year in meeting the requirements imposed under this
326 chapter, including, but not limited to, costs and expenses incurred in examining entities and
327 organizations in their operations and use of electronic branches, in hiring personnel, acquiring
328 additional equipment and such other costs and expenses determined by the commissioner as
329 reasonable and necessary to meet such requirements.

330 In determining the rates of assessments, the commissioner shall consider the amounts of
331 the other assessments and fees paid by banks and credit unions to state and federal bank
332 regulators for the supervision, regulation and examination of their banking operations. The rate

333 of the assessment on such banks and credit unions shall not exceed 50 per cent of the amount
334 assessed by the commissioner on non-bank ATM providers for a non-bank electronic branch.

335 The owner or lessor of each electronic branch shall pay the assessment in a manner
336 determined by the commissioner.

337 The amount assessed annually under this section shall not be less than the average of the
338 amount assessed in the last 3 fiscal years.

339 For the purposes of this section, the word “bank” shall include a bank, a federal bank, an
340 out-of-state bank and an out-of-state federal bank as defined in section 1 of chapter 167. The
341 term “credit union” shall mean a credit union, a federal credit union and a foreign credit union as
342 defined in section 1 of chapter 171.

343 SECTION 30. Chapter 167C of the General Laws is hereby amended by striking out
344 section 1, as so appearing, and inserting in place thereof the following section:-

345 Section 1. As used in this chapter, the following words shall have the following
346 meanings, unless the context requires otherwise:-

347 “Bank”, an association or corporation chartered by the commonwealth under chapter 168,
348 170 and 172.

349 “Commissioner”, the commissioner of banks.

350 “Electronic branch”, an electronic device, other than a telephone operated by a consumer,
351 through which a consumer may initiate an electronic fund transfer, including, but not limited to,
352 automated teller machines and cash dispensing machines; provided, that “electronic branch”
353 shall not include a teller machine or similar device located on the premises of and operated solely

354 by an employee of a financial institution or a point-of-sale terminal; provided, further that an
355 “electronic branch” shall not be considered a main office or a branch office.

356 “Financial institution”, a bank, federal bank, foreign bank, out-of-state bank, out-of-state
357 federal bank or any other person who (a) directly or indirectly holds an account belonging to a
358 consumer or (b) issues an access device and agrees with a consumer to provide electronic fund
359 transfer services; provided, however, that “financial institution” shall mean a bank for the
360 purposes of the first, second and third paragraphs of section 3 and for the purposes of section 4.

361 “Foreign bank”, an association or corporation authorized to do a banking business in the
362 commonwealth, the main office of which is located outside the commonwealth and which exists
363 by authority of a country other than the United States.

364 “Governing board”, the board of directors, the board of trustees or similar board of a
365 bank.

366 “Organization”, any person, corporation, association or partnership which assists or
367 provides services to a financial institution or merchant in order to make available electronic fund
368 transfers; provided, that a financial institution or merchant shall not be considered an
369 organization.

370 “Out-of-state bank”, an association or corporation authorized to do a banking business in
371 the commonwealth, the main office of which is located outside the commonwealth and which
372 exists by the authority of a state of the United States except the commonwealth.

373 “Out-of-state branch”, a branch of a bank located outside the commonwealth.

374 “Out-of-state federal bank”, a national banking association, savings and loan association
375 or savings bank that exists by authority of the United States, the main office of which is located
376 outside the commonwealth.

377 “Point-of-sale terminal”, an electronic terminal located on the premises of a merchant
378 when such terminal is used with the assistance of an employee of a merchant for a customer’s
379 purchase or lease of goods or services sold or leased by such merchant or adjustments thereto or
380 the receipt of cash by the customer which is ancillary to the customer’s purchase or lease of
381 goods or services from such merchant; provided, however, that such terminal shall be deemed an
382 electronic branch for the purposes of this chapter whenever it is used for any other electronic
383 fund transfer, or for an electronic fund transfer involving a customer’s account held by an
384 organization, or for an electronic fund transfer solely for customers of a single financial
385 institution or bank holding company subject to chapter 167A or the federal Bank Holding
386 Company Act of 1956, 12 USC § 1841 et seq.

387 SECTION 31. Said chapter 167C is hereby further amended by striking out section 2, as
388 so appearing, and inserting in place thereof the following section:-

389 Section 2. The main office of a bank shall be in the town specified in its charter or in its
390 agreement of association or in such other town to which the office has been lawfully moved or to
391 which it may be moved as provided in this section. The location of the main office of a bank may
392 be changed to a point in the town of its location or to another town within the commonwealth
393 with the written consent of the commissioner. The business conducted by a bank at its main
394 office shall include not less than 1 of the following transactions: receiving deposits, paying
395 withdrawals or making loans.

396 SECTION 32. The fourth paragraph of section 3 of said chapter 167C, as so appearing, is
397 hereby amended by striking out the first sentence.

398 SECTION 33. Said chapter 167C is hereby further amended by striking out section 6, as
399 so appearing, and inserting in place thereof the following section:-

400 Section 6. A bank, upon approval by the commissioner of an application therefor in
401 prescribed manner and form and in accordance with applicable law, may establish and maintain
402 branches through a merger or consolidation with or by the purchase of the whole or any part of
403 the assets or stock of a foreign bank, out-of-state bank or out-of-state federal bank. A request for
404 the approval by the commissioner shall be accompanied by an investigation fee the amount of
405 which shall be determined annually by the secretary of administration and finance under section
406 3B of chapter 7.

407 The offices of a foreign bank, out-of-state bank or out-of-state federal bank merged or
408 consolidated with or whose assets or stock were purchased pursuant to this section, may be
409 maintained as branch offices of the bank; provided, however, the resulting branch outside the
410 commonwealth shall be considered to be an out-of-state branch and subject to the supervision of
411 the commissioner and the applicable laws of the jurisdiction in which the out-of-state branch is
412 located.

413 SECTION 34. Said chapter 167C is hereby further amended by adding the following 6
414 sections:-

415 Section 12. After a vote of its governing board, a bank, except as otherwise provided in
416 this section, may purchase, establish, install, operate, lease or use individually or with any other
417 financial institution or organization or share with any other financial institution or organization

418 any number of manned or unmanned electronic branches at which a customer may make
419 deposits, withdrawals, transfers of funds, obtain advances against preauthorized lines of credit,
420 cash checks or pay obligations and any number of point-of-sale terminals; provided, however,
421 that withdrawals from such electronic branches, other than those located at an office of a bank,
422 shall be made only from a demand deposit account, negotiable withdrawal order account, or
423 statement account or against a preauthorized line of credit; and provided, further, that the bank
424 shall have applied for and obtained the approval of the commissioner for such electronic branch,
425 except if the electronic branch is located at the bank's office it need not have applied for or
426 obtained such approval. The commissioner shall approve such application if, in the
427 commissioner's opinion, such action will promote a sound banking system which provides for
428 the needs of the people and business, encourages competition, discourages monopolies and does
429 not ignore legislative policies.

430 There shall be no geographical limitation on the location of electronic branches which a
431 bank may purchase, establish, install, operate, lease or use individually or with any other
432 financial institution or organization or share with any other financial institution or organization;
433 provided, however, that the site location for such electronic branches, other than an electronic
434 branch located at an office of a financial institution or in another state, shall be subject to
435 approval by, and regulation of, the commissioner. An electronic branch may be located in a
436 mobile unit under such conditions and limitations as the commissioner, by regulation, shall
437 establish.

438 A bank shall adopt and maintain safeguards to insure the safety of a customer using the
439 electronic branch, to insure the safety of the funds, items and other information at the electronic
440 branch and to assist in the identification of criminals. The commissioner may promulgate rules

441 and regulations establishing minimum standards for such safeguards. Such safeguards shall be in
442 place and operational at the time such electronic branch begins to transact business; provided,
443 however, that such safeguards shall not apply to an electronic branch located at an office of a
444 bank.

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

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

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

461 Any out-of-state federal bank shall, upon such merger or consolidation with or purchase
462 of assets or stock of a bank, operate the same as a branch which shall be subject to all laws of the

463 commonwealth relative to community reinvestment, consumer protection, fair lending,
464 establishment of intra-state branches and the application or administration of any tax or method
465 of taxation including, but not limited to, sections 1 to 14A of chapter 93 and applicable sections
466 of chapters 93A, 167 to 167J, inclusive, and all other applicable laws, including all rules and
467 regulations established thereunder, and to such other laws of the commonwealth as are applicable
468 to a national bank with its main office in the commonwealth.

469 Any such merger, consolidation or purchase of assets shall comply with all applicable
470 laws relative to filing requirements of out-of-state non-banking corporations doing business in
471 the commonwealth. The commissioner shall not approve any such application if the bank sought
472 to be acquired has been in existence for a period of less than 3 years or if, as a result thereof, the
473 applicant would control in excess of 30 per cent of the total deposits, exclusive of foreign
474 deposits, of all depository institutions in the commonwealth insured by the Federal Deposit
475 Insurance Corporation, or any successor corporation thereto; provided, however, that the
476 commissioner may waive either said age requirement or concentration limit, or both, if it is
477 deemed that economic conditions warrant granting such waiver. For the purposes of this section,
478 the term “foreign deposits” shall mean deposits received in a foreign country and deposits in
479 Edge and Agreement subsidiaries and international banking facilities.

480 Section 14. A foreign bank, out-of-state bank or out-of-state federal bank, if such bank
481 does not operate a branch in the commonwealth, may, upon approval by the commissioner of an
482 application thereof in prescribed manner and form and in accordance with the requirements of
483 section 13, establish and maintain a branch de novo in the commonwealth or may purchase a
484 branch of a bank without purchasing the bank; provided, however, that in each instance the laws
485 of the jurisdiction in which such bank has its principal place of business shall expressly

486 authorize, under conditions no more restrictive than those imposed by this chapter as so
487 determined by the commissioner, a bank to establish therein a branch de novo or to acquire a
488 branch of a bank without acquiring the bank. Any foreign bank or out-of-state bank shall operate
489 the same as a branch under the supervision of the commissioner in accordance with all applicable
490 laws which govern such activities by banks.

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

499 Section 15. No foreign bank shall transact a banking business in the commonwealth
500 unless authorized under this chapter. The commissioner may grant a certificate authorizing a
501 foreign bank to transact banking business in the commonwealth in accordance with this section.
502 The commissioner may condition said certificate upon the performance of auditing requirements
503 and shall require all applications to be accompanied by an investigation fee, the amount of which
504 shall be determined annually by the secretary of administration and finance under section 3B of
505 chapter 7, but shall not be less than \$10,000. Any foreign bank transacting banking business in
506 the commonwealth pursuant to such certificate shall be subject to the commissioner and shall
507 comply with all laws of the commonwealth applicable to a bank.

508 In deciding whether or not to issue such certificate, the commissioner shall determine
509 whether the applicant is adequately capitalized, as defined in the Federal Deposit Insurance Act,
510 12 USC § 1831o, whether competition among banking institutions will be unreasonably affected
511 and whether public convenience and advantage will be promoted. In making such determination,
512 the commissioner shall, at a minimum, consider the applicant's record of compliance with all
513 applicable community reinvestment requirements and require a showing of net new benefits. For
514 the purposes of this section, the term "net new benefits" shall include initial capital investments,
515 job creation plans, consumer and business services, including small business loans, farm loans,
516 commitments to maintain and open branch offices within a bank's delineated local community,
517 as such term is used within section 14 of chapter 167 and such other matters as the commissioner
518 may deem necessary or advisable.

519 The commissioner shall not issue such certificate until the commissioner has received
520 notice from the Massachusetts Housing Partnership Fund established by section 35 of chapter
521 405 of the acts of 1985, that arrangements satisfactory to the fund have been made for such
522 foreign bank to make 90/100 of 1 per cent of its assets in the commonwealth available for call by
523 the fund for a period of 10 years to provide loans to said fund for financing, down payment
524 assistance, share loans, closing costs and other costs related to creating affordable rental housing,
525 limited equity cooperatives and affordable home ownership opportunities, and tenant
526 management programs and tenant unit acquisition or ownership programs in state funded public
527 housing developments. All of the benefits and assistance provided by said fund under funds
528 made available by this section shall be to persons with incomes of less than 80 per cent of the
529 area-wide median income as determined from time to time by the United States Department of
530 Housing and Urban Development; provided, however, that at least 25 per cent of such assistance

531 shall be to persons with incomes of less than 50 per cent of said area-wide median income. All
532 loans made to the fund by such banks shall be deemed to be legal investments for such banks;
533 provided, however, that (a) such loans shall be evidenced by notes, or other evidence of
534 indebtedness of the fund, which shall bear interest at rates approved by the commissioner, which
535 shall be based upon the costs, not to include any lost opportunity costs, incurred by the bank in
536 making funds available to the fund; provided, however, that the fund may, by agreement with
537 such bank, accept a reduction in the amount of said call based upon a lower rate of interest; and
538 (b) no loan to the fund shall be secured in any manner unless all outstanding loans to the fund
539 shall be secured equably and ratably in proportion to the unpaid balance of such loans and in the
540 same manner.

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

545 No such certificate shall be issued until the commissioner has received written assurances
546 from such foreign bank that a resident or residents of the commonwealth shall occupy a position
547 of an executive officer in any resulting bank or branch. For the purposes of this section, the term
548 “executive officer” shall have the same meaning as in section 4 of chapter 167A.

549 Section 16. Any foreign bank that has obtained a certificate under section 15, if such
550 bank is expressly authorized to do so by the laws under which it is organized and operates, may,
551 upon approval by the commissioner of an application thereof in prescribed manner and form,
552 establish and maintain branches through a merger or consolidation with any bank or federal

553 bank; provided, however, that in each instance the laws of the jurisdiction in which such foreign
554 bank has its principal place of business shall expressly authorize, under conditions no more
555 restrictive than those imposed by this chapter as so determined by the commissioner, any bank or
556 federal bank to exercise like authority therein.

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

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

570 Any merger, consolidation or purchase of assets shall comply with all applicable laws
571 relative to filing requirements of out-of-state non-banking corporations doing business in the
572 commonwealth. The commissioner shall not approve any such application if the bank or federal
573 bank sought to be acquired thereby has been in existence for a period of less than 3 years or if, as
574 a result thereof, the applicant would control in excess of 30 per cent of the total deposits,

575 exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the
576 Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however,
577 that the commissioner may waive either said age requirement or concentration limit, or both, if it
578 is deemed that economic conditions warrant granting a waiver. For the purposes of this section,
579 “foreign deposits” shall mean deposits received in a foreign country and deposits in Edge and
580 Agreement subsidiaries and international banking facilities.

581 Section 17. The commissioner may, subject to any conditions as the commissioner may
582 prescribe, grant to an out-of-state bank, an out-of-state federal bank or a foreign bank a
583 certificate authorizing it to act in a fiduciary capacity under chapter 167G, so far as applicable;
584 provided, however, that such bank shall be authorized to act by the laws of the jurisdiction where
585 its principal office is located; and provided, further, that the laws of such jurisdiction, as
586 determined by the commissioner, shall grant a similar privilege or privileges to a bank. A out-of-
587 state bank, out-of-state federal bank or a foreign bank holding a certificate and appointed a
588 fiduciary shall be subject to the General Laws with respect to the appointment of agents by
589 fiduciaries and to the same taxes, obligations and penalties, with respect to its activities as
590 fiduciary and the property held by it in its fiduciary capacity, as banks, and no certificate shall be
591 issued to a out-of-state bank, out-of-state federal bank or a foreign bank until it has filed with the
592 commissioner an agreement in writing, in which it binds itself to perform said obligations and
593 pay any such taxes and penalties as aforesaid as may be levied or imposed upon it in this
594 commonwealth. A bank, to the extent only that it acts as fiduciary as authorized in this section,
595 shall not be deemed to transact business in the commonwealth for the purposes of sections 40 to
596 42, inclusive, of chapter 167.

597 SECTION 35. Chapter 167D of the General Laws is hereby amended by striking out
598 sections 1 to 36, inclusive, as appearing in the 2012 Official Edition, and inserting in place
599 thereof the following 20 sections:-

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

602 “Bank”, a savings bank, co-operative bank or trust company incorporated as such in the
603 commonwealth.

604 “Board”, the board of trustees or directors of a bank.

605 “Commissioner”, the commissioner of banks.

606 “Federally-chartered bank”, a national bank association, a federal savings and loan
607 association, a federal savings bank or a federal credit union authorized to do business in the
608 commonwealth.

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

613 (A) to receive deposits as authorized by this chapter; and

614 (B) to receive on deposit, storage or otherwise, money, government securities, stocks,
615 bonds, coin, jewelry, plate, valuable papers and documents, evidences of debt and other property
616 of any kind, upon such terms and conditions as may be agreed upon between the depositor and

617 the bank and to collect and disburse, at the request of the depositor, the interest or income or
618 principal of said property upon terms to be prescribed by such bank.

619 Section 3. A bank may receive demand, time and other types of deposits without
620 limitation and upon such terms and conditions as may be agreed upon between the depositor and
621 the bank. Such deposits may include, but shall not be limited to, the types of deposits described
622 in subsections (a) to (c), inclusive.

623 (a) Any bank or federally-chartered bank may receive deposits in the name of 2 or more
624 persons as joint tenants, payable to 2 or more persons or the survivor or survivors of them, and
625 any part or all of the deposits and interest represented by joint accounts may be withdrawn,
626 assigned or transferred in whole or in part by any of the individual parties. Payments to any of
627 the parties to a joint account while all of them are living shall discharge the liability of the bank
628 or federally chartered bank to all persons and, in the event of the death of any of them, the bank
629 or federally chartered bank shall be liable only to the survivor or survivors and the payment to
630 any of the survivors shall discharge the liability of the bank or federally chartered bank to all
631 persons.

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

635 Such deposits or any part thereof, or any interest thereon, may be paid to any of such
636 persons or to any assignee or pledgee of any of such persons, whether the other such persons be
637 living or not; provided that they are not then attached at law or in equity in a suit against any
638 such person, and the bank or federally chartered bank then has no notice in writing of any

639 assignment or pledge of the account by any of such persons to any person other than the person
640 to whom payment is being made hereunder. All such payments shall be valid and discharge the
641 liability of the bank to all persons.

642 (b) Any bank or federally-chartered bank may receive deposits made by 1 or 2 persons in
643 trust for other natural persons, trusts or a charity or nonprofit organization recognized by the
644 Internal Revenue Service. The name and address and other pertinent identifying information of
645 the person or persons or entities for which such deposit is being made shall be disclosed and the
646 deposit shall be credited to the depositors as trustees for such persons or entities. Payments may
647 be made to the trustee, or if there are 2 trustees, to both or to either or the survivor. If no other
648 notice of the existence and terms of a trust has been received in writing by the bank or federally-
649 chartered bank upon the death of the trustee or, if there are 2 trustees, upon the death of both of
650 them, the amount then on deposit together with the interest thereon shall be paid to the persons or
651 entities that survive the death of the last surviving trustee in an equal portion of the funds for
652 which such deposit was made or to their legal representatives. Each person or entity claiming to
653 be a beneficiary under this subsection or their representative shall provide such identification and
654 other information as requested by the bank or federally-chartered bank. Withdrawals and
655 payments made in accordance with this subsection shall fully discharge the liability of the bank
656 or federally-chartered bank as to all persons or entities.

657 (c) Any bank or federally-chartered bank having funds on deposit in the name of a minor
658 may, unless in violation of a written agreement to which such bank or federally-chartered bank is
659 a party, pay the same in whole or in part directly to such minor, to the minor's legal
660 representative, to either parent of such minor or to others on the minor's written order; and any

661 such payments shall discharge the liability of such bank or federally-chartered bank to all
662 persons to the extent of such payment.

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

667 (b) Notwithstanding subsection (a), a holder of the account may provide for limited
668 access to the account by another person to act as a signatory to the account pursuant to a
669 declaration of intent in the form of a written statement, signed and sworn to by the account
670 holder, evidencing the account holder's intent to designate another person as signatory to the
671 account for the purpose of exercising, on behalf of the account holder, such powers with respect
672 to the account as shall be expressed in the declaration.

673 The declaration of intent shall include:

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

675 (2) the account number;

676 (3) the date of execution;

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

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

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

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

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

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

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

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

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

699 (f) (1) In the event of the incapacity or death of the principal, and receipt of written
700 notice by the financial institution holding the account, withdrawals shall not be permitted, except

701 by a court appointed fiduciary, unless otherwise provided for in the declaration of intent. Notice
702 of the death or incapacity of the principal of a limited access deposit account shall be given, in
703 the case of a bank or federally chartered bank, to the main office of the bank.

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

709 (g) A signatory to the account shall maintain accurate records of the signatory's activity
710 and shall make the same available whenever requested to do so by the account holder, the
711 holder's legal representative or by a court appointed fiduciary.

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

715 Section 5. A natural person 18 years of age or under or 65 years of age or older may
716 choose 1 demand deposit account and 1 savings account which, in each instance, shall include a
717 joint account in which the spouse of the eligible depositor, regardless of age, is the joint tenant
718 therein or the joint tenant would otherwise be an eligible depositor and which has been
719 established and used for personal, family or household purposes, upon which no service,
720 maintenance or other similar charge shall be imposed. No such account shall be subject to: (i) a
721 minimum balance requirement; (ii) a charge for a deposit or withdrawal; or (iii) a fee for the
722 initial order or subsequent refills of the basic line of checks offered by the bank, which shall

723 include the name of the depositor. For the purposes of this section, the term “savings account”
724 shall include a regular passbook, regular statement savings or regular NOW account, so-called.

725 A savings account in trust for another person shall be covered by the notice, services, fee and
726 charge provisions of this section only if the trustee is a person 18 years of age or under or 65
727 years of age or older. A consumer shall notify a bank of the consumer’s eligibility for such
728 accounts and provide proof of age in a form acceptable to the bank. A bank may, however, assess
729 a fee for certain services in accordance with the bank’s published service charge schedule, which
730 shall include, stop payment orders, wire transfers, certified or bank checks, money orders,
731 deposit items returned, transactions at electronic branches and through other electronic devices a
732 reasonable charge, as determined by the commissioner, against any such account when payment
733 on a check or other transaction on the account has been refused because of insufficient funds or
734 paid despite insufficient funds. A bank shall post in each of its banking offices a notice
735 informing consumers of the availability of the banking services under this section. A bank shall,
736 in addition to the notice posting requirement, disclose annually to all depositors, in a manner of
737 its choosing, the provisions of this section applicable to a person 18 years of age or younger or
738 65 years of age or older. For the purposes of this section, the term “check or other transaction”
739 shall include, but not be limited to, a check for purposes of the federal Check Clearing for the
740 21st Century Act, 12 USC § 5002, an electronic funds transfer, as defined in section 1 of chapter
741 167B or regulations thereunder, or a transaction processed by an automated clearinghouse.

742 Section 6. No bank shall assess a fee, charge or other assessment against an account,
743 established for personal, family or household purposes, of a depositor who, as the payee of a
744 check, draft or money order, of which the payee is not also the maker, deposits the same therein
745 and payment on any such instrument is refused by the depository institution upon which it is

746 drawn because of insufficient funds or because the maker thereof did not have an account at such
747 depository institution; provided, that a bank may assess a reasonable fee, charge or assessment
748 that represents its direct costs, as established annually by the commissioner, incurred for
749 processing such check, draft or money order.

750 Section 7. A bank or federally-chartered bank which accepts a deposit for demand deposit
751 or other account subject to withdrawal by negotiable or transferable instrument for the purpose of
752 making a transfer to a third party shall, if requested by the depositor, provide without charge not
753 less than 25 cancelled instruments or legible copies of the fronts and backs thereof per calendar
754 year; provided, that, if requested by a depositor who is blind, the bank shall make additional
755 accommodations to provide additional cancelled instruments or information thereon as is
756 possible in accordance with the federal Check Clearing for the 21st Century Act, 12 USC §5001
757 et seq. and regulations promulgated thereunder. Section 4-406 of chapter 106 shall be subject to
758 this section.

759 Section 8. No bank shall give collateral or other security for a deposit of money received
760 in its banking department, except that such bank may make such a deposit of securities or satisfy
761 any provision as may be required by the laws of the United States or the rules and regulations of
762 any department, agency or instrumentality thereof as security for deposits of funds made by the
763 United States or any department, agency or instrumentality thereof with such bank and may give
764 such collateral or other security for deposits of public or other funds as may be required by any
765 public authority making such deposits or controlling the terms upon which they may be made
766 and except as provided in section 8 of chapter 167G.

767 Section 9. Any bank or federally-chartered bank may establish an account to receive
768 deposits from a lessor acting as a trustee for funds received and held by such trustee pursuant to
769 paragraph (a) of subsection (3) of section 15B of chapter 186. Such account may be established
770 as required by said section 15B for the purpose of holding security deposits taken by a lessor of
771 residential dwelling units owned or managed by said lessor; provided, that the terms of said
772 account shall place said deposit beyond the claim of a creditor of the lessor, including a
773 foreclosing mortgagee or trustee in bankruptcy, and shall provide for the transfer of said deposit
774 to a subsequent owner of any property for which such security deposit was taken. Interest
775 accruing on said deposit shall be paid to the lessor pursuant to the terms of the deposit.
776 Withdrawals and payments made by the corporation from said account shall discharge the
777 liability of said corporation to all persons.

778 Section 10. Any bank or federally-chartered bank may establish an account or accounts to
779 receive deposits from a manager or managing agent acting as a trustee for funds received and
780 held by such trustee pursuant to paragraph (2) of subsection (f) of section 10 of chapter 183A.
781 Such account or accounts may be established as required by said section 10 to hold
782 condominium funds taken by a manager or managing agent, provided, that the terms of said
783 account or accounts shall be such as to place said deposit beyond the claim of a creditor of the
784 manager or managing agent, including a foreclosing mortgagee or trustee in bankruptcy, and as
785 will provide for the transfer of said deposit to the organization of unit owners or subsequent
786 manager or managing agent, as determined by the organization of unit owners. Interest accruing
787 on said deposit shall be paid to the organization of unit owners pursuant to the terms of the
788 deposit. Withdrawals and payments made by the bank or federally chartered bank from said

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

791 Section 11. When a passbook or other instrument as evidence of a depositor's account
792 issued by any bank has been lost, stolen or destroyed, the person in whose name it was issued, or
793 in the case of a joint account, by the joint owners thereof may make written application to such
794 bank for payment of the amount of the deposit represented by said book or other instrument or
795 for issuance of a duplicate book or other instrument therefor. The application shall include an
796 affidavit signed and sworn to that the person, or persons, making such application is a lawful
797 owner, or are the lawful owners, of said passbook or other instrument, that said passbook or
798 other instrument has been lost, stolen or destroyed and that no lawful owner has, in any way,
799 transferred, pledged or assigned said passbook or other instrument or any interest in the deposits
800 therein. The application shall further include an agreement, in writing, to indemnify the bank
801 from and against any and all claims, expenses and liabilities in any way resulting from the bank's
802 action on the application by the payment of amounts due on said passbook or other instrument or
803 by the issuance of a duplicate book or other instrument therefor. All signatures contained with
804 such application shall be duly notarized. Upon receipt of such application, the bank may pay the
805 amount due on said passbook or other instrument or may issue a duplicate book or other
806 instrument therefor. This section shall apply to passbooks and other instruments issued by a bank
807 which subsequently has merged in, consolidated with or transferred its deposit liabilities to
808 another bank.

809 When payment is made or a duplicate book or other instrument is issued in accordance
810 with this section and after presentation of reasonable identification, a bank shall not be liable to
811 any person on account of its action on the application, payments of the amount due on said

812 passbook or other instrument or issuance of a duplicate book or other instrument therefor, except
813 that a bank may be liable to a transferee, pledgee or assignee who, prior to such action, payment
814 or issuance, has given the bank written notice of the transfer, pledge or assignment.

815 Section 12. Deposits standing in the individual name of a deceased depositor of a bank or
816 federally chartered bank shall be paid to the individual's legal representative, but if the deposit
817 does not exceed \$10,000 and there has been no demand for payment from a duly appointed
818 executor or administrator, payment may be made, in the discretion of the treasurer or other duly
819 authorized officer of the bank or federally chartered bank, or pursuant to special vote of its
820 board, after the expiration of 30 days from the death of such depositor, to the surviving spouse of
821 said deceased depositor or if there be no surviving spouse, to the next of kin of such deceased
822 upon presentation of a copy of the decedent's death certificate and the surrender of the deposit
823 book or other instrument, if any, evidencing the deposit. Any such bank or federally-chartered
824 bank may pay an order, drawn by a person who has funds on deposit to meet the same,
825 notwithstanding the death of the drawer, if presentation is made within 30 days after the date of
826 such order, and at any time if the corporation has not received written notice of the death of the
827 drawer; provided, however, that in either event, that such funds would, on the date of such
828 payment, have been subject to withdrawal by the drawer if living. Payments made under
829 authority of any provision of this section shall discharge the liability of the bank or federally
830 chartered bank to all persons to the extent of such payments.

831 Section 13. If, in the judgment of the board, there is an unusual demand by depositors for
832 withdrawals the bank may, with the approval of the commissioner, require such a depositor to
833 give written notice of the depositor's intention to withdraw the whole or any part of such
834 deposits or to apply for a loan secured by such deposit, such notice shall be for a period not

835 exceeding 6 months, as may be determined by the commissioner. Said period may, in the
836 commissioner's discretion, be extended up to 1 year from the date of notice. Until the notice
837 requirement has been revoked by the commissioner, the foregoing limitations as to payments by
838 way of withdrawal or loan applicable in case of a general requirement shall apply to such
839 deposits.

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

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

849 Section 15. For the purposes of this section, the term "Internal Revenue Code" shall mean
850 section 401(a), section 401(f), section 403(b)(7), section 405(a), section 408(a) or section 408(h)
851 of the Internal Revenue Code.

852 Any designation of a beneficiary in connection with and as provided by an instrument intended
853 to establish a pension, profit-sharing or other deferred compensation or retirement plan, trust or
854 custodial account described in the Internal Revenue Code, and in effect from time to time, shall
855 be effective according to its terms, notwithstanding any purported testamentary disposition
856 allowed by statute, by operation of law or otherwise to the contrary. Nothing in this section shall

857 limit, by implication or otherwise, any nonstatutory right of an employee to designate 1 or more
858 beneficiaries of the employee's interest under any retirement plan not described in this section or
859 under any other employee benefit plan.

860 Section 16. If a bank as a consequence of a default of a debt owed to said bank by a
861 depositor or shareholder, makes a transfer of funds of such depositor or shareholder to reduce or
862 extinguish said debt, such depositor or shareholder shall be notified forthwith of such transfer by
863 written notice sent by first class mail directed to the last known address of such depositor;
864 provided, however, that no such transfer shall be made if the debt is the result of consumer credit
865 granted under the federal Truth in Lending Act, 15 USC § 1601 et. seq. A depositor or
866 shareholder to whom such notice has not been sent shall be entitled to recover the amount of any
867 actual damages.

868 Section 17. A person indebted to a bank may, when proceeded against for the collection
869 of such indebtedness or for the enforcement of any security therefor, set off or recoup the amount
870 of a deposit in such bank held and owned by the individual at the time of the commencement of
871 such proceeding; provided, however, that if a proceeding in equity has been commenced to
872 restrain the bank from doing its actual business, or if possession of such bank has been taken
873 over by the commissioner, under section 22 of chapter 167, or as otherwise provided by law, no
874 deposit shall be so set off or recouped by any such person unless the person held and owned the
875 deposit on the date of the commencement of such proceeding or of possession so taken, and the
876 right of set off or recoupment shall be determined as of such date whether the indebtedness of the
877 depositor, or the deposit, is then due or payable or becomes due or payable at a later date. Any
878 indebtedness against which a deposit is permitted to be set off or recouped as aforesaid may be
879 secured or unsecured. Section 3 of chapter 232 shall not apply to a set off under this section,

880 except that any party to a joint account may set off the joint deposit against the individual's debt
881 to such bank. Notwithstanding the foregoing, a judgment shall not be rendered against such bank
882 in favor of the defendant for any balance found due from it if a proceeding in equity has been
883 commenced against the bank or possession thereof has been taken as aforesaid. The word
884 "deposit", as used in this section, shall include interest due thereon.

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

895 Section 19. No bank, federally-chartered bank or other corporation doing a banking
896 business in the commonwealth, in this section called the depository, shall be required to
897 recognize an adverse claim to a deposit standing on the depository's books to the credit of or to
898 securities held for the account of any person, except by virtue of the service upon the depository
899 of appropriate process issued by a court of competent jurisdiction in a suit or action to which
900 such person, or the person's executors or administrators, has been made a party, unless the
901 adverse claimant gives bond satisfactory to the depository and the adverse claimant to hold
902 harmless and indemnify it from any liability, loss, damage, costs and expenses whatsoever on

903 account of such adverse claim, or files with the depository an affidavit setting forth facts
904 showing a reasonable cause for belief that a fiduciary relationship exists between such person
905 and said adverse claimant and that such person is about to misappropriate the deposit or
906 securities in question.

907 Section 20. Notwithstanding any general or special law to the contrary, a bank, a federal
908 bank or a Massachusetts branch, as defined in section 1 of chapter 167, shall not be required to
909 repay any deposit made at a branch of such bank, federal bank or Massachusetts branch located
910 in a foreign country, or any deposit made with any of the foregoing in the currency of a foreign
911 country if repayment of such deposit or the use of such assets denominated in said foreign
912 currency is prevented, prohibited or otherwise blocked due to: (a) an act of war, insurrection or
913 civil strife; (b) any action by a foreign government or instrumentality, or authority asserting
914 governmental, military or police power of any kind, whether such authority be recognized as a de
915 facto or de jure government, or by any entity, political or revolutionary movement or otherwise
916 that usurps, supervenes or otherwise materially impairs the normal operation of civil authority; or
917 (c) the closure of such foreign branch in order to prevent, in the reasonable judgment of the bank,
918 harm to the bank's employees or property.

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

921 Prior to the opening of any account for a retail customer that is subject to this section and
922 with respect to any such account in existence on the effective date of this section, upon said
923 effective date, such bank, federal bank or Massachusetts branch shall disclose to the prospective
924 account holder the effect of this section. Such bank, federal bank or Massachusetts branch shall

925 also disclose to all current account holders the effect of this section. Any such bank, federal bank
926 or Massachusetts branch which fails to provide such disclosure shall not be entitled to avail itself
927 of this section.

928 SECTION 36. Section 3 of chapter 167E of the General Laws, as so appearing, is hereby
929 amended by striking out subsection (f) and inserting in place thereof the following subsection:-

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

932 SECTION 37. Section 5 of said chapter 167E, as so appearing, is hereby amended by
933 striking out subsection (a) and inserting in place thereof the following subsection:-

934 (a) A bank shall inspect the real estate securing a loan in the event that a payment of
935 interest or principal upon the loan or on account of real estate taxes upon the parcel mortgaged to
936 secure the same shall be in default. Any such inspection shall be made in a manner consistent
937 with and not later than the time periods specified in the policy of the bank. Periodic inspection of
938 the parcel mortgaged shall continue in accordance with the policy until the loan is no longer in
939 default.

940 SECTION 38. Section 2 of chapter 167F of the General Laws, as so appearing, is hereby
941 amended by striking out paragraphs 7 and 7A and inserting in place thereof the following 3
942 paragraphs:-

943 7. To acquire or invest in, with 10 days' advance notice to the commissioner, the capital
944 stock or shares of 1 or more wholly-owned subsidiary corporations, limited liability companies
945 or trusts, including any corporation or trust that is treated as a real estate mortgage investment

946 conduit under 26 USC § 860D or such other forms of organization permitted by the
947 commissioner, organized and operated solely for the purpose of performing functions that the
948 bank itself is empowered to perform directly; provided however, that if the aggregate amount
949 invested or proposed to be invested in any 1 subsidiary exceeds 50 per cent of tier 1 capital of the
950 bank that excess investment shall be made only with the approval of the commissioner and under
951 the limitations and conditions imposed by the commissioner. At the time of the notice or at any
952 time the notice is pending, such a bank may request that the commissioner waive and the
953 commissioner may waive the remaining notice period.

954 7A. To invest, subject to the approval of the commissioner and under such limitations or
955 conditions as the commissioner may impose, in the capital stock or shares of 1 or more wholly
956 owned subsidiary corporations, limited liability companies or trusts or such other forms of
957 organization permitted by the commissioner, organized and operated solely for the purpose
958 holding or investing in other real estate owned.

959 7B. To merge with 1 or more of its nonbank subsidiaries or affiliates with the bank as the
960 continuing entity.

961 SECTION 39. Said section 2 of said chapter 167F, as so appearing, is hereby further
962 amended by striking out, in lines 256 and 257, the words “subject to such restrictions as may be
963 imposed by the commissioner, to” and inserting in place thereof the following word:- To.

964 SECTION 40. Said section 2 of said chapter 167F, as so appearing, is hereby further
965 amended by striking out paragraphs 31 and 32 and inserting in place thereof the following 2
966 paragraphs:-

967 31. To exercise any power and engage in any activity that is permissible for a federal
968 bank or out-of-state bank, as defined in section 1 of chapter 167, by providing 30 days written
969 notice in advance to the commissioner; provided, however, that the activity is not otherwise
970 prohibited under the laws of the commonwealth; provided, further, that the activity shall be
971 subject to the same limitations and restrictions that are applicable to the federal or out-of-state
972 bank; and provided, further, that the activity authorized for the out-of-state bank has been
973 permitted by the Federal Deposit Insurance Corporation under section 24 of the Federal Deposit
974 Insurance Act and Part 362 of the regulations thereunder. In the event that federal or out-of-state
975 banks lose the authority to exercise any power or engage in any activity based upon which
976 comparable authority was granted to state chartered banks pursuant to this paragraph, unless such
977 authority is authorized by another law of the commonwealth, or a rule, regulation or policy
978 adopted pursuant to such other law of the commonwealth, or by a judicial decision, the authority
979 shall be revoked for state chartered banks pursuant to this paragraph. At the time the notice is
980 filed or at any time the notice is pending, a bank may request that the commissioner waive and
981 the commissioner may waive the remaining notice period.

982 32. To engage in an activity and to acquire and retain the shares of any company engaged
983 in any activity that the bank determines to be financial in nature or incidental to the financial
984 activity that is complementary to a financial activity and does not pose a substantial risk to the
985 safety and soundness of the bank by providing 30 days written notice in advance to the
986 commissioner. At the time the notice is filed or at any time the notice is pending, a bank may
987 request that the commissioner waive and the commissioner may waive the remaining notice
988 period. In determining whether an activity is financial in nature or incidental or complementary
989 thereto, the bank shall consider, but shall not be limited to, those activities considered to be

990 financial in nature or incidental to the financial activity or an activity that is complementary to a
991 financial activity under section 103, section 121 and section 122 of Public Law 106-102, entitled
992 the federal Gramm-Leach-Bliley Act of 1999. Notwithstanding any general or special law to the
993 contrary, this chapter does not authorize a bank or a subsidiary or affiliate of a bank to sell title
994 insurance.

995 SECTION 41. Section 3 of said chapter 167F, as so appearing, is hereby amended by
996 striking out paragraph 1 and inserting in place thereof the following paragraph:-

997 1. Insurance Company Stocks -- In the capital stock of any insurance company authorized
998 to conduct fire and casualty business in the commonwealth subject to the following conditions.

999 No insurance stock shall be purchased if the cost thereof added to the cost of insurance
1000 stocks and bank stocks already owned exceeds 66 2/3 per cent of the total of the capital stock and
1001 surplus account for a stock corporation or the surplus account for a thrift institution.

1002 SECTION 42. Said section 3 of said chapter 167F, as so appearing, is hereby further
1003 amended by striking out paragraph 3 and inserting in place thereof the following paragraph:-

1004 3. Utility Company Stocks -- In the preferred and common stock of any company which,
1005 at the time of such investment, is incorporated under the laws of the United States or any state
1006 thereof, or the District of Columbia, and authorized to engage, and engaging, in the business of
1007 furnishing telephone service in the United States, or any gas, electric light or water company
1008 incorporated or doing business in the commonwealth and subject to the control and supervision
1009 thereof.

1010 No such corporation shall invest in such preferred or common stocks if the cost thereof
1011 added to the cost of such preferred or common stocks already owned exceeds 35 per cent of the
1012 total of the capital stock and surplus account for a stock corporation or the surplus account of a
1013 thrift institution. No corporation shall invest more than .5 of 1 per cent of its deposits in the stock
1014 of any 1 such company.

1015 SECTION 43. Section 6 of said chapter 167F is hereby repealed.

1016 SECTION 44. Said chapter 167F is hereby amended by adding the following section:-

1017 Section 10. A bank may or in participation with a federal bank, a foreign bank, an out-of-
1018 state bank or an out-of state federal bank, as defined in section 1 of chapter 167 invest in,
1019 establish, operate or subscribe for services from another bank, federal bank, foreign bank, out-of-
1020 state bank or out-of-state federal bank or a subsidiary thereof or any other business entity for the
1021 purpose of obtaining for or furnishing to the bank technology, trust services, financial planning,
1022 compliance, internal audits, human resource or other operation functions, management or staff
1023 generally required by a bank.

1024 SECTION 45. Section 3 of chapter 167G of the General Laws, as appearing in the 2012
1025 Official Edition, is hereby amended by striking out paragraphs 1 and 2 and inserting in place
1026 thereof the following 2 paragraphs:-

1027 1. To hold money or property in trust or on deposit from, personal representatives,
1028 voluntary personal representatives, assignees, conservators and trustees upon such terms and
1029 conditions as may be agreed upon;

1030 2. To be appointed and to act as personal representative, voluntary personal
1031 representative of a will of the estate of any person, receiver, assignee, guardian, conservator or
1032 trustee under a will or instrument creating a trust for the care and management of property, under
1033 the same circumstances, in the same manner, and subject to the same control by the court having
1034 jurisdiction of the same, as a legally qualified individual or to act in any other fiduciary capacity
1035 not expressly prohibited by the laws of the commonwealth;

1036 SECTION 46. Paragraph 9 of said section 3 of said chapter 167G, as so appearing, is
1037 hereby amended by striking out the second paragraph and inserting in place thereof the following
1038 paragraph:-

1039 Any such collective investment fund shall be administered in accordance with a written
1040 declaration of trust which shall provide that if property is held by such corporation or association
1041 as a fiduciary together with a co-fiduciary or co-fiduciaries, such property may be invested in
1042 such collective investment fund only with the written consent of such co-fiduciary or co-
1043 fiduciaries, but that in no case shall any other notice or consent be required for the making of any
1044 such investment. An account of the administration of each such collective investment fund shall
1045 be prepared annually, shall be audited by an independent certified public accountant and a copy
1046 of such account and of the audit report thereon shall be made available to any interested party
1047 upon written request. All expenses of the administration of such collective investment fund,
1048 including the cost of the annual audit, shall be borne by the fund, but the corporation or
1049 association shall absorb the costs of establishing any such collective investment fund.

1050 SECTION 47. Said section 3 of said chapter 167G, as so appearing, is hereby further
1051 amended by striking out paragraph 11 and inserting in place thereof the following paragraph:-

1052 11. Any association or corporation authorized to do a banking business and to exercise
1053 trust powers in the commonwealth while acting as a fiduciary is authorized, in the absence of an
1054 express provision to the contrary in the instrument, judgment, decree or order creating a trust or
1055 other fiduciary relationship, to purchase for the fiduciary estate, directly from underwriters or
1056 distributors or in the secondary market, bonds or other securities which are underwritten or
1057 distributed by such association or corporation or an affiliate thereof or by any syndicate which
1058 includes such association or corporation or affiliate thereof and securities of any investment
1059 company or investment trust for which such association or corporation or any affiliate thereof
1060 acts as adviser, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing
1061 agent, custodian, broker, dealer or lender of money or securities; provided, however, that (i)
1062 nothing in this section shall affect the degree of prudence which is required of fiduciaries
1063 generally under the common law of the commonwealth or the charging of reasonable
1064 compensation and (ii) any such bonds or securities so purchased shall have sufficient liquidity
1065 and quality to satisfy the principles of fiduciary investment. Any such association or corporation
1066 purchasing bonds or securities pursuant to this paragraph shall, in any written communication or
1067 account statement reflecting such purchase, disclose the fact that it or an affiliate may have an
1068 interest in the underwriting or distribution of such bonds or securities and any capacities in
1069 which it or an affiliate acts for the issuer of such securities. Any such association or corporation
1070 purchasing securities of an investment company or investment trust pursuant to this paragraph
1071 shall disclose the provision of the stated services and the receipt of compensation for such
1072 services annually by mailing a statement or letter describing the same, to the last known address
1073 of each person to whom statements for the fiduciary estate are rendered.

1074 SECTION 48. Said chapter 167G is hereby further amended by striking out section 8, as
1075 so appearing, and inserting in place thereof the following section:-

1076 Section 8. Notwithstanding section 4, funds held in the trust department of any bank
1077 awaiting investment or distribution may be deposited in its banking department if such bank shall
1078 first transfer to its trust department, to be held as security therefor, bonds, notes, bills and
1079 certificates of indebtedness of the United States, of the commonwealth, or of any of the states or
1080 any other securities in which the bank may legally invest, of an aggregate value of not less an
1081 amount than funds so deposited, and such bank shall at all times maintain the value of such
1082 security at such amount; provided, however, that such security shall not be required to the extent
1083 that the funds so deposited are insured by the Federal Deposit Insurance Corporation.

1084 SECTION 49. Section 1 of chapter 167H of the General Laws, as so appearing, is hereby
1085 amended by inserting after the definition of “commissioner” the following definition:-

1086 “Interim Bank”, a Massachusetts or federal bank, out-of-state bank or out-of-state federal
1087 bank organized solely to participate in and facilitate an acquisition, reorganization or other
1088 corporate transaction. A Massachusetts bank which is an interim bank shall be organized under
1089 chapter 167I.

1090 SECTION 50. Said chapter 167H is hereby further amended by striking out section 2, as
1091 so appearing, and inserting in place thereof the following section:-

1092 Section 2. (a) Notwithstanding any general or special law to the contrary, a mutual
1093 banking institution that is a savings bank may reorganize so as to become a mutual holding
1094 company by: (1) establishing a subsidiary banking institution as a stock savings bank in
1095 accordance with section 3 and transferring to such subsidiary banking institution the substantial

1096 part of its assets and liabilities, including all of its deposit liabilities; or (2) by structuring the
1097 reorganization under any procedures acceptable to the commissioner, including but not limited
1098 to, the merger of the existing mutual bank with and into a savings bank established for the
1099 purpose of completing the reorganization; provided, that to facilitate a multi-step reorganization
1100 the commissioner may, subject to such terms and conditions as the commissioner may impose,
1101 grant any and all certificates and approvals to establish and control a new mutual savings bank.
1102 Upon such reorganization, all persons who prior thereto held depository rights with respect to or
1103 other rights as creditors of such mutual banking institution shall have such rights solely with
1104 respect to the subsidiary banking institution and the corresponding liability or obligation of the
1105 mutual banking institution to such persons shall be assumed by the subsidiary banking
1106 institution. All persons who had liquidation rights pursuant to section 15 of chapter 167I with
1107 respect to the mutual banking institution shall continue to have such rights solely with respect to
1108 said mutual holding company.

1109 (b) Notwithstanding any general or special law to the contrary, a mutual banking
1110 institution that is a cooperative bank may reorganize so as to become a mutual holding company
1111 by: (1) establishing a subsidiary banking institution as a stock cooperative bank in accordance
1112 with section 3 and transferring to such subsidiary banking institution the substantial part of its
1113 assets and liabilities, including all of its deposit liabilities; or (2) by structuring the
1114 reorganization under any procedures acceptable to the commissioner, including but not limited
1115 to, the merger of the existing mutual bank with and into a cooperative bank established for the
1116 purpose of completing the reorganization; provided, that for the purpose of facilitating a multi-
1117 step reorganization the commissioner may, subject to such terms and conditions as the
1118 commissioner may impose, grant any and all certificates and approvals to establish and control a

1119 new cooperative bank. Upon such reorganization, all persons who prior thereto held depository
1120 rights with respect to or other rights as creditors of such mutual banking institution shall have
1121 such rights solely with respect to the subsidiary banking institution and the corresponding
1122 liability or obligation of the mutual banking institution to such persons shall be assumed by the
1123 subsidiary banking institution. All persons who had liquidation rights pursuant to section 15 of
1124 chapter 167I with respect to the mutual banking institution shall continue to have such rights
1125 solely with respect to said mutual holding company.

1126 (c) Any reorganization of a mutual banking institution pursuant to subsection (a) shall be
1127 approved by a majority of the board of trustees and by a majority of the incorporators present and
1128 voting in each case at the annual meeting or at a special meeting called, in accordance with the
1129 by-laws, for such purpose. Any such reorganization pursuant to subsection (b) shall be approved
1130 by a majority of the board of directors and by a majority of the shareholders present and voting
1131 in each case at the annual meeting or at a special meeting called, in accordance with the by-laws,
1132 for such purpose.

1133 SECTION 51. Said chapter 167H is hereby further amended by striking out sections 6
1134 and 7, as so appearing, and inserting in place thereof the following 2 sections:-

1135 Section 6. Upon the reorganization of a mutual banking institution into a mutual holding
1136 company, the mutual holding company shall (i) continue to possess and exercise all the rights,
1137 powers and privileges, except deposit-taking powers, of a mutual banking institution and (ii)
1138 shall be subject to the limitations and restrictions imposed on bank holding companies by chapter
1139 167A and by applicable federal law and regulations.

1140 To the extent consistent with the above, a mutual holding company may elect to follow
1141 the corporate governance procedures of the General Laws and shall designate in its by-laws the
1142 body of law selected for its corporate governance procedures.

1143 Section 7. A mutual holding company organized under this chapter may:

1144 (1) invest in the stock of 1 or more banking institutions, as defined in section 1 of
1145 chapter 167A, or a limited purpose trust company, as defined in section 1 of chapter 167I, which
1146 conducts trust and fiduciary business but does not take deposits or otherwise carry on a banking
1147 business;

1148 (2) acquire a mutual banking institution, a credit union, as defined in section 1 of
1149 chapter 171, a federal credit union, as defined in section 1 of chapter 171, a federal bank, as
1150 defined in section 1 of chapter 167, in mutual form and an out-of-state federal bank, as defined in
1151 section 1 of chapter 167, in mutual form through consolidation or merger of such institution with
1152 its subsidiary banking institution;

1153 (3) merge with or acquire another state or federal mutual holding company or
1154 merge with and into or be acquired by another state or federal mutual holding company;
1155 provided, that any such mutual holding company shall have as 1 of its subsidiaries a subsidiary
1156 banking institution or a federally-chartered or state-chartered bank, which was in mutual form
1157 until it reorganized into a mutual holding company under federal law or the law of another state;

1158 (4) merge with or acquire a bank holding company, as defined in section 1 of
1159 chapter 167A, or a company in stock form controlling 1 bank that was organized or converted to
1160 stock form; provided that the mutual holding company is the continuing entity;

1161 (5) invest in a corporation, the purchase of the capital stock of which is permitted
1162 for a banking institution under state law;

1163 (6) exercise any other power or engage in any activity permitted to a mutual
1164 banking institution chartered by the commonwealth;

1165 (7) engage directly or indirectly only in such activities as are now or may
1166 hereafter be proper activities for bank holding companies under chapter 167A or by applicable
1167 federal law or regulations; and

1168 (8) exercise any rights, waive any rights or take or waive any other action with
1169 respect to any securities of any subsidiary banking institution which are held by such mutual
1170 holding company.

1171 SECTION 52. Said chapter 167H, as so appearing, is hereby further amended by adding
1172 the following section:-

1173 Section 12. A mutual company directly or indirectly controlling or owning 1 or more
1174 wholly owned stock bank subsidiaries or stock holding companies may elect to convert from a
1175 mutual holding company to a mutual banking institution organized under the original charter of
1176 its subsidiary banking institution, subject to approval of the commissioner and subject to the
1177 following conditions:

1178 (1) the conversion of the mutual holding company to a mutual banking institution shall be
1179 effected pursuant to a plan of conversion approved by the commissioner and a vote of 2/3 of the
1180 corporators of the mutual holding company;

1181 (2) all direct or indirect wholly owned stock bank subsidiaries and stock holding
1182 companies of the mutual holding company shall be merged into the resulting mutual banking
1183 institution;

1184 (3) the reorganized mutual banking institution shall assume all assets and liabilities of
1185 any direct or indirect wholly owned stock bank subsidiary or stock holding company and shall
1186 retain deposit insurance from the Federal Deposit Insurance Corporation and the excess deposit
1187 insurer of its subsidiary banking institution; and

1188 (4) such other provisions as the commissioner may require.

1189 The commissioner may promulgate rules and regulations to carry out this section.

1190 SECTION 53. The General Laws are hereby amended by inserting after chapter 167H the
1191 following 2 chapters:-

1192 CHAPTER 167I.

1193 CORPORATE BANK TRANSACTIONS: MERGERS, CONSOLIDATIONS,
1194 PURCHASE OF ASSETS AND CONVERSIONS

1195 Section 1. As used in this chapter, the following words shall have the following meanings
1196 unless the context clearly requires otherwise:-

1197 “Bank”, an association or corporation chartered by the commonwealth under chapter 168,
1198 170 or 172.

1199 “Board”, the board of trustees or directors of a bank or thrift institution and the board of
1200 directors of a federally chartered stock bank.

1201 “Capital stock”, the sum of the par value of the preferred and common shares of capital
1202 stock of a stock bank, issued and outstanding.

1203 “Commissioner”, the commissioner of banks.

1204 “Co-operative bank”, a bank governed by chapter 170.

1205 “Credit union”, a corporation organized under chapter 171 or corresponding provisions of
1206 earlier law.

1207 “Federally-chartered bank”, a national banking association, or federal savings and loan
1208 association or federal savings bank in stock form, the main office of which is located in the
1209 commonwealth or in another state.

1210 “Federally-chartered credit union”, a credit union organized under the Federal Credit
1211 Union Act.

1212 “Foreign bank”, an association or corporation authorized to do banking business which
1213 exists by authority of a country other than the United States.

1214 “Limited purpose trust company”, an entity chartered by the commonwealth pursuant to
1215 section 9A of chapter 172 or by any state or a federal agency that conducts trust and fiduciary
1216 business but does not accept deposits or otherwise carry on a banking business.

1217 “Mutual bank”, a savings bank chartered by the commonwealth pursuant to chapter 168
1218 or a co-operative bank chartered by the commonwealth pursuant to chapter 170 in mutual form.

1219 “Mutual holding company” a holding company organized pursuant to chapter 167H.

1220 “Out-of-state bank”, an association or corporation in stock form authorized to do banking
1221 business, the main office of which is located outside the commonwealth and which exists by
1222 authority of a state of the United States other than the commonwealth.

1223 “Savings bank”, a bank governed by chapter 168.

1224 “Stock bank”, an association or corporation chartered in stock form by the
1225 commonwealth under chapter 168 or 170, or which has reorganized or converted to become a
1226 stockholder form of organization pursuant to chapter 168 or 170, or a trust company, as defined
1227 in chapter 172.

1228 “Subsidiary banking institution”, the banking institution which is the direct or indirect
1229 subsidiary of a mutual holding company.

1230 “Surplus account”, an account so designated on the books of a bank and consisting of
1231 amounts required by law.

1232 “Thrift institution”, a banking institution in mutual or cooperative form organized under
1233 the laws of another state or a federal savings and loan association or federal savings bank in
1234 mutual form the main office of which is located in the commonwealth or in another state.

1235 “Trust company”, a bank governed by chapter 172.

1236 “Voting body”, corporators of a savings bank in mutual form, shareholders of a co-
1237 operative bank not in stock form and the stockholders of a stock bank with rights to vote in
1238 corporate transactions.

1239 Section 2. One or more mutual banks may merge or consolidate into a single mutual
1240 bank, and 1 or more mutual banks and 1 or more thrift institutions may merge or consolidate into

1241 a single mutual bank or thrift institution, upon such terms approved by a vote of at least 2/3 of
1242 the board of each mutual bank and, in the case of a merger or consolidation of 1 or more mutual
1243 banks and thrift institutions, by the board of each thrift institution in accordance with the laws
1244 under which each such thrift institution is organized, and approved in writing by the
1245 commissioner. The terms of any such merger or consolidation shall be approved by a 2/3 vote of
1246 the voting body of each mutual bank and, in the case of a merger or consolidation of 1 or more
1247 mutual banks and thrift institutions, by the depositors, incorporators, shareholders or members, as
1248 applicable, of each thrift institution in accordance with the laws under which such thrift
1249 institution is organized. A request for such approval by the commissioner shall be accompanied
1250 by an investigation fee, the amount of which shall be determined annually by the secretary of
1251 administration and finance under section 3B of chapter 7, a copy of the terms of any definitive
1252 merger or consolidation agreement reached by the merging or consolidating institutions, certified
1253 copies of the vote of the board of each mutual bank and, in the case of a merger or consolidation
1254 of 1 or more mutual banks and thrift institutions, certified copies of the vote of the board of each
1255 thrift institution. If the commissioner, after such notice and hearings as the commissioner may
1256 require, is satisfied that a merger or consolidation may be effected on terms approved by the
1257 commissioner and finds that such a merger or consolidation is in the interests of the depositors of
1258 any merging or consolidating savings bank and the shareholders of any merging or consolidating
1259 co-operative bank, such merger or consolidation may be approved by the commissioner subject
1260 to the commissioner's direction. Before becoming effective, any merger or consolidation
1261 authorized by this section, hereinafter referred to as a "consolidation", shall have been approved
1262 by a vote of at least 2/3 of the voting body of each mutual bank at meetings specially called to
1263 consider the subject and, in the case of a merger or consolidation of 1 or more mutual banks and

1264 thrift institutions, approved by a vote of the depositors, incorporators, shareholders or members, as
1265 applicable, of each such thrift institution in accordance with the laws under which each such
1266 thrift institution is organized; provided, however, that in the case of a co-operative bank the
1267 consolidation shall be approved by vote of at least 2/3 of those shareholders present, qualified to
1268 vote and voting at each such meeting.

1269 Notice of such meetings shall be given in accordance with applicable law and the by-laws
1270 of such merging or consolidating institutions. A certificate under the hands of the presidents and
1271 clerks or other duly authorized officers of all merging or consolidating institutions setting forth
1272 that each institution, respectively, has complied with the requirements of this section shall be
1273 submitted to the commissioner who, if approving such consolidation, shall endorse such
1274 approval upon such certificate. No such transaction under this section shall be consummated
1275 until arrangements satisfactory to any excess deposit insurer of each mutual bank have been
1276 made and notice thereof has been received by the commissioner.

1277 The offices and depots of any mutual bank and the offices of any thrift institution merged
1278 or consolidated under this section, may be maintained as branch offices or depots, respectively,
1279 of the continuing institution with the written permission of, and under such conditions, if any, as
1280 may be approved by the commissioner.

1281 If the merging or consolidating corporations or thrift institutions are chartered by or, in
1282 the case of federal savings and loan associations or federal mutual savings banks, have their main
1283 offices located in and are authorized to do business in different states, then from and after the
1284 effective date of the merger or consolidation, the citizenship and residency requirements set forth

1285 in the General Laws shall no longer apply, and any citizen of the United States may serve the
1286 continuing corporation.

1287 In making a finding that such merger or consolidation is in the interests of depositors and
1288 shareholders, the commissioner shall also determine whether competition among banking
1289 institutions will be unreasonably affected and whether public convenience and advantage will be
1290 promoted. In making such determination, the commissioner shall, at a minimum, consider a
1291 showing of net new benefits. For the purpose of this section, "net new benefits" shall include
1292 initial capital investments, job creation plans, consumer and business services, commitments to
1293 maintain and open branch offices within the continuing institution's Community Reinvestment
1294 Act assessment area and such other matters as the commissioner may deem necessary or
1295 advisable.

1296 Section 3. One or more stock banks may merge or consolidate into a single stock bank,
1297 and 1 or more stock banks, federally-chartered banks, out-of-state banks and limited purpose
1298 trust companies may merge or consolidate into a single stock bank, federally-chartered bank or
1299 out-of-state bank upon terms approved by a vote of at least 2/3 of the board of each stock bank
1300 and, in the case of a merger or consolidation of 1 or more stock banks with 1 or more federally-
1301 chartered banks or out-of-state banks, by the board of each out-of-state bank or federally-
1302 chartered bank in accordance with the laws under which each such out-of-state bank or federally-
1303 chartered bank is organized and approved in writing by the commissioner. The terms of any
1304 such merger or consolidation shall be approved by a 2/3 vote of the voting body of each stock
1305 bank and, in the case of a merger or consolidation of 1 or more stock banks with 1 or more
1306 federally-chartered banks or out-of-state banks, by the stockholders of such out-of-state bank or
1307 federally-chartered bank with rights to vote on the merger or consolidation in accordance with

1308 the laws under which such out-of-state bank or federally-chartered bank is organized. A request
1309 for approval by the commissioner of such a consolidation or merger shall be accompanied by an
1310 investigation fee, the amount of which shall be determined annually by the secretary of
1311 administration and finance under section 3B of chapter 7, a copy of the terms of any definitive
1312 merger or consolidation agreement reached by the merging or consolidating institutions, certified
1313 copies of the vote of the board of each stock bank and, in the case of a merger or consolidation of
1314 1 or more stock banks with 1 or more out-of-state banks or federally-chartered banks, certified
1315 copies of the vote of the board of each out-of-state bank or federally-chartered bank. If the
1316 commissioner, after such notice and hearings as the commissioner may require, is satisfied that a
1317 merger or consolidation may be effected on terms consistent with the standards set forth in this
1318 section, such merger or consolidation may be approved by the commissioner subject to the
1319 commissioner's direction. Before becoming effective, any merger or consolidation authorized
1320 by this section, hereinafter referred to as a "consolidation", shall have been approved by a vote of
1321 at least 2/3 of the voting body of each stock bank at meetings specially called to consider the
1322 subject and, in the case of a merger or consolidation of 1 or more stock banks with 1 or more
1323 out-of-state banks or federally-chartered banks, by the stockholders of such out-of-state bank or
1324 federally-chartered bank with rights to vote on the merger or consolidation in accordance with
1325 the laws under which such out-of-state bank or federally-chartered bank is organized. A
1326 certificate under the hands of the presidents and clerks or other duly authorized officers of all
1327 merging or consolidating institutions setting forth that each institution, respectively, has
1328 complied with the requirements of this section shall be submitted to the commissioner who, if
1329 approving such consolidation, shall endorse such approval upon such certificate. No such
1330 transaction under this section shall be consummated until arrangements satisfactory to any excess

1331 deposit insurer of each stock bank, if applicable, have been made and notice thereof has been
1332 received by the commissioner. The offices and depots of any stock bank and the offices of any
1333 other institution merged or consolidated under this section may be maintained as branch offices
1334 or depots, respectively, of the continuing institution with the written permission of and under
1335 such conditions, if any, as may be approved by the commissioner.

1336 If a federally-chartered bank or out-of-state bank is the continuing institution, then from
1337 and after the effective date of the merger or consolidation, the citizenship and residency
1338 requirements for directors set forth in the General Laws shall no longer apply.

1339 For the purposes of this section, the value of the stock of stockholders of a stock bank
1340 who have, as provided in section 13.21 and section 13.23 of chapter 156D, objected to any action
1341 authorized herein shall be ascertained in the manner provided in sections 13.01 and 13.03 to
1342 section 13.31, inclusive, of chapter 156D.

1343 Section 11.07 of chapter 156D shall apply to consolidations and mergers of state-
1344 chartered stock corporations authorized under this section; provided, that for this purpose
1345 references in said section 11.07 to said chapter 156D shall be deemed to be the chapter of the
1346 General Laws governing such stock corporation, and references in said section 11.07 to articles
1347 of organization shall be deemed to be to the articles of organization, including any special act of
1348 incorporation, as from time to time amended.

1349 In deciding whether to approve such consolidation or merger, the commissioner shall
1350 determine whether competition among banking institutions will be unreasonably affected and
1351 whether public convenience and advantage will be promoted. In making such determination, the
1352 commissioner shall consider, at a minimum, a showing of net new benefits. For the purpose of

1353 this section, the term “net new benefits” shall include initial capital investments, job creation
1354 plans, consumer and business services, commitments to maintain and open branch offices within
1355 the continuing institution’s Community Reinvestment Act assessment area and such other
1356 matters as the commissioner may deem necessary or advisable.

1357 Section 4. Any 1 or more mutual banks or subsidiary banking institutions and any 1 or
1358 more credit unions, or federal credit unions may merge or consolidate into a single mutual bank
1359 or subsidiary banking institution upon terms approved by a vote of at least 2/3 of the board of
1360 each mutual bank and the board of directors of each credit union, and shall have been approved
1361 in writing by the commissioner. The terms of any such merger or consolidation shall be approved
1362 by the voting body of each mutual bank and the shareholders of each credit union in the manner
1363 prescribed herein. A request for such approval by the commissioner shall be accompanied by an
1364 investigation fee, the amount of which shall be determined annually by the secretary of
1365 administration and finance under section 3B of chapter 7, a copy of the terms of any agreement
1366 reached by the respective boards and certified copies of the votes of such boards. If the
1367 commissioner, after such notice and hearing as the commissioner may require, is satisfied that a
1368 merger or consolidation may be effected on terms approved by the commissioner and finds that
1369 such merger or consolidation is in the interests of the depositors and shareholders of the
1370 institutions concerned, such merger or consolidation may be approved by the commissioner
1371 subject to the commissioner’s direction. In making a finding that any such merger or
1372 consolidation is in the interests of depositors and shareholders, the commissioner shall also
1373 determine whether competition among banking institutions will be unreasonably affected and
1374 whether public convenience and advantage will be promoted. In making such determination, the
1375 commissioner shall consider, at a minimum, a showing of net new benefits. For the purposes of

1376 this section, the term “net new benefits” shall include initial capital investments, job creation
1377 plans, consumer and business services, commitments to maintain and open branch offices within
1378 the bank’s delineated community, as such term is used within section 14 of chapter 167, and such
1379 other matters as the commissioner may deem necessary or advisable.

1380 Before becoming effective, any merger or consolidation authorized by this section,
1381 hereinafter referred to as a “consolidation”, shall have been approved by a vote of at least 2/3 of
1382 the voting body of each mutual bank or subsidiary banking institution present, qualified to vote
1383 and voting at a meeting specially called to consider the subject and approved by a vote of at least
1384 a majority of the shareholders of each credit union present, qualified to vote and voting at a
1385 meeting specially called for that purpose. Notice for such meetings shall be given in accordance
1386 with the relevant provisions of law. A certificate under the hands of the presidents and clerks or
1387 other duly authorized officers of all merging or consolidating corporations and credit unions
1388 setting forth that each institution, respectively, has complied with the requirements of this section
1389 shall be submitted to the commissioner who, if approving such consolidation, shall endorse such
1390 approval upon such certificate. No such transaction under this section shall be consummated
1391 until arrangements satisfactory to any excess deposit insurer of each such bank or credit union, if
1392 applicable have been made and notice thereof has been received by the commissioner.

1393 The offices and depots of any credit union merged or consolidated under this section may
1394 be maintained as branch offices or depots of the continuing corporation with the written
1395 permission of, and under such conditions, if any, as approved by the commissioner.

1396 Section 5. If the commissioner has certified to the Depositors Insurance Fund or the Co-
1397 operative Central Bank that it is unsafe or inexpedient for a member bank to continue to transact

1398 business, as provided in section 4 of chapter 43 of the acts of 1934 or section 4 of chapter 73 of
1399 the acts of 1934, such member bank may be consolidated with or sell its assets to another savings
1400 bank or co-operative bank as applicable on an expedited basis, notwithstanding any general or
1401 special law to the contrary governing such transactions; provided, that the following conditions
1402 shall be satisfied:

1403 (1) the terms and conditions of the proposed consolidation or purchase and sale of assets
1404 are set forth in a written plan or agreement between the continuing corporation and the
1405 Depositors Insurance Fund or the Co-operative Central Bank on behalf of the certified member
1406 bank;

1407 (2) the consolidation or purchase and sale of assets and the written plan or agreement
1408 setting forth such arrangement is approved by a vote of at least 2/3 of the board of the continuing
1409 corporation at a meeting duly called for such purpose and by a vote of at least 2/3 of the board of
1410 directors of the Depositors Insurance Fund or the Co-operative Central Bank at a meeting duly
1411 called for such purpose;

1412 (3) the commissioner determines that (a) failure to take immediate action to effect a
1413 consolidation or sale of assets of the certified member bank with or to another savings bank or
1414 co-operative bank, as applicable, is likely to undermine public confidence in banks, (b) the best
1415 interests of the depositors of the certified member bank, the depositors of the continuing
1416 corporation and the Depositors Insurance Fund or the Co-operative Central Bank will be served
1417 by an expedited consolidation or sale of assets and (c) the public convenience and advantage will
1418 be served by the proposed consolidation or sale of assets; and

1419 (4) the commissioner approves in writing the proposed consolidation or purchase and sale
1420 of assets, subject to such terms and conditions as may be deemed appropriate.

1421 Upon the effective date of any consolidation pursuant to this section, the rights and
1422 obligations of the certified member bank, the continuing corporation and their respective
1423 depositors, debtors and creditors shall be governed by section 7.

1424 A certificate endorsed by the president and clerk, or 2 other duly authorized officers of
1425 the continuing corporation and the Depositors Insurance Fund or the Co-operative Central Bank
1426 on behalf of the certified member bank stating that each corporation, respectively, has complied
1427 with the requirements of this section, shall be submitted to the commissioner who, if approving
1428 such consolidation or sale of assets, shall endorse said approval upon such certificate and
1429 thereupon such consolidation or sale of assets shall become effective at the close of business on
1430 such date.

1431 At any time, and from time to time after the consolidation has become effective, copies of
1432 the certificate may be certified and issued by the commissioner and may be filed in the several
1433 registries of deeds and land court registry districts of the commonwealth and in any filing offices
1434 established under chapter 106. Such certification shall be conclusive evidence for all purposes of
1435 the succession by the continuing corporation to all rights and interests of the certified
1436 corporation.

1437 If the Deposit Insurance Fund of the Depositors Insurance Fund or the Share Insurance
1438 Fund of the Co-operative Central Bank ceases to insure the deposits or shares of a member bank
1439 and the commissioner determines that grounds exist to require the commissioner's immediate
1440 assumption of possession and control of its assets under section 22 of chapter 167, the

1441 commissioner shall, upon assumption of possession and control of such member bank's assets,
1442 have all powers granted in this section to the Deposit Insurance Fund or the Co-operative Central
1443 Bank to effect a consolidation or sale of assets on behalf of such corporation.

1444 For the purposes of this section, "member bank" shall mean a savings bank in the
1445 Depositors Insurance Fund and a co-operative bank in the Co-operative Central Bank.

1446 Section 6. The commissioner shall not approve an application for a merger or
1447 consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for
1448 less than 3 years or if, as a result of any such merger, the applicant would control more than 30
1449 per cent of the total deposits, exclusive of foreign deposits, of all depository institutions in the
1450 commonwealth insured by the Federal Deposit Insurance Corporation, or any successor
1451 corporation thereto; provided, however, that either said age requirement or concentration limit,
1452 or both, may be waived by the commissioner if economic conditions warrant such waiver. For
1453 the purposes of this section, "foreign deposits" shall mean deposits received in a foreign country
1454 and deposits in Edge and Agreement subsidiaries and international banking facilities.

1455 Section 7. For any consolidation or merger under the preceding sections, articles of
1456 consolidation or merger shall be filed with the state secretary which shall set forth the due
1457 adoption of an agreement of consolidation or merger and shall state: (i) the names of the
1458 corporations and the name of the resulting or surviving corporation; (ii) the effective date of the
1459 consolidation or merger determined pursuant to the agreement of consolidation or merger; and
1460 (iii) any amendment to the articles of organization of the surviving corporation to be effected
1461 pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by
1462 the president or a vice president and the clerk or an assistant clerk of each corporation, who shall

1463 state under the penalties of perjury that the agreement of consolidation or merger has been duly
1464 executed on behalf of such corporation and has been approved as required.

1465 The form on which articles of consolidation or merger are filed shall also contain the
1466 following information which shall not for any purpose be treated as a permanent part of the
1467 articles of organization of the resulting or surviving corporation:

1468 (1) the post office address of the initial principal office of the resulting or surviving
1469 corporation in the commonwealth;

1470 (2) the name, of each of the initial trustees or directors and the president, treasurer and
1471 clerk of the resulting or surviving corporation;

1472 (3) the fiscal year of the resulting or surviving corporation initially adopted; and

1473 (4) the date initially fixed in the by-laws for the annual meeting of the shareholders or
1474 members of the resulting or surviving corporation.

1475 The consolidation or merger shall become effective when the articles of consolidation or
1476 merger are filed in accordance with sections 1.23 and 1.25 of chapter 156D, unless said articles
1477 specify a later effective date, in which event the consolidation or merger shall become effective
1478 upon such later date. Upon consolidation of any such institutions, as herein provided:

1479 (A) the corporate existence of all but 1 of the consolidating institutions shall be
1480 discontinued and consolidated into that of the remaining institution, which shall continue;
1481 provided, that all and singular the rights, privileges and franchises of each discontinuing
1482 institution and its right, title and interest to all property of whatever kind, whether real, personal
1483 or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or

1484 benefit then existing which would inure to it under an unconsolidated existence, shall be deemed
1485 fully, finally and without any right of reversion transferred to or vested in the continuing
1486 institution, without further act or deed, and such continuing institution shall have and hold the
1487 same in its own right as fully as if the same was possessed and held by the discontinuing
1488 institution from which it was, by operation of the provisions hereof, transferred, and other
1489 provisions of law relative to limitations on the number of directors, corporators or trustees and on
1490 the investment of funds of such institutions shall not apply;

1491 (B) a discontinuing institution's rights, obligations and relations to any
1492 shareholder, depositor, creditor, trustee or beneficiary of any trust or other person, as of the
1493 effective date of the consolidation, shall remain unimpaired, and the continuing institution shall,
1494 by the consolidation, succeed to all such relations, obligations and liabilities, as though it had
1495 itself assumed the relation or incurred the obligation or liability; and its liabilities and obligations
1496 to creditors existing for any cause whatsoever shall not be impaired by the consolidation; nor
1497 shall any obligation or liability of any shareholder or depositor in any such institution, continuing
1498 or discontinuing, which is party to the consolidation, be affected by any consolidation; provided,
1499 however, that such obligations and liabilities shall continue as fully and to the same extent as the
1500 same existed before the consolidation, and the provisions relative to the limitations on shares and
1501 deposits shall not apply;

1502 (C) a pending action or other judicial proceeding to which any of the
1503 consolidating institutions is a party shall not be deemed to have abated or to have discontinued
1504 by reason of the consolidation, but may be prosecuted to final judgment, order or decree in the
1505 same manner as if the consolidation has not been made; or the continuing institution may be
1506 substituted as a party to any such action or proceeding to which the discontinuing institution was

1507 a party and any judgment, order or decree may be rendered for or against the continuing
1508 institution that might have been rendered for or against such discontinuing institution if such
1509 consolidation had not occurred;

1510 (D) after such consolidation, a foreclosure of a mortgage begun by any
1511 discontinuing institution may be completed by the continuing institution and publication begun
1512 by the discontinuing institution may be continued in the name of the discontinuing institution and
1513 any certificate of possession, affidavit of sale or foreclosure deed relative to such foreclosure
1514 shall be executed by the proper officers on behalf of whichever of such institution actually took
1515 possession or made the sale, but any such instrument executed on behalf of the continuing
1516 institution shall recite that it is the successor of the discontinuing institution which commenced
1517 the foreclosure;

1518 (E) a new name may be adopted as the name of the continuing institution at the
1519 special meetings called as herein provided and it shall become the name of the continuing
1520 institution upon the approval of the consolidation, without further action under the laws of the
1521 commonwealth as to change or adoption of a new name on the part of the continuing institution;
1522 and

1523 (F) any consolidation may be approved and effected pursuant to this section,
1524 notwithstanding that the percentage which the aggregate value of the guaranty fund, surplus and
1525 other reserves, of any of the consolidating institutions, bears to its liabilities including share
1526 liabilities, exceeds such percentage of any of the other consolidating institutions and any
1527 consolidating institution having such an excess of percentage shall not be required to make any
1528 distribution to its shareholders or depositors.

1529 Section 8. With the approval of the commissioner, any bank may advance or loan upon or
1530 purchase the whole or any part of the assets or stock of any bank, out-of-state bank, federally-
1531 chartered bank, thrift institution, limited purpose trust company, credit union or federally-
1532 chartered credit union including any state-chartered bank in possession of the commissioner
1533 under sections 22 to 36, inclusive, of chapter 167 and any state-chartered bank assisted by or in
1534 possession of its insurer and may participate in such an advance, loan or purchase with 1 or more
1535 banks so located. The request for such approval shall be accompanied by an investigation fee, the
1536 amount of which shall be determined annually by the secretary of administration and finance
1537 under section 3B of chapter 7. Such advance, loan or purchase may be made upon the terms and
1538 conditions approved by vote of at least 2/3 of the board of the bank and the applicable board of
1539 such other bank or federally chartered bank.

1540 Such bank or banks making or participating in such an advance, loan or purchase for the
1541 purpose of effecting the same, may assume and agree to pay the whole or any part of the deposit
1542 and other liabilities of any other bank, out-of-state bank, federally-chartered bank, thrift
1543 institution, limited purpose trust company, credit union or federally-chartered credit union upon
1544 such terms and conditions and subject to such adjustments as may be approved by the
1545 commissioner. In the event of such approval by the commissioner, other laws applicable to the
1546 investment of funds of a bank therein shall not apply.

1547 No such transaction under this section shall be consummated until arrangements
1548 satisfactory to any excess deposit insurer of each such bank, if applicable, have been made and
1549 notice thereof has been received by the commissioner.

1550 The commissioner may impose such conditions and restrictions as may be deemed
1551 necessary or advisable in respect to the deposit or other liabilities, as hereinbefore provided. In
1552 the case of any new bank formed for the purpose of purchasing any or all the assets and
1553 assuming any or all the liabilities of any bank in possession or assisted as aforesaid, the
1554 commissioner may impose such other and further conditions and restrictions concerning the
1555 business, investments and operations of such new bank as the commissioner may deem necessary
1556 or advisable. Section 8 of chapter 167J shall not prevent an officer, trustee or director of any
1557 other bank from serving as an officer, trustee or director of such new bank or of a bank or
1558 federally-chartered bank the assets and liabilities or stock of which shall have been purchased
1559 and assumed by a bank hereunder.

1560 Before all or substantially all of the assets or stock of any bank shall be sold, such action
1561 shall be approved by the voting body of the bank, out-of-state bank, federally-chartered bank,
1562 thrift institution, credit union or federally-chartered credit union at a special meeting called for
1563 that purpose; of the corporation proposing to sell its assets or stock by a 2/3 vote of the voting
1564 body present, qualified to vote and voting; of a mutual bank and by the voting body in a stock
1565 bank. Notice of such special meeting shall be given by the clerk in accordance with the
1566 provisions of applicable law.

1567 In deciding whether to approve any such advance, loan or purchase, the commissioner
1568 shall determine whether or not competition among banking institutions will be unreasonably
1569 affected and whether public convenience and advantage will be promoted. In making such
1570 determination, the commissioner shall consider, at a minimum, a showing of net new benefits.
1571 For the purpose of this section, “net new benefits” shall include initial capital investments, job
1572 creation plans, consumer and business services, commitments to maintain and open branch

1573 offices within a bank's delineated local community, as such term is used within section 14 of
1574 chapter 167, and such other matters as the commissioner may deem necessary or advisable.

1575 Section 9. Notwithstanding any general or special law to the contrary, a mutual bank,
1576 subject to approval of the commissioner, may convert to a stock bank.

1577 Any mutual bank which converts to a stock bank shall have all the powers and privileges
1578 of a savings bank or co-operative bank, as applicable.

1579 The commissioner shall have the authority to conduct a supervisory conversion of a
1580 mutual bank to stock form if the commissioner determines that upon liquidation of the mutual
1581 bank there would be no equity value realizable by the depositors of the mutual bank.

1582 The commissioner shall prescribe from time to time such rules and regulations as may be
1583 necessary or proper in carrying out this section.

1584 Section 10. A credit union may convert to a mutual bank pursuant to section 80A of
1585 chapter 171. A federally-chartered credit union may convert to a mutual bank pursuant to the
1586 Federal Credit Union Act subject to the approval of the commissioner under such conditions as
1587 may be imposed by the commissioner and subsection (m) of section 80A of chapter 171.

1588 Section 11. A mutual bank or stock bank, by vote of at least 2/3 of its voting body, at a
1589 meeting duly called for the purpose, preceded by a notice in writing sent to each member of the
1590 voting body and to the commissioner by mail at least 60 days before said meeting, may
1591 consolidate or merge into or convert into a federally-chartered bank or thrift institution in
1592 accordance with the laws of the United States and without the approval of any authority of the
1593 commonwealth.

1594 Section 12. By any votes required under federal law and the filing of such documents as
1595 the commissioner shall prescribe and under such terms and conditions as the commissioner may
1596 impose, a federally-chartered bank or thrift institution, upon approval by the commissioner, shall
1597 be converted into a bank chartered under chapters 168, 170 or 172, and shall not, in connection
1598 with or upon such conversion, be subject to the requirements of the General Laws with respect to
1599 the organization and commencement of business of such a bank; provided, however, that such
1600 conversion shall comply with the laws of the United States.

1601 Section 13. A company having capital stock which desires to acquire all the capital stock
1602 of any stock bank shall, together with such stock bank, submit, to the commissioner a written
1603 plan of acquisition of such stock. Such plan shall be in a form satisfactory to the commissioner,
1604 shall specify the stock bank, the stock of which is to be acquired by the company, shall prescribe
1605 the terms and conditions of the acquisition and the mode of carrying it into effect, including the
1606 manner of exchanging the shares of the corporation for shares or other securities of the company.
1607 Any such plan may provide for the payment of cash in lieu of the issuance of fractional shares of
1608 the company. At the time of submitting said written plan of acquisition, an investigation fee, the
1609 amount of which shall be determined annually by the secretary of administration and finance
1610 under section 3B of chapter 7, shall be paid to the commissioner of banks by the company.

1611 There shall also be submitted with said plan of acquisition of stock, a certificate of any
1612 officer or duly authorized representative, certifying that such plan has been approved by the
1613 board of directors or other governing body of the company by a majority vote of all the members
1614 thereof, and a certificate of any officer or duly authorized representative of each stock bank, the
1615 acquisition of all the capital stock of which is provided for, certifying that such plan has been
1616 approved by the board of directors of such corporation by a majority vote of all the members

1617 thereof, and that such plan was thereafter submitted to the stockholders of such stock bank at a
1618 meeting thereof held upon notice of at least 15 days, specifying the time, place and object of
1619 such meeting and addressed to each stockholder at the address appearing upon the books of the
1620 corporation and that such plan has been approved at such meeting by the vote of stockholders
1621 owning at least 2/3 of the stock of such corporation.

1622 The commissioner shall examine the plan of acquisition of stock so submitted, and after
1623 making such investigation thereof as the commissioner deems appropriate, the commissioner
1624 shall, within 60 days after receipt thereof approve or disapprove such plan of acquisition in case
1625 such company is not, and would not upon the effectiveness of such plan become, a bank holding
1626 company. In approving any such plan, the commissioner may attach such conditions thereto as
1627 the commissioner deems advisable.

1628 If the commissioner finds that competition among banking institutions will not be
1629 unreasonably affected and that public convenience and advantage will be promoted, the
1630 commissioner shall approve such plan of acquisition and shall endorse the approval thereon and
1631 a copy of the plan bearing such endorsement shall be filed within 30 days thereafter in the office
1632 of the commissioner. Upon such filing, the plan, and the acquisition provided for therein, shall
1633 become effective, unless a later date is specified in the plan, in which event the plan and such
1634 acquisition shall become effective upon such later date.

1635 A stockholder of any such corporation which shall have approved such plan of
1636 acquisition, who objects to such action, in the manner provided in sections 13.21 and 13.23 of
1637 chapter 156D, shall be entitled, if such plan shall have become effective, to demand payment for
1638 the stockholder's stock from such corporation and an appraisal thereof in accordance with

1639 sections 13.01 and 13.03 to 13.31, inclusive, of chapter 156D, which provisions, as modified for
1640 the purposes of this paragraph by the provisions hereof, are hereby made applicable in all such
1641 cases, and such stockholder and such corporation shall have the rights and duties and follow the
1642 procedure set forth in said sections.

1643 Any stock bank shall have the power to organize a company for the purposes
1644 contemplated by this section; and in connection with such organization and the development of a
1645 plan of acquisition, any such corporation may incur organization and other expenses in such
1646 amounts, in the aggregate, not exceeding 2 per cent of its capital stock, surplus account and
1647 undivided profits as the commissioner may approve.

1648 Any such company shall engage directly or indirectly only in such activities as are now
1649 or may hereafter be proper activities for bank holding companies registered under the federal
1650 Bank Holding Company Act of 1956, including, without limiting the generality of the foregoing,
1651 the issuance and sale of commercial paper and acquiring, managing or controlling a bank, a
1652 federally-chartered bank or an out-of-state bank.

1653 Section 14 shall not apply to an acquisition under this section. A company which acquires
1654 any such corporation under this section shall be deemed a bank holding company subject to
1655 section 5 of chapter 167A. For the purposes of this section, "company" shall have the same
1656 meaning as defined in paragraph (c) of section 1 of chapter 167A.

1657 Section 14. No person, acting directly or indirectly or through or in concert with 1 or
1658 more other persons, shall acquire control of any stock bank, through a purchase, assignment,
1659 transfer, pledge or other disposition of voting stock of such bank unless the commissioner has
1660 been given 60 days prior written notice of such proposed acquisition and within said 60 days the

1661 commissioner has not issued a notice disapproving the proposed acquisition or extending for up
1662 to another 30 days the period during which such a disapproval may issue. The period for
1663 disapproval may be further extended if the commissioner determines that the acquiring party has
1664 not furnished all the material required hereinafter for a notice of proposed acquisition or that in
1665 the commissioner's judgment any material information submitted is substantially inaccurate. An
1666 acquisition may be made prior to expiration of the disapproval period if the commissioner issues
1667 written notice of the commissioner's intent not to disapprove the action. A notice of proposed
1668 acquisition filed pursuant to this section shall contain the following information:

1669 (1) the identity, personal history, business background and experience of each person by
1670 whom or on whose behalf the acquisition is to be made, including the individual's material
1671 business activities and affiliations during the past 5 years, and a description of any material
1672 pending legal or administrative proceedings in which the individual is a party and any criminal
1673 indictment or conviction of such person by a state or federal court;

1674 (2) a statement of the assets and liabilities of each person by whom or on whose behalf
1675 the acquisition is to be made, as of the end of the fiscal year for each of the 5 fiscal years
1676 immediately preceding the date of the notice, together with related statements of income and
1677 source and application of funds for each of the fiscal years then concluded, all prepared in
1678 accordance with generally accepted accounting principles consistently applied and an interim
1679 statement of the assets and liabilities for each such person, together with related statements of
1680 income and source and application of funds, as of a date not more than 90 days prior to the date
1681 of the filing of the notice;

1682 (3) the terms and conditions of the proposed acquisition and the manner in which the
1683 acquisition is to be made;

1684 (4) the identity, source and amount of the funds or other consideration used or to be used
1685 in making the acquisition, and if any part of these funds or other consideration has been or is to
1686 be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the
1687 transaction, the names of the parties, and any arrangements, agreements or understandings with
1688 such persons;

1689 (5) any plans or proposals which any acquiring party making the acquisition may have to
1690 liquidate the stock bank, to sell its assets or merge it with any company or to make any other
1691 major change in its business or corporate structure or management;

1692 (6) the identification of any person employed, retained or to be compensated by the
1693 acquiring party, or by any person on the acquiring party's behalf, to make solicitations or
1694 recommendations to stockholders for the purpose of assisting in the acquisition and a brief
1695 description of the terms of such employment, retainer or arrangement for compensation;

1696 (7) copies of all invitations or tenders or advertisements making a tender offer to
1697 stockholders for purchase of their stock to be used in connection with the proposed acquisition;
1698 and

1699 (8) any additional relevant information and in such form as the commissioner may
1700 require by specific request in connection with any particular notice.

1701 The commissioner may disapprove any proposed acquisition if: (1) the proposed
1702 acquisition of control would result in a monopoly; (2) the effect of the proposed acquisition of

1703 control may be substantially to lessen competition or to tend to create a monopoly or the
1704 proposed acquisition of control would in any other manner be in restraint of trade and the anti-
1705 competitive effects of the proposed acquisition of control are not clearly outweighed in the
1706 public interest by the probable effect of the transaction in meeting the convenience and needs of
1707 the community to be served; (3) the financial condition of any acquiring person is such as might
1708 jeopardize the financial stability of the stock bank or prejudice the interests of the depositors of
1709 such bank; (4) the competence, experience or integrity of any acquiring person or of any of the
1710 proposed management personnel indicates that it would not be in the interest of the depositors of
1711 such bank or in the interest of the public to permit such person to control the stock bank; or (5)
1712 any acquiring person neglects, fails or refuses to furnish all the information required by the
1713 commissioner. Any disapproval shall be in writing to the acquiring party and shall include a
1714 statement of the basis for such disapproval. Within 10 days of the receipt of a notice of
1715 disapproval the acquiring party may request a hearing to be held by the commissioner or a
1716 designee. Such hearing shall be held under chapter 30A and regulations issued thereunder.

1717 For the purposes of this section, "person" shall mean an individual or a corporation,
1718 partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated
1719 organization or any other form of entity not specifically listed herein and the term "control" shall
1720 mean the power, directly or indirectly, to direct the management or policies of any such
1721 corporation or to vote 25 per cent or more of any class of voting securities of any such
1722 corporation.

1723 This section shall not alter or amend the authorities of the commissioner or the board of
1724 bank incorporation set out in any other sections of law.

1725 Whoever violates this section shall be punished by a fine of not more than \$500 or by
1726 imprisonment for not more than 6 months, or both such fine and imprisonment.

1727 Section 15. Subject to the written approval of the commissioner, a bank may be dissolved
1728 and liquidate its affairs if authorized by a vote passed, at a meeting specially called to consider
1729 the subject, by at least 2/3 of the voting body of the bank. A committee of 3 members shall
1730 thereupon be elected, and, under such regulations as may be prescribed by the commissioner,
1731 shall liquidate the assets and after satisfying all debts of the bank shall distribute the remaining
1732 proceeds among those entitled thereto in proportion to their respective interests therein.

1733 For the purposes of this section, “members” shall mean trustees in a savings bank in
1734 mutual form; shareholders in a co-operative bank in mutual form and stockholders in a bank in
1735 stock form.

1736 Section 16. (a) Upon a merger or a consolidation by a savings bank with and into a bank,
1737 a federally-chartered bank or an out-of-state bank, other than a savings bank, such savings bank,
1738 in this section referred to as a former member bank, shall cease to be a member bank in the
1739 Depositors Insurance Fund. Notwithstanding any general or special law to the contrary, upon any
1740 such merger or consolidation, such savings bank shall not succeed to or acquire any rights
1741 including, but not limited to, rights to dividends or to the proceeds of any distribution in
1742 complete or partial dissolution or liquidation, in the Depositors Insurance Fund or in its Liquidity
1743 Fund or Deposit Insurance Fund.

1744 A savings bank shall send a notice in writing by registered mail to the Depositors
1745 Insurance Fund at least 60 days before the meeting of the incorporators or stockholders, as

1746 applicable, to vote on the merger or consolidation with and into a bank, a federally-chartered
1747 bank or an out-of-state bank, other than a savings bank.

1748 (b) Upon the acceptance by a savings bank of a federal charter it shall cease to be a
1749 member bank in the Depositors Insurance Fund. Notwithstanding any general or special law to
1750 the contrary, following its acceptance of a federal charter such corporation shall not retain,
1751 succeed to or acquire any rights including, but not limited to, rights to dividends or to the
1752 proceeds of any distribution in complete or partial dissolution or liquidation, in the Depositors
1753 Insurance Fund or in its Liquidity Fund or Deposit Insurance Fund, except to the extent
1754 specifically provided in this paragraph. In the event that such corporation shall, subsequent to its
1755 acceptance of a federal charter, (i) convert to a Massachusetts-chartered savings bank and
1756 become a member of the Depositors Insurance Fund or (ii) become a federal member of the
1757 Depositors Insurance Fund, such corporation shall, for so long as it shall remain a member or
1758 federal member bank of the Depositors Insurance Fund, participate in any dividends paid
1759 pursuant to section 3 of chapter 43 of the acts of 1934 and in any distributions made pursuant to
1760 section 10 of said chapter 43, and in any dividends paid and any withdrawals or returns of
1761 deposits authorized pursuant to section 4 of chapter 44 of the acts of 1932, in each case based
1762 upon the retained amounts paid in by such corporation to the Deposit Insurance Fund and the
1763 Liquidity Fund, respectively, without regard to whether such amounts were paid before or after
1764 acceptance of a federal charter, or upon the unexpended portion thereof, in the same manner and
1765 to the same extent as it would have been entitled to participate if such corporation had not
1766 accepted a federal charter.

1767 Upon the conversion of any such corporation into a federal charter, the corporate
1768 existence of such bank shall not terminate, provided, however, that such federally-chartered bank

1769 shall be deemed to be a continuation of the entity of the savings bank so converted and all
1770 property of the converted savings bank, including its rights, titles and interests in and to all
1771 property, whether real, personal or mixed, and things in action and every right, privilege, interest
1772 and asset of any conceivable value or benefit then existing, or pertaining to it or which would
1773 inure to it, shall immediately, by act of law and without any conveyance or transfer and without
1774 any further act or deed, remain and be vested in and continue and be the property of such
1775 federally-chartered bank into which the savings bank has converted itself and such federal bank
1776 shall have, hold and enjoy the same in its own right as fully and to the same extent as the same
1777 was possessed, held and enjoyed by the converting savings bank, and such federal bank as of the
1778 time of the taking effect of such conversion shall continue to have and succeed to all the rights,
1779 obligations and relations of the converting savings bank. All pending actions and other judicial
1780 proceedings to which the converting savings bank is a party shall not be deemed to have been
1781 abated or to have been discontinued by reason of such conversion, but may be prosecuted to final
1782 judgment, order or decree in the same manner as if such conversion into such federal bank had
1783 not been made and such federal bank resulting from such conversion may continue such action in
1784 its corporate name as a federal bank, and any judgment, order or decree may be rendered for or
1785 against it, which might have been rendered for or against the converting savings bank theretofore
1786 involved in such judicial proceedings.

1787 The predecessor corporation or the succeeding association shall pay to said Deposit
1788 Insurance Fund or make provision for payment thereto of a sum equal to 3 annual assessments, at
1789 the percentage rate in effect at the time the predecessor corporation ceased to be a member bank
1790 and computed on the basis of its deposits as shown by its last annual report to the commissioner
1791 preceding such conversion or, at its option or at the option of the succeeding association, as

1792 shown by the records of the predecessor corporation on the effective date of conversion. Until
1793 such sum shall have been paid in full, payments on account thereof shall be made annually or
1794 more often by the predecessor corporation or the succeeding association; provided, that not less
1795 than 1/3 of such sum shall be paid annually. If any such 1/3 shall not be so paid or if, at the end
1796 of 3 years from the time the predecessor corporation ceased to be a member bank such sum shall
1797 not have been paid in full, the entire balance thereof may be recovered by the Fund, together
1798 with interest thereon, in any manner provided by law for the collection of debts. The predecessor
1799 corporation or the succeeding association may authorize the deduction of such sum in whole or
1800 in part, from the amount, if any, of the portions of said other assessments to which the
1801 succeeding association may be entitled as hereinbefore provided. If, however, by federal law or
1802 regulation, a federal bank converting to a savings bank, is required to pay to the Federal Deposit
1803 Insurance Corporation a sum equal to annual premiums or assessments for other than a period of
1804 3 years, then the number of annual assessments payable to said share insurance fund under this
1805 section shall be for the same number of years as is so required.

1806 Any such corporation which accepts or has accepted a federal charter after January 1,
1807 1983 may apply to the Depositors Insurance Fund for insurance coverage of its deposits in
1808 excess of the amount insured by a federal deposit insurance agency, hereinafter referred to as
1809 “excess insurance”, in accordance with the requirements of chapter 44 of the acts of 1932 and
1810 chapter 43 of the acts of 1934; provided, however, that no such corporation shall apply for such
1811 excess insurance unless such corporation shall have capital and surplus if a stock institution or
1812 surplus if a mutual institution, less any intangible asset value, equal to or greater than 6 per cent
1813 of total assets. The Depositors Insurance Fund shall not accept for excess insurance coverage any
1814 such corporation which fails to meet the requirements specified above or the requirements set out

1815 in section 19 of said chapter 43. For purposes of this section, “federal deposit insurance agency”
1816 shall mean Federal Deposit Insurance Corporation or any successor to such corporation.

1817 The commissioner may establish the procedure to be followed by a federally-chartered
1818 bank converting into a savings bank; provided, however, that no such conversion shall become
1819 effective unless approved in writing by the commissioner; and provided, further, that the
1820 commissioner shall not grant such approval until the commissioner has received notice from the
1821 Depositors Insurance Fund that arrangements satisfactory to it have been made for such
1822 conversion.

1823 (c) Upon the conversion of a federally-chartered bank authorized to conduct business in
1824 the commonwealth the corporate existence of such association or bank shall not terminate,
1825 provided, however, that the state-chartered savings bank shall be deemed to be a continuation of
1826 the entity of the association or bank so converted and all property of the converted association or
1827 bank including its rights, titles and interests in and to all property of whatsoever kind, whether
1828 real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any
1829 conceivable value or benefit then existing, or pertaining to it, or which would inure to it, shall
1830 immediately by act of law and without any conveyance or transfer and without any further act or
1831 deed remain and be vested in and continue and be the property of such savings bank into which
1832 the federal bank has converted itself, and such savings bank shall have, hold and enjoy the same
1833 in its own right as fully and to the extent as the same was possessed, held and enjoyed by the
1834 converting association or bank and such savings bank as of the time of the taking effect of such
1835 conversion shall continue to have and succeed to all the rights, obligations and relations of the
1836 converting association or bank. All pending actions and other judicial proceedings to which the
1837 converting federal bank is a party shall not be deemed to have been abated or to have been

1838 discontinued by reasons of such conversion, but may be prosecuted to final judgment, order or
1839 decree in the same manner as if such conversion into such savings bank had not been made and
1840 such savings bank resulting from such conversion may continue such action in its corporate
1841 name as a savings bank, and any judgment, order or decree may be rendered for or against it,
1842 which might have been rendered for or against such converting federal association or bank
1843 theretofore involved in such judicial proceedings.

1844 Upon the completion of the conversion of a federal bank into a savings bank under this
1845 chapter, said savings bank shall become a member of the Depositors Insurance Fund, hereinafter
1846 called the fund, and of the Deposit Insurance Fund thereof. Before such succeeding corporation
1847 shall commence business as a savings bank, it shall pay into the Liquidity Fund of the fund, an
1848 amount equal to the deposit required of a member bank thereof a similar size, as of the date of
1849 said certificate, plus such additional amount based upon the surplus of said reserve fund, as the
1850 directors of the fund, with the approval of the commissioner, shall determine to be equitable. In
1851 addition to the payment to said reserve fund, the succeeding corporation shall pay to the Deposit
1852 Insurance Fund such proportion of the current and annual assessment as shall have accrued to the
1853 date of said certificate.

1854 After compliance with the foregoing requirements, the succeeding corporation shall be
1855 entitled to exercise all of the rights and privileges and shall be subject to all of its duties and
1856 obligations of a savings bank and shall conduct its business subject to this chapter and other
1857 applicable laws; provided, however, that, with the approval of the commissioner, the succeeding
1858 corporation shall have reasonable time after the effective date of the conversion within which to
1859 comply with any particular laws not hereinbefore specifically provided for and which it shall be
1860 unable to comply with on or before said date.

1861 Section 17. (a) Upon a proposal to merge or consolidate a co-operative bank with and
1862 into a bank, other than a co-operative bank, a federally-chartered bank or an out-of-state bank or
1863 conversion to a federal charter such co-operative bank shall send a notice in writing by registered
1864 mail to the Co-operative Central Bank, hereinafter call the central bank, established by chapter
1865 45 of the acts of 1932, at least 60 days before the meeting of the directors to vote on the merger,
1866 consolidation or conversion.

1867 (b) Upon the acceptance by a co-operative bank of a federal charter and after the
1868 commissioner has received from the state secretary a certificate that such co-operative bank,
1869 hereinafter referred to as the predecessor corporation, has been duly recorded for dissolution,
1870 paragraphs 1 to 3, inclusive, shall apply.

1871 (1) The central bank shall pay to said succeeding association from the fund
1872 representing deposits of member banks made pursuant to chapter 45 of the acts of 1932,
1873 hereinafter called the reserve fund, an amount equal to not more than the aggregate of all
1874 deposits made by the predecessor corporation held in said reserve fund on the effective date of
1875 the conversion, less all indebtedness of such corporation to the central bank; provided, however,
1876 that no part of the income, surplus, undivided profits or other reserves held by the central bank in
1877 said reserve fund shall be so paid.

1878 (2) All amounts required to be paid by the predecessor corporation while a
1879 member bank to the Share Insurance Fund of the central bank, pursuant to section 1 of chapter
1880 73, including the income, surplus, undivided profits and other reserves of the Share Insurance
1881 Fund, shall be retained by the central bank as a charge for insurance of the shares of such
1882 corporation while a member of said Share Insurance Fund. Such corporation shall participate in

1883 any distributions authorized and made pursuant to section 9 of chapter 73 of the acts of 1934;
1884 provided, however, that the aggregate amount of such distributions shall be limited to an amount
1885 equal to the amount the corporation would have received had the Share Insurance Fund been
1886 liquidated at the time such corporation accepted its federal charter. Thereafter the succeeding
1887 bank shall be entitled to receive from the central bank the portions, if any, of such other
1888 assessments not so paid or required as shall be determined by the central bank with the approval
1889 of the commissioner and such determination shall be final and conclusive upon the central bank,
1890 the predecessor corporation and the succeeding bank and all other persons then or thereafter
1891 interested; provided, that the supreme judicial court shall have jurisdiction to review and to
1892 confirm or modify such determination upon the petition of the predecessor corporation or the
1893 succeeding bank filed within 10 days after receipt thereby of notice of such determination. The
1894 central bank, in its discretion and subject to the approval of the commissioner, may make
1895 disposition of such other assessments, at any time after such conversion is completed, by
1896 adjustment pursuant to an agreement with the predecessor corporation or the succeeding bank
1897 and may pay thereto such amount as may be so agreed upon.

1898 (3) The predecessor corporation or the succeeding bank shall, subject to the last
1899 sentence of this paragraph, pay to said Share Insurance Fund or make provision for payment
1900 thereto of a sum equal to 3 annual assessments, referred to in section 1 of chapter 73 at the
1901 percentage rate in effect at the time the predecessor corporation ceased to be a member bank and
1902 computed on the basis of its share liabilities and notes payable as shown by its last annual report
1903 to the commissioner preceding such conversion or, at its option or at the option of the succeeding
1904 associations, as shown by the records of the predecessor corporation on the effective date of
1905 conversion. Until such sum shall have been paid in full, payments on account thereof shall be

1906 made annually or more often by the predecessor corporation or the succeeding bank; provided,
1907 however, that not less than 1/3 of such sum shall be paid annually. If any such 1/3 shall not be so
1908 paid or if, at the end of 3 years from the time the predecessor corporation ceased to be a member
1909 bank such sum shall not have been paid in full, the entire balance thereof may be incurred by the
1910 central bank, together with interest thereon, in any manner provided by law for the collection of
1911 debts. The predecessor corporation or the succeeding bank may authorize the deduction of such
1912 sum in whole or in part, from the amount, if any, of the portions of said other assessments to
1913 which the succeeding bank may be entitled as hereinbefore provided. If, however, by federal law
1914 or regulation a federal bank converting therefrom to a co-operative bank, is required to pay to the
1915 federal deposit insurance corporation a sum equal to annual premiums or assessments for other
1916 than a period of 3 years, then the number of annual assessments payable to said share insurance
1917 fund under this section shall be for the same number of years as is so required.

1918 (c) The commissioner may establish the procedure to be followed by a federal bank or
1919 federal thrift converting into a co-operative bank; provided, however, that no such conversion
1920 shall become effective unless approved in writing by the commissioner. The commissioner shall
1921 not grant such approval until the commissioner has received notice from the Share Insurance
1922 Fund of the central bank that arrangements satisfactory to it have been made for such conversion.

1923 If an application for conversion is approved by the commissioner as above provided, such
1924 federal bank or federal thrift shall cause to be filed with the state secretary the name, residence
1925 and post office address of each of the officers and directors of such federal bank or federal thrift,
1926 a copy of its proposed by-laws amended to conform with the requirements of section 7 and such
1927 other information as said secretary may require.

1928 After approval of such conversion by the commissioner, and receipt by the commissioner
1929 of satisfactory evidence that all federal laws and regulations relative to such conversion have
1930 been or will be duly complied with, the commissioner shall cause to be filed with the state
1931 secretary a certificate of the commissioner's approval. After receipt of such certificate by the
1932 state secretary, if the state secretary finds that the requirements of this section have been
1933 satisfactorily complied with, the state secretary shall so certify and upon receipt of a fee, the
1934 amount of which shall be determined annually by the secretary of administration and finance
1935 under section 3B of chapter 7, the state secretary shall issue to said officers and directors in such
1936 form as the state secretary may prescribe, a certificate of incorporation as a co-operative bank.

1937 Simultaneously with the receipt of such certificate, such bank, hereinafter referred to as
1938 the succeeding corporation, shall become a member of the central bank and of the Share
1939 Insurance Fund. Before such succeeding corporation shall commence business as a co-operative
1940 bank, it shall pay into the reserve fund of the central bank, established under chapter 45 of the
1941 acts of 1932, an amount equal to the deposit required of a member bank thereof of similar size,
1942 as of the date of said certificate, plus such additional amount based upon the surplus of said
1943 reserve fund, as the directors of the central bank, with the approval of the commissioner, shall
1944 determine to be equitable.

1945 In addition to the payment to said reserve fund, the succeeding corporation shall pay to
1946 said Share Insurance Fund or make provision for payment thereto of such a sum as the directors
1947 of the central bank, with the approval of the commissioner, shall determine to be equitable;
1948 provided, that the succeeding corporation shall pay to said Share Insurance Fund such proportion
1949 of any current annual assessment as shall have accrued to the date of said certificate.

1950 After compliance with the foregoing requirements, the succeeding corporation shall be
1951 entitled to exercise all of the rights and privileges and shall be subject to all of the duties and
1952 obligations of a co-operative bank and shall conduct its business subject to this chapter and other
1953 applicable laws; provided, that with the approval of the commissioner, the succeeding
1954 corporation shall have reasonable time after the effective date of the conversion within which to
1955 comply with any particular laws not hereinbefore specifically provided for and which it shall be
1956 unable to comply with on or before said date.

1957 Section 18. Notwithstanding any general or special law to the contrary, the commissioner
1958 may, subject to such terms and conditions as the commissioner may impose, grant a certificate to
1959 establish an interim bank, which may be a savings bank, co-operative bank or a trust company,
1960 owned by a bank holding company or a banking institution, as defined in section 1 of chapter
1961 167A, or a mutual holding company, as defined in section 1 of chapter 167H, for the sole
1962 purpose of facilitating a multi-step corporate transaction involving a bank, as defined in section 1
1963 of chapter 167; provided, however, that the interim bank under this chapter, chapter 167A, 167H,
1964 167I or any other chapter shall not receive deposits or otherwise carry on a banking business
1965 under the laws of the commonwealth.

1966 CHAPTER 167J.

1967 CORPORATE GOVERNANCE PROVISIONS AND REQUIREMENTS

1968 Section 1. As used in this chapter, the following words shall have the following meanings
1969 unless the context clearly requires otherwise:-

1970 “Bank”, an association or corporation chartered by the commonwealth under chapter
1971 167H, 168, 170 or 172.

1972 “Board”, the board of trustees or directors in a bank.

1973 “Capital stock”, the sum of the par value of the preferred and common shares of capital
1974 stock of a stock corporation, issued and outstanding.

1975 “Commissioner”, the commissioner of banks.

1976 “Mutual bank”, an association or corporation chartered by the commonwealth under
1977 chapter 168 or 170 which is in mutual form.

1978 “Stock corporation”, a savings bank under chapter 168, a co-operative bank under
1979 chapter 170, which has been chartered, converted or reorganized to a stockholder form of
1980 corporation or a trust company under chapter 172.

1981 “Surplus account”, an account so designated on the books of a bank and consisting of
1982 amounts required by law.

1983 Section 2. Officers and employees of a bank shall be bonded to the extent and in the form
1984 determined by the board.

1985 Section 3. In addition to the duties imposed by law upon the treasurer of a bank, or the
1986 officer or employee thereof charged with the duties and functions usually performed by the
1987 treasurer, such officer shall also be responsible for the performance of all acts and duties required
1988 of such corporation by chapters 167, 167A to 167J, inclusive, 168, 170, 172 and other laws as
1989 such provisions are applicable to such officer or to such bank except in so far as such
1990 performance has been expressly imposed on some other officer or employee of such bank by its
1991 regulations or by-laws or by provision of law.

1992 Section 4. Any officer, trustee, director, agent or employee of any bank, who knowingly
1993 and willfully does any act forbidden to the individual or to such bank by chapters 167, 167A to
1994 167J, inclusive, 168, 170, 172, and other laws as such provisions are applicable to such officer or
1995 to such bank, or who knowingly and willfully aids or abets the doing of any act so forbidden to
1996 such bank or to any other officer, director, agent or employee thereof, or who knowingly and
1997 willfully fails to do any act required of the individual by any such provision, or who knowingly
1998 and willfully fails to do any act which is required of such bank by any such provision the
1999 performance of which is imposed on the individual by the by-laws or regulations of the bank or
2000 by law or the responsibility for the non-performance of which is placed upon the individual by
2001 law shall, if no other penalty against the individual is specifically provided as a result of the
2002 individual's capacity, be punished by a fine of not more than \$1,000 or by imprisonment for not
2003 more than 1 year, or both.

2004 Section 5. No officer, director, trustee, employee or attorney of such corporation shall be
2005 a beneficiary of or receive, directly or indirectly, any fee, commission, gift or other consideration
2006 for or in connection with any business of such corporation. This section shall not prohibit any
2007 such officer, director, trustee, employee or attorney from receiving interest on a deposit made by
2008 such person or the usual salary or fee as such director or trustee or a reasonable fee for services
2009 rendered to such corporation or from borrowing from such corporation in accordance with law,
2010 or from sharing in commissions, profits or other benefits derived by any firm, association or
2011 corporation, in which the individual is interested, arising out of any transaction with said
2012 corporation if such transaction is made in the regular course of business upon terms as favorable
2013 to the corporation as those offered to other persons. The commissioner may require a full

2014 disclosure to be made on such forms as may be prescribed by regulations or otherwise by the
2015 commissioner, of all commissions, profits or other benefits realized in any such transaction.

2016 Section 6. Whoever violates sections 5 or 10 shall be punished by a fine of not more than
2017 \$5,000 or by imprisonment for not more than 1 year, or both such fine and imprisonment.

2018 Section 7. A bank may pay interest on deposit accounts in accordance with applicable
2019 law. Rates of interest may vary based on the type of account or on the terms and conditions
2020 applicable to the account. Such corporation by its by-laws, may provide that fractional parts of a
2021 dollar shall not be included in principal in computing interest and may provide that interest shall
2022 not be paid on deposits of less than \$10.

2023 Section 8. A trustee, a director or other officer of bank may at the same time be a
2024 director, trustee or other officer of a savings bank, co-operative bank or credit union, state or
2025 federally chartered savings and loan association, trust company or national banking association
2026 if, in such case, there is in force a permit therefor issued by the commissioner in writing with the
2027 reasons thereon stating why the public interest warrants its issuance, after reasonable notice and
2028 an opportunity to be heard, who may issue such permit if, in the commissioner's judgment, it is
2029 not incompatible with the public interest, and to revoke any such permit whenever the
2030 commissioner finds, after reasonable notice and opportunity to be heard, that the public interest
2031 warrants its revocation, except that this section shall not apply to any director or other officer
2032 who held such position at the incorporation of said trust company. Any person serving as a
2033 director, trustee or other officer of a bank that does not make real estate mortgage loans and does
2034 not accept savings deposits from natural persons, may at the same time serve as a director,

2035 corporator, trustee or other officer of a savings bank, co-operative bank, trust company, state or
2036 federally chartered savings and loan association, or national banking association.

2037 Notwithstanding this section, a director, officer or employee of a bank may at the same
2038 time be a director, officer or employee of a banking institution if such bank and banking
2039 institution are affiliates of the same bank or mutual holding company. For the purposes of this
2040 section, the terms “banking institution” and “affiliate” shall have the same meanings as set forth
2041 in section 1 of chapter 167A.

2042 Section 9. Each bank shall, annually, within 30 days after the last business day of
2043 December, make a report to the commissioner in such form as the commissioner may prescribe
2044 showing accurately its condition at the close of business on that day and containing such other
2045 information as the commissioner may require. A statement of condition of a bank shall be
2046 available for examination for reasonable purposes by stockholders or their authorized agents at
2047 the principal office during business hours.

2048 Each such corporation shall prepare a balance sheet, in accordance with generally
2049 accepted accounting principles, which presents fairly its condition as of the last business day of
2050 its fiscal year. A copy of a statement of condition shall be made available to a depositor upon
2051 request.

2052 Section 10. An officer, director or trustee of a bank, except as provided in this section,
2053 shall not borrow from or otherwise become indebted to the bank of which the individual is an
2054 officer, director or trustee and a bank, except as provided in this section, shall not make a loan or
2055 extend credit in any other manner to any of its officers, directors or trustees. An officer, director
2056 or trustee of a bank may borrow and a bank may make a loan or extend credit to its officers,

2057 directors or trustees subject to the terms and conditions in compliance with clause (6) of section
2058 2I of chapter 167.

2059 Section 11. Not less frequently than quarterly, the treasurer or other officer or committee
2060 designated by the board shall submit to a meeting of the board, or to a meeting of a committee, if
2061 the receipt of the reports has been delegated by the board to that committee, a written report,
2062 over signature of the treasurer, for the period running from the closing date of the last report to a
2063 date not more than 18 days before the date of the meeting at which the report is submitted. The
2064 report shall be filed with the records of the meeting and shall be retained for a period of 6 years
2065 from the date of the meeting. The report shall provide a summary of the transactions and other
2066 information requested by the board.

2067 Section 12. At least once during each 12 months following their elections and more often
2068 if required by the commissioner, the auditing committee of a mutual bank shall have an audit
2069 made of the balance sheet of the bank and such other financial statements as it may prescribe.

2070 The audit shall be made by an independent certified public accountant in accordance with
2071 generally accepted auditing standards and in such other form and manner at such time within
2072 said 12 months as the auditing committee may prescribe. Within 30 days after its election, the
2073 auditing committee shall appoint an accountant.

2074 The accountant shall report in writing to the auditing committee the results of the audit.
2075 At the next meeting of the trustees or directors of the mutual institution thereafter, the auditing
2076 committee shall render a report, which shall be read and signed by the committee, stating the
2077 nature, extent and results of the audit and whether it accepts the accountant's report.

2078 The auditing committee shall file with the commissioner a copy of the accountant's
2079 report within 30 days after its receipt and maintain another copy with the records of the bank. If
2080 the auditing committee fails to have an audit as herein provided, the commissioner shall have an
2081 audit made by an independent certified public accountant in such form and manner as the
2082 commissioner may prescribe and the expense shall be paid by the bank.

2083 Section 13. A bank shall maintain capital and surplus if a stock corporation or a surplus
2084 account if a mutual institution necessary to be deemed, at a minimum, adequately capitalized as
2085 determined by the federal deposit insurance agency which insures the deposits of the bank or, if
2086 applicable, by the commissioner.

2087 Section 14. The capital stock of a stock corporation shall be subject to the following
2088 provisions:

2089 (A) Classes. — The capital stock of such corporation may consist of common stock and 1
2090 or more classes of preferred stock. The issuance of any such capital stock shall require the prior
2091 approval of the commissioner and shall be subject to such conditions as the commissioner may
2092 impose.

2093 (B) Preferred Stock. — The preferred stock may contain such provisions relative to
2094 preferences, voting powers, retirement, dividend and conversion rights and participation in
2095 control and management as the by-laws and articles of organization may, with the approval of
2096 the commissioner, provide; provided, however, that the holders thereof shall not be held
2097 individually responsible as such holders for any debts, contracts or engagements of such
2098 corporation and shall not be liable for assessments to restore impairments in its capital. In case
2099 dividends on the preferred stock are to be cumulative, no dividends shall be declared or paid on

2100 common stock until all such cumulative dividends shall have been paid in full and all
2101 requirements of any retirement fund shall have been met; and if such corporation is placed in
2102 voluntary liquidation, or a conservator is appointed therefor, or possession of its property and
2103 business has been taken by the commissioner, no payments shall be made to the holders of the
2104 common stock until the holders of the preferred stock shall have been paid in full such amounts
2105 as may, with the approval of the commissioner, be provided in the articles of organization or
2106 amendments thereof, not in excess of the purchase price or other consideration received by the
2107 corporation for such preferred stock, plus all accumulated unpaid dividends.

2108 (C) Issue. — No stock specified in the agreement of association shall be issued until the
2109 par value and pro rata portion of surplus account and undivided profits account shall be paid in
2110 full in cash. No additional stock shall be issued until the par value thereof is paid in full in cash
2111 or such other consideration as shall be approved by the commissioner or is in its possession as
2112 surplus account; provided, that no stock shall be issued against the surplus account unless, after
2113 such issue, the surplus account shall amount to at least 50 per cent of the total capital stock.

2114 (D) Increase or Reduction. — Any such corporation may, subject to the approval of the
2115 commissioner, increase or reduce its capital stock in the manner provided by section 10.03 of
2116 chapter 156D; provided, however, that the capital stock shall not be reduced to less than the
2117 minimum amounts set forth by law; and provided, further, that, in the case of reorganization of
2118 any such corporation in possession of the commissioner under section 22 of chapter 167 or in
2119 possession of a conservator under chapter 167, the capital stock outstanding at the time of
2120 possession taken by the commissioner or conservator may be cancelled in whole or in part or
2121 other disposition thereof made in accordance with any plan of reorganization approved by the
2122 commissioner and the supreme judicial court.

2123 (E) Change of Par Value. — Any such stock corporation may change the par value of its
2124 shares in the manner provided by section 10.03 of chapter 156D.

2125 (F) Rights and Options. — The terms and conditions of any rights or options issued by
2126 any such stock corporation, including those outstanding on the effective date of this section, may
2127 include, without limitation, restrictions or conditions that preclude or limit the exercise, transfer,
2128 receipt or holding of such rights or options by any person or persons owning or offering to
2129 acquire a specified number or percentage of the outstanding stock or other securities of the
2130 corporation, or any transferees of any such persons, or that preclude or limit such actions based
2131 on such other factors, including the nature or identity of such persons, as the directors determine
2132 to be reasonable and in the best interests of the corporation. Nothing contained in this section
2133 shall affect the duties or standard of care of a director. The issuance of any shares of the capital
2134 stock of the corporation upon the exercise of any such options or rights shall require the prior
2135 approval of the commissioner and shall be subject to such conditions as the commissioner may
2136 impose.

2137 Section 15. The registrar, transfer agent or other officer or agent of any such stock
2138 corporation having charge of its stockholders' records or ledger shall, within 10 days after
2139 recording thereon any transfer of stock of the corporation which makes the transferee the owner
2140 of record of 10 per cent or more of the outstanding stock with voting power, report such transfer
2141 to the commissioner. Any agent or broker holding 10 per cent or more of such stock for the
2142 benefit of 1 or more persons shall, upon written request of the commissioner, report to the
2143 commissioner the names of such persons. Whoever violates this section shall be punished by a
2144 fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

2145 Section 16. The directors may fix in advance a time, which, unless a shorter period is
2146 provided in the by-laws, shall be not more than 60 days before the date of any meeting of the
2147 stockholders or the date for the payment of any dividend or the making of any distribution to
2148 stockholders or the last day on which the consent or dissent of stockholders may be effectively
2149 expressed for any purpose, as the record date for determining the stockholders having the right to
2150 notice of and to vote at such meeting and any adjournment thereof or the right to receive such
2151 dividend or distribution or the right to give such consent or dissent, and in such case only
2152 stockholders of record on such record date shall have such right, notwithstanding any transfer of
2153 stock on the books of the bank after the record date; or without fixing such record date the
2154 directors may for any of such purposes close the transfer books for all or any part of such period.

2155 Section 17. The board of directors may declare from net profits cash dividends annually,
2156 semi-annually or quarterly, but not more frequently, and noncash dividends at any time. No
2157 dividends shall be declared, credited or paid so long as there is any impairment of capital stock.
2158 No stock corporation having outstanding preferred stock shall, except as otherwise authorized by
2159 the commissioner, declare dividends upon common stock for any period other than a period for
2160 which dividends are declared upon preferred stock.

2161 The approval of said commissioner shall be required if the total of all dividends declared
2162 by a stock corporation in any calendar year shall exceed the total of its net profits for that year
2163 combined with its retained net profits of the preceding 2 years, less any required transfer to
2164 surplus or a fund for the retirement of any preferred stock.

2165 For the purposes of this section, the words “net profits” shall mean the remainder of all
2166 earnings from current operations plus actual recoveries on loans and investments and other assets

2167 after deducting from the total thereof all current operating expenses, actual losses, accrued
2168 dividends on preferred stock, if any, and all federal and state taxes.

2169 Section 18. Such stock corporation may grant options to purchase, issue and sell shares of
2170 its capital stock to its directors, officers and employees, or to a trustee on their behalf, without
2171 first offering the same to its shareholders, for such consideration, not less than par value, and
2172 upon such terms and conditions as shall be approved by its board of directors, by the holders of a
2173 majority of the stock entitled to vote with respect thereto and by the commissioner. In the
2174 absence of fraud, the sufficiency of consideration as so approved shall be conclusively presumed.

2175 Section 19. Such corporation may establish stock purchase plans, restricted stock
2176 purchase plans and stock grant plans for employees, officers and directors thereof, whether such
2177 director is an employee or non-employee of the corporation. Any such plan shall be subject to
2178 such terms and conditions as shall be approved by the board of directors of the bank, by the
2179 holders of a majority of the stock thereof entitled to vote with respect thereto and by the
2180 commissioner. In the absence of fraud, the sufficiency of consideration as so approved shall be
2181 conclusively presumed. Notwithstanding paragraph (C) of section 14, stock may be issued for
2182 intangible property or services if permitted by the plan approved as provided in this section,
2183 without the approval of the specific form of such non-cash consideration by the commissioner.

2184 Section 20. (a) A stock company may, subject to the approval of the commissioner and
2185 upon vote of the holders of at least 2/3 of each class of its capital stock at an annual meeting or a
2186 special meeting duly called for the purpose, preceded in either case by a notice in writing sent to
2187 each stockholder of record by registered mail at least 10 days before said meeting, issue and sell
2188 its capital notes or debentures of any maturity. The indebtedness evidenced by any such capital

2189 notes or debentures, including the principal thereof and premium, if any, and interest thereon,
2190 shall be subordinate to the claims of depositors and other creditors of such corporation, except
2191 claims in respect of other capital notes or debentures of such corporation at least equally
2192 subordinated, in accordance with such provisions for subordination as shall be approved by the
2193 commissioner and such subordination shall be specifically enforceable by any interested person,
2194 including the commissioner or any conservator appointed by the commissioner whenever
2195 possession of the property and business of such corporation shall have been taken by the
2196 commissioner or such conservator. Any such issue of capital notes or debentures may contain
2197 such other provisions as the commissioner may approve, including a provision for conversion
2198 rights. The commissioner may, by regulation, provide that any such capital notes or debentures
2199 shall to the extent set forth in such regulation be treated as part of the capital funds of the issuing
2200 stock corporation for the purposes of this chapter.

2201 (b) Nothing in subsection (a) shall be construed as limiting the power of any such
2202 corporation to borrow money otherwise than through the issuance and sale of such capital notes
2203 or debentures; provided, that no such corporation shall engage in the business of issuing and
2204 selling to depositors, customers or others its unsecured promissory notes except in accordance
2205 with such regulations as the commissioner may adopt as to the conduct of such business or, in
2206 the absence of such regulations, with the prior approval of the commissioner. Any regulations
2207 adopted by the commissioner in accordance with this subsection may impose limitations on the
2208 aggregate amount of such promissory notes at any time outstanding, and the interest cost thereof,
2209 and may further require that reserves shall be maintained against the indebtedness evidenced
2210 thereby, all by classes of trust companies or otherwise.

2211 Section 21. A bank’s corporate governance procedures shall comply with banking laws
2212 and regulations and safe and sound banking practices. To the extent consistent with the above, a
2213 bank may elect to follow the corporate governance procedures of chapter 156D or the law of the
2214 state in which its holding company is organized. A bank shall designate in its by-laws the body
2215 of law selected for its corporate governance procedures.

2216 SECTION 54. Chapter 168 of the General Laws is hereby amended by striking out
2217 sections 1 to 44, inclusive, as appearing in the 2012 Official Edition, and inserting in place
2218 thereof the following 33 sections:-

2219 Section 1. (a) As used in sections 1 to 9, inclusive, the words “board” or “board of bank
2220 incorporation” shall mean, a board consisting of the commissioner of banks, the commissioner of
2221 revenue and the state treasurer.

2222 (b) As used in this chapter, the following words shall have the following meanings unless
2223 the context clearly requires otherwise:—

2224 “Capital stock” the sum of the par value of the preferred and common shares of capital stock,
2225 issued and outstanding.

2226 “Commissioner”, the commissioner of banks.

2227 “Corporator” an original incorporator

2228 “Incorporators”, subscribers to the agreement of association for the purpose of forming a
2229 savings bank under this chapter.

2230 “Mutual bank”, a savings bank, institution for savings or savings institution incorporated
2231 as such in the commonwealth in mutual form.

2232 “Savings bank”, a savings bank, institution for savings or savings institution incorporated
2233 as such in this commonwealth.

2234 “Stock bank”, a savings bank, institution for savings or savings institution incorporated as
2235 such in the commonwealth in stock form which has been chartered or reorganized or converted
2236 to a stockholder form of corporation.

2237 “Stockholder”, a registered owner of shares of capital stock of a stock savings bank

2238 Section 2. A savings bank shall have all the powers expressly granted by law and
2239 whatever further incidental powers may fairly be implied from those expressly conferred and
2240 such as are reasonably necessary to enable it to exercise fully those powers according to common
2241 or accepted banking customs and usages.

2242 Section 3. A corporation organized under this chapter prior to January 1, 1955 shall be
2243 subject to this chapter and chapters 167C to 167G, inclusive, chapter 167I and chapter 167J so
2244 far as is consistent with its charter, and may, by vote of its incorporators at its annual meeting or at
2245 a meeting called for the purpose, accept any provision of this chapter, which is inconsistent with
2246 its charter. Any such corporation organized after January 1, 1955, shall be subject to this chapter
2247 and chapters 167C to 167G, inclusive and chapter 167I and chapter 167J.

2248 Section 4. A savings bank shall upon its incorporation have such capital structure as the
2249 board of bank incorporation shall deem adequate. Such capital structure may vary by the board
2250 based on the application and business plan submitted.

2251 Section 5. Fifteen or more individuals who associate themselves by a written agreement
2252 for the purpose of forming a savings bank may, upon compliance with sections 4 to 9, inclusive,

2253 become a corporation, with all the powers and privileges and subject to all the duties, restrictions
2254 and liabilities set forth in the general laws, which relate to such corporations. The agreement of
2255 association shall specifically state:

2256 (1) that the incorporators thereto associate themselves with the intention of forming a
2257 corporation;

2258 (2) the name by which the corporation shall be known;

2259 (3) the location of the principal office of the corporation, which shall be within the
2260 commonwealth;

2261 (4) the purposes for which the corporation is formed and the nature of the business to be
2262 transacted;

2263 (5) the amount and classes of its capital stock and the number of shares into which any
2264 class is to be divided; the amount of the surplus account and the amount of the undivided profits
2265 account for a stock bank and the amount of the surplus account for a mutual bank; and

2266 (6) the name of each incorporator and the number of shares of capital stock, if any, which
2267 the incorporator agrees to take and the class or classes of such shares.

2268 The name of each incorporator shall be subscribed to the agreement of association.

2269 Section 6. A notice of the intention of the incorporators to form such a savings bank shall
2270 be submitted to the board of bank incorporation.

2271 A notice in such form as said board shall approve, shall be published at least once a
2272 week, for 3 successive weeks, in 1 or more newspapers designated by the board and published in

2273 the city or town in which it is proposed to establish the savings bank, or if there is no newspaper
2274 in such city or town, in a newspaper published in the city or town which is nearest to the
2275 proposed location. Such notice shall specify the names of the proposed incorporators, the name
2276 of the corporation and the location of the same. The incorporators to said agreement shall apply
2277 to the board for a certificate, which may be granted upon a finding that the public convenience
2278 and advantage will be promoted by the establishment of such savings bank. Such an application
2279 for a proposed savings bank shall be accompanied by an investigation fee, the amount of which
2280 shall be determined by the secretary of administration and finance under section 3B of chapter 7.
2281 In determining whether the public convenience and advantage will be promoted by the
2282 establishment of such savings bank, the board shall consider the adequacy of its capital structure,
2283 the general character of its management, the adequacy of banking facilities in the area and the
2284 convenience and needs of the community to be served. The board may grant such certificate,
2285 which shall be deemed to be revoked if the applicants do not become incorporated and begin
2286 business within 1 year after its date of issue. If the board refuses to issue such certificate, no
2287 further proceeding shall be taken by the applicant during the year next following the date of such
2288 refusal except with the approval of the board; provided, however, that the applicant may renew
2289 the application as of right after 1 year from the date of such refusal and may dispense with
2290 further notice or publication unless the board orders such notice or publication.

2291 Section 7. The first meeting of the incorporators shall be called by a notice signed either
2292 by that incorporator who is designated in the agreement for the purpose, or by a majority of the
2293 incorporators, and such notice shall state the time, place and purposes of the meeting. A copy of
2294 the notice shall, at least 7 days before the day appointed for the meeting, be given to each
2295 incorporator or left at each incorporator's residence or usual place of business, or deposited in

2296 the post office, postage prepaid, and addressed to each incorporator at such incorporator's
2297 residence or usual place of business and another copy thereof and an affidavit of 1 of the signers
2298 that the notice has been duly served shall be recorded with the records of the corporation. If all
2299 the incorporators shall, in writing endorsed upon the agreement of association, waive such notice
2300 and fix the time and place of the meeting, no notice shall be required. At such first meeting, or at
2301 any adjournment thereof, the incorporators shall organize by the choice by ballot of a temporary
2302 clerk who shall be sworn, by the adoption of by-laws and by the election in such manner as the
2303 by-laws may determine, a clerk or secretary, and such other officers as the by-laws may
2304 prescribe, trustees for a mutual bank or directors for a stock bank. The temporary clerk shall
2305 make and attest a record of the proceedings until the clerk or secretary has been chosen and
2306 sworn, including a record of such choice and qualification.

2307 Section 8. The president, clerk or secretary and a majority of the trustees or directors, as
2308 applicable, elected at such first meeting shall make and sign under penalties of perjury articles of
2309 organization in duplicate, setting forth:

2310 (1) a true copy of the agreement of association, the names of the incorporators thereto and
2311 the name of each of the officers and directors or trustees as applicable; and

2312 (2) the date of the first meeting and the successive adjournments thereof, if any.

2313 One duplicate original of the articles so signed shall be submitted to the commissioner
2314 and the other, together with the records of the proposed corporation, to the state secretary, who
2315 shall examine the same, and who may require such amendment thereof or such additional
2316 information as the state secretary may consider necessary. If the commissioner finds that the
2317 articles conform to the 4 preceding sections relative to the organization of the corporation and

2318 that section 6 has been complied with, the commissioner shall so certify and endorse the
2319 commissioner's approval thereon. The articles shall be filed within 30 days thereafter in the
2320 office of the state secretary, who, upon receipt of a fee, the amount of which shall be determined
2321 annually by the secretary of administration and finance pursuant to section 3B of chapter 7, said
2322 state secretary shall issue a certificate of incorporation in the following form:

2323 COMMONWEALTH OF MASSACHUSETTS

2324 Be it known that whereas (the names of the subscribers to the agreement of association)
2325 have associated themselves with the intention of forming a corporation under the name of (the
2326 name of the corporation), for the purpose (the purpose declared in the agreement of association),
2327 with a capital stock or surplus, as applicable, of (the amount fixed in the agreement of
2328 association), and have complied with the statutes of the commonwealth in such case made and
2329 provided, as appears from the articles of organization of said corporation, duly approved by the
2330 state secretary and recorded in this office: Now, therefore, I (the name of the state secretary),
2331 secretary of the commonwealth of Massachusetts, do hereby certify that said (the names of the
2332 subscribers to the agreement of association), their associates and successors, are legally
2333 organized and established as, and are hereby made, an existing corporation under the name of
2334 (name of the corporation), with the powers, rights and privileges, and subject to the limitations,
2335 duties and restrictions, which by the law appertain thereto.

2336 Witness my official signature hereunto subscribed and the great seal of the
2337 commonwealth of Massachusetts hereunto affixed, this day of in the year (the date of the filing
2338 of the articles of organization).

2339 The state secretary shall sign the certificate of incorporation and cause the great seal of
2340 the commonwealth to be thereto affixed and such certificate shall have the force and effect of a
2341 special charter. The existence of every such corporation shall begin upon the filing of the articles
2342 of organization in the office of the state secretary. The state secretary shall also cause a record of
2343 the certificate of incorporation to be made and such certificate, or such record, or a certified copy
2344 thereof, shall be conclusive evidence of the existence of such corporation.

2345 A bank may amend its articles of organization if approved by its board and submitted to
2346 and approved by the bank's governing body, except as provided in sections 10.05, 10.07 and
2347 14.34 of chapter 156D. After approval by the board and governing body, the amendment shall be
2348 submitted to the commissioner for the commissioner's endorsement thereon before delivering the
2349 amendment to the state secretary for filing.

2350 Section 9. When all the capital stock has been issued for a stock bank, a list of the
2351 stockholders, with the name, residence and post office address of each, and the number of shares
2352 in each class held by each stockholder, shall be filed with the board of bank incorporation, which
2353 list shall be verified by the clerk of the corporation. Upon receipt of such list the board shall
2354 cause an examination to be made of the method of payment of the capital stock, or the surplus
2355 account if a mutual bank of the personnel of the corporation, including the officers and directors
2356 or trustees thereof, and if, after such examination, it appears that the whole capital stock, surplus
2357 account and undivided profits account for a stock bank or surplus account for a mutual bank have
2358 been paid in cash, that all requirements of law have been complied with, that the bank is a
2359 member of the Federal Deposit Insurance Corporation and that the qualifications of the personnel
2360 are satisfactory, the board shall, if satisfied that the public convenience and advantage will be
2361 promoted thereby, issue a certificate authorizing such corporation to begin the transaction of

2362 business. No such corporation shall begin the transaction of business until such a certificate has
2363 been granted.

2364 Section 10. A mutual bank shall be subject to sections 11 to 21A, inclusive, and a stock
2365 bank shall be subject to sections 21A to 26, inclusive.

2366 Section 11. Meetings of the corporators, board of trustees and board of investment of a
2367 mutual bank shall be held in the town in which the main office of the corporation is located or at
2368 any other place within the counties in which the bank has a branch office.

2369 Section 12. A mutual bank shall have at least 25 corporators and may, at a legal meeting
2370 of the corporators, elect by ballot to be a corporator any person who is a resident of the
2371 commonwealth, or any person who resides in another state; provided, however, that not less than
2372 a majority of said corporators shall be citizens of the commonwealth and residents therein at any
2373 1 time. Corporators shall be elected for a term of 10 years; provided, however, that a corporator
2374 shall not serve beyond the retirement age as established by the bank's by-laws. No person shall
2375 serve as a corporator of more than 1 savings bank and no corporator shall, after January 1, 1975,
2376 serve as an officer or director of a national bank, trust company, co-operative bank, savings and
2377 loan association or credit union. A corporator shall, at the time of the corporator's election or
2378 within 30 days thereafter, be a depositor of such corporation. Any person serving as a corporator
2379 of a savings bank may at the same time serve as a director or other officer of a trust company or
2380 a national bank that does not make real estate mortgage loans and does not accept savings
2381 deposits from natural persons.

2382 No person shall continue to be a corporator after removing from the commonwealth
2383 unless, at the annual meeting following such removal, the corporators shall vote to continue such

2384 person as a corporator subject to the limitations of this section applicable to nonresident
2385 corporators.

2386 Any person may, at an annual or special meeting of the corporators, cease to be a
2387 corporator if, at least 3 days before such meeting, the person has filed with the clerk a written
2388 notice of the corporator's intention so to do. If a corporator fails to attend 2 consecutive annual
2389 meetings, such corporator's membership may, by vote of the corporators at their next annual
2390 meeting, be declared forfeited and such action and vote when recorded shall be evidence of such
2391 forfeiture. Not more than 3/5 of the corporators of any such corporation shall be trustees or
2392 officers thereof at any 1 time.

2393 Section 13. The annual meeting of the corporators of a mutual bank shall be held at a
2394 time as the by-laws direct. Special meetings may be held by order of the trustees or upon written
2395 request of at least 10 corporators addressed to the clerk who shall give notice of special meetings
2396 upon that order or request. In the absence or inability of the clerk to serve, the president or a vice
2397 president may give the notice required by this section. At least 7 days before the date of the
2398 meeting, written notice of the meeting shall be mailed to each corporator. The names of those
2399 present at a meeting shall be entered in the records of the corporation. A quorum shall consist of
2400 not less than 13 corporators or 25 per cent of the total number of corporators, whichever is
2401 greater; provided, however, that not more than 50 corporators shall be necessary to constitute a
2402 quorum.

2403 Section 14. A mutual bank shall have a board of trustees, subject to paragraphs (1) to (4),
2404 inclusive.

2405 (1) Number. The board shall consist of not less than 11 trustees and such additional
2406 number, if any, as may be provided in the by-laws.

2407 (2) Qualifications. The business of the corporation shall be managed by a board of
2408 trustees, of which not less than a majority shall be citizens of the commonwealth. A trustee at the
2409 time of the trustee's election, or within 30 days thereafter, shall be a depositor of the corporation.
2410 At least 2 trustees of the board at the time of their election shall be residents of the city or town
2411 where the main office or a branch office of the corporation is located.

2412 (3) Election. All trustees shall be elected by and from the corporators, except that any
2413 vacancy in the board arising between annual meetings from death, resignation or otherwise, may
2414 be filled by the trustees until the next annual meeting at which the corporators may elect a trustee
2415 for the balance, if any, of the unexpired term. The trustees shall be divided into 3 groups as
2416 nearly equal in number as possible and 1 of such groups shall be elected annually for a term of 3
2417 years; provided, however, that during the minimum time necessary to accomplish the foregoing,
2418 1 of said groups may be elected for a term of 1 year and 1 for a term of 2 years. Upon the
2419 election as trustee of a person who has not been theretofore a trustee of such corporation, the
2420 clerk shall send forthwith to the commissioner the name and address of such person and the clerk
2421 shall transmit to such person a copy of the laws relating to savings banks. A number of trustees,
2422 not exceeding 2, may be elected by vote of a majority of the trustees then in office if the by-laws
2423 so prescribe.

2424 (4) Termination of Office. If a trustee fails to attend 4 consecutive regular quarterly
2425 meetings of the board of trustees, said board may declare such trustee's office to be vacant at its
2426 next regular quarterly meeting and if a trustee fails to attend 8 consecutive regular quarterly

2427 meetings of said board, it shall declare such trustee's office to be vacant at its next regular
2428 quarterly meeting; provided, however, this provision shall not apply to a trustee while such
2429 trustee is serving on active duty as a member of the Armed Forces of the United States. Any
2430 trustee whose office is declared to be vacant as provided in this paragraph shall not be re-elected
2431 as a trustee except upon vote of at least 2/3 of all the corporators of such corporation passed at a
2432 subsequent annual meeting.

2433 The by-laws may authorize the continuance, as honorary trustees, of those persons who
2434 have served as trustee for 10 years or more. Such honorary trustee may be elected for an
2435 indefinite term and shall not be included in determining the minimum number of trustees
2436 provided under paragraph 1 or the number of trustees to be elected annually as provided in
2437 paragraph 4 of this section. Such honorary trustee shall not be deemed to be an officer or
2438 member of the board of trustees of such corporation, shall not receive compensation or be
2439 required to attend meetings or be authorized or required to perform any duties.

2440 The office of any trustee who seeks, or against whom, an order of relief is entered in a
2441 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
2442 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
2443 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
2444 trustee whose office is so vacated shall again be eligible to serve as a trustee upon the receipt of a
2445 discharge in bankruptcy under chapter 7 of said Title 11; the completion of all payments required
2446 pursuant to a plan of reorganization under chapter 11 of said Title 11; the completion of all
2447 payments under a plan of debt adjustment under chapter 13 of said Title 11; or the payment of
2448 said judgment.

2449 The commissioner may recommend the removal of any trustee, officer or employee who,
2450 in the commissioner's opinion, has abused the trust or has been negligent in the performance of
2451 duty, and upon such recommendation the trustees may remove or discharge such trustee, officer
2452 or employee. The trustees shall act upon such recommendation within 30 days after receiving the
2453 same and neither such trustees nor the commissioner shall be personally liable for any action
2454 taken by them in good faith in connection with any such recommendation or removal.

2455 Section 15. A regular meeting of the board of trustees of a mutual bank shall be held at
2456 least once every 3 months, for the purposes set forth in this section and for the transaction of
2457 other business. Special meetings may be called by the president or shall be called by the clerk, if
2458 requested in writing by at least 3 trustees. Notices of meetings shall be given in the manner and
2459 to the extent provided in the by-laws. Unless the articles of incorporation, the by-laws or a
2460 resolution of the board otherwise provide, members of the board of trustees or any committee
2461 designated thereby may participate in a meeting of such board or committee by means of a
2462 conference telephone or similar communications equipment by means of which all persons
2463 participating in the meeting may simultaneously hear each other and participation by such means
2464 shall constitute presence in person at a meeting. Members may transmit any written
2465 authorizations that may be required during the meeting by electronic facsimile or other
2466 commercially acceptable transmission. A quorum shall consist of not less than a majority of the
2467 trustees, and if there be less than a quorum then a majority of those present may adjourn the
2468 meeting until the next regular meeting or until another time or times prior thereto.

2469 A record shall be made by the clerk at each meeting of the transactions of the trustees and
2470 of the names of those present and a copy of the aforesaid report of the board of investment shall
2471 be filed and preserved with the records of the corporation.

2472 Section 16. (a) A mutual bank shall have a board of investment of not less than 5
2473 members, who shall be trustees of the corporation. Only 1 of the persons holding the office or
2474 performing the duties of president, executive vice president, senior vice president or treasurer
2475 shall at the same time be a member of the board of investment. The board shall elect a clerk who
2476 may, but need not be, a member of the board. The board of investment may invite 1 or more
2477 trustees who are not members of the board to attend its meetings during the monthly, quarterly or
2478 semi-annual periods as the board may determine.

2479 (b) At least quarterly, the treasurer or other officer designated by the board of investment
2480 shall submit to the board of investment, a written report, over the treasurer or other officer's
2481 signature, covering the period for which the report has not yet been submitted.

2482 Section 17. In addition to the trustees and members of the board of investment, the
2483 officers of a mutual bank shall be a president, 1 or more vice presidents, a treasurer, a clerk and,
2484 subject to applicable provisions of the by-laws, such other officers as from time to time may be
2485 determined by the trustees to be necessary for the management of the affairs of such corporation;
2486 provided, that the duties of any such other officer shall not be in conflict with those of the
2487 president or treasurer. As used in this section and in section 20 and sections 2 and 5 of chapter
2488 167J, the term "operating officers" shall mean and include the president, vice presidents, any
2489 assistant vice presidents, the treasurer, any vice treasurer, assistant treasurers, any branch
2490 managers, any person performing the duties of auditor and such other officers as may be
2491 designated as operating officers by vote of the board of trustees.

2492 The president shall be a trustee. A vice president may perform the duties of the president
2493 to the extent authorized in the by-laws. The treasurer may at the same time be a vice president. A

2494 vice treasurer or an assistant treasurer may perform all the duties of the treasurer. The clerk shall
2495 be the clerk of the corporation and clerk of the trustees.

2496 An operating officer of the corporation shall not hold the office or perform the duties of
2497 president, vice president, cashier or treasurer of a national banking association or a trust
2498 company, and the operating officer shall be governed by section 8 of chapter 167J with respect to
2499 holding office in another savings bank or in a co-operative bank or federal savings and loan
2500 association.

2501 Section 18. The clerk of a mutual bank and such members of the board of trustees as may
2502 be required to be elected under section 14 shall be elected at the annual meeting or at a special
2503 meeting of the corporators between meetings of the corporation. The president shall be elected
2504 by the trustees. If any such office becomes vacant during the year, the trustees may, except as
2505 otherwise provided in this chapter, fill the vacancy or approve a new officer until the next annual
2506 meeting.

2507 The members of the board of investment, the treasurer, vice treasurer, assistant treasurers,
2508 vice presidents and such other officers as may be determined to be necessary, as provided in
2509 section 17, shall be elected by the trustees and shall hold office during their pleasure and the
2510 trustees may fill vacancies in such offices at any time.

2511 All trustees and other officers shall be sworn and shall hold their several offices until
2512 others are elected and qualified in their stead. A record of such qualification shall be made and
2513 preserved with the records of such corporation. If a person elected as trustee or other officer of
2514 such corporation does not, within 45 days thereafter, take the oath of office, the office thereupon
2515 shall become vacant; provided, that such oath may be taken in person at any office of such

2516 corporation or may be taken in writing before a notary public or justice of the peace and
2517 transmitted to such corporation within said period.

2518 Section 19. Each person elected to office at the annual meeting or at any other meeting of
2519 the incorporators or trustees, who is not present at the meeting at which such person was elected
2520 shall be notified, in writing, of the election by the clerk of the corporation. The notice shall be
2521 sent within 10 days after the meeting to the last known address of that person. Within 60 days
2522 after the annual meeting, the clerk shall cause to be filed with the records of the corporation a list
2523 containing the following information: (1) the names of the incorporators indicating those who are
2524 trustees; and (2) the names of the president, vice presidents, treasurer, members of the board of
2525 investment and members of the auditing committee. A copy of the list shall be furnished to the
2526 commissioner within 10 days after filing with the records of the corporation.

2527 Section 20. At least once during each 12 month period, the trustees shall elect an auditing
2528 committee of not less than 3 trustees who shall not be operating officers or members of the board
2529 of investment. The members of such committee shall take an oath of office in the manner and
2530 within the period prescribed by section 18 and a record thereof shall be made and preserved as
2531 provided in said section. The trustees may elect or authorize to be appointed such other
2532 committees as the by-laws may provide or as the trustees from time to time may determine. The
2533 trustees shall authorize the compensation, if any, to be paid to the members of the committees.

2534 Section 21. The by-laws of the corporation may provide for any and all matters relative to
2535 the business and affairs of the corporation as appropriate to exercise all powers necessary,
2536 convenient or incidental to the purposes for which the corporation was formed.

2537 Section 21A. Subsection (a) to (d), inclusive, shall apply to meetings of the board and its
2538 committees for both a savings bank in mutual form or in stock form.

2539 (a) Unless the articles of organization or bylaws provide that action, required or permitted
2540 by this chapter or another general law, shall be taken by the trustees or directors only at a
2541 meeting, the action may be taken without a meeting if the action is taken by the unanimous
2542 consent of the members of the board of trustees or directors. The action shall be evidenced by 1
2543 or more consents describing the action taken, in writing, signed by each trustee or director, or
2544 delivered to the corporation by electronic transmission, to the address specified by the
2545 corporation for the purpose or, if no address has been specified, to the principal office of the
2546 corporation, addressed to the secretary or other officer or agent having custody of the records of
2547 proceedings of trustees or directors and included in the minutes or filed with the corporate
2548 records reflecting the action taken.

2549 (b) Action taken under this section is effective when the last trustee or director signs or
2550 delivers the consent, unless the consent specifies a different effective date.

2551 (c) A consent signed or delivered under this section has the effect of a meeting vote and
2552 may be described as such in any document.

2553 (d) This section shall also apply to committees and their members.

2554 Section 22. A stock bank may adopt by-laws for the proper management of its affairs and
2555 as appropriate to exercise all powers necessary, convenient or incidental to the purposes for
2556 which the corporation was formed. It may also establish regulations controlling the assignment
2557 and transfer of its shares. A majority in interest of the stockholders entitled to vote shall
2558 constitute a quorum at any meeting unless the by-laws require more than a majority.

2559 Section 23. Stockholders entitled to vote may vote in person or by proxy. No proxy dated
2560 more than 6 months before the date of the meeting named therein shall be valid, and no proxy
2561 shall be valid after the final adjournment of such meeting. A proxy with respect to stock held in
2562 the name of 2 or more persons shall be valid if executed by any 1 of them unless at or prior to the
2563 exercise of the proxy such corporation receives a specific written notice to the contrary from any
2564 1 of them. A proxy purporting to be executed by or on behalf of a stockholder shall be deemed
2565 valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest
2566 on the challenger. Except as otherwise provided in the articles of organization or by-laws of the
2567 corporation, special meetings of the stockholders may be called pursuant to section 7.02 of
2568 chapter 156D.

2569 Section 24. The business of a stock bank shall be managed by a board of not less than 7
2570 nor more than 25 directors. A majority of the directors shall be citizens of the commonwealth
2571 and residents therein. The directors shall be elected, in such manner as is provided in the by-
2572 laws, by the stockholders at their annual meeting or at a special meeting called for the purpose;
2573 provided, however, that if the by-laws so prescribe, a number of directors, not exceeding 2, may
2574 be elected by vote of a majority of the directors then in office. The directors shall hold office for
2575 such term, not exceeding 3 years, as is provided in the by-laws and until their successors are
2576 selected and have qualified. A director shall be eligible for reelection. Any vacancy in the board
2577 may be filled by appointment by the remaining directors and any director so appointed shall hold
2578 such office until the next election.

2579 Each director shall own, in the director's own right and free of any lien or encumbrance,
2580 common stock, either of such corporation or of a company owning 75 per cent or more of the
2581 stock of such corporation, having a par value, or a fair market value on the date the person

2582 became a director, of not less than \$1,000. Any director who ceases to be the owner of the
2583 required number of shares of stock, or who becomes in any other manner disqualified, shall
2584 vacate the office forthwith. Each director, when appointed or elected, shall take an oath that such
2585 director will faithfully perform the duties of the office and that such director is the owner, in the
2586 director's own right and free of any lien or encumbrance, of the amount of stock required by this
2587 section. The oath shall be taken before a notary public or justice of the peace and a record of the
2588 oath shall be made a part of the records of such corporation.

2589 The office of any director who seeks, or against whom, an order of relief is entered in a
2590 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
2591 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
2592 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
2593 director whose office is so vacated shall again be eligible to serve as director upon: the receipt of
2594 a discharge in bankruptcy under chapter 7 of said Title 11; the completion of all payments
2595 required pursuant to a plan of reorganization under chapter 11 of said Title 11; the completion of
2596 all payments under a plan of debt adjustment under chapter 13 of said Title 11; or the payment of
2597 said judgment.

2598 In determining what a director reasonably believes to be in the best interests of such
2599 corporation, in considering proposed business combinations, as defined in paragraph (c) of
2600 section 3 of chapter 110F, a director may consider the interests of the corporation's employees,
2601 suppliers, creditors and customers, the economy of the state, region and nation, community and
2602 societal considerations, and the long-term and short-term interests of the corporation and its
2603 stockholders, including the possibility that these interests may be best served by the continued
2604 independence of the corporation.

2605 Each stock bank shall have an executive committee of not less than 3 members, who shall
2606 be elected by and from the directors and shall hold office during their pleasure. An executive
2607 committee may take any action that could be taken by the board of directors except that an
2608 executive committee may not: (1) authorize dividends or other distributions to shareholders; (2)
2609 approve or propose to the corporation's shareholders actions that require the approval of the
2610 corporation's shareholders; (3) change the number of members of the board of directors, remove
2611 directors from office or fill vacancies on the board of directors; (4) amend the corporation's
2612 articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6) authorize or
2613 approve reacquisition of shares of capital stock, except according to a formula or method
2614 prescribed by the board of directors; (7) take any action specifically required by law or
2615 regulation to be taken by the entire board of directors; or (8) approve a transaction described in
2616 section 8 of chapter 167I.

2617 Section 25. The clerk or secretary shall be elected by the stockholders at their annual
2618 meeting or at a special meeting duly called for the purpose.

2619 The president shall be elected by and from the board of directors and shall be chairman
2620 thereof unless the board designates a director in lieu of the president to be chairman. The
2621 directors shall elect the treasurer and any other officers. The president as may be required or
2622 permitted by law or by-law may select other officers. The officers elected by the board shall hold
2623 their respective offices during the pleasure of the directors. The directors may fill a vacancy in
2624 the office of clerk or secretary until the next meeting of the stockholders.

2625 Section 26. The board of directors shall meet at intervals, that shall not be less frequent
2626 than quarterly, but, upon application in writing by the corporation, the commissioner may waive

2627 or modify this requirement. Unless the articles of organization, the by-laws or a resolution of the
2628 board otherwise provide, members of the board of directors or a committee designated thereby
2629 may participate in a meeting of the board or committee by means of a conference telephone or
2630 similar communications equipment by means of which all persons participating in the meeting
2631 may simultaneously hear each other, and participation by those means shall constitute presence
2632 in person at a meeting. Members may transmit written authorizations that may be required during
2633 the meeting by electronic facsimile or other commercially acceptable transmission.

2634 Section 27. Fifteen or more savings banks may form the Savings Banks Employees
2635 Retirement Association, in this section and in sections 28 and 29 hereinafter referred to as the
2636 association, for the purpose of providing retirement benefits services through retirement plans,
2637 which are qualified under section 401 of the Internal Revenue Code, to members of the
2638 association and their customers, as hereinafter provided. The association, in its name and by or
2639 through its authorized officers, may: (a) make agreements and investments subject to limitations
2640 as from time to time may be prescribed by law or the by-laws of the association; (b) sue and be
2641 sued, plead and be impleaded; (c) enforce liens and other obligations and foreclose mortgages
2642 held by the association on or with respect to real or personal property situated in the
2643 commonwealth or in any state or territory of the United States; (d) adopt an official seal and alter
2644 the same at pleasure; and (e) do other acts and things necessary to carry out the powers conferred
2645 upon it by law and its by-laws.

2646 Any bank or credit union chartered by the commonwealth, any bank or credit union
2647 which has converted to federal charter and has its main office located in the commonwealth, any
2648 bank or credit union chartered by the federal government, by a state of the United States other
2649 than the commonwealth or by the District of Columbia and which has its main office or a branch

2650 office located in the commonwealth, the Massachusetts Bankers Association and its successors
2651 and any bank which is a voting member thereof, the Savings Banks Employees Retirement
2652 Association, the Depositors Insurance Fund, and other banking institutions with their main office
2653 or any branch office located in the commonwealth, as may from time to time be provided for in
2654 the by-laws of the association, and the respective employees of each of the foregoing, shall be
2655 eligible for membership in the association; provided, however, no bank that was eligible to be a
2656 member of the association before January 1, 2004, shall be eligible to become a member of the
2657 Cooperative Banks Employees Retirement Association or the Credit Union Employees
2658 Retirement Association unless and until the Cooperative Banks Employees Retirement
2659 Association and the Credit Union Employees Retirement Association permits a member to
2660 transfer from any or all of the qualified plans provided by said association, assets and liabilities,
2661 attributed to the member's employees, to 1 or more qualified plans not provided by said
2662 association. For the purposes of this section and sections 28 and 29, "bank" or "banks" shall,
2663 unless the context otherwise requires, mean any or all of the organizations named or referred to
2664 in this paragraph; "trustees" of a bank shall, unless the context otherwise requires, mean the
2665 governing body of any such organization, including, if applicable, the board of directors; and
2666 "customer" shall mean any person or business who has established a contractual relationship for
2667 banking business purposes with any banking institution located in the commonwealth which is a
2668 member of the association.

2669 Eligible employees may contribute a portion of their salaries or wages, to be deducted by
2670 the employing banks and paid to the plans or the retirement association. A participating bank
2671 may contribute to or under plans of the retirement association for its employees to the extent
2672 determined by its board of trustees. Contributions and benefits under the plans of the retirement

2673 association shall not exceed the limits, if any, imposed on such plans by the Internal Revenue
2674 Code and the federal Employees Retirement Income Security Act of 1974, in this section
2675 hereinafter referred to as the code and ERISA, respectively.

2676 If the commissioner finds that the continuation of contributions by a participating bank
2677 subject to the commissioner's authority may affect its safety and soundness, including reducing
2678 its risk-based capital ratio below any prescribed regulatory level, said commissioner may order
2679 the bank to: (a) freeze its benefits and cease further funding for future benefit accruals under any
2680 plans qualified under section 401 of the federal Internal Revenue Code; (b) revise its benefits for
2681 future service under any such plans so that contributions on account of any employee will be
2682 limited to an appropriate percentage of compensation; or (c) terminate its participation in any
2683 such plans.

2684 The funds contributed by participating banks and their employees shall be held or used by
2685 the trustees of the association for the purchase of annuities or payment of retirement benefits to
2686 eligible employees, for payments to beneficiaries or representatives of any member employee of
2687 the participating bank dying before reaching the age of retirement and for the payment to any
2688 employee retiring from service before becoming entitled to a pension or annuity. Funds held
2689 under any of the plans shall be held or used by the retirement association to the extent required
2690 by the code and ERISA for the exclusive purpose of providing plan benefits to participating
2691 members; provided, however, to the extent permitted by law, funds of the plans may be used to
2692 defray reasonable expenses of administering the retirement association and the plans and
2693 expenses of investing the assets of the plans may be charged against the funds of the plans. To
2694 the extent that expenses of the retirement association or said plans are not otherwise paid, they
2695 shall be paid by participating banks on a proportionate basis, as provided in the by-laws of the

2696 retirement association. The association shall annually provide to each member a report of assets
2697 and liabilities attributable to its participants in any or all qualified plans adopted by a member.

2698 A participating bank, by vote of its board of trustees, and a customer, may adopt 1 or
2699 more of the plans of the retirement association for the benefit of its employees. Any such bank
2700 which has adopted a plan of the retirement association for its employees may, if it is otherwise
2701 eligible, also establish an employee stock ownership plan.

2702 In any calendar year, the association or bank by vote of its governing board, may directly
2703 supplement the retirement benefits being paid to retired employees or their beneficiaries on
2704 account of service; provided, however, no supplement of a retirement benefit shall exceed the
2705 retirement benefit multiplied by the increase in the cost of living since the retirement began. The
2706 increase in the cost of living shall be the percentage by which the national monthly consumer
2707 price index for all urban consumers, issued by the bureau of labor statistics of the United States
2708 Department of Labor, for the last November before the year in which payment is made is greater
2709 than the beginning index figure. The beginning index figure is the average of such monthly
2710 consumer price index figures for the year in which a retirement benefit was first paid to or with
2711 respect to a former employee. No bank shall become obligated to pay in future years any
2712 supplement authorized by this paragraph.

2713 Membership in the association is voluntary and any bank may establish or provide
2714 qualified retirement plans for its employees independent of the association; provided, however,
2715 nothing contained herein shall be construed so as to require any bank to provide qualified
2716 retirement plans to its employees.

2717 Section 28. The by-laws of the association shall be submitted to the commissioner and
2718 shall prescribe the manner in which, and the officers and agents by whom, the association may
2719 be conducted and the manner in which its funds may be invested and paid out. Such association
2720 shall be formed when its by-laws have been approved and agreed to by a majority of the trustees
2721 of each of 15 or more savings banks, and have been approved by the commissioner. Such
2722 association shall annually, on or before December 1, report to the commissioner such statements
2723 of its membership and financial transactions for the year ending on the preceding October 31, as
2724 the commissioner may consider necessary to show its business and standing. The commissioner
2725 may verify such statement by an examination of the books and papers of the association.

2726 The association shall not be subject to chapter 32 or chapter 175 or to other laws that
2727 relate to insurance companies or other retirement associations.

2728 Section 29. The property of the association, the portion of the wages or salary of any
2729 employee deducted or to be deducted under sections 27 and 28, the right of an employee to an
2730 annuity or pension, and all of an employee's rights in the funds of the association, shall be
2731 exempt from taxation and from the operation of any law relating to insolvency, and shall not be
2732 attached or taken on execution or other process to satisfy any debt or liability of the association,
2733 a participating bank, or any employee member of the association. No assignment of any right in
2734 or to said funds or of any pension or annuity payable under section 27 shall be valid, except that
2735 deferred annuity contracts purchased by a participating bank on account of past service of
2736 eligible employees may be assigned to such bank prior to actual retirement.

2737 Nothing in this section shall prevent an employee’s annuity or pension from being
2738 attached, taken on execution, assigned, or subject to other process to satisfy a support order
2739 under chapters 208, 209 or 273.

2740 Section 30. The participating members of the Savings Banks Employees Retirement
2741 Association, established by section 27, shall constitute the Savings Banks Employees Benefit
2742 Association, in this section and in sections 31 and 32 hereinafter referred to as the benefit
2743 association, for the purpose of providing retirement benefits through retirement plans which are
2744 not qualified plans under section 401 of the Internal Revenue Code of the United States and for
2745 establishing employee welfare benefit plans, in this section hereinafter referred to as plans, for
2746 eligible employees of participating organizations. The benefit association, in its name and by or
2747 through its authorized officers, may: (a) establish plans and related trusts for eligible members
2748 participating therein; (b) make agreements, establish trusts and make or cause to be made
2749 investments subject to such limitations as may from time to time be prescribed by law or by the
2750 by-laws of the benefit association; (c) sue and be sued, plead and be impleaded; (d) enforce liens
2751 and other obligations and foreclose mortgages held by the benefit association on or with respect
2752 to real or personal property situated in the commonwealth or in any state or territory of the
2753 United States; (e) adopt an official seal and alter the same at pleasure; and (f) do such other acts
2754 that may be necessary to carry out the powers conferred upon it by law and its by-laws.

2755 For the purposes of this section and sections 31 and 32, “bank” and “banks” shall, unless
2756 the context otherwise requires, mean and include any or all member organizations and “trustees”
2757 of a bank shall, unless the context otherwise requires, mean and include the governing body of
2758 each of such organizations.

2759 Eligible employees may contribute a portion of their salaries or wages to or under plans
2760 established by the benefit association, to be deducted by the employing banks and paid to the
2761 benefit association. A participating bank may contribute to or under plans of the benefit
2762 association to the extent determined by its trustees. Contributions and benefits under the plans of
2763 the benefit association shall not exceed the limits, if any, imposed on such plans by the Internal
2764 Revenue Code of 1954, as amended, and the Employee Retirement Income Security Act of 1974,
2765 as amended, in this section hereinafter referred to as the code and ERISA, respectively.

2766 All plans maintained by the benefit association shall conform to the code and funds held
2767 under the plans of the benefit association shall be invested in such manner as the benefit
2768 association shall determine, consistent with the by-laws. Funds held under plans of the benefit
2769 association shall be held by or used by the benefit association for the exclusive purpose of
2770 providing plan benefits to eligible members and, as determined by the benefit association, may
2771 be used to defray reasonable expenses of administering the plans and investing the assets of the
2772 plans. To the extent that expenses necessary for the administration of the benefit association or
2773 the plans of the benefit association are not paid from the plans, they shall be paid by participating
2774 banks on a proportionate basis, as provided in the by-laws.

2775 A participating bank, by vote of its trustees, may adopt 1 or more of the plans of the
2776 benefit association for the benefit of its employees and their beneficiaries. Nothing in this section
2777 shall be construed so as to prevent any such bank from establishing its own employee welfare
2778 benefit plans or non-qualified retirement plan.

2779 Section 31. The trustees of the Savings Banks Employees Retirement Association shall
2780 prepare the by-laws of the benefit association and file the same with the commissioner. Said by-

2781 laws shall prescribe the manner in which, and the officers and agents by whom, the benefit
2782 association will be conducted and the manner in which its funds may be invested and paid out.
2783 They shall also provide that said trustees of the Savings Banks Employees Retirement
2784 Association shall serve as the initial trustees of the benefit association and shall continue such
2785 service for the term prescribed in such by-laws and for the election of subsequent trustees. Such
2786 benefit association shall annually, within 6 months after the close of its fiscal year, report to the
2787 commissioner such statements of its membership and financial transactions as the commissioner
2788 may consider necessary to show its business and standing. The commissioner may verify such
2789 statement by an examination of the books and papers of the benefit association.

2790 The benefit association shall not be subject to chapter 32 or chapter 175 or to other laws
2791 that relate to insurance companies or other benefit associations.

2792 Section 32. The property of the benefit association shall be exempt from taxation and
2793 from the operation of any law relating to insolvency, and shall not be attached or taken on
2794 execution or other process to satisfy any debt or liability of the benefit association, a
2795 participating bank or any employee member of the benefit association. No assignment of any
2796 right in or to said funds or of any pension or annuity payable under section 30 shall be valid,
2797 except that deferred annuity contracts purchased by a participating bank on account of past
2798 service of eligible employees may be assigned to such bank prior to actual retirement.

2799 Nothing in this section shall prevent an employee's annuity or pension from being
2800 attached, taken on execution, assigned or subject to other process to satisfy a support order under
2801 chapter 208, 209, or 273.

2802 SECTION 55. Chapter 170 of the General Laws is hereby amended by striking out
2803 sections 1 to 35, inclusive, as so appearing, and inserting in place thereof the following 26
2804 sections:-

2805 Section 1. As used sections 1 to 9, inclusive, the words “board” or “board of bank
2806 incorporation” shall mean a board consisting of the commissioner of banks, the commissioner of
2807 revenue and the state treasurer.

2808 (b) As used in this chapter, the following words shall have the following meanings unless the
2809 context clearly requires otherwise:-

2810 “Capital stock”, the sum of the par value of the preferred and common shares of capital stock,
2811 issued and outstanding.

2812 “Commissioner”, the commissioner of banks.

2813 “Corporation” or “bank”, a co-operative bank incorporated as such in this
2814 commonwealth.

2815 “Incorporators”, subscribers to the agreement of association for the purpose of forming a
2816 co-operative bank under this chapter.

2817 “Mutual bank”, a co-operative bank incorporated as such in the commonwealth in mutual
2818 form.

2819 “Shareholder” or “member”, a depositor or holder of any shares or accounts referred to in
2820 chapter 167D.

2821 “Shareholders’ meeting” or “meeting of shareholders”, any annual or special meeting of
2822 members of the corporation entitled to vote.

2823 “Stock bank”, a co-operative bank incorporated as such in the commonwealth in stock
2824 form which has been chartered or reorganized or converted to a stockholder form of corporation.

2825 “Surplus account”, an account so designated on the books of a stock co-operative bank
2826 and consisting of such amounts as shall be required by law or shall be transferred thereto by vote
2827 of the board of directors.

2828 Section 2. A co-operative bank shall have all the powers expressly granted by law and
2829 whatever further incidental powers may fairly be implied from those expressly conferred and
2830 such as are reasonably necessary to enable it to exercise fully those powers according to common
2831 or accepted banking customs and usages.

2832 Section 3. A corporation formed pursuant to section 2 may authorize, at a meeting duly
2833 called for the purpose, by vote of 2/3 of the shareholders present and voting a change of its
2834 corporate name. Within 60 days after any meeting at which such change has been authorized,
2835 articles of amendment, signed under the penalties of perjury by the executive officer and by the
2836 clerk, setting forth such change and the due adoption thereof, shall be delivered to the state
2837 secretary for filing.

2838 Section 4. A co-operative bank shall upon its incorporation have such capital structure as
2839 the board of bank incorporation shall deem adequate. Such capital structure may vary by the
2840 board based on the application and business plan submitted.

2841 Section 5. Fifteen or more individuals who associate themselves by a written agreement
2842 to form a co-operative bank may, upon compliance with sections 4 to 9, inclusive, become a
2843 corporation, with all the powers and privileges and subject to all the duties, restrictions and
2844 liabilities set forth in all laws relating to such corporations. The agreement of association shall
2845 specifically state:

2846 (1) that the incorporators thereto associate themselves with the intention of forming a
2847 corporation;

2848 (2) the name by which the corporation shall be known;

2849 (3) the location of the principal office of the corporation, which shall be within the
2850 commonwealth;

2851 (4) the purposes for which the corporation is formed and the nature of the business to be
2852 transacted;

2853 (5) the amount and classes of its capital stock and the number of shares into which any
2854 class is to be divided; the amount of the surplus account and the amount of the undivided profits
2855 account for a stock bank and the amount of the surplus account for a mutual bank; and

2856 (6) the name of each incorporator and the number of shares of capital stock, if any, which
2857 the incorporator agrees to take and the class or classes of such shares.

2858 The name of each incorporator shall be subscribed to the agreement of association.

2859 Section 6. A notice of the intention of the subscribers to form such a co-operative bank
2860 shall be given to the board of bank incorporation. A notice in such form as said board shall
2861 approve, shall be published at least once a week, for 3 successive weeks, in 1 or more

2862 newspapers designated by the board and published in the city or town in which it is proposed to
2863 establish the co-operative bank, or if there is no newspaper in such city or town, in a newspaper
2864 published in the city or town which is nearest to the proposed location. Such notice shall specify
2865 the names of the proposed incorporators, the name of the corporation and the location of the
2866 same. The subscribers to said agreement shall apply to the board for a certificate, which may be
2867 granted upon a finding that the public convenience and advantage will be promoted by the
2868 establishment of the co-operative bank. Such an application for a proposed co-operative bank
2869 shall be accompanied by an investigation fee, the amount of which shall be determined by the
2870 secretary of administration and finance under section 3B of chapter 7. In determining whether
2871 the public convenience and advantage will be promoted by the establishment of such co-
2872 operative bank, the board shall consider the adequacy of its capital structure, the general
2873 character of its management, the adequacy of banking facilities in the area and the convenience
2874 and needs of the community to be served. The board may grant such certificate, which shall be
2875 deemed to be revoked if the applicants do not become incorporated and begin business within 1
2876 year after its date of issue. If the board refuses to issue such certificate, no further proceeding
2877 shall be taken by the applicant during the year next following the date of such refusal except with
2878 the approval of the board, but the applicant may renew the application as of right after 1 year
2879 from the date of such refusal and may dispense with further notice or publication unless the
2880 board orders such notice or publication.

2881 Section 7. The first meeting of the incorporators shall be called by a notice signed either
2882 by the incorporator who is designated in the agreement for the purpose or by a majority of the
2883 incorporators and such notice shall state the time, place and purposes of the meeting. A copy of
2884 the notice shall, at least 7 days before the day appointed for the meeting, be given to each

2885 incorporator or left at each incorporator's residence or usual place of business, or deposited in
2886 the post office, postage prepaid, and addressed to each incorporator at such incorporator's
2887 residence or usual place of business, and another copy thereof and an affidavit of a of the signers
2888 that the notice has been duly served shall be recorded with the records of the corporation. If all
2889 the incorporators shall, in writing endorsed upon the agreement of association, waive such notice
2890 and fix the time and place of the meeting, no notice shall be required. At the first meeting, or at
2891 any adjournment thereof, the incorporators shall elect by ballot a temporary clerk who shall be
2892 sworn, adopt by-laws and in such manner as the by-laws may determine, elect directors, a clerk
2893 or secretary and such other officers as the by-laws may prescribe. The temporary clerk shall
2894 make and attest a record of the proceedings until the clerk or secretary has been chosen and
2895 sworn, including a record of such choice and qualification.

2896 Section 8. The president, clerk or secretary and a majority of the directors, as applicable,
2897 elected at such first meeting shall make and sign under penalties of perjury articles of
2898 organization in duplicate, setting forth:

2899 (1) a true copy of the agreement of association, the names of the incorporators thereto and
2900 the name of each of the officers and directors as applicable of the company; and

2901 (2) the date of the first meeting and the successive adjournments thereof, if any.

2902 One duplicate original of the articles so signed shall be submitted to the commissioner,
2903 and the other, together with the records of the proposed corporation, to the state secretary, who
2904 shall examine the same, and who may require such amendment thereof or such additional
2905 information as the secretary may consider necessary. If the commissioner finds that the articles
2906 conform to the 4 preceding sections relative to the organization of the corporation and that

2907 section 6 has been complied with, the commissioner shall so certify and endorse the
2908 commissioner's approval thereon. The articles shall be filed within 30 days thereafter in the
2909 office of the state secretary, who, upon receipt of a fee, the amount of which shall be determined
2910 annually by the secretary of administration and finance under section 3B of chapter 7, the state
2911 secretary shall issue a certificate of incorporation in the following form:

2912 COMMONWEALTH OF MASSACHUSETTS

2913 Be it known that whereas (the names of the subscribers to the agreement of association)
2914 have associated themselves with the intention of forming a corporation under the name of (the
2915 name of the corporation), for the purpose (the purpose declared in the agreement of association),
2916 with a capital stock or surplus, as applicable, of (the amount fixed in the agreement of
2917 association), and have complied with the statutes of the commonwealth in such case made and
2918 provided, as appears from the articles of organization of said corporation, duly approved by the
2919 state secretary and recorded in this office: Now, therefore, I (the name of the state secretary),
2920 secretary of the commonwealth of Massachusetts, do hereby certify that said (the names of the
2921 subscribers to the agreement of association), their associates and successors, are legally
2922 organized and established as, and are hereby made, an existing corporation under the name of
2923 (name of the corporation), with the powers, rights and privileges, and subject to the limitations,
2924 duties and restrictions, which by the law appertain thereto.

2925 Witness my official signature hereunto subscribed and the great seal of the
2926 commonwealth of Massachusetts hereunto affixed, this day of in the year (the date of the filing
2927 of the articles of organization).

2928 The state secretary shall sign the certificate of incorporation and cause the great seal of
2929 the commonwealth to be thereto affixed and such certificate shall have the force and effect of a
2930 special charter. The existence of every such corporation shall begin upon the filing of the articles
2931 of organization in the office of the state secretary. The state secretary shall also cause a record of
2932 the certificate of incorporation to be made and such certificate, or such record, or a certified copy
2933 thereof, shall be conclusive evidence of the existence of such corporation.

2934 A bank may amend its articles of organization if approved by its board and submitted to
2935 and approved by the bank's governing body except as provided in sections 10.05, 10.07 and
2936 14.34 of chapter 156D. After approval by the board and governing body, the amendment shall be
2937 submitted to the commissioner for the commissioner's endorsement thereon before delivering the
2938 amendment to the state secretary for filing.

2939 Section 9. When all the capital stock has been issued for a stock bank, a list of the
2940 stockholders, with the name, residence and post office address of each, and the number of shares
2941 in each class held by each stockholder, shall be filed with the board of bank incorporation, which
2942 list shall be verified by the clerk of the corporation. Upon receipt of such list, the board shall
2943 cause an examination to be made of the method of payment of the capital stock, or the surplus
2944 account if a mutual bank of the personnel of the corporation, including the officers and directors
2945 thereof, and if, after such examination, it appears that the whole capital stock, surplus account
2946 and undivided profits account for a stock bank or surplus account for a mutual bank have been
2947 paid in cash, that all requirements of law have been complied with, that the bank is a member of
2948 the Federal Deposit Insurance Corporation, and that the qualifications of the personnel are
2949 satisfactory, the board shall, if satisfied that the public convenience and advantage will be
2950 promoted thereby, issue a certificate authorizing such corporation to begin the transaction of

2951 business. No such corporation shall begin the transaction of business until such a certificate has
2952 been granted.

2953 Section 10. A mutual bank shall be subject to sections 11 to 15, inclusive, and a stock
2954 bank shall be subject to sections 16 to 20, inclusive. Section 20 shall apply to both a mutual and
2955 a stock bank.

2956 Section 11. The shareholders of a mutual bank shall make and adopt the necessary by-
2957 laws consistent with law for the government of its affairs. The by-laws may provide for matters
2958 relative to the business and affairs of the corporation as appropriate to exercise all powers
2959 necessary, convenient or incidental to the purposes for which the corporation was formed.

2960 The clerk of the corporation shall give notice of all regular and special meetings of the
2961 shareholders by publishing notice thereof, at least 7 days before the meeting, in 1 or more
2962 newspapers published in the city or town wherein the main office of the corporation is situated
2963 or, if there is no newspaper published therein, then in a newspaper published in a nearby city or
2964 town in the same county; and for this purpose a newspaper which by its title page purports to be
2965 printed or published in such city, town or county and which has a circulation therein, shall be
2966 deemed to have been published therein. Such notice shall state the day, hour and place of the
2967 meeting and shall contain a brief statement of the nature of the business to be acted upon, except
2968 as may be provided in the by-laws with respect to the removal of officers and directors.

2969 The board of directors shall meet at intervals of not more than 2 months; provided
2970 however, that upon application in writing by the corporation, the commissioner may waive or
2971 modify this requirement. Unless the articles of incorporation, the by-laws or a resolution of the
2972 board otherwise provide, members of the board of directors or any committee designated thereby

2973 may participate in a meeting of such board or committee by means of a conference telephone or
2974 similar communications equipment by means of which all persons participating in the meeting
2975 may simultaneously hear each other and participation by such means shall constitute presence in
2976 person at a meeting. Members may transmit any written authorizations that may be required
2977 during the meeting by electronic facsimile or other commercially acceptable transmission.

2978 Section 12. Each person who is recorded on the books of the corporation as the holder of
2979 1 or more shares or accounts referred to in chapter 167D shall be deemed a member and
2980 shareholder of and depositor in the corporation.

2981 Each member shall be entitled to 1 vote at all shareholders' meetings, subject to the
2982 limitations contained in this section and such limitations, if any, as may be contained in the by-
2983 laws.

2984 At any meeting, no person who votes in 1 capacity shall be entitled to vote in any other
2985 capacity. A co-owner of any shares or accounts who does not vote in any other capacity may
2986 vote as the representative of the co-owners. A corporate fiduciary or other corporation or a
2987 partnership or association may vote by a person duly authorized, if such person does not
2988 otherwise vote; provided, however, a fiduciary, whether individual, corporate or otherwise, may
2989 vote on behalf of 1 trust or estate only. No person shall be entitled to vote either as a member or
2990 in any representative capacity unless such person shall have attained the age of 18 years. No
2991 person shall vote by proxy except as otherwise may be expressly authorized by law.

2992 Section 13. The business and affairs of every such corporation shall be managed by a
2993 board of not less than 5 and, except as otherwise provided by law, not more than 15 directors.

2994 The shareholders shall elect the directors, each of whom shall be a citizen of the United States

2995 and at least a majority of whom shall be citizens of the commonwealth and residents of the
2996 commonwealth. Directors shall be divided into 3 classes as nearly equal in number as possible
2997 and 1 of such classes shall be elected annually for a term of 3 years; provided, that during the
2998 minimum time necessary to accomplish the foregoing, 1 of said classes may be elected for a term
2999 of 1 year and 1 for a term of 2 years. All vacancies in the board or in any office may be filled by
3000 the board of directors for the unexpired term. A number of directors, not exceeding 2, may be
3001 elected by vote of a majority of the directors then in office if the by-laws so prescribe. The
3002 directors may employ such additional assistance and appoint or constitute such committees and
3003 advisory directors as they may deem necessary and determine the reasonable compensation
3004 therefor. The directors may authorize the continuance as honorary directors of those persons who
3005 shall have served as directors for 10 years or more and such honorary directors may be
3006 designated by the directors for an indefinite term and shall not be included in determining the
3007 minimum number of directors or the number of directors to be elected annually as provided
3008 herein. No such honorary director shall be deemed to be an officer or member of the board of
3009 directors of such corporation, nor shall such honorary director receive compensation or be
3010 required to attend meetings or be authorized or required to perform any duties. Except as
3011 otherwise provided in the by-laws, the directors may delegate to any officers, assistants and
3012 employees such functions, powers and authority as the directors deem advisable.

3013 The clerk of the corporation shall be chosen by the shareholders, and the president, vice
3014 president, treasurer, assistant treasurers, if any, and other officers whose election is not otherwise
3015 herein expressly provided for, shall be chosen by the board of directors.

3016 All directors and other officers shall be elected by ballot and shall be shareholders when
3017 nominated and elected. Each officer when appointed or elected shall take an oath that such

3018 officer will faithfully and impartially discharge the duties devolving upon such officer, and the
3019 fact that the oath has been taken shall be entered in the records of the corporation; and if a person
3020 appointed or elected does not, within 30 days thereafter, take the oath, the office shall thereupon
3021 become vacant. All officers shall continue to hold their offices until their successors shall have
3022 been chosen and qualified.

3023 If an officer ceases to be a shareholder, the office may be declared vacant by the board of
3024 directors. If a director fails both to attend the regular meetings of the board and to perform any of
3025 the duties devolving upon such director for 6 consecutive months, the office may be declared to
3026 be vacant by the board at the next regular meeting and if such director so fails for 12 consecutive
3027 months, the office shall be declared to be vacant by the board at the next regular meeting. A
3028 record of any vacancy shall be entered upon the books of the corporation and a transcript shall be
3029 sent by mail to the person whose office has been made vacant.

3030 The office of any director who seeks, or against whom, an order of relief is entered in a
3031 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
3032 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
3033 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
3034 director whose office is so vacated shall again be eligible to serve as a director upon: the receipt
3035 of a discharge in bankruptcy under chapter 7 of said Title 11; the completion of all payments
3036 required pursuant to a plan of reorganization under chapter 11 of said Title 11; the completion of
3037 all payments under a plan of debt adjustment under chapter 13 of said Title 11; or the payment of
3038 said judgment.

3039 The records of all meetings of the corporation shall be read at such meetings by a
3040 shareholder other than the clerk and the records of all meetings of the board of directors shall be
3041 read at such meetings by a director.

3042 Section 14. At the first meeting of the board of directors, after the annual meeting of
3043 shareholders, the board shall elect from its own members a security committee of not less than 3
3044 members, not less than 2 of whom shall report upon all real estate offered as security for loans
3045 made by the corporation, after having examined such real estate or after it shall have been
3046 examined by 1 or more appraisers considered to be qualified by the directors and appointed by
3047 them for that purpose. In no case, however, shall any member of the security committee or any
3048 appraiser make an official report upon property offered as security for a loan if such member has
3049 a personal interest in the property or in the proposed loan.

3050 The security committee shall perform other duties as may be required by law, and
3051 exercise other powers as delegated to it by the board of directors. At each meeting of the board
3052 of directors, the security committee or an officer designated by it shall submit a report to the
3053 board of directors.

3054 At the first meeting of the board of directors after the annual meeting of a mutual bank,
3055 the board shall elect an audit committee of not less than 3 directors who shall not be operating
3056 officers or members of the security committee. The members of the audit committee shall take an
3057 oath of office in the manner and within the period prescribed by section 13 and a record thereof
3058 shall be made and preserved as provided in said section 13. The directors shall determine the
3059 compensation, if any, to be paid to the members of the security committee and the audit
3060 committee.

3061 Section 15. The treasurer shall keep the financial accounts and have charge of all books
3062 and papers necessary therefor, and dispose of and secure the safekeeping of all money, securities
3063 and property of the corporation, in the manner and subject to the limitations from time to time
3064 designated by the board of directors, subject to applicable law.

3065 Such corporation may provide in its by-laws for assistant treasurers. An assistant
3066 treasurer may perform all the duties of the treasurer.

3067 Section 16. Such corporation may adopt by-laws for the proper management of its affairs
3068 and as appropriate to exercise all powers necessary, convenient or incidental to the purposes for
3069 which the corporation was formed. The corporation may establish regulations controlling the
3070 assignment and transfer of its shares. A majority in interest of the stockholders entitled to vote
3071 shall constitute a quorum at any meeting unless the by-laws require more than a majority.

3072 Section 17. Stockholders entitled to vote may vote in person or by proxy. No proxy dated
3073 more than 6 months before the date of the meeting named therein shall be valid and no proxy
3074 shall be valid after the final adjournment of such meeting. A proxy with respect to stock held in
3075 the name of 2 or more persons shall be valid if executed by any 1 of them unless at or prior to the
3076 exercise of the proxy such corporation receives a specific written notice to the contrary from any
3077 1 of them. A proxy purporting to be executed by or on behalf of a stockholder shall be deemed
3078 valid unless challenged at or prior to its exercise and the burden of proving invalidity shall rest
3079 on the challenger. Except as otherwise provided in the articles of organization or by-laws of the
3080 corporation, special meetings of the stockholders may be called pursuant to section 7.02 of
3081 chapter 156D.

3082 Section 18. The business of such corporation shall be managed by a board of not less than
3083 7 nor more than 25 directors. A majority of the directors shall be citizens of the commonwealth
3084 and residents therein. The directors shall be elected, in such manner as is provided in the by-
3085 laws, by the stockholders at their annual meeting or at a special meeting called for the purpose;
3086 provided, however, that if the by-laws so prescribe, a number of directors, not exceeding 2, may
3087 be elected by vote of a majority of the directors then in office. The directors shall hold office for
3088 such term, not exceeding 3 years, as is provided in the by-laws and until their successors are
3089 selected and have qualified. A director shall be eligible for reelection. Any vacancy in the board
3090 may be filled by appointment by the remaining directors and any director so appointed shall hold
3091 the office until the next election.

3092 A director of a stock bank shall own, in the director's own right and free of any lien or
3093 encumbrance, common stock, either of such corporation or of a company owning 75 per cent or
3094 more of the stock of such corporation, having a par value, or a fair market value on the date the
3095 person became a director, of not less than \$1,000. Any director who ceases to be the owner of the
3096 required number of shares of stock shall vacate the office forthwith. Each director, when
3097 appointed or elected, shall take an oath that the director will faithfully perform the duties of the
3098 office and that the director is the owner, in such director's own right and free of any lien or
3099 encumbrance, of the amount of stock required by this section. The oath shall be taken before a
3100 notary public or justice of the peace and a record of the oath shall be made a part of the records
3101 of such corporation.

3102 The office of any director who seeks, or against whom, an order of relief is entered in a
3103 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
3104 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be

3105 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
3106 director whose office is so vacated shall again be eligible to serve as director upon: the receipt of
3107 a discharge in bankruptcy under chapter 7 of said Title 11; the completion of all payments
3108 required pursuant to a plan of reorganization under chapter 11 of said Title 11; the completion of
3109 all payments under a plan of debt adjustment under chapter 13 of said Title 11; or the payment of
3110 said judgment.

3111 In determining what a director reasonably believes to be in the best interests of such
3112 corporation, in considering proposed business combinations, as defined in paragraph (c) of
3113 section 3 of chapter 110F, a director may consider the interests of the corporation's employees,
3114 suppliers, creditors and customers, the economy of the state, region and nation, community and
3115 societal considerations, and the long-term and short-term interests of the corporation and its
3116 stockholders, including the possibility that these interests may be best served by the continued
3117 independence of the corporation.

3118 Each such corporation shall have an executive committee of not less than 3 members,
3119 who shall be elected by and from the directors and shall hold office during their pleasure. An
3120 executive committee may take any action that could be taken by the board of directors except
3121 that an executive committee may not: (1) authorize dividends or other distributions to
3122 shareholders; (2) approve or propose to the corporation's shareholders actions that require the
3123 approval of the corporation's shareholders; (3) change the number of members of the board of
3124 directors, remove directors from office or fill vacancies on the board of directors; (4) amend the
3125 corporation's articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6)
3126 authorize or approve reacquisition of shares of capital stock, except according to a formula or
3127 method prescribed by the board of directors; (7) take any action specifically required by law or

3128 regulation to be taken by the entire board of directors; or (8) approve a transaction described in
3129 section 8 of chapter 167I.

3130 Section 19. The clerk or secretary shall be elected by the stockholders at their annual
3131 meeting or at a special meeting duly called for the purpose.

3132 The president shall be elected by and from the board of directors and shall be chairman of
3133 the board unless the board designates a director in lieu of the president to be chairman. The
3134 directors shall elect the president, the vice president or vice presidents, treasurer and any other
3135 officers. The president, as may be permitted by law or by-law, may select other officers. The
3136 officers elected by the board shall hold their respective offices during the pleasure of the
3137 directors. The directors may fill a vacancy in the office of clerk or secretary until the next
3138 meeting of the stockholders.

3139 Section 20. Subsection (a) to (d), inclusive, shall apply to meetings of the board and its
3140 committees for both a co-operative bank in mutual form or in stock form.

3141 (a) Unless the articles of organization or bylaws provide that action, required or permitted
3142 by this chapter or another general law, shall be taken by the directors only at a meeting, the
3143 action may be taken without a meeting if the action is taken by the unanimous consent of the
3144 members of the board of directors. The action shall be evidenced by 1 or more consents
3145 describing the action taken, in writing, signed by each director, or delivered to the corporation by
3146 electronic transmission, to the address specified by the corporation for the purpose or, if no
3147 address has been specified, to the principal office of the corporation, addressed to the secretary
3148 or other officer or agent having custody of the records of proceedings of directors and included
3149 in the minutes or filed with the corporate records reflecting the action taken.

3150 (b) Action taken under this section is effective when the last director signs or delivers the
3151 consent, unless the consent specifies a different effective date.

3152 (c) A consent signed or delivered under this section has the effect of a meeting vote and
3153 may be described as such in any document.

3154 (d) This section shall also apply to committees of the board and the members of the
3155 board.

3156 Section 21. Fifteen or more cooperative banks may form the Cooperative Banks
3157 Employees Retirement Association, in this section and in sections 22 and 23 hereinafter referred
3158 to as the retirement association, for the purpose of providing retirement benefits services through
3159 retirement plans which are qualified under section 401 of the Internal Revenue Code, in this
3160 section hereinafter referred to plans, to employees and customers of members of the association,
3161 as hereinafter provided. The retirement association, in its name and by and through its authorized
3162 officers, may: (a) establish plans and related trusts for its members; (b) make agreements and
3163 investments subject to such limitations as from time to time may be prescribed by law or the by-
3164 laws of the retirement association; (c) establish divisions, departments and other operating units
3165 within the retirement association and provide the same with appropriate names or other
3166 identifications, to assist the retirement association in carrying out the powers conferred upon it
3167 by law and its by-laws; (d) sue and be sued, plead and be impleaded; (e) enforce liens and other
3168 obligations and foreclose mortgages held by the retirement association on or with respect to real
3169 or personal property situated in the commonwealth or in any state or territory of the United
3170 States; (f) adopt an official seal and alter the same at pleasure; and (g) do such other acts and
3171 things as may be necessary to carry out the powers conferred upon it by law and its by-laws.

3172 Any bank or credit union chartered by the commonwealth, any such bank or credit union
3173 which has converted to federal charter and has its main office located in the commonwealth, any
3174 bank or credit union chartered by the federal government, by a state of the United States other
3175 than the commonwealth or by the District of Columbia and which has its main office or a branch
3176 office located in the commonwealth, the Massachusetts Bankers Association and its successors
3177 and any bank which is a voting member thereof, the Cooperative Banks Employees Retirement
3178 Association, the Co-operative Central Bank, and such other banking institutions with their main
3179 office or any branch office located in the commonwealth, as may from time to time be provided
3180 for in the by-laws of the association and the respective employees of each of the foregoing, shall
3181 be eligible for membership in the association; provided, however, no bank that was eligible to be
3182 a member of the association before January 1, 2004, shall be eligible to become a member of the
3183 Savings Banks Employees Retirement Association or the Credit Union Employees Retirement
3184 Association, unless and until the Savings Banks Employees Retirement Association and the
3185 Credit Union Employees Retirement Association permits a member to transfer from any or all of
3186 the qualified plans provided by said association, assets and liabilities, attributed to the member's
3187 employees, to 1 or more qualified plans not provided by said association. For the purposes of this
3188 section, and sections 22 and 23, "bank" or "banks" shall, unless the context otherwise requires,
3189 mean and include any or all of the organizations named or referred to in this paragraph; "board
3190 of directors" of a bank shall also, unless the context otherwise requires, mean and include the
3191 governing body of such organizations; and "customer" shall mean any person or business who
3192 has established a contractual relationship for banking business purposes with any banking
3193 institution located in the commonwealth which is a member of the association.

3194 Eligible employees may contribute a portion of their salaries and wages to or under plans
3195 established by the retirement association, to be deducted by the employing banks and paid to the
3196 plans or the retirement association. A participating bank may contribute to or under plans of the
3197 retirement association to the extent determined by its board of trustees. Contributions and
3198 benefits under the plans of the retirement association shall not exceed the limits, if any, imposed
3199 on such plans by the Internal Revenue Code of 1954 and the Employees Retirement Income
3200 Security Act of 1974, in this section hereinafter referred to as the code and ERISA, respectively.

3201 If the commissioner finds that the continuation of contributions by a participating bank
3202 subject to the commisioner's authority may affect its safety and soundness, including reducing
3203 its risk-based capital ratio below any prescribed regulatory level, said commissioner may order
3204 the bank to: (a) freeze its benefits and cease further funding for future benefit accruals under any
3205 plans qualified under section 401 of the federal Internal Revenue Code; (b) revise its benefits for
3206 future service under any such plans so that contributions on account of any employee will be
3207 limited to an appropriate percentage of compensation; or (c) terminate its participation in any
3208 such plans.

3209 All plans maintained by the retirement association shall conform to the code and ERISA
3210 and funds held under any such plans shall be invested in a manner as the retirement association
3211 shall determine. Copies of all plans shall be filed with the commissioner. Funds held under any
3212 of said plans shall be held by or used by the retirement association to the extent required by the
3213 code and ERISA for the exclusive purpose of providing plan benefits to participating members;
3214 provided, however, to the extent permitted by law, funds of the plans may be used to defray
3215 reasonable expenses of administering the retirement association and the plans, and expenses of
3216 investing the assets of the plans may be charged against the funds of the plans. To the extent that

3217 expenses necessary for the administration of the retirement association or the plans are not paid
3218 from the plans, they shall be paid by participating banks on a proportionate basis, as provided in
3219 the by-laws of the retirement association. The association shall annually provide to each member
3220 a report of assets and liabilities attributable to its participants in any or all qualified plans adopted
3221 by a member.

3222 A participating bank, by vote of its board of directors, and a customer may adopt 1 or
3223 more of the plans of the retirement association for the benefit of its employees. Any bank which
3224 has adopted a plan of the retirement association for its employees may, if it is otherwise eligible,
3225 also establish an employee stock ownership plan.

3226 A bank, by vote of its board of directors, may directly or indirectly by means of a
3227 contribution to 1 or more of the trust funds held by the trustees of the retirement association
3228 supplement the retirement benefits being paid to its former employees or their beneficiaries on
3229 account of bank service; provided, however, no supplement of a retirement benefit shall exceed
3230 the retirement benefit multiplied by the increase in the cost of living since the retirement began.
3231 The increase in the cost of living is the percentage by which the national monthly consumer price
3232 index for all urban consumers, issued by the bureau of labor statistics of the United States
3233 Department of Labor, for the last November before the year in which payment is made is greater
3234 than the beginning index figure. The beginning index figure is the average of such monthly
3235 consumer price index figures for the year in which a retirement benefit was first paid to or with
3236 respect to a former employee. Except with respect to supplements first voted by a financial
3237 institution's governing board on or after January 1, 1981, and which are paid through 1 or more
3238 of the trust funds held by the trustees of the retirement association, no employing unit may
3239 become obligated to pay in future years any supplement authorized by this paragraph.

3240 Membership in the association is voluntary and any bank may establish or provide
3241 qualified retirement plans for its employees independent of the association; provided, however,
3242 nothing contained herein shall be construed as requiring any bank to provide qualified retirement
3243 plans to its employees.

3244 Section 22. The by-laws of the retirement association, and any amendments thereto, shall
3245 be submitted to the commissioner and shall prescribe the manner in which, and the officers and
3246 agents by whom, the retirement association may be conducted and the manner in which its funds
3247 may be invested and paid out. Such retirement association shall be formed when its by-laws have
3248 been approved and agreed to by a majority of the trustees of each of 15 or more cooperative
3249 banks and have been approved by the commissioner. The association shall annually, on or before
3250 August 1, report to the commissioner such statements of its membership and financial
3251 transactions for the year ending on the preceding December 31 as the commissioner may
3252 consider necessary to show its business and standing. The commissioner may verify such
3253 statement by an examination of the books and papers of the retirement association. The
3254 retirement association shall not be subject to chapter 32 or chapter 175 or other laws as relate to
3255 insurance companies or other retirement associations.

3256 Section 23. The property of the retirement association, the portion of the wages or salary
3257 of any employee deducted or to be deducted under sections 21 and 22, the right of an employee
3258 to an annuity or pension, and all of the employee's rights in the funds of the retirement
3259 association, shall be exempt from taxation and from the operation of any law relating to
3260 insolvency, and shall not be attached or taken on execution or other process to satisfy any debt or
3261 liability of the retirement association, a participating bank or any employee member of the
3262 retirement association. No assignment of any right in or to said funds or of any pension or

3263 annuity payable under section 21 shall be valid, except that deferred annuity contracts purchased
3264 by a participating bank on account of past service of eligible employees may be assigned to such
3265 bank prior to actual retirement.

3266 Nothing in this section shall prevent an employee's annuity or pension from being
3267 attached, taken on execution, assigned, or subject to other process to satisfy a support order
3268 under chapter 208, 209 or 273.

3269 Section 24. The participating members of the Co-operative Banks Employees Retirement
3270 Association, established by section 21, shall constitute as the Co-operative Banks Employees
3271 Benefit Association, in this section and in sections 25 and 26 hereinafter referred to as the benefit
3272 association, for the purpose of providing retirement benefits through retirement plans which are
3273 not qualified plans under section 401 of the Internal Revenue Code of the United States and for
3274 establishing employee welfare benefit plans, in this section hereinafter referred to as plans, for
3275 eligible employees of participating organizations. The benefit association, in its name and by or
3276 through its authorized officers, may: (a) establish plans and related trusts for eligible members
3277 participating therein; (b) make agreements, establish trusts and make or cause to be made
3278 investments subject to such limitations as may from time to time be prescribed by law or by the
3279 by-laws of the benefit association; (c) sue and be sued, plead and be impleaded; (d) enforce liens
3280 and other obligations and foreclose mortgages held by the benefit association on or with respect
3281 to real or personal property situated in the commonwealth or in any state or territory of the
3282 United States; (e) adopt an official seal and alter the same at pleasure; and (f) do such other acts
3283 that may be necessary to carry out the powers conferred upon it by law and its by-laws.

3284 For the purposes of this section and sections 22 and 23, “bank” and “banks” shall, unless
3285 the context otherwise requires, mean and include any or all member organizations and
3286 “directors” of a bank shall, unless the context otherwise requires, mean and include the
3287 governing body of each of such organizations.

3288 Eligible employees may contribute a portion of their salaries or wages to or under plans
3289 established by the benefit association, to be deducted by the employing banks and paid to the
3290 benefit association. A participating bank may contribute to or under plans of the benefit
3291 association to the extent determined by its directors. Contributions and benefits under the plans
3292 of the benefit association shall not exceed the limits, if any, imposed on such plans by the
3293 Internal Revenue Code of 1986 as amended, and the Employee Retirement Income Security Act
3294 of 1974, as amended, in this section called the code and ERISA, respectively.

3295 All plans maintained by the benefit association shall conform to the code and funds held
3296 under the plans of the benefit association shall be invested in such manner as the benefit
3297 association shall determine, consistent with the by-laws. Funds held under plans of the benefit
3298 association shall be held by or used by the benefit association for the exclusive purpose of
3299 providing plan benefits to eligible members and, as determined by the benefit association, may
3300 be used to defray reasonable expenses of administering the plans and investing the assets of the
3301 plans. To the extent that expenses necessary for the administration of the benefit association or
3302 the plans of the benefit association are not paid from the plans, they shall be paid by participating
3303 banks on a proportionate basis, as provided in the by-laws.

3304 A participating bank, by vote of its directors may adopt 1 or more of the plans of the
3305 benefit association for the benefit of its employees and their beneficiaries.

3306 Nothing in this section shall be construed so as to prevent any such bank from
3307 establishing its own employee welfare benefit plans or non-qualified retirement plan.

3308 Section 25. The trustees of the Co-operative Banks Employees Retirement Association
3309 shall prepare the by-laws of the benefit association and file the same with the commissioner. Said
3310 by-laws shall prescribe the manner in which, and the officers and agents by whom, the benefit
3311 association will be conducted and the manner in which its funds may be invested and paid out.
3312 They shall also provide that the trustees of the Co-operative Banks Employees Retirement
3313 Association shall serve as the initial trustees of the benefit association and shall continue such
3314 service for the term prescribed in such by-laws and for the election of subsequent trustees.

3315 Such benefit association shall annually, within 6 months after the close of its fiscal year,
3316 report to the commissioner such statements of its membership and financial transactions as the
3317 commissioner may consider necessary to show its business and standing. The commissioner may
3318 verify such statement by an examination of the books and papers of the benefit association.

3319 The benefit association shall not be subject to chapter 32 or chapter 175 or to such other
3320 laws that relate to insurance companies or other benefit associations.

3321 Section 26. The property of the benefit association shall be exempt from taxation and
3322 from the operation of any law relating to insolvency, and shall not be attached or taken on
3323 execution or other process to satisfy any debt or liability of the benefit association, a
3324 participating bank, or any employee member of the benefit association. No assignment of any
3325 right in or to said funds or of any pension or annuity payable under section 24 shall be valid,
3326 except that deferred annuity contracts purchased by a participating bank on account of past
3327 service of eligible employees may be assigned to such bank prior to actual retirement.

3328 Nothing in this section shall prevent an employee’s annuity or pension from being
3329 attached, taken on execution, assigned, or subject to other process to satisfy a support order
3330 under 208, 209 or 273.

3331 SECTION 56. Chapter 171 of the General Laws is hereby amended by inserting, after
3332 section 8, the following section:-

3333 Section 8A. For the purposes of this section, the following words shall have the following
3334 meanings unless the context clearly requires otherwise:-

3335 “Electronic branch”, an electronic device, other than a telephone operated by a consumer,
3336 through which a consumer may initiate an electronic fund transfer. Such term includes, but is not
3337 limited to automated teller machines and cash dispensing machines. Such term does not include a
3338 teller machine or similar device located on the premises of and operated solely by an employee
3339 of a financial institution or a point-of-sale terminal.

3340 “Organization”, any person, corporation, association or partnership which assists or
3341 provides services to a financial institution or merchant in order to make available electronic fund
3342 transfers; provided, that a financial institution or merchant shall not be considered an
3343 organization.

3344 “Point-of-sale terminal”, an electronic terminal located on the premises of a merchant
3345 when such terminal is used with the assistance of an employee of a merchant for a customer’s
3346 purchase or lease of goods or services sold or leased by such merchant or adjustments thereto or
3347 the receipt of cash by the customer which is ancillary to the customer’s purchase or lease of
3348 goods or services from such merchant; provided, however, that such terminal shall be deemed an
3349 electronic branch for the purposes of this chapter whenever it is used for any other electronic

3350 fund transfer, or for an electronic fund transfer involving a customer's account held by an
3351 organization, or for an electronic fund transfer solely for customers of a single financial
3352 institution or bank holding company subject to chapter 167A or the federal Bank Holding
3353 Company Act of 1956, 12 USC § 1841 et seq.

3354 A credit union shall comply with the federal Electronic Fund Transfer Act, 15 USC §
3355 1693 et seq. and the regulations promulgated thereunder; provided, however, the maximum
3356 liability of a consumer under 15 USC § 1693g shall be limited to \$50.00.

3357 After a vote of its board of directors, a credit union, except as otherwise provided in this
3358 section, may purchase, establish, install, operate, lease or use individually or with any other
3359 financial institution or organization or share with any other financial institution or organization
3360 any number of manned or unmanned electronic branches at which a customer may make
3361 deposits, withdrawals, transfers of funds, obtain advances against preauthorized lines of credit,
3362 cash checks or pay obligations, and any number of point-of-sale terminals; provided, however,
3363 that withdrawals from such electronic branches, other than those located at an office of a credit
3364 union, shall be made only from a demand deposit account, negotiable withdrawal order account,
3365 or statement account or against a preauthorized line of credit; and provided, further that the credit
3366 union shall have applied for and obtained the approval of the commissioner for such electronic
3367 branch except that a credit union at whose office such electronic branch is located need not have
3368 applied for or obtained such approval. The commissioner shall approve such application if, in the
3369 commissioner's opinion, such action will promote a sound banking system which provides for
3370 the needs of the people and business, encourages competition, discourages monopolies and does
3371 not ignore legislative policies.

3372 There shall be no geographical limitation on the location of electronic branches which a
3373 credit union may purchase, establish, install, operate, lease or use individually or with any other
3374 financial institution or organization or share with any other financial institution or organization;
3375 provided, however, that the site location for such electronic branches, other than an electronic
3376 branch located at an office of a financial institution or in another state, shall be subject to
3377 approval by, and regulation of, the commissioner. An electronic branch may be located in a
3378 mobile unit under such conditions and limitations as the commissioner, by regulation, shall
3379 establish.

3380 A credit union shall adopt and maintain safeguards to insure the safety of a customer
3381 using the electronic branch, to insure the safety of the funds, items and other information at the
3382 electronic branch and to assist in the identification of criminals. The commissioner may
3383 promulgate rules and regulations establishing minimum standards for such safeguards. Such
3384 safeguards shall be in place and operational at the time such electronic branch begins to transact
3385 business; provided, however, that such safeguards shall not apply to an electronic branch located
3386 at an office of a credit union.

3387 No such electronic branch located at other than the office of a credit union shall be
3388 manned or operated at any time by an employee of any financial institution, holding company of
3389 a financial institution or affiliate thereof, or any organization except on a temporary basis to
3390 instruct operators or customers, service the electronic branch or to use such electronic branch on
3391 said employee's own behalf.

3392 SECTION 57. Chapter 171 of the General Laws is hereby amended by striking out
3393 sections 78A and 78B, as appearing in the 2012 Official Edition, and inserting in place thereof
3394 the following section:-

3395 Section 78A. Any 1 or more credit unions may merge or consolidate with 1 or more
3396 savings banks, as defined in section 1 of chapter 168, or 1 or more co-operative banks, as defined
3397 in section 1 of chapter 170, or 1 or more subsidiary banking institutions, as defined in section 1
3398 of chapter 167H and section 4 of chapter 167I.

3399 SECTION 58. Chapter 172 of the General Laws is hereby amended by striking out
3400 sections 1 to 39, inclusive, as so appearing, and inserting in place thereof the following 15
3401 sections:-

3402 Section 1. (a) As used in sections 1 to 9, inclusive, of this chapter the words “board” or
3403 “board of bank incorporation” shall mean a board consisting of the commissioner of banks, the
3404 commissioner of revenue and the state treasurer, unless the context otherwise requires.

3405 (b) As used in this chapter the following words shall have the following meanings, unless the
3406 context clearly requires otherwise:-

3407 “Capital stock”, the sum of the par value of the preferred and common shares of capital
3408 stock, issued and outstanding.

3409 “Commissioner”, the commissioner of banks.

3410 “Common stock”, the shares of capital stock of a trust company, other than preferred
3411 stock.

3412 “Incorporators”, subscribers to the agreement of association for the purpose of forming a
3413 trust company under this chapter.

3414 “Officer”, any individual designated as such in accordance with the by-laws including,
3415 whether or not so designated, the president, vice-president, treasurer and the clerk or secretary, or
3416 any individual who performs the duties appropriate to those offices.

3417 “Stockholder”, a registered owner of shares of capital stock of a trust company.

3418 “Surplus account”, an account so designated on the books of a trust company and
3419 consisting of such amounts as shall be required by law or shall be transferred thereto by vote of
3420 the board of directors.

3421 “Trust company” or “corporation”, a trust company incorporated as such in the
3422 commonwealth.

3423 Section 2. A trust company shall have all the powers expressly granted by law and
3424 whatever further incidental powers may fairly be implied from those expressly conferred and
3425 such as are reasonably necessary to enable it to exercise fully those powers according to common
3426 or accepted banking customs and usages.

3427 Section 3. No person, other than a trust company, shall use the words “trust company”,
3428 even though said words may be separated by 1 or more other words, as part of the person’s or its
3429 name or in any representation describing the person’s or its business, powers, services or
3430 functions. Any person who violates this section shall be punished by a fine of \$100 for each day
3431 during which such violation continues.

3432 Section 4. A trust company shall upon its incorporation have such capital structure as the
3433 board of bank incorporation shall deem adequate. Such capital structure may vary by the board
3434 based on the application and business plan submitted.

3435 Section 5. Fifteen or more individuals who associate themselves by a written agreement
3436 to form a trust company may, upon compliance with sections 4 to 9, inclusive, become a
3437 corporation, with all the powers and privileges and subject to all the duties, restrictions and
3438 liabilities set forth in all general laws relating to such corporations. The agreement of association
3439 shall specifically state:

3440 (1) That the incorporators associate themselves with the intention of forming a
3441 corporation;

3442 (2) The name by which the corporation shall be known;

3443 (3) The location of the principal office of the corporation, which shall be within the
3444 commonwealth;

3445 (4) The purposes for which the corporation is formed and the nature of the business to be
3446 transacted;

3447 (5) The amount and classes of its capital stock, and the number of shares into which any
3448 class is to be divided;

3449 (6) the amount of the surplus account;

3450 (7) the amount of the undivided profits account; and

3451 (8) the name of each incorporator and the number of shares of capital stock, if any, which
3452 the individual agrees to take and the class or classes of such shares.

3453 The name of each incorporator shall be subscribed to the agreement of association.

3454 Section 6. A notice of the intention of the subscribers to form such a trust company shall
3455 be given to the board of bank incorporation.

3456 A notice in such form as said board shall approve, shall be published at least once a
3457 week, for 3 successive weeks, in 1 or more newspapers designated by the board, and published in
3458 the city or town in which it is proposed to establish the trust company, or if there is no newspaper
3459 in such city or town, in a newspaper published in the city or town which is nearest to the
3460 proposed location. Such notice shall specify the names of the proposed incorporators, the name
3461 of the corporation and the location of the same. The subscribers to said agreement shall apply to
3462 the board for a certificate that public convenience and advantage will be promoted by the
3463 establishment of such trust company. Such an application for a proposed trust company shall be
3464 accompanied by an investigation fee, the amount of which shall be determined by the secretary
3465 of administration and finance under section 3B of chapter 7. In determining whether the public
3466 convenience and advantage will be promoted by the establishment of such trust company, the
3467 board shall consider the adequacy of its capital structure, the general character of its
3468 management, the adequacy of banking facilities in the area and the convenience and needs of the
3469 community to be served. The board may grant such certificate, which shall be deemed to be
3470 revoked if the applicants therefor do not become incorporated and begin business within 1 year
3471 after its date of issue. If the board refuses to issue such certificate, no further proceeding shall be
3472 taken by the applicant during the year next following the date of such refusal except with the

3473 approval of the board; provided, however, the applicant may renew the application as of right
3474 after 1 year from the date of such refusal, and may dispense with further notice or publication
3475 unless the board orders such notice or publication.

3476 Section 7. The first meeting of the incorporators shall be called by a notice signed either
3477 by that incorporator who is designated in the agreement for the purpose, or by a majority of the
3478 incorporators, and such notice shall state the time, place and purposes of the meeting. A copy of
3479 the notice shall, at least 7 days before the day appointed for the meeting, be given to each
3480 incorporator or left at the incorporator's residence or usual place of business, or deposited in the
3481 post office, postage prepaid, and addressed to the incorporator at such incorporator's residence or
3482 usual place of business, and another copy thereof and an affidavit of 1 of the signers that the
3483 notice has been duly served shall be recorded with the records of the corporation. If all the
3484 incorporators shall, in writing endorsed upon the agreement of association, waive such notice
3485 and fix the time and place of the meeting, no notice shall be required. At such first meeting, or at
3486 any adjournment thereof, the incorporators shall organize by the choice by ballot of a temporary
3487 clerk who shall be sworn, by the adoption of by-laws and by the election in such manner as the
3488 by-laws may determine, of directors, a clerk or secretary, and such other officers as the by-laws
3489 may prescribe. The temporary clerk shall make and attest a record of the proceedings until the
3490 clerk or secretary has been chosen and sworn, including a record of such choice and
3491 qualification.

3492 Section 8. The president, clerk or secretary and a majority of the directors as applicable
3493 elected at such first meeting shall make and sign under penalties of perjury articles of
3494 organization in duplicate, setting forth:

3495 (1) a true copy of the agreement of association, the names of the incorporators thereto,
3496 and the name of each of the officers and directors as applicable of the company; and

3497 (2) the date of the first meeting and the successive adjournments thereof, if any.

3498 One duplicate original of the articles so signed shall be submitted to the commissioner
3499 and the other, together with the records of the proposed corporation, to the state secretary, who
3500 shall examine the same, and who may require such amendment thereof or such additional
3501 information as the secretary may consider necessary. If the commissioner finds that the articles
3502 conform to the 4 preceding sections relative to the organization of the corporation and that
3503 section 6 has been complied with, the commissioner shall so certify and endorse the
3504 commissioner's approval thereon. The articles shall be filed within 30 days thereafter in the
3505 office of the state secretary, who, upon receipt of a fee, the amount of which shall be determined
3506 annually by the secretary of administration and finance under section 3B of chapter 7, said state
3507 secretary shall issue a certificate of incorporation in the following form:

3508 COMMONWEALTH OF MASSACHUSETTS

3509 Be it known that whereas (the names of the subscribers to the agreement of association)
3510 have associated themselves with the intention of forming a corporation under the name of (the
3511 name of the corporation), for the purpose (the purpose declared in the agreement of association),
3512 with a capital stock of (the amount fixed in the agreement of association), and have complied
3513 with the statutes of the commonwealth in such case made and provided, as appears from the
3514 articles of organization of said corporation, duly approved by the state secretary and recorded in
3515 this office: Now, therefore, I (the name of the state secretary), secretary of the commonwealth of
3516 Massachusetts, do hereby certify that said (the names of the subscribers to the agreement of

3517 association), their associates and successors, are legally organized and established as, and are
3518 hereby made, an existing corporation under the name of (name of the corporation), with the
3519 powers, rights and privileges, and subject to the limitations, duties and restrictions, which by the
3520 law appertain thereto.

3521 Witness my official signature hereunto subscribed and the great seal of the
3522 commonwealth of Massachusetts hereunto affixed, this day of in the year (the date of the filing
3523 of the articles of organization).

3524 The state secretary shall sign the certificate of incorporation and cause the great seal of
3525 the commonwealth to be thereto affixed, and such certificate shall have the force and effect of a
3526 special charter. The existence of every such corporation shall begin upon the filing of the articles
3527 of organization in the office of the state secretary. The state secretary shall also cause a record of
3528 the certificate of incorporation to be made, and such certificate, or such record, or a certified
3529 copy thereof, shall be conclusive evidence of the existence of such corporation.

3530 A bank may amend its articles of organization if approved by its board and submitted to
3531 and approved by the bank's governing body except as provided in sections 10.05, 10.07 and
3532 14.34 of chapter 156D. After approval by the board and governing body, the amendment shall be
3533 submitted to the commissioner for the commissioner's endorsement thereon before delivering the
3534 amendment to the state secretary for filing.

3535 Section 9. When all the capital stock has been issued, a list of the stockholders, with the
3536 name, residence and post office address of each, and the number of shares in each class held by
3537 each stockholder, shall be filed with the board of bank incorporation, which list shall be verified
3538 by the clerk of the corporation. Upon receipt of such list the board shall cause an examination to

3539 be made of the method of payment of the capital stock, of the personnel of the corporation,
3540 including the officers and directors thereof, and if, after such examination, it appears that the
3541 whole capital stock, surplus account and undivided profits account have been paid in cash, that
3542 all requirements of law have been complied with, that the bank is a member of the Federal
3543 Deposit Insurance Corporation, and that the qualifications of the personnel are satisfactory, the
3544 board shall, if satisfied that the public convenience and advantage will be promoted thereby,
3545 issue a certificate authorizing such corporation to begin the transaction of business. No such
3546 corporation shall begin the transaction of business until such a certificate has been granted.

3547 Section 9A. After notice of intent, application and hearing as the commissioner may
3548 require and with the commissioner's written permission and under conditions the commissioner
3549 may impose, the commissioner may, if satisfied that public convenience and advantage will be
3550 promoted and that competition among banking institutions will not be unreasonably affected,
3551 grant a certificate to establish a limited purpose trust company for the purpose of conducting
3552 trust and fiduciary business authorized under chapter 167G and other law applicable to a state-
3553 chartered bank; provided, however, that it shall have sufficient capital to support its business
3554 operations; provided further that any such limited purpose trust company shall not accept
3555 deposits, make loans or otherwise carry on a banking business in the commonwealth; and
3556 provided, further, that this section shall not apply to an attorney licensed to practice law in the
3557 commonwealth or to a person exercising trust or fiduciary powers in the commonwealth under
3558 lawful authority.

3559 A person seeking authority to establish a limited purpose trust company under this
3560 section shall file a notice and an application for a certificate with the commissioner, together

3561 with a fee, the amount of which shall be determined by the secretary of administration and
3562 finance under section 3B of chapter 7. The application shall include the following:

3563 (1) the name under which the corporation will conduct business;

3564 (2) the name of each officer of the corporation;

3565 (3) the location of the principal office thereof which shall be within the commonwealth;

3566 (4) the purpose for which the corporation is formed and the nature of the business to be
3567 transacted;

3568 (5) the amount and classes of its capital stock, and the number of shares into which any
3569 class is to be divided; and

3570 (6) such other information as the commissioner considers necessary.

3571 Upon receipt of the certificate from the commissioner, the corporation shall file its
3572 articles of organization with the state secretary and shall thereupon become eligible to conduct
3573 business; provided, however, the certificate shall be considered to be revoked if the corporation
3574 does not commence business within 1 year after the date of issuance thereof by the
3575 commissioner.

3576 In the transaction of business, a limited purpose trust company shall be subject to sections
3577 10 to 13, inclusive, and other applicable sections of this chapter, section 36A of chapter 167,
3578 sections 13 and 14 of chapter 167I, and sections 2 to 6, inclusive, 8 to 11, inclusive, and 14 to 20,
3579 inclusive, of chapter 167J.

3580 A limited purpose trust company may establish and maintain a trust office or a
3581 representative trust office in any state other than the commonwealth. A company intending to
3582 establish a trust office or representative trust office in the other state shall file a notice with the
3583 commissioner. The notice shall be in a form prescribed by the commissioner and shall contain
3584 the name and address of the limited purpose trust company, the location of the proposed office
3585 and be accompanied by a copy of the resolution of its board of directors authorizing the
3586 establishment of the out-of-state office.

3587 The company may commence business at the out-of-state trust office or representative
3588 trust office upon the expiration of 30 days from the date the required notice is received by the
3589 commissioner; provided, however, the 30 day period may be extended by the commissioner upon
3590 notice in writing to the company that additional information is required to be submitted to the
3591 commissioner. For the purposes of this section, a “trust office” shall mean the business office of
3592 the limited purpose trust company at which its licensed business activities are transacted and
3593 “representative trust office” shall mean an office established by the company in order to market
3594 and solicit business and provide administrative support but at which, licensed business activities
3595 of the company could not be conducted.

3596 A limited purpose trust company, or any similar institution as determined by the
3597 commissioner, established under the laws of any other state or the United States, may, with the
3598 approval of the commissioner, establish and maintain an office in the commonwealth if the laws
3599 of the state in which such company or similar institution was established expressly authorize,
3600 under conditions no more restrictive than those imposed by the laws of the commonwealth, as
3601 determined by the commissioner, the establishment of an office in said state by a limited purpose
3602 trust company chartered in the commonwealth.

3603 The commissioner may establish rules and regulations necessary to carry out this section
3604 and to govern the affairs of the company, including an examination thereof by the commissioner.
3605 The regulations may specify which provisions of chapters 167 through 167G, chapters 183 and
3606 184 and other laws of the commonwealth shall be applicable to any such limited purpose trust
3607 company.

3608 A limited purpose trust company may be merged, consolidated, converted, liquidated,
3609 dissolved or its charter cease to exist in such manner as the commissioner may prescribe and
3610 subject to such terms and conditions the commissioner may impose.

3611 Section 4 of chapter 167A relative to the Massachusetts Housing Partnership Fund shall
3612 apply to any subsequent transaction involving an unaffiliated entity and a limited purpose trust
3613 company that had converted from a trust company to a limited purpose trust company and that,
3614 but for such conversion, would have been subject to said section 4. The commissioner shall not
3615 approve any transaction subject to this paragraph until the commissioner has received notice
3616 from the Massachusetts Housing Partnership Fund that satisfactory arrangements have been
3617 made.

3618 Section 10. Such corporation may adopt by-laws for the proper management of its affairs
3619 and as appropriate to exercise all powers necessary, convenient or incidental to the purposes for
3620 which the corporation was formed. The corporation may also establish regulations controlling
3621 the assignment and transfer of its shares. A majority in interest of the stockholders entitled to
3622 vote shall constitute a quorum at any meeting unless the by-laws require more than a majority.

3623 Section 11. Stockholders entitled to vote may vote in person or by proxy. No proxy dated
3624 more than 6 months before the date of the meeting named therein shall be valid, and no proxy

3625 shall be valid after the final adjournment of such meeting. A proxy with respect to stock held in
3626 the name of 2 or more persons shall be valid if executed by any 1 of them unless at or prior to the
3627 exercise of the proxy such corporation receives a specific written notice to the contrary from any
3628 1 of them. A proxy purporting to be executed by or on behalf of a stockholder shall be deemed
3629 valid unless challenged at or prior to its exercise and the burden of proving invalidity shall rest
3630 on the challenger. Except as otherwise provided in the articles of organization or by-laws of the
3631 corporation, special meetings of the stockholders may be called pursuant to section 7.02 of
3632 chapter 156D.

3633 Section 12. The business of such corporation shall be managed by a board of not less than
3634 7 nor more than 25 directors. A majority of the directors shall be citizens of the commonwealth
3635 and residents therein. The directors shall be elected, in such manner as is provided in the by-
3636 laws, by the stockholders at their annual meeting or at a special meeting called for the purpose;
3637 provided, however, that if the by-laws so prescribe, a number of directors, not exceeding 2, may
3638 be elected by vote of a majority of the directors then in office. The directors shall hold office for
3639 such term, not exceeding 3 years, as is provided in the by-laws and until their successors are
3640 selected and have qualified. A director shall be eligible for reelection. Any vacancy in the board
3641 may be filled by appointment by the remaining directors and any director so appointed shall hold
3642 the office until the next election.

3643 Each director shall own, in the director's own right and free of any lien or encumbrance,
3644 common stock, either of such corporation or of a company owning 75 per cent or more of the
3645 stock of such corporation, having a par value, or a fair market value on the date the person
3646 became a director, of not less than \$1,000. Any director who ceases to be the owner of the
3647 required number of shares of stock, or who becomes in any other manner disqualified, shall

3648 vacate the office forthwith. Each director, when appointed or elected, shall take an oath that the
3649 director will faithfully perform the duties of the office and that the director is the owner, in the
3650 director's own right and free of any lien or encumbrance, of the amount of stock required by this
3651 section. The oath shall be taken before a notary public or justice of the peace, and a record of the
3652 oath shall be made a part of the records of such corporation.

3653 The office of any director who seeks, or against whom, an order of relief is entered in a
3654 personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a
3655 supplementary process proceeding, has been found unable to pay a judgment, shall thereby be
3656 vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any
3657 director whose office is so vacated shall again be eligible to serve as director upon: the receipt of
3658 a discharge in bankruptcy under chapter 7 of said Title 11; the completion of all payments
3659 required pursuant to a plan of reorganization under chapter 11 said Title 11; the completion of all
3660 payments under a plan of debt adjustment under chapter 13 said Title 11; or the payment of said
3661 judgment.

3662 In determining what a director reasonably believes to be in the best interests of such
3663 corporation, in considering proposed business combinations, as defined in paragraph (c) of
3664 section 3 of chapter 110F, a director may consider the interests of the corporation's employees,
3665 suppliers, creditors and customers, the economy of the state, region and nation, community and
3666 societal considerations, and the long-term and short-term interests of the corporation and its
3667 stockholders, including the possibility that these interests may be best served by the continued
3668 independence of the corporation.

3669 Each such corporation shall have an executive committee of not less than 3 members,
3670 who shall be elected by and from the directors and shall hold office during their pleasure. An
3671 executive committee may take any action that could be taken by the board of directors except
3672 that an executive committee may not: (1) authorize dividends or other distributions to
3673 shareholders; (2) approve or propose to the corporation's shareholders actions that require the
3674 approval of the corporation's shareholders; (3) change the number of members of the board of
3675 directors, remove directors from office or fill vacancies on the board of directors; (4) amend the
3676 corporation's articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6)
3677 authorize or approve reacquisition of shares of capital stock, except according to a formula or
3678 method prescribed by the board of directors; (7) take any action specifically required by law or
3679 regulation to be taken by the entire board of directors; or (8) approve a transaction described in
3680 section 8 of chapter 167I.

3681 Section 13. The clerk or secretary shall be elected by the stockholders at their annual
3682 meeting or at a special meeting duly called for the purpose.

3683 The president shall be elected by and from the board of directors and shall be chairman
3684 thereof unless the board designates a director in lieu of the president to be chairman. The
3685 directors shall elect the treasurer and any other officers including an executive vice president.
3686 The president as may be required or permitted by law or by-law may select other officers. The
3687 officers elected by the board shall hold their respective offices during the pleasure of the
3688 directors. The directors may fill a vacancy in the office of clerk or secretary until the next
3689 meeting of the stockholders.

3690 Section 14. Subsection (a) to (e), inclusive, shall apply to meetings of the board and its
3691 committees.

3692 (a) The board of directors shall meet at intervals, not less frequent than quarterly;
3693 provided, however, upon application in writing by the corporation, the commissioner may waive
3694 or modify this requirement. Unless the articles of organization, the by-laws, or a resolution by
3695 the board otherwise provide, members of the board of directors or a committee designated
3696 thereby may participate in a meeting of the board or committee by means of a conference
3697 telephone or similar communications equipment by means of which all persons participating in
3698 the meeting may simultaneously hear each other and participation by those means shall
3699 constitute presence in person at a meeting. Members may transmit written authorizations that
3700 may be required during the meeting by electronic facsimile or other commercially acceptable
3701 transmission.

3702 (b) Unless the articles of organization or bylaws provide that action required or permitted
3703 by this chapter or any other general law to be taken by the directors shall be taken only at a
3704 meeting, the action may be taken without a meeting if the action is taken by the unanimous
3705 consent of the members of the board of directors. The action must be evidenced by 1 or more
3706 consents describing the action taken, in writing, signed by each director, or delivered to the
3707 corporation by electronic transmission, to the address specified by the corporation for the
3708 purpose or, if no address has been specified, to the principal office of the corporation, addressed
3709 to the secretary or other officer or agent having custody of the records of proceedings of
3710 directors, and included in the minutes or filed with the corporate records reflecting the action
3711 taken.

3712 (c) Action taken under this section is effective when the last director signs or delivers the
3713 consent, unless the consent specifies a different effective date.

3714 (d) A consent signed or delivered under this section has the effect of a meeting vote and
3715 may be described as such in any document.

3716 (e) This section shall also apply to committees and their members.

3717 SECTION 59. Section 2 of chapter 183C of the General Laws, as so appearing, is hereby
3718 amended by striking out, in lines 5 and 6, the words “Federal Reserve Board” and inserting in
3719 place thereof the following words:- federal Bureau of Consumer Financial Protection.

3720 SECTION 60. Said section 2 of said chapter 183C, as so appearing, is hereby further
3721 amended by striking out, in line 31, the words “12 C.F.R. 226.32(a)(1)(i)” and inserting in place
3722 thereof the following words:- 12 C.F.R. 1026.32(a)(1)(i).

3723 SECTION 61. Said section 2 of said chapter 183C, as so appearing, is hereby further
3724 amended by striking out, in lines 67 and 68, the words “226.4(a) and 226.4(b)” and inserting in
3725 place thereof the following words:- 1026.4(a) and 1026.4(b).

3726 SECTION 62. Said section 2 of said chapter 183C, as so appearing, is hereby further
3727 amended by striking out, in line 72, the words “226.4(c)(7)” and inserting in place thereof the
3728 following words:- 1026.4(c)(7).

3729 SECTION 63. Said section 2 of said chapter 183C, as so appearing, is hereby further
3730 amended by striking out, in line 100, the words “226.4(d)(2)” and inserting in place thereof the
3731 following words:- 1026.4(d)(2).

3732 SECTION 64. Section 1 of chapter 255F of the General Laws, as so appearing, is hereby
3733 amended by striking out, in lines 17 and 18, the words:- the Director of the Office of Thrift
3734 Supervision,.