

SENATE No. 519

The Commonwealth of Massachusetts

PRESENTED BY:

Eileen M. Donoghue

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

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

An Act promoting emerging financial technologies.

PETITION OF:

NAME:

Eileen M. Donoghue

DISTRICT/ADDRESS:

First Middlesex

SENATE No. 519

By Ms. Donoghue, a petition (accompanied by bill, Senate, No. 519) of Eileen M. Donoghue for legislation to promote emerging financial technologies. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act promoting emerging financial technologies.

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

1 SECTION 1. Chapter 167 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 51 the following section:-

3 Section 52. (a) As used in this section, the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:

5 “Agency regulation”, a regulation, as defined in section 1 of chapter 30A, issued by a
6 covered agency, guidance issued by a covered agency, or a published proposed or interim rule,
7 policy statement, directive, adjudication, or interpretation of a covered agency.

8 “Covered agency”, each of the division of banks, the division of insurance, and the
9 securities division.

10 “Covered person”, a person that offers or intends to offer a financial innovation.

11 “Enforceable compliance agreement”, a contractual agreement described under
12 subsection (i).

13 “Financial innovation”, an innovative financial service or product, the delivery of which
14 is enabled by technology, that is or may be subject to a covered agency’s regulation or state
15 statute.

16 “Financial services innovation office” or “FSIO”, the office established pursuant to
17 subsection (b).

18 “FSIO Committee”, the committee established pursuant to subsection (e).

19 (b) There shall be a financial services innovation office within the office of consumer
20 affairs and business regulation to promote financial innovations. The undersecretary for the
21 office of consumer affairs and business regulation shall appoint an individual to serve as the
22 director of the FSIO. In general, the FSIO shall: (1) support the development of financial
23 innovations; and (2) assist covered persons in complying with the requirements of state
24 regulators regarding their financial innovations.

25 (c) Not later than 90 days after the establishment of the FSIO, each covered agency shall
26 modify any offices or programs at the covered agency that promote financial innovations or
27 assist covered persons in developing financial innovations to operate within the FSIO. Any legal
28 action or proceeding commenced by or against such office or program of a covered agency,
29 including no-action letters and staff advisory opinions, shall be transferred to the FSIO.

30 (d) Not later than 1 year after the date of the enactment of this act, and annually
31 thereafter, the FSIO shall submit a report to the legislature on the activities of the FSIO, which

32 shall include: (1) a description of the petitions considered; (2) the rationale for acceptance or
33 rejection of petitions; (3) the efforts of the FSIO to encourage financial innovations; (4) the
34 number and characteristics of the agreements; (5) the most innovative and least burdensome
35 tools that the agency's FSIO has implemented for achieving regulatory ends; (6) strategies
36 implemented to coordinate and facilitate interagency cooperation among covered agencies; (7)
37 the existing state laws, regulations, or practices (including guidance materials, examinations, and
38 enforcement proceedings and settlements) that the FSIO identifies as the most unnecessarily
39 burdensome to innovation in developing or providing financial products and services or the most
40 unnecessarily burdensome to competition in the financial services industry; and (8) an
41 identification of the overlap or fragmentation of regulation of financial products or services and
42 recommendations for reducing, consolidating, or eliminating such overlap or fragmentation.

43 (e) Not later than 60 days after the date of the enactment of this Act, the FSIO shall
44 establish a committee to be known as the FSIO Committee, to be composed of the director of
45 each covered agency or a designee. The FSIO Committee shall meet at least twice a year. Each
46 member of the FSIO Committee shall serve without additional compensation but shall be entitled
47 to reasonable expenses incurred in carrying out official duties as such a member. The FSIO
48 Committee shall: (1) consult on the administration, coordination, and oversight of the FSIO; (2)
49 facilitate the cooperation of each covered agency to ensure that they share information and data;
50 (3) monitor regulatory proposals and developments related to financial innovations; (4)
51 encourage the application of uniform principles and standards at each covered agency; and (5)
52 hold a public field hearing at least once a year to informally provide: (i) information and advice
53 to the public and covered persons; and (ii) a forum to gather information from the public and
54 covered persons.

55 (f) A covered person may submit a petition to the FSIO, in such form and in such manner
56 as the FSIO may require, to request to enter into an enforceable compliance agreement
57 containing a modification or waiver of a covered agency regulation or state statutory requirement
58 under which a covered agency has supervisory or rulemaking authority with respect to the
59 covered person or a financial innovation the covered person offers or intends to offer. In a
60 petition submitted under this section, the covered person shall: (1) submit an alternative
61 compliance strategy that proposes a method to comply with the covered agency's regulation or
62 state statutory requirement; and (2) demonstrate that under the alternative compliance strategy,
63 the financial innovation:(i) would serve the public interest; (ii) improves access to financial
64 products or services; and (iii) does not present systemic risk to the state financial system and
65 promotes consumer protection.

66 One or more covered persons that offer or intend to offer similar financial innovations
67 may jointly submit a petition under this section. The FSIO shall maintain the confidentiality of
68 any nonpublicly available data or information in any petition submitted under this section. The
69 FSIO shall give reasonable consideration to maintaining the confidentiality of data or
70 information identified by the covered person in the petition submitting under this section as
71 nonpublicly available data or information.

72 Not later than 30 days after receiving a petition, the FSIO shall publish the petition and
73 provide a 60-day period for public notice and comment, provided, however, that the FSIO may
74 waive the notice and comment if it determines that the covered person submitting the petition is
75 similarly situated to another covered person that has been granted approval of a petition pursuant
76 to this section. Not later than 30 days after the end of the comment period, or if the comment
77 period was waived, not later than 60 days after receipt of a petition, the FSIO shall complete a

78 review of the petition and notify the covered person, in writing, of the FSIO's determination of
79 the petition.

80 (g) If the covered person submitting the petition shows that the covered person meets the
81 requirements for establishing an alternative compliance strategy, the FSIO shall: (1) approve the
82 petition; and (2) enter into an enforceable compliance agreement with the covered person in
83 accordance with the requirements of subsection (i).

84 (h) If the FSIO rejects a petition, the FSIO shall provide the covered person with a
85 written notice explaining the reason for rejecting the petition, including: (1) evidence that the
86 covered person did not satisfy the requirements for establishing an alternative compliance
87 strategy; and (2) an identification of the rules or regulations of the covered agencies applicable to
88 the covered person with respect to the financial innovation. Not later than 90 days after receiving
89 a notice of disapproval, a covered person may revise and resubmit a petition to the FSIO under
90 subsection (f). A covered person may not seek judicial review of the FSIO's determination on a
91 petition in accordance with section 14 of chapter 30A.

92 (i) If the FSIO approves a petition under subsection (g), the covered person may enter
93 into an enforceable compliance agreement with the FSIO, which shall include the terms under
94 which the covered person may develop or offer the approved financial innovation to the public
95 and any requirements of the covered person and any covered agency with respect to the financial
96 innovation. The FSIO shall establish requirements relating to enforceable compliance
97 agreements that include: (1) procedures for modifying the terms of the agreement; (2)
98 consequences for failure to comply with the terms of the agreement; (3) a compliance
99 examination process that: (i) solicits feedback from covered agencies on the agreement; and (ii)

100 occurs not less frequently than annually; (4) a termination date for the agreement that is at least 1
101 year after the date on which the agreement is entered into; (5) procedures for extending the
102 termination date; (6) procedures for judicial review of another agency's challenge to the
103 agreement in accordance with section 14 of chapter 30A; and (7) procedures for maintaining the
104 confidentiality of any information disclosed to the FSIO or a covered agency in making the
105 agreement. If a covered person and the FSIO enter into an enforceable compliance agreement,
106 then another covered agency may not commence an enforcement action against the covered
107 person with respect to the financial innovation that is the subject of the enforceable compliance
108 agreement.

109 (j) The costs of carrying out the requirements of this section shall be split equally
110 between, and paid by, each covered agency.