

HOUSE No. 1166

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Murphy

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>2/18/2021</i>

HOUSE No. 1166

By Mr. Murphy of Weymouth, a petition (accompanied by bill, House, No. 1166) of James M. Murphy relative to the regulation of the business of domestic and foreign money transmission by the Division of Banks. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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

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

1 SECTION 1. Chapter 167F of the General Laws is hereby amended by striking out
2 section 4, as appearing in the 2018 Official Edition, and inserting in place thereof the following
3 section:--

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

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 Chapter 169 of the General Laws is hereby repealed.

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

9 Chapter 169B.

10 Licensing and Supervision of Money Transmitters

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

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

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

18 “Commissioner”, the commissioner of banks.

19 “Licensee”, a person licensed under this chapter to engage in the business of money
20 transmission.

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

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

31 “Nationwide Multistate Licensing System and Registry” or “NMLS”, the multistate
32 system developed by the Conference of State Bank Supervisors and the American Association of
33 Residential Mortgage Regulators and owned and operated by the State Regulatory Registry,
34 LLC, or any successor or affiliated entity, for the licensing and registration of persons in
35 financial services industries.

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

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

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

48 “Prepaid access”, access to funds or the value of funds that have been paid in advance
49 and can be retrieved or transferred at some point in the future through an electronic device or
50 vehicle, such as a card, code, electronic serial number, mobile identification number or personal
51 identification number. The term “prepaid access” shall not include closed loop prepaid access to
52 funds or the value of funds that can be used only for goods or services in transactions involving a

53 defined merchant or location (or set of locations), such as a specific retailer or retail chain, a
54 college campus, or a subway system.

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

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

60 Section 2. No person or entity shall engage in the business of money transmission
61 without first obtaining a license from the commissioner pursuant to this chapter. If a licensee
62 intends to carry on a business at a location other than its main office, such licensee shall register
63 each such branch office with the commissioner by providing such information as the
64 commissioner may determine; provided, however, that registration shall not be required for a
65 location of an authorized delegate.

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

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

68 (b) money transmission by the United States Postal Service or by a contractor on
69 behalf of the United States Postal Service;

70 (c) a state or a governmental subdivision, agency, or instrumentality thereof;

71 (d) a bank, as defined in section 1 of chapter 167, a national banking association, a
72 federally chartered credit union, a federal savings and loan association, a federal savings bank, or
73 any subsidiary of the above, or any bank, trust company, savings bank, savings and loan

74 association, or credit union organized under the laws of any other state, or any subsidiary of the
75 above, a bank holding company, an office of an international banking corporation, a branch of a
76 foreign bank, a corporation organized pursuant to the Bank Services Act, or a corporation
77 organized under the Edge Act under the laws of a state or the United States if the person does not
78 issue, sell, or provide payment instruments or prepaid access through an authorized delegate that
79 is not such a person;

80 (e) electronic funds transfer of governmental benefits for a federal, state, or
81 governmental agency by a contractor on behalf of the United States or a department, agency, or
82 instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality
83 thereof;

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

87 (g) a registered futures commission merchant under the federal commodities laws to
88 the extent of its operation as such a merchant;

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

92 (i) A transaction in which the recipient of the money or other monetary value is an agent
93 of the payee pursuant to a written contract and delivery of the money or other monetary value to
94 the agent satisfies the payor's obligation to the payee.

95 (1) For purposes of this subsection, “payee” means the provider of goods or services, who
96 is owed payment of money or other monetary value from the payor for the goods or services.

97 (2) For purposes of this subsection, “payor” means the recipient of goods or services,
98 who owes payment of money or monetary value to the payee for the goods or services.

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

103 (k) a person registered as a securities broker-dealer under federal or state securities
104 laws to the extent of its operation as such a broker-dealer.

105 Section 4. The commissioner may adopt, amend, or repeal rules and regulations,
106 which shall include an adequate capitalization requirement in an amount not to exceed
107 \$5,000,000 for entities engaged in the business of money transmission to aid in the
108 administration and enforcement of this chapter. Such regulation may contain such classifications,
109 differentiations, or other provisions, and may provide for such adjustments and exceptions for
110 any class of transactions, as in the judgment of the commissioner are necessary or proper to carry
111 out the purposes of this chapter, to prevent circumvention or evasion thereof, or to facilitate
112 compliance therewith.

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

117 Section 5. The application for a license shall be in a form prescribed by the
118 commissioner and shall contain the name and address or addresses where the business of the
119 applicant is located and if the applicant is a partnership, association, corporation, or other form of
120 business organization, the names and addresses of each member, director, principal officer
121 thereof, and any individual acting as a manager of a branch office location. Such application
122 shall also include a description of the activities of the applicant, in such detail and for such
123 periods as the commissioner may require, as well as such further information as the
124 commissioner may require. The commissioner may require a background investigation of each
125 applicant for a license to engage in the business of money transmission by means of fingerprint
126 and state and national criminal history record checks by the department of criminal justice
127 information services pursuant to section 172 of chapter 6 and the Federal Bureau of
128 Investigation. If the applicant is a partnership, association, corporation or other form of business
129 organization, the commissioner may require such background investigation by means of
130 fingerprint checks on each member, director, principal officer of such applicant, and any
131 individual acting as a manager of a branch office, or a manager of a location from which an
132 authorized delegate engages in money transmission. The commissioner may require a
133 background investigation by means of state criminal history record checks by the department of
134 criminal justice information services pursuant to section 172 of chapter 6 on a manager of a
135 location from which an authorized delegate engages in money transmission during an
136 investigation or examination of a licensee. Receipt of criminal history record information by a
137 private entity shall be prohibited. Each application for a license shall be accompanied by an
138 investigation fee. Investigation and license fees shall be determined annually by the secretary of
139 administration and finance under section 3B of chapter 7.

140 Upon the filing of an application for a license, if the commissioner finds that the
141 financial responsibility, character, reputation, integrity and general fitness of the applicant, and
142 of the partners or members thereof if the applicant is a partnership or association, and of the
143 officers, directors and principal employees if the applicant is a corporation, are such as to
144 warrant belief that the business will be operated honestly, fairly, soundly and efficiently in the
145 public interest consistent with the purposes of this chapter, the commissioner shall thereupon
146 issue the applicant a license to engage in the business of money transmission. If the
147 commissioner shall not so find or: (a) the applicant made a false statement of a material fact in
148 the application for a license; (b) an officer, director or member of the applicant business, or
149 manager of a location from which the applicant's authorized delegate will engage in money
150 transmission, has, within 10 years prior to the filing of the application, been (1) convicted of or
151 pleaded nolo contendere to a felony, or (2) committed an act involving fraud or deceit, which act
152 is substantially related to the qualifications, functions or duties of a person engaged in the
153 business of money transmission; (c) the applicant violated any of the provisions of this chapter or
154 regulations promulgated hereunder, any similar regulatory scheme of another jurisdiction, or any
155 other law applicable to the conduct of the business sought to be licensed; (d) a licensee or
156 authorized delegate of a licensee located at the address at which the applicant intends to operate
157 the business has had any license, registration or other authorization issued by the commissioner
158 suspended or revoked within 6 months of the date of the new application; the commissioner shall
159 not issue a license and shall notify the applicant of the denial. Within 20 days thereafter, the
160 commissioner shall enter upon the records a written decision and findings containing the reasons
161 supporting the denial and shall forthwith give written notice thereof by registered mail to the
162 applicant. Within 30 days after the date of such notice, the applicant may appeal from such

163 denial to the superior court for Suffolk county, sitting in equity. The court shall hear all pertinent
164 evidence and determine the facts and upon the facts as so determined, review said denial and, as
165 justice and equity may require, affirm the same or order the commissioner to issue such license.

166 The commissioner may participate in the NMLS for entities engaged in the business of
167 money transmission. The commissioner may establish requirements for participation by an
168 applicant in the NMLS which may vary from the provisions set out in section 5 and section 6.
169 The applicant shall pay directly to the NMLS any additional fee relating to participation in the
170 NMLS.

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

173 Such license shall not be transferable or assignable and shall expire annually at such
174 time as determined by the commissioner. The closing of a location of the licensee at the address
175 stated on the license, including an authorized delegate, or a change of location of the licensee at
176 the address stated on the license, including an authorized delegate, shall require written
177 notification to the commissioner in accordance with regulations promulgated by the
178 commissioner. Notwithstanding the foregoing, if an authorized delegate closes or relocates its
179 location without advance notification to the licensee, the licensee shall notify the commissioner
180 in accordance with regulations promulgated by the commissioner.

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

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

189 Section 8. The commissioner may suspend or revoke a license issued pursuant to this
190 chapter or order a licensee to revoke the designation of an authorized delegate if the
191 commissioner finds that:

192 (a) the licensee or an authorized delegate has violated a provision of this chapter or
193 any rule or regulation adopted hereunder or any other law applicable to the conduct of its
194 business; or

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

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

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

203 No revocation, suspension or surrender of a license shall impair or affect the
204 obligation of any preexisting lawful contract between the licensee, either directly or through an
205 authorized delegate, and any person.

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

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

214 (b) If the commissioner makes written findings of fact that the public interest will be
215 irreparably harmed by a delay in issuing an order under subsection (a) the commissioner may
216 issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order,
217 the commissioner shall promptly notify, in writing, the licensee affected thereby that such order
218 has been so entered, the reasons therefor, and that within 20 days after the receipt of a written
219 request for a hearing from such licensee, the matter will be scheduled for such hearing to
220 determine whether or not such temporary order shall become permanent and final. If no such
221 hearing is requested and none is ordered by the commissioner, the order shall remain in effect
222 until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the
223 commissioner, after giving notice of and opportunity for a hearing to the licensee subject to such
224 order, shall, by written finding of facts and conclusions of law, vacate, modify or issue a
225 permanent cease and desist order.

226 (c) No order under this section, except an order issued pursuant to subsection (b), may
227 be entered without prior notice and opportunity for a hearing. The commissioner may vacate or

228 modify an order under this section upon a finding that the conditions which required such order
229 have changed and that it is in the public interest to vacate or modify such order.

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

232 Section 10. (a) The commissioner may issue an order suspending or revoking the
233 designation of an authorized delegate, if the commissioner finds that:

234 (1) the authorized delegate violated this chapter or a rule promulgated under this chapter;

235 (2) the authorized delegate engaged in fraud, intentional misrepresentation,
236 or gross negligence;

237 (3) the authorized delegate is convicted of a violation of a state or federal anti-money
238 laundering statute;

239 (4) the competence, experience, character, or general fitness of the authorized delegate or
240 a person in control of the authorized delegate indicates that it is not in the public interest to
241 permit the authorized delegate to provide money services; or

242 (5) the authorized delegate is engaging in an unsafe or unsound practice.

243 (b) An order issued pursuant to this section shall be subject to review as provided in
244 chapter 30A.

245 Section 11. A licensee or authorized delegate shall, when directed by the
246 commissioner, permit the commissioner or a duly authorized representative to inspect its records

247 and evidence of compliance with this chapter or any rule and regulation issued thereunder and
248 with any other law, rule and regulation applicable to the conduct of its business. The
249 commissioner shall preserve a full record of each such examination of a licensee including a
250 statement of its condition. All records of investigations and reports of examinations by the
251 commissioner, including workpapers, information derived from such reports or responses to such
252 reports, and any copies thereof in the possession of any licensee under the supervision of the
253 commissioner, shall be confidential and privileged communications, shall not be subject to
254 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
255 the purpose of this paragraph, records of investigation and reports of examinations shall include
256 records of investigation and reports of examinations conducted by a financial regulatory agency
257 of the federal government and any other state, and of any foreign government which are
258 considered confidential by such agency or foreign government and which are in possession of the
259 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
260 record protecting the confidentiality of any such record, and other than any such record on file
261 with the court or filed in connection with the court proceeding, and the court may exclude the
262 public from any portion of a proceeding at which any such record may be disclosed. Copies of
263 such reports of examination shall be furnished to a licensee for its use only and shall not be
264 exhibited to any other person, organization or agency without prior written approval by the
265 commissioner. The commissioner may furnish to regulatory agencies of the federal government,
266 of other states, or of foreign countries, and any law enforcement agency, such information,
267 reports, inspections and statements relating to the licensees under supervision of the division.

268 The commissioner, or an examiner or such others of the commissioner's assistants as
269 may be designated by the commissioner, may summon the directors, officers or agents of a

270 licensee, or any other witnesses, and examine them relative to the affairs, transactions and
271 condition of the licensee, and, for that purpose, may administer oaths. Whoever, without
272 justifiable cause, refuses to appear and testify when so required or obstructs the person making
273 such examination in the performance of such duties, shall be punished by a fine of not more than
274 \$1,000 or by imprisonment for not more than 1 year.

275 Section 12. The commissioner, if there is reason to believe that a person other than a
276 licensee has violated any of the provisions of this chapter, shall be authorized to make such
277 investigations as the commissioner shall deem necessary and may examine such other person and
278 shall compel the production of all relevant books, records, accounts and documents.

279 Section 13. Each licensee shall annually, on or before a date to be determined by the
280 commissioner, file a report with the commissioner containing such information as said
281 commissioner may require concerning the business and operations during the preceding calendar
282 year. A licensee neglecting to file such report or failing to amend the same within 15 days of
283 notice from said commissioner directing the same shall, unless such neglect or failure is due to
284 justifiable cause and not due to willful neglect, pay to the commonwealth \$50 for each day
285 during which such neglect or failure continues.

286 A licensee shall periodically file, on dates determined by the commissioner, a report of
287 its current authorized delegates in a form determined by the commissioner and containing such
288 information as the commissioner shall require, and including other information the Nationwide
289 Multistate Licensing System & Registry may reasonably require with respect to the licensee.
290 The commissioner may change or update the delegate reporting requirements to carry out the

291 purposes of this chapter and to maintain consistency with NMLS licensing standards and
292 practices.

293 A licensee shall periodically file, on dates determined by the commissioner, a report of its
294 current authorized delegates in a form determined by the commissioner and containing such
295 information as the commissioner shall require, and including other information the Nationwide
296 Multistate Licensing System & Registry may reasonably require with respect to the licensee
297 change or update the delegate reporting requirements to carry out the purposes of this chapter
298 and to maintain consistency with NMLS licensing standards and practices.

299 A licensee and its authorized delegates shall keep and use such business records in
300 such form and at such location as said commissioner shall, by regulation, determine, which shall
301 enable said commissioner to determine whether such licensee or authorized delegate is
302 complying with the provisions of this chapter and any rules or regulations promulgated
303 hereunder by said commissioner and any other law, rule or regulation applicable to the conduct
304 of the business for which it is licensed under this chapter. Each licensee shall ensure that all of its
305 authorized delegates maintain books and records as required by the commissioner. Such
306 regulations may contain provisions for the suspension or revocation of licenses for violations
307 hereof and for such records to be recorded, copied or reproduced by photographic, photostatic,
308 microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical
309 imaging, or other process which accurately reproduces or forms a durable medium for
310 reproducing the original record or document or in any other form or manner authorized by the
311 commissioner; provided, however, that nothing in this section shall be construed to permit any
312 such licensee to destroy original records or documents. Each such licensee shall preserve all such
313 business records for as long a period as the commissioner shall prescribe by regulation.

314 Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil
315 Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered
316 to an office of such licensee located within the commonwealth shall be deemed to have been
317 served at the location, whether within or outside the commonwealth, where the original business
318 records or documents are kept or maintained.

319 Section 14. The commissioner or an aggrieved party may enforce the provisions of
320 this chapter, or restrain any violations thereof, by filing a civil action in a court of competent
321 jurisdiction. A violation of this chapter or a rule or regulation adopted hereunder, shall constitute
322 a violation of chapter 93A.

323 Section 15. Whoever violates any provision of this chapter or any rule or regulation
324 made thereunder by the commissioner shall be punished by a fine of not more than \$5,000 or by
325 imprisonment in state prison for not more than 5 years, or both. Each day a violation continues
326 shall be deemed a separate offense. The penalty provision of this section shall be in addition to,
327 and not in lieu of, any other provision of law applicable to a licensee or other person for violating
328 section 2 or any rule or regulation made thereunder.

329 Section 16. (a) Whenever the commissioner finds that any licensee or exempt person
330 under section 2 has violated any provision of this chapter or any rule or regulation adopted
331 thereunder, or any other law of the commonwealth applicable to the conduct of the business of
332 money transmission, the commissioner may, by order, in addition to any other action authorized
333 under this chapter or any rule or regulation made thereunder, impose a penalty upon such person
334 which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000 for such
335 violation plus the costs of investigation. The commissioner may impose a penalty which shall not

336 exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted thereunder, by
337 a person other than a licensee or exempt person under section 2, plus the costs of investigation.

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

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

344 Section 17. (a) Whenever the commissioner determines that any person has, directly
345 or indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
346 applicable to the conduct of the business of money transmission, or any order issued by the
347 commissioner under this chapter or any written agreement entered between such licensee and the
348 commissioner, the commissioner may serve upon such person a written notice of intention:

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

351 (2) to prohibit the person from applying for or obtaining a license from the
352 commissioner for a period up to 36 months following the effective date of an order issued under
353 subsection (b) or (c); or

354 (3) to prohibit such person from any further participation, in any manner, in the
355 conduct of the business of money transmission in Massachusetts or to prohibit such person from

356 being employed by, an authorized delegate of, or operating on behalf of a licensee under this
357 chapter or any other business which requires a license from the commissioner.

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

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

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

374 (e) Except as consented to in writing by the commissioner, any person who, pursuant
375 to an order issued under subsection (b) or (c), has been prohibited from participating in whole or
376 in part in the conduct of the business of money transmission in the commonwealth shall not,
377 while such order is in effect, continue or commence to perform in the capacity of a principal

378 employee, or otherwise participate in any manner, if so prohibited by order of the commissioner,
379 in the conduct of the affairs of:

380 (1) any licensee under this chapter;

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

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

383 Section 18. (a) Except as otherwise provided in subsection (b), a surety bond, letter of
384 credit, or other similar security acceptable to the commissioner in the amount of \$50,000 plus
385 \$10,000 per authorized delegate location, not exceeding a total addition of \$450,000, shall
386 accompany an application for a license.

387 (b) Security shall be in a form satisfactory to the commissioner, payable to the
388 commonwealth, and delivered to the state treasurer for the benefit of any claimant against the
389 licensee to secure the faithful performance of the obligations of the licensee with respect to
390 money transmission. The securities deposited with the state treasurer as herein provided and the
391 money which in case of breach of the bond shall be paid by any licensee or surety thereon, shall
392 constitute a trust fund for the benefit of such persons as shall deposit money with the licensee or
393 authorized delegate for transmission and such beneficiaries shall be entitled to an absolute
394 preference as to such money or securities over all general creditors of the licensee.

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

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

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

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

411 Section 19. (a) A licensee engaged in the business of money transmission who intends
412 to conduct licensed activities through the use of authorized delegates shall submit the names and
413 addresses of such persons listed in the original application to the commissioner. There shall be
414 an express written contract between the parties detailing the duties and responsibilities of such
415 authorized delegate.

416 (b) A contract between a licensee and an authorized delegate shall require the
417 authorized delegate to operate in full compliance with this chapter. The licensee shall furnish in a
418 record to each authorized delegate policies and procedures sufficient to permit compliance with
419 this chapter.

420 (c) An authorized delegate shall remit all money owing to the licensee in accordance
421 with the terms of the contract between the licensee and the authorized delegate.

422 (d) An authorized delegate may not provide money transmission services outside the
423 scope of activity permissible under the contract between the authorized delegate and the licensee.

424 Section 20. (a) Except to the extent otherwise limited by the commissioner pursuant to
425 section 20, the following shall be considered permissible investments:

426 (1) cash, a certificate of deposit, or senior debt obligation of an insured depository
427 institution, as defined in section 3 of the Federal Deposit Insurance Act 12 U.S.C. Section 1813
428 (1994 & Supp. V. 1999);

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

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

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

438 (5) receivables that are payable to a licensee from its authorized delegate, in the
439 ordinary course of business, pursuant to contracts which are not past due or doubtful of
440 collection. A receivable shall be deemed to be past due or doubtful of collection if the money

441 owed to the licensee is not remitted within seven business days. However, the aggregate amount
442 of receivables under this paragraph from any one person shall not comprise more than 10 percent
443 of the licensee's total permissible investments; and;

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

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

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

457 (2) a share of a person traded on a national securities exchange or a national over-the-
458 counter market or a share or a certificate issued by an open-end management investment
459 company that is registered with the United States Securities and Exchange Commission under
460 the Investment Companies Act of 1940 15 U.S.C. Section 80a-1-64 (1994 & Supp. V 1999), and
461 whose portfolio is restricted by the management company's investment policy to shares of a
462 person traded on a national securities exchange or a national over-the-counter market, if the

463 aggregate of investments under this paragraph does not exceed 20 percent of the total permissible
464 investments of a licensee and the licensee does not at one time hold investments in any one
465 person aggregating more than 10 percent of the licensee's total permissible investments;

466 (3) a demand-borrowing agreement made to a corporation or a subsidiary of a
467 corporation whose securities are traded on a national securities exchange if the aggregate of the
468 amount of principal and interest outstanding under demand-borrowing agreements under this
469 paragraph does not exceed 20 percent of the total permissible investments of a licensee and the
470 licensee does not at one time hold principal and interest outstanding under demand-borrowing
471 agreements under this paragraph with any one person aggregating more than 10 percent of the
472 licensee's total permissible investments; and

473 (4) any other investment the commissioner designates, to the extent specified by the
474 commissioner.

475 (c) The aggregate of investments under subsection (b) may not exceed 50 percent of
476 the total permissible investments of a licensee calculated in accordance with section 21.

477 Section 21. (a) A licensee shall maintain at all times permissible investments that have
478 a market value computed in accordance with generally accepted accounting principles of not less
479 than the aggregate amount of all of its outstanding payment instruments issued or sold and
480 money transmitted by the licensee or its authorized delegates.

481 (b) The commissioner, with respect to any licensees, may limit the extent to which a
482 type of investment within a class of permissible investments may be considered a permissible
483 investment, except for money and certificates of deposit issued by a bank. The commissioner by

484 rule may prescribe or by order allow other types of investments that the commissioner
485 determines to have a safety standard substantially equivalent to other permissible investments.

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

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

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

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

504 (c) All authorized delegate designations under section 4 of chapter 167F of the
505 General Laws shall be deemed in compliance with this chapter.