

# HOUSE . . . . . No. 4550

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 24, 2022.

The committee on Financial Services to whom was referred the 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, reports recommending that the accompanying bill (House, No. 4550) ought to pass.

For the committee,

JAMES M. MURPHY.

**HOUSE . . . . . No. 4550**

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**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 Chapter 169 of the General Laws is hereby repealed.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 the  
8 following chapter:-

9           Chapter 169B.

10          Licensing and Supervision of Money Transmitters

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

13           “Authorized delegate”, a person designated by a licensee under the provisions of this  
14 chapter to engage in money transmission on behalf of the licensee.

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

17           “Commissioner”, the commissioner of banks.

18           “Closed loop stored value”, stored value that is redeemable by the issuer only for goods  
19 or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except  
20 to the extent required by applicable law to be redeemable in cash for its cash value.

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

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

27           “Money transmission”, any of the following: (1) selling or issuing payment instruments  
28 to a person located in the commonwealth; (2) selling or issuing stored value to a person located  
29 in the commonwealth; or (3) receiving money for transmission from a person located in the  
30 commonwealth. The term does not include: transactions undertaken for other than personal,

31 family, or household purposes; or the provision solely of online or telecommunications services  
32 or network access.

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

38 "Outstanding money transmission obligations", (1) Any payment instrument or stored  
39 value issued or sold by the licensee to a person located in the United States or reported as sold by  
40 an authorized delegate of the licensee to a person that is located in the United States that has not  
41 yet been paid or refunded by or for the licensee, or escheated in accordance with applicable  
42 unclaimed property laws; or (2) Any money received for transmission by the licensee or an  
43 authorized delegate in the United States from a person located in the United States that has not  
44 been received by the payee or refunded to the sender, or escheated in accordance with applicable  
45 unclaimed property laws.

46 “Payment instrument”, a written or electronic check, draft, money order, traveler's check,  
47 or other written or electronic instrument for the transmission or payment of money or monetary  
48 value, whether or not negotiable. The term does not include: any credit card voucher; any letter  
49 of credit; stored value; or any instrument that (1) is redeemable by the issuer only for goods or  
50 services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to  
51 the extent required by applicable law to be redeemable in cash for its cash value; or (2) not sold  
52 to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

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

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           “Stored value”, means monetary value representing a claim against the issuer evidenced  
61 by an electronic or digital record, and that is intended and accepted for use as a means of  
62 redemption for money or monetary value, or payment for goods or services. The term includes,  
63 but is not limited to, "prepaid access" as defined by 31 C.F.R. Section 1010.100, as amended or  
64 recodified from time to time. Notwithstanding the foregoing, the term "stored value" does not  
65 include a payment instrument or closed loop stored value, or stored value not sold to the public  
66 but issued and distributed as part of a loyalty, rewards, or promotional program.

67           Section 2. No person or entity shall engage in the business of money transmission  
68 without first obtaining a license from the commissioner pursuant to this chapter. A license is not  
69 required for a person that is an authorized delegate of a licensee acting within the scope of  
70 authority conferred by a written contract with the licensee.

71           If a licensee intends to engage in money transmission business at a location other than its  
72 main office, such licensee shall register each such branch office with the commissioner by  
73 providing such information as the commissioner may determine; provided, however, that  
74 registration shall not be required for a location of an authorized delegate.

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

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

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

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

80 (d) a bank, as defined in section 1 of chapter 167, a national banking association, a  
81 federally chartered credit union, a federal savings and loan association, a federal savings bank, or  
82 any subsidiary of the above, or any bank, trust company, savings bank, savings and loan  
83 association, or credit union organized under the laws of any other state, or any subsidiary of the  
84 above, a bank holding company, an office of an international banking corporation, a branch of a  
85 foreign bank, a corporation organized pursuant to the Bank Services Act, or a corporation  
86 organized under the Edge Act under the laws of a state or the United States if the person does not  
87 issue, sell, or provide payment instruments or stored value through an authorized delegate that is  
88 not such a person;

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

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

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

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

100 (i) A person appointed as an agent of a payee to collect and process a payment from a  
101 payor to the payee for goods or services, other than money transmission itself, provided to the  
102 payor by

103 the payee, provided that: (1) there exists a written agreement between the payee and the  
104 agent directing the agent to collect and process payments from payors on the payee's behalf; (2)  
105 the payee holds the agent out to the public as accepting payments for goods or services on the  
106 payee's behalf; and (3) payment for the goods and services is treated as received by the payee  
107 upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss  
108 to the payor if the agent fails to remit the funds to the payee;

109 (j) an operator of a payment system to the extent that it provides processing, clearing, or  
110 settlement services, between or among persons excluded by this section, in connection with wire  
111 transfers, credit card transactions, debit card transactions, stored value transactions, automated  
112 clearing house transfers, or similar funds transfers;

113 (k) a person registered as a securities broker-dealer under federal or state securities laws  
114 to the extent of its operation as such a broker-dealer;

115 (l) A person that acts as an intermediary by processing payments between an entity that  
116 has directly incurred an outstanding money transmission obligation to a sender, and the sender's  
117 designated recipient, provided that the entity: (1) is properly licensed or exempt from licensing  
118 requirements under this chapter; (2) provides a receipt, electronic record, or other written  
119 confirmation to the sender identifying the entity as the provider of money transmission in the  
120 transaction; and (3) bears sole responsibility to satisfy the outstanding money transmission  
121 obligation to the sender, including the obligation to make the sender whole in connection with  
122 any failure to transmit the funds to the sender's designated recipient;

123 (m) A person expressly appointed as a third party service provider to or agent of an entity  
124 exempt under section 3(d), solely to the extent that: (1) such service provider or agent is

125 engaging in money transmission on behalf of and pursuant to a written agreement with  
126 the exempt entity that sets forth the specific functions that the service provider or agent is to  
127 perform; and (2) the exempt entity assumes all risk of loss and all legal responsibility for  
128 satisfying the outstanding money transmission obligations owed to purchasers and holders of the  
129 outstanding money transmission obligations upon receipt of the purchaser's or holder's money or  
130 monetary value by the service provider or agent; or

131 (n) A person exempt by regulation or order if the Commissioner finds such exemption to  
132 be in the public interest and that the regulation of such person is not necessary for the purposes  
133 of this chapter.

134 Section 4. (a) The commissioner may establish a minimum net worth not to exceed  
135 \$5,000,000 for entities engaged in the business of money transmission.

136 (b) The commissioner is authorized to adopt, amend, or repeal rules and regulations to aid  
137 in the administration and enforcement of this chapter. Such regulation may contain such  
138 classifications, differentiations, or other provisions, and may provide for such adjustments and  
139 exceptions for any class of transactions, as in the judgment of the commissioner are necessary or  
140 proper to carry out the purposes of this chapter, to prevent circumvention or evasion thereof, or  
141 to facilitate compliance therewith.

142 (c) Notwithstanding any other provision of this chapter, the commissioner may issue an  
143 advisory opinion or adopt regulations relative to the business of money transmission for the  
144 purpose of maintaining consistency with regulations adopted by a federal regulatory agency and  
145 governing provisions similar to those contained in this chapter.

146 Section 5. The application for a license shall be in a form prescribed by the commissioner  
147 and shall contain the name and address or addresses where the business of the applicant is  
148 located and if the applicant is a partnership, association, corporation, or other form of business  
149 organization, the names and addresses of each member, director, principal officer thereof, and  
150 any individual acting as a manager of a branch office location. Such application shall also  
151 include a description of the activities of the applicant, in such detail and for such periods as the  
152 commissioner may require, as well as such further information as the commissioner may require.  
153 The commissioner may require a background investigation of each applicant for a license to  
154 engage in the business of money transmission by means of fingerprint and state and national  
155 criminal history record checks by the department of criminal justice information services  
156 pursuant to section 172 of chapter 6 and the Federal Bureau of Investigation. If the applicant is a  
157 partnership, association, corporation or other form of business organization, the commissioner  
158 may require such background investigation by means of fingerprint checks on each member,

159 director, principal officer of such applicant, and any individual acting as a manager of a branch  
160 office, or a manager of a location from which an authorized delegate engages in money  
161 transmission. The commissioner may require a background investigation by means of state  
162 criminal history record checks by the department of criminal justice information services  
163 pursuant to section 172 of chapter 6 on a manager of a location from which an authorized  
164 delegate engages in money transmission during an investigation or examination of a licensee.  
165 Receipt of criminal history record information by a private entity shall be prohibited. Each  
166 application for a license shall be accompanied by an investigation fee. Investigation and license  
167 fees shall be determined annually by the secretary of administration and finance under section 3B  
168 of chapter 7.

169       Upon the filing of an application for a license, if the commissioner finds that the financial  
170 responsibility, character, reputation, integrity and general fitness of the applicant, and of the  
171 partners or members thereof if the applicant is a partnership or association, and of the officers,  
172 directors and principal employees if the applicant is a corporation, are such as to warrant belief  
173 that the business will be operated honestly, fairly, soundly and efficiently in the public interest  
174 consistent with the purposes of this chapter, the commissioner shall thereupon issue the applicant  
175 a license to engage in the business of money transmission. If the commissioner shall not so find  
176 or: (a) the applicant made a false statement of a material fact in the application for a license; (b)  
177 an officer, director or member of the applicant business, or manager of a location from which the  
178 applicant's authorized delegate will engage in money transmission, has, within 10 years prior to  
179 the filing of the application, been (1) convicted of or pleaded nolo contendere to a felony, or (2)  
180 committed an act involving fraud or deceit, which act is substantially related to the  
181 qualifications, functions or duties of a person engaged in the business of money transmission; (c)

182 the applicant violated any of the provisions of this chapter or regulations promulgated hereunder,  
183 any similar regulatory scheme of another jurisdiction, or any other law applicable to the conduct  
184 of the business sought to be licensed; (d) a licensee or authorized delegate of a licensee located at  
185 the address at which the applicant intends to operate the business has had any license,  
186 registration or other authorization issued by the commissioner suspended or revoked within 6  
187 months of the date of the new application; the commissioner shall not issue a license and shall  
188 notify the applicant of the denial. Within 20 days thereafter, the commissioner shall enter upon  
189 the records a written decision and findings containing the reasons supporting the denial and shall  
190 forthwith give written notice thereof by registered mail to the applicant. Within 30 days after the  
191 date of such notice, the applicant may appeal from such denial to the superior court for Suffolk

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

195 The commissioner may participate in the NMLS for entities engaged in the business of  
196 money transmission. The commissioner may establish requirements for participation by an  
197 applicant in the NMLS which may vary from the provisions set out in section 5 and section 6.  
198 The applicant shall pay directly to the NMLS any additional fee relating to participation in the  
199 NMLS.

200 Section 6. A license shall not be transferable or assignable and shall expire annually at  
201 such time as determined by the commissioner. The license may be renewed upon the filing of a  
202 renewal application in such form and containing all such information as the commissioner shall  
203 prescribe. The commissioner may refuse to renew a license for any reason that the commissioner

204 may refuse to issue an initial license under section 5 of this chapter The closing of a location of  
205 the licensee, including an authorized delegate location, or a change of location of the main  
206 address of the licensee, shall require notification to the commissioner in accordance with  
207 regulations promulgated by the commissioner.

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

212 Section 7. All money received for transmission by any licensee shall be forwarded to the  
213 person to whom the same is directed within 7 days following receipt thereof, unless the licensee  
214 has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud  
215 or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.  
216 Receipts given for deposits of money received for transmission shall contain all appropriate  
217 information relative to the transaction, as determined by the Commissioner.

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

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

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

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

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

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

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

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

241 (b) If the commissioner makes written findings of fact that the public interest will be  
242 irreparably harmed by a delay in issuing an order under subsection (a) the commissioner may  
243 issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order,  
244 the commissioner shall promptly notify, in writing, the licensee affected thereby that such order  
245 has been so entered, the reasons therefor, and that within 20 days after the receipt of a written  
246 request for a hearing from such licensee, the matter will be scheduled for such hearing to

247 determine whether or not such temporary order shall become permanent and final. If no such  
248 hearing is requested and none is ordered by the commissioner, the order shall remain in effect  
249 until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the  
250 commissioner, after giving notice of and opportunity for a hearing to the licensee subject to such  
251 order, shall, by written finding of facts and conclusions of law, vacate, modify or issue a  
252 permanent cease and desist order.

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

257 An order issued pursuant to this section shall be subject to review as provided in chapter  
258 30A.

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

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

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

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

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

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

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

272 Section 11. A licensee or authorized delegate shall, when directed by the commissioner,  
273 permit the commissioner or a duly authorized representative to inspect its records and evidence  
274 of compliance with this chapter or any rule and regulation issued thereunder and with any other  
275 law, rule and regulation applicable to the conduct of its business. The commissioner shall  
276 preserve a full record of each such examination of a licensee including a statement of its  
277 condition. All records of investigations and reports of examinations by the commissioner,

278 including workpapers, information derived from such reports or responses to such  
279 reports, and any copies thereof in the possession of any licensee under the supervision of the  
280 commissioner, shall be confidential and privileged communications, shall not be subject to  
281 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
282 the purpose of this paragraph, records of investigation and reports of examinations shall include  
283 records of investigation and reports of examinations conducted by a financial regulatory agency  
284 of the federal government and any other state, and of any foreign government which are  
285 considered confidential by such agency or foreign government and which are in possession of the  
286 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
287 record protecting the confidentiality of any such record, and other than any such record on file

288 with the court or filed in connection with the court proceeding, and the court may exclude the  
289 public from any portion of a proceeding at which any such record may be disclosed. Copies of  
290 such reports of examination shall be furnished to a licensee for its use only and shall not be  
291 exhibited to any other person, organization or agency without prior written approval by the  
292 commissioner. The commissioner may furnish to regulatory agencies of the federal government,  
293 of other states, or of foreign countries, and any law enforcement agency, such information,  
294 reports, inspections and statements relating to the licensees under supervision of the division.

295         The commissioner, or an examiner or such others of the commissioner's assistants as may  
296 be designated by the commissioner, may summon the directors, officers or agents of a licensee,  
297 or any other witnesses, and examine them relative to the affairs, transactions and condition of the  
298 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
299 to appear and testify when so required or obstructs the person making such examination in the

300             performance of such duties, shall be punished by a fine of not more than \$1,000 or by  
301 imprisonment for not more than 1 year.

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

306         Section 13. Each licensee shall annually, on or before a date to be determined by the  
307 commissioner, file a report with the commissioner containing such information as said  
308 commissioner may require concerning the business and operations during the preceding calendar  
309 year. A licensee neglecting to file such report or failing to amend the same within 15 days of

310 notice from said commissioner directing the same shall, unless such neglect or failure is due to  
311 justifiable cause and not due to willful neglect, pay to the commonwealth \$50 for each day  
312 during which such neglect or failure continues.

313 A licensee shall periodically file, on dates determined by the commissioner, a report of its  
314 current authorized delegates in a form determined by the commissioner and containing such  
315 information as the commissioner shall require, and including other information the NMLS may  
316 reasonably require with respect to the licensee. The commissioner may change or update the  
317 delegate reporting requirements to carry out the purposes of this chapter and to maintain  
318 consistency with NMLS licensing standards and practices.

319 A licensee and its authorized delegates shall keep and use such business records in such  
320 form and at such location as said commissioner shall, by regulation, determine, which shall  
321 enable said commissioner to determine whether such licensee or authorized delegate is  
322 complying with

323 the provisions of this chapter and any rules or regulations promulgated hereunder by said  
324 commissioner and any other law, rule or regulation applicable to the conduct of the business for  
325 which it is licensed under this chapter. Each licensee shall ensure that all of its authorized  
326 delegates maintain books and records as required by the commissioner. Such regulations may  
327 contain provisions for the suspension or revocation of licenses for violations hereof and for such  
328 records to be recorded, copied or reproduced by photographic, photostatic, microfilm, microcard,  
329 miniature photographic, electronic, including, but not limited to, optical imaging, or other  
330 process which accurately reproduces or forms a durable medium for reproducing the original  
331 record or document or in any other form or manner authorized by the commissioner; provided,

332 however, that nothing in this section shall be construed to permit any such licensee to destroy  
333 original records or documents. Each such licensee shall preserve all such business records for as  
334 long a period as the commissioner shall prescribe by regulation. Notwithstanding the provisions  
335 of any general or special law or the Massachusetts Rules of Civil Procedure to the contrary,  
336 service of a subpoena for business records upon a licensee, delivered to an office of such licensee  
337 located within the commonwealth shall be deemed to have been served at the location, whether  
338 within or outside the commonwealth, where the original business records or documents are kept  
339 or maintained.

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

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

350           Section 16. (a) Whenever the commissioner finds that any licensee or exempt person  
351 under section 3 has violated any provision of this chapter or any rule or regulation adopted  
352 thereunder, or any other law of the commonwealth applicable to the conduct of the business of  
353 money transmission, the commissioner may, by order, in addition to any other action authorized

354 under this chapter or any rule or regulation made thereunder, impose a penalty upon such person  
355 which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000 for such  
356 violation plus the costs of investigation. The commissioner may impose a penalty which shall not  
357 exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted thereunder, by  
358 a person other than a licensee or exempt person under section 3, plus the costs of investigation.

359 (b) Nothing in this section shall limit the right of any individual or entity who has been  
360 injured as a result of any violation of this chapter by a licensee, or any person other than a  
361 licensee or exempt person under section 3, to bring an action to recover damages or restitution in  
362 a court of competent jurisdiction.

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

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

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

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

376 (3) to prohibit such person from any further participation, in any manner, in the conduct  
377 of the business of money transmission in Massachusetts or to prohibit such person from being  
378 employed by, an authorized delegate of, or operating on behalf of a licensee under this chapter or  
379 any other business which requires a license from the commissioner.

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

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

391 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
392 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
393 person is an employee or on whose behalf the person is performing. The order shall remain in

394 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
395 commissioner or a court of competent jurisdiction.

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

402 (1) any licensee under this chapter;

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

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

405 Section 18. A surety bond, in an amount determined by the commissioner and in a form  
406 prescribed by the commissioner, to secure the faithful performance of the obligations of the  
407 licensee with respect to money transmission shall accompany an application for licensure. The  
408 aggregate liability on a surety bond may not exceed the principal sum of the bond. A claimant  
409 against a licensee may maintain an action on the bond, or the commissioner may maintain an  
410 action on behalf of the claimant.

411 Section 19. (a) A licensee engaged in the business of money transmission who intends to  
412 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 an

414 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 authorized  
417 delegate to operate in full compliance with this chapter. The licensee shall furnish in a record to  
418 each authorized delegate policies and procedures sufficient to permit compliance with this  
419 chapter.

420 (c) An authorized delegate shall remit all money owing to the licensee in accordance with  
421 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) any receivable owed by a bank and resulting from an automated clearinghouse, debit,  
430 or credit-funded transmission;

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

434 (4) an investment bearing a rating of one of the three highest grades as defined by a  
435 nationally recognized organization that rates securities;

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

440 (6) receivables that are payable to a licensee from its authorized delegate, in the ordinary  
441 course of business, pursuant to contracts which are not past due or doubtful of collection. A  
442 receivable shall be deemed to be past due or doubtful of collection if the money owed to the  
443 licensee is not remitted within 7 business days. However, the aggregate amount of receivables  
444 under this paragraph from any one person shall not comprise more than 10 percent of the  
445 licensee's total permissible investments; and

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

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

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

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

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

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

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

477 (d) The commissioner may promulgate regulations to allow other types of investments  
478 that the commissioner determines are of sufficient liquidity and quality to be a permissible  
479 investment, to the extent specified by the commissioner.

480 Section 21. (a) A licensee shall maintain at all times permissible investments that have a  
481 market value computed in accordance with generally accepted accounting principles of not less  
482 than the aggregate amount of all of its outstanding money transmission obligations.

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

488 (c) Permissible investments, even if commingled with other assets of the licensee, are  
489 held in trust for the benefit of the purchasers and holders of the licensee's outstanding money  
490 transmission obligations in the event of bankruptcy or receivership of the licensee.

491 Section 22. (a) In order to carry out the purposes of this chapter, the commissioner may:

492 (1) enter into agreements or relationships with other government officials or federal and  
493 state regulatory agencies and regulatory associations in order to improve efficiencies and reduce  
494 regulatory burden by standardizing methods or procedures, and sharing resources, records or  
495 related information obtained under this chapter;

496 (2) use, hire, contract, or employ analytical systems, methods, or software to examine or  
497 investigate any person subject to this chapter;

498 (3) accept licensing, examination, or investigation reports made by other state or federal  
499 government agencies or officials.

500 (b) The commissioner is authorized to participate in the multistate supervisory processes  
501 established between states for all licensees that hold licenses in the commonwealth and other  
502 states. As a participant in multistate supervision, the commissioner may:

503 (1) cooperate, coordinate, and share information with other state and federal regulators in  
504 accordance with section 11 of this chapter;

505 (2) enter into written cooperation, coordination, or information-sharing contracts or  
506 agreements with the organizations the membership of which is made up of state or federal  
507 governmental agencies; and

508 (3) cooperate, coordinate, and share information with organizations the membership of  
509 which is made up of state or federal governmental agencies, provided that the organizations  
510 agree in writing to maintain the confidentiality and security of the shared information in  
511 accordance with section 11 of this chapter.

512 (c) Nothing in this section constitutes a waiver of the commissioner's authority to conduct  
513 an examination or investigation or otherwise take independent action authorized by this chapter  
514 or any rule adopted or order issued under this chapter to enforce compliance with applicable state  
515 or federal law.

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

519 SECTION 5. (a) A license issued pursuant to chapter 169 of the General Laws or section  
520 4 of chapter 167F of the General Laws, including all authorized delegate location designations,  
521 that is in effect immediately before the effective date of this act shall remain in force as a license  
522 under said chapter 169 or said section 4. Such licensees shall file a renewal application in  
523 accordance with section 6 of chapter 169B of the General Laws.

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

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