

# SENATE . . . . . No. 3048

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-Second General Court  
(2021-2022)  
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1 by inserting after section \_\_\_\_ the following sections: -

2 "SECTION \_\_\_\_ Chapter 167F of the General Laws is hereby amended by striking out  
3 section 4 and inserting in place thereof the following section:-

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

6 This section shall take effect 9 months after the effective date of this act.

7 SECTION \_\_\_\_ Chapter 169 of the General Laws is hereby repealed. This section shall  
8 take effect 9 months after the effective date of this act.

9 SECTION \_\_\_\_ The General Laws are hereby amended by inserting after chapter 169A  
10 the following chapter:-

11 CHAPTER 169B.

12 LICENSING AND SUPERVISION OF MONEY TRANSMITTERS.

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

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

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

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

“Commissioner”, the commissioner of banks.

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

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

“Money transmission”, any of the following: (i) selling or issuing a payment instrument to a person located in the commonwealth; (ii) selling or issuing stored value to a person located in the commonwealth; or (iii) receiving money for transmission from a person located in the commonwealth; provided, that “money transmission” shall not include: (i) transactions undertaken for other than personal, family or household purposes; or (ii) the provision solely of online or telecommunications services or network access.

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

“Outstanding money transmission obligations”, (i) any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable unclaimed property laws; or (ii) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender, or escheated in accordance with applicable unclaimed property laws.

“Payment instrument”, a written or electronic check, draft, money order, traveler’s check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable; provided, however, that “payment instrument” shall not include: any credit card voucher; any letter of credit; stored value; or any instrument that is: (i) redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or (ii) not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.

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

“Principal shareholder”, any person or group of persons acting in concert who owns not less than 10 per cent of any voting class of an applicant’s stock.

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

“Stored value”, monetary value representing a claim against the issuer evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services; provided, that “stored value” shall include, but is not limited to, prepaid access, as defined by 31 C.F.R. 1010.100, as amended or recodified from time to time; and provided further, that notwithstanding the foregoing, “stored value” shall not include a payment instrument or closed loop stored value, or stored value not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.

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

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

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

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

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

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

(d) a bank, as defined in section 1 of chapter 167, a national banking association, a federally chartered credit union, a federal savings and loan association, a federal savings bank, or any subsidiary of the above, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state, or any subsidiary of the above, a bank holding company, an office of an international banking corporation, a branch of a foreign bank, a corporation organized pursuant to the Bank Service Company Act 12 U.S.C. 1861 et seq, or a corporation organized under the Edge Act 12 U.S.C. 611-632, under the laws of a state or the United States if the person does not issue, sell or provide payment instruments or stored value through an authorized delegate that is not such a person;

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

(f) a board of trade designated as a contract market under the Commodity Exchange Act 7 U.S.C. 1 or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board of trade;

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

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

(i) a person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee; provided, that: (A) there exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf; (B) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and (C) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee;

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

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

(l) a person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient; provided, that the entity: (A) is properly licensed or exempt from licensing

requirements under this chapter; (B) provides a receipt, electronic record or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and (C) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient;

(m) a person expressly appointed as a third-party service provider to or agent of an entity exempt pursuant to subsection (d), solely to the extent that: (A) such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and (B) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent; or

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

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

(b) The commissioner may adopt, amend or repeal rules and regulations to aid in the administration and enforcement of this chapter. Such regulation may contain such classifications, differentiations or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the commissioner are necessary or proper to carry out

the purposes of this chapter, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

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

This section shall take effect upon passage.

Section 5. (a)(1) The application for a license shall be in a form prescribed by the commissioner and shall contain the name and address or addresses where the business of the applicant is located and if the applicant is a partnership, association, corporation or other form of business organization, the names and addresses of each member, director and principal officer thereof, and any individual acting as a manager of a branch office location. Such application shall also include a description of the activities of the applicant, in such detail and for such periods as the commissioner may require, and such further information as the commissioner may require.

(2) The commissioner may require a background investigation of each applicant for a license to engage in the business of money transmission by means of fingerprint and state and national criminal history record checks by the department of criminal justice information services pursuant to section 172 of chapter 6 and the Federal Bureau of Investigation. If the applicant is a partnership, association, corporation or other form of business organization, the commissioner may require such background investigation by means of fingerprint checks on each member, director, principal officer of such applicant, and any individual acting as a

manager of a branch office, or a manager of a location from which an authorized delegate engages in money transmission. The commissioner may require a background investigation by means of state criminal history record checks by the department of criminal justice information services pursuant to section 172 of chapter 6 for a manager of a location from which an authorized delegate engages in money transmission during an investigation or examination of a licensee. Receipt of criminal history record information by a private entity shall be prohibited.

(3) Each application for a license shall be accompanied by an investigation fee.

Investigation and license fees shall be determined annually by the secretary of administration and finance under section 3B of chapter 7.

(b) Upon the filing of an application for a license, if the commissioner finds that the financial responsibility, character, reputation, integrity and general fitness of the applicant, and of the partners or members thereof if the applicant is a partnership or association, and of the officers, directors and principal employees if the applicant is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, soundly and efficiently in the public interest consistent with the purposes of this chapter, the commissioner shall thereupon issue the applicant a license to engage in the business of money transmission. The commissioner shall not issue a license and shall notify the applicant of the denial, if: (i) the applicant made a false statement of a material fact in the application for a license; (ii) an officer, director or member of the applicant business, or manager of a location from which the applicant's authorized delegate will engage in money transmission, has, within 10 years prior to the filing of the application: (A) been convicted of or pleaded nolo contendere to a felony; or (B) committed an act involving fraud or deceit, which act is substantially related to the qualifications, functions or duties of a person engaged in the business of money transmission; (iii) the applicant violated

187 this chapter or regulations promulgated hereunder, any similar regulatory scheme of another  
188 jurisdiction or any other law applicable to the conduct of the business sought to be licensed; or  
189 (iv) a licensee or authorized delegate of a licensee located at the address at which the applicant  
190 intends to operate the business has had any license, registration or other authorization issued by  
191 the commissioner suspended or revoked within 6 months of the date of the new application.

192 Within 20 days thereafter, the commissioner shall enter upon the records a written decision and  
193 findings containing the reasons supporting the denial and shall forthwith give written notice  
194 thereof by registered mail to the applicant. Within 30 days after the date of such notice, the  
195 applicant may appeal from such denial to the superior court for Suffolk county, sitting in equity.  
196 The court shall hear all pertinent evidence and determine the facts and upon the facts as so  
197 determined, review said denial and, as justice and equity may require, affirm the same or order  
198 the commissioner to issue such license.

199 (c) The commissioner may participate in the NMLS for entities engaged in the business  
200 of money transmission. The commissioner may establish requirements for participation by an  
201 applicant in the NMLS, which may vary from the provisions of this section and section 6. The  
202 applicant shall pay directly to the NMLS any additional fee relating to participation in the  
203 NMLS.

204 Section 6. A license shall not be transferable or assignable and shall expire annually at  
205 such date as determined by the commissioner. The license may be renewed upon the filing of a  
206 renewal application in such form and containing all such information as the commissioner shall  
207 prescribe. The commissioner may refuse to renew a license for any reason that the commissioner  
208 may refuse to issue an initial license under section 5. The closing of a location of the licensee,  
209 including an authorized delegate location, or a change of location of the main address of the

210 licensee, shall require notification to the commissioner in accordance with regulations  
211 promulgated by the commissioner.

212 If there shall be any change among the officers, partners or directors of any licensee, the  
213 licensee shall notify the commissioner of the name, address and occupation of each new officer,  
214 partner, or director and provide such other information as the commissioner may require in 3  
215 accordance with regulations promulgated by the commissioner.

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

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

225 (i) the licensee or an authorized delegate has violated this chapter or any rule or  
226 regulation adopted hereunder or any other law applicable to the conduct of its business; or

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

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

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

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

In lieu of suspension or revocation of a license issued hereunder, the commissioner may fine a licensee not more than \$500 per day for each violation.

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

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by a delay in issuing an order pursuant to subsection (a), the commissioner may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall promptly notify, in writing, the licensee affected by the order that such order has been so entered, the reasons for the order, and that within 20 days after the receipt of a written request for a hearing from the licensee, the matter will be scheduled for such hearing to determine whether or not such temporary order shall become permanent and final. If no such hearing is requested and none is ordered by the commissioner, the order shall remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the

commissioner, after giving notice of and opportunity for a hearing to the licensee subject to such order, shall, by written finding of facts and conclusions of law, vacate, modify or issue a permanent cease and desist order.

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

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

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

(i) the authorized delegate violated this chapter or a rule promulgated pursuant to this chapter;

(ii) the authorized delegate engaged in fraud, intentional misrepresentation or gross negligence;

(iii) the authorized delegate has been convicted of a violation of a state or federal anti-money laundering statute;

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

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

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

Section 11. A licensee or authorized delegate shall, when directed by the commissioner, permit the commissioner or a duly authorized representative to inspect its records and evidence of compliance with this chapter or any rule and regulation issued pursuant to this chapter and with any other law, rule and regulation applicable to the conduct of its business. The commissioner shall preserve a full record of each such examination of a licensee including a statement of its condition. All records of investigations and reports of examinations by the commissioner, including workpapers, information derived from such reports or responses to such reports, and any copies thereof in the possession of any licensee under the supervision of the commissioner, shall be confidential and privileged communications, shall not be subject to subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For the purposes of this paragraph, records of investigation and reports of examinations shall include records of investigation and reports of examinations conducted by a financial regulatory agency of the federal government and any other state, and of any foreign government which are considered confidential by such agency or foreign government and which are in possession of the commissioner. In any proceeding before a court, the court may issue a protective order to seal the record protecting the confidentiality of any such record, and other than any such record on file with the court or filed in connection with the court proceeding, and the court may exclude the public from any portion of a proceeding at which any such record may be disclosed. Copies of such reports of examination shall be furnished to a licensee for its use only and shall not be exhibited to any other person, organization or agency without prior written approval by the commissioner. The commissioner may furnish to regulatory agencies of the federal government,

of other states, or of foreign countries, and any law enforcement agency, such information, reports, inspections and statements relating to the licensees under supervision of the division.

The commissioner, or an examiner or such others of the commissioner's assistants as may be designated by the commissioner, may summon the directors, officers or agents of a licensee, or any other witnesses, and examine them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so required or obstructs the person making such examination in the performance of such duties, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 1 year.

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

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

A licensee shall periodically file, on dates determined by the commissioner, a report of its current authorized delegates in a form determined by the commissioner and containing such

information as the commissioner shall require, and including other information the NMLS may reasonably require with respect to the licensee. The commissioner may change or update the delegate reporting requirements to carry out the purposes of this chapter and to maintain consistency with NMLS licensing standards and practices.

A licensee and its authorized delegates shall keep and use such business records in such form and at such location as the commissioner shall, by regulation, determine, which shall enable the commissioner to determine whether such licensee or authorized delegate is complying with this chapter and any rules or regulations promulgated pursuant to this chapter by the commissioner and any other law, rule or regulation applicable to the conduct of the business for which it is licensed pursuant to this chapter. Each licensee shall ensure that all of its authorized delegates maintain books and records as required by the commissioner. Such regulations may contain provisions for the suspension or revocation of licenses for violations hereof and for such records to be recorded, copied or reproduced by photographic, photostatic, microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical imaging, or other process which accurately reproduces or forms a durable medium for reproducing the original record or document or in any other form or manner authorized by the commissioner; provided, however, that nothing in this section shall be construed to permit any such licensee to destroy original records or documents. Each such licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by regulation. Notwithstanding any general or special law to the contrary, service of a subpoena for business records upon a licensee, delivered to an office of such licensee located within the commonwealth shall be deemed to have been served at the location, whether within or outside the commonwealth, where the original business records or documents are kept or maintained.

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

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

Section 16. (a) Whenever the commissioner finds that any licensee or exempt person under section 3 has violated this chapter or any rule or regulation adopted thereunder, or any other law of the commonwealth applicable to the conduct of the business of money transmission, the commissioner may, by order, in addition to any other action authorized pursuant to this chapter or any rule or regulation made pursuant to this chapter, impose a penalty upon such person not more than \$5,000 for each violation, and not more than \$100,000 for such violation plus the costs of investigation. The commissioner may impose a penalty not more than \$5,000 for each violation of this chapter or any rule or regulation adopted thereunder by a person other than a licensee or exempt person under section 3, plus the costs of investigation.

(b) Nothing in this section shall limit the right of any individual or entity who has been injured as a result of any violation of this chapter by a licensee, or any person other than a

363 licensee or exempt person under section 3, to bring an action to recover damages or restitution in  
364 a court of competent jurisdiction.

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

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

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

374 (ii) to prohibit the person from applying for or obtaining a license from the commissioner  
375 for a period not greater than 36 months following the effective date of an order issued under  
376 subsection (b) or (c); or

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

381 (b) A written notice issued pursuant to subsection (a) shall contain a written statement of  
382 the facts that support the prohibition and shall give notice of an opportunity for a hearing to be  
383 held thereon. The hearing shall be fixed for a date not later than 30 days after the date of service

upon the commissioner of such request for a hearing. If the person fails to submit a request for a hearing not later than 20 days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, the party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

(e) Except as consented to in writing by the commissioner, any person who, pursuant to an order issued pursuant to subsection (b) or (c), has been prohibited from participating in whole or in part in the conduct of the business of money transmission in the commonwealth shall not, while such order is in effect, continue or commence to perform in the capacity of a principal employee, or otherwise participate in any manner, if so prohibited by order of the commissioner, in the conduct of the affairs of: (i) any licensee under this chapter; (ii) any other business which requires a license from the commissioner; or (iii) any bank, as defined under section 1 of chapter 167, or any subsidiary thereof.

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

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

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

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

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

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

(1) cash, a certificate of deposit or senior debt obligation of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. section 1813;

(2) any receivable owed by a bank and resulting from an automated clearinghouse, debit or credit-funded transmission;

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

(4) an investment bearing a rating of 1 of the 3 highest grades as defined by a nationally recognized organization that rates securities;

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

(6) receivables that are payable to a licensee from its authorized delegate, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection; provided, that a receivable shall be deemed to be past due or doubtful of collection if the money owed to the licensee is not remitted within 7 business days; and provided further, that the aggregate amount of receivables under this paragraph from any 1 person shall not comprise more than 10 per cent of the licensee's total permissible investments; and

(7) a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment

Companies Act of 1940, 15 U.S.C. Section 80a-1-64 and whose portfolio is restricted by the management company's investment policy to investments specified in paragraphs (1) through (4).

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

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

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

(3) a demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange if the aggregate of the amount of

principal and interest outstanding under demand-borrowing agreements pursuant to this paragraph does not exceed 20 per cent of the total permissible investments of a licensee and the licensee does not at 1 time hold principal and interest outstanding under demand-borrowing agreements pursuant to this paragraph with any 1 person aggregating more than 10 per cent of the licensee's total permissible investments;

(c) The aggregate of investments pursuant to subsection (b) may not exceed 50 per cent of the total permissible investments of a licensee calculated in accordance with section 21.

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

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

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

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

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

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

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

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

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

(1) cooperate, coordinate and share information with other state and federal regulators in accordance with section 11;

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

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

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

This chapter, notwithstanding Section 4, shall take effect 9 months after the effective date of this act.

SECTION \_\_\_\_ . (a) A license issued pursuant to chapter 169 of the General Laws or section 4 of chapter 167F of the General Laws, including all authorized delegate location designations, that is in effect immediately before the effective date of chapter 169B shall remain in force as a license under said chapter 169 or said section 4 of said chapter 167F. Such licensees shall file a renewal application in accordance with section 6 of chapter 169B of the General Laws, as inserted by section 116F.

(b) Any person that was not required to obtain a license pursuant to chapter 169 of the General Laws or pursuant to section 4 of chapter 167F of the General Laws, but that is now required to obtain a license under chapter 169B of the General Laws shall file an application for a license within 6 months of the effective date of chapter 169B to continue conducting money transmission in the commonwealth directly or through authorized delegates. If such application is timely filed and pending with the commissioner, that person may continue to conduct money transmission in the 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 that are in effect as of the effective date of chapter 169B shall be deemed in compliance  
533   with chapter 169B.