

**HOUSE . . . . . No. 1106**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*James M. Murphy*

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

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

An Act relative to the regulation of money transmission by the Division of Banks.

PETITION OF:

| NAME:                  | DISTRICT/ADDRESS:  | DATE ADDED:      |
|------------------------|--------------------|------------------|
| <i>James M. Murphy</i> | <i>4th Norfolk</i> | <i>1/19/2023</i> |

**HOUSE . . . . . No. 1106**

By Representative Murphy of Weymouth, a petition (accompanied by bill, House, No. 1106) of James M. Murphy for legislation to further regulate certain money transmissions. Financial Services.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

An Act relative to the regulation of 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 and inserting in place thereof the following section:-

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

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 Chapter 169 of the General Laws is hereby repealed.

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

8 CHAPTER 169B.

9 THE MONEY TRANSMISSION ACT.

10 Section 1. - This chapter shall be known and may be cited as the Money Transmission  
11 Act.

12 Section 2 For purposes of this chapter, the following definitions shall apply:

13 "Acting in concert" means persons knowingly acting together with a common goal of  
14 jointly acquiring control of a licensee whether or not pursuant to an express agreement.

15 "Authorized delegate" means a person a licensee designates to engage in money  
16 transmission on behalf of the licensee.

17 "Average daily money transmission liability" means the amount of the licensee's  
18 outstanding money transmission obligations in the Commonwealth at the end of each day in a  
19 given period of time, added together, and divided by the total number of days in the given period  
20 of time. For purposes of calculating average daily money transmission liability under this chapter  
21 for any licensee required to do so, the given period of time shall be the quarters ending March  
22 31st, June 30th, September 30th, and December 31st.

23 "Bank Secrecy Act" means the Bank Secrecy Act, 31 U.S.C. Section 5311, et seq. and its  
24 implementing regulations, as amended and recodified from time to time.

25 "Closed loop stored value" means stored value that is redeemable by the issuer only for  
26 goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate,  
27 except to the extent required by applicable law to be redeemable in cash for its cash value;

28 "Commissioner" means the Commissioner of Banks.

29 "Control" means

30 (1) (A) the power to vote, directly or indirectly, at least 25 percent of the outstanding  
31 voting shares or voting interests of a licensee or person in control of a licensee;

32 (B) the power to elect or appoint a majority of key individuals or executive officers,  
33 managers, directors, trustees, or other persons exercising managerial authority of a person in  
34 control of a licensee; or

35 (C) the power to exercise, directly or indirectly, a controlling influence over the  
36 management or policies of a licensee or person in control of a licensee.

37 (2) Rebuttable Presumption of Control.

38 (A) A person is presumed to exercise a controlling influence when the person holds  
39 the power to vote, directly or indirectly, at least 10 percent of the outstanding voting shares or  
40 voting interests of a licensee or person in control of a licensee.

41 (B) A person presumed to exercise a controlling influence as defined by this section  
42 can rebut the presumption of control if the person is a passive investor.

43 (3) For purposes of determining the percentage of a person controlled by any other  
44 person, the person's interest shall be aggregated with the interest of any other immediate family  
45 member, including the person's spouse, parents, children, siblings, mothers- and fathers-in law,  
46 sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares such  
47 person's home.

48 (4) Consistent with the authority described in subsection (b) of section 5, the  
49 commissioner may adopt regulations, policies and procedures as necessary, which may modify  
50 the definition of "control" as set out in this section.

51 “Division” shall mean the Division of Banks.

52 “Eligible rating” shall mean a credit rating of any of the three highest rating categories  
53 provided by an eligible rating service, whereby each category may include rating category  
54 modifiers such as “plus” or “minus” for S&P, or the equivalent for any other eligible rating  
55 service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by  
56 S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are  
57 deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent  
58 from any other eligible rating service. In the event that ratings differ among eligible rating  
59 services, the highest rating shall apply when determining whether a security bears an eligible  
60 rating.

61 “Eligible rating service” shall mean any Nationally Recognized Statistical Rating  
62 Organization (NRSRO) as defined by the U.S. Securities and Exchange Commission, and any  
63 other organization designated by the commissioner by rule or order.

64 “Federally insured depository financial institution” means a bank, credit union, savings  
65 and loan association, trust company, savings association, savings bank, industrial bank, or  
66 industrial loan company organized under the laws of the United States or any state of the United  
67 States, when such bank, credit union, savings and loan association, trust company, savings  
68 association, savings bank, industrial bank, or industrial loan company has federally insured  
69 deposits.

70 “In this state” means at a physical location within this state for a transaction requested in  
71 person. For a transaction requested electronically or by phone, the provider of money  
72 transmission may determine if the person requesting the transaction is “in this state” by relying

73 on other information provided by the person regarding the location of the individual’s residential  
74 address or a business entity’s principal place of business or other physical address location, and  
75 any records associated with the person that the provider of money transmission may have that  
76 indicate such location, including but not limited to an address associated with an account.

77 “Individual” means a natural person.

78 “Key individual” means any individual ultimately responsible for establishing or  
79 directing policies and procedures of the licensee, such as an executive officer, manager, director,  
80 or trustee.

81 “Licensee” means a person licensed under this chapter.

82 “Material litigation” means litigation, that according to United States generally accepted  
83 accounting principles, is significant to a person’s financial health and would be required to be  
84 disclosed in the person’s annual audited financial statements, report to shareholders, or similar  
85 records.

86 “Money” means a medium of exchange that is authorized or adopted by the United States  
87 or a foreign government. The term includes a monetary unit of account established by an  
88 intergovernmental organization or by agreement between two or more governments.

89 “Monetary value” means a medium of exchange, whether or not redeemable in money.

90 “Money transmission” means any of the following:

- 91 (1) Selling or issuing payment instruments to a person located in this state.
- 92 (2) Selling or issuing stored value to a person located in this state.

93           (3)     Receiving money for transmission from a person located in this state.

94           The term shall apply only to those transactions engaged in by a person for personal,  
95 family or household purposes. The term does not include the provision solely of online or  
96 telecommunications services or network access.

97           "MSB accredited state" means a state agency that is accredited by the Conference of State  
98 Bank Supervisors and Money Transmitter Regulators Association for money transmission  
99 licensing and supervision.

100          "Multistate licensing process" means any agreement entered into by and among state  
101 regulators relating to coordinated processing of applications for money transmission licenses,  
102 applications for the acquisition of control of a licensee, control determinations, or notice and  
103 information requirements for a change of key individuals.

104          "NMLS" means the Nationwide Multistate Licensing System and Registry developed by  
105 the Conference of State Bank Supervisors and the American Association of Residential  
106 Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC, or any  
107 successor or affiliated entity, for the licensing and registration of persons in financial services  
108 industries.

109          "Outstanding money transmission obligations" shall be established and extinguished in  
110 accordance with applicable state law and shall mean:

111          (1)     Any payment instrument or stored value issued or sold by the licensee to a person  
112 located in the United States or reported as sold by an authorized delegate of the licensee to a

113 person that is located in the United States that has not yet been paid or refunded by or for the  
114 licensee, or escheated in accordance with applicable abandoned property laws; or

115 (2) Any money received for transmission by the licensee or an authorized delegate in  
116 the United States from a person located in the United States that has not been received by the  
117 payee or refunded to the sender, or escheated in accordance with applicable abandoned property  
118 laws.

119 (3) For purposes of this section, "in the United States" shall include, to the extent  
120 applicable, a person in any state, territory, or possession of the United States; the District of  
121 Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a  
122 foreign country.

123 "Passive investor" means a person that:

124 (1) Does not have the power to elect a majority of key individuals or executive  
125 officers, managers, directors, trustees, or other persons exercising managerial authority of a  
126 person in control of a licensee;

127 (2) Is not employed by and does not have any managerial duties of the licensee or  
128 person in control of a licensee;

129 (3) Does not have the power to exercise, directly or indirectly, a controlling influence  
130 over the management or policies of a licensee or person in control of a licensee; and

131 (4) Either:

132 (A) Attests to (1), (2), and (3), in a form and in a medium prescribed by the  
133 commissioner; or



134 (B) Commits to the passivity characteristics of (1), (2), and (3), in a written document.

135 "Payment instrument" means a written or electronic check, draft, money order, traveler's  
136 check, or other written or electronic instrument for the transmission or payment of money or  
137 monetary value, whether or not negotiable. The term does not include stored value or any  
138 instrument that (1) is redeemable by the issuer only for goods or services provided by the issuer  
139 or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by  
140 applicable law to be redeemable in cash for its cash value; or (2) not sold to the public but issued  
141 and distributed as part of a loyalty, rewards, or promotional program.

142 "Person" means any individual, general partnership, limited partnership, limited liability  
143 company, corporation, trust, association, joint stock corporation, or other corporate entity  
144 identified by the commissioner.

145 "Receiving money for transmission" or "money received for transmission" means  
146 receiving money or monetary value in the United States for transmission within or outside the  
147 United States by electronic or other means.

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

155 "Tangible net worth" shall mean the aggregate assets of a licensee excluding all  
156 intangible assets, less liabilities, as determined in accordance with United States generally  
157 accepted accounting principles.

158 Section 3. (a) This chapter does not apply to:

159 (1) An operator of a payment system to the extent that it provides processing,  
160 clearing, or settlement services, between or among persons exempted by this subsection or  
161 licensees, in connection with wire transfers, credit card transactions, debit card transactions,  
162 stored-value transactions, automated clearing house transfers, or similar funds transfers.

163 (2) A person appointed as an agent of a payee to collect and process a payment from  
164 a payor to the payee for goods or services, other than money transmission itself, provided to the  
165 payor by the payee, provided that:

166 (i) there exists a written agreement between the payee and the agent directing the  
167 agent to collect and process payments from payors on the payee's behalf;

168 (ii) the payee holds the agent out to the public as accepting payments for goods or  
169 services on the payee's behalf; and

170 (iii) payment for the goods and services is treated as received by the payee upon  
171 receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to  
172 the payor if the agent fails to remit the funds to the payee.

173 (3) A person that acts as an intermediary by processing payments between an entity  
174 that has directly incurred an outstanding money transmission obligation to a sender, and the  
175 sender's designated recipient, provided that the entity:

- 176 (i) is properly licensed or exempt from licensing requirements under this chapter;
- 177 (ii) provides a receipt, electronic record, or other written confirmation to the sender  
178 identifying the entity as the provider of money transmission in the transaction; and
- 179 (iii) bears sole responsibility to satisfy the outstanding money transmission obligation  
180 to the sender, including the obligation to make the sender whole in connection with any failure to  
181 transmit the funds to the sender's designated recipient.
- 182 (4) The United States or a department, agency, or instrumentality thereof, or its agent.
- 183 (5) Money transmission by the United States Postal Service or by an agent of the  
184 United States Postal Service.
- 185 (6) A state, county, city, or any other governmental agency or governmental  
186 subdivision or instrumentality of a state, or its agent.
- 187 (7) A federally insured depository financial institution, bank holding company, office  
188 of an international banking corporation, foreign bank that establishes a federal branch pursuant to  
189 the International Bank Act, 12 U.S.C. Section 3102, as amended or recodified from time to time,  
190 corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. Sections 1861-  
191 1867, as amended or recodified from time to time, or corporation organized under the Edge Act,  
192 12 U.S.C. Sections 611-633, as amended or recodified from time to time.
- 193 (8) Electronic funds transfer of governmental benefits for a federal, state, county, or  
194 governmental agency by a contractor on behalf of the United States or a department, agency, or  
195 instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or  
196 instrumentality thereof.

197           (9)     A board of trade designated as a contract market under the federal Commodity  
198 Exchange Act, 7 U.S.C. Sections 1-25, as amended or recodified from time to time, or a person  
199 that, in the ordinary course of business, provides clearance and settlement services for a board of  
200 trade to the extent of its operation as or for such a board.

201           (10)    A registered futures commission merchant under the federal commodities laws to  
202 the extent of its operation as such a merchant.

203           (11)    A person registered as a securities broker-dealer under federal or state securities  
204 laws to the extent of its operation as such a broker-dealer.

205           (12)    An individual employed by a licensee, authorized delegate, or any person  
206 exempted from the licensing requirements of the chapter when acting within the scope of  
207 employment and under the supervision of the licensee, authorized delegate, or exempted person  
208 as an employee and not as an independent contractor.

209           (13)    A person expressly appointed as a third party service provider to or agent of an  
210 entity exempt under paragraph (7) of this subsection, solely to the extent that:

211           (i)     such service provider or agent is engaging in money transmission on behalf of and  
212 pursuant to a written agreement with the exempt entity that sets forth the specific functions that  
213 the service provider or agent is to perform; and

214           (ii)    the exempt entity assumes all risk of loss and all legal responsibility for satisfying  
215 the outstanding money transmission obligations owed to purchasers and holders of the  
216 outstanding money transmission obligations upon receipt of the purchaser's or holder's money or  
217 monetary value by the service provider or agent.

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

221           (b) The commissioner may require that any person claiming to be exempt from  
222 licensing pursuant to subsection (a) provide information and documentation to the commissioner  
223 demonstrating that it qualifies for any claimed exemption.

224           Section 4.(a)(1)           In order to carry out the purposes of this chapter, the commissioner  
225 may, subject to the provisions of paragraph (1) of subsection (b) and paragraph (2) of subsection  
226 (b):

227           (i) Enter into agreements or relationships with other government officials or federal  
228 and state regulatory agencies and regulatory associations in order to improve efficiencies and  
229 reduce regulatory burden by standardizing methods or procedures, and sharing resources, records  
230 or related information obtained under this chapter;

231           (ii) Use, hire, contract, or employ analytical systems, methods, or software to  
232 examine or investigate any person subject to this chapter;

233           (iii) Accept, from other state or federal government agencies or officials, licensing,  
234 examination, or investigation reports made by such other state or federal government agencies or  
235 officials; and

236           (iv) Accept audit reports made by an independent certified public accountant or other  
237 qualified third-party auditor for an applicant or licensee and incorporate the audit report in any  
238 report of examination or investigation.

239           (2)     The commissioner shall have the broad administrative authority to administer,  
240 interpret and enforce this chapter, and promulgate rules or regulations implementing this chapter  
241 and to recover the cost of administering and enforcing this chapter by imposing and collecting  
242 proportionate and equitable fees and costs associated with applications, examinations,  
243 investigations, and other actions required to achieve the purpose of this chapter.

244           (b)(1) Except as otherwise provided in paragraph (2) of this subsection, all information  
245 or reports obtained by the commissioner from an applicant, licensee, or authorized delegate, and  
246 all information contained in or related to an examination, investigation, operating report, or  
247 condition report prepared by, on behalf of, or for the use of the commissioner, or financial  
248 statements, balance sheets, or authorized delegate information, are confidential and privileged,  
249 shall not be subject to subpoena, and are not subject to disclosure under chapter 66 of the  
250 General Laws. For the purpose of this paragraph, records of investigation and reports of  
251 examinations shall include records of investigation and reports of examinations conducted by a  
252 financial regulatory agency of the federal government and any other state, and of any foreign  
253 government which are considered confidential by the agency or foreign government and which  
254 are in possession of the commissioner. In any proceeding before a court, the court may issue a  
255 protective order to seal the record protecting the confidentiality in appropriate circumstances to  
256 protect the confidentiality of any such record, other than any such record on file with the court or  
257 filed in connection with the court proceeding, and the court may exclude the public from any  
258 portion of the proceeding at which any such record may be disclosed. Copies of the reports of  
259 examination shall be furnished to a licensee for its use only and shall not be exhibited to any  
260 other person, organization or agency without prior written approval by the commissioner. The  
261 commissioner may, in his or her discretion, furnish to regulatory agencies of the federal

262 government, of other states, or of foreign countries, and any law enforcement agency, the  
263 information, reports, inspections and statements relating to the licensees under the  
264 commissioner's supervision.

265 (2) The commissioner may disclose information not otherwise subject to disclosure  
266 under paragraph (1) of this subsection to representatives of state or federal agencies who promise  
267 in a record that they will maintain the confidentiality of the information or where the  
268 commissioner finds that the release is reasonably necessary for the protection and interest of the  
269 public in accordance with chapter 66 of the General Laws.

270 (3) This subsection does not prohibit the commissioner from disclosing to the public  
271 a list of all licensees or the aggregated financial or transactional data concerning those licensees.

272 (4) Information contained in the records of the division that is not confidential and  
273 may be made available to the public either on the division's website, upon receipt by the division  
274 of a written request, or in NMLS shall include:

275 (i) The name, business address, telephone number, and unique identifier of a licensee;

276 (ii) The business address of a licensee's registered agent for service;

277 (iii) The name, business address, and telephone number of all authorized delegates;

278 (iv) The terms of or a copy of any bond filed by a licensee, provided that confidential  
279 information, including, but not limited to, prices and fees for such bond is redacted;

280 (v) Copies of any non-confidential final orders of the division relating to any violation of  
281 this chapter or regulations implementing this chapter; and

282 (5) Imposition of an administrative fine or penalty under this chapter.

283 (c)(1) The commissioner may conduct an examination or investigation of a licensee or  
284 authorized delegate or otherwise take independent action authorized by this chapter or by a rule  
285 adopted or order issued under this chapter as reasonably necessary or appropriate to administer  
286 and enforce this chapter, regulations implementing this chapter, and other applicable law,  
287 including the Bank Secrecy Act and the USA PATRIOT ACT. The commissioner may:

288 (i) conduct an examination either on-site or off-site as the commissioner may  
289 reasonably require;

290 (ii) conduct an examination in conjunction with an examination conducted by  
291 representatives of other state agencies or agencies of another state or of the federal government;

292 (iii) accept the examination report of another state agency or an agency of another  
293 state or of the federal government, or a report prepared by an independent accounting firm,  
294 which on being accepted is considered for all purposes as an official report of the commissioner;  
295 and

296 (iv) summon and examine under oath a key individual or employee of a licensee or  
297 authorized delegate and require the person to produce records regarding any matter related to the  
298 condition and business of the licensee or authorized delegate.

299 (2) A licensee or authorized delegate shall provide, and the commissioner shall have  
300 full and complete access to, all records the commissioner may reasonably require to conduct a  
301 complete examination. The records must be provided at the location and in the format specified  
302 by the commissioner, provided, the commissioner may utilize multistate record production



303 standards and examination procedures when such standards will reasonably achieve the  
304 requirements of this paragraph.

305 (3) Unless otherwise directed by the commissioner, a licensee shall pay all costs  
306 reasonably incurred in connection with an examination of the licensee or the licensee's  
307 authorized delegates.

308 (d)(1) To efficiently and effectively administer and enforce this chapter and to minimize  
309 regulatory burden, the commissioner is authorized to participate in multistate supervisory  
310 processes established between states and coordinated through the Conference of State Bank  
311 Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof for  
312 all licensees that hold licenses in this state and other states. As a participant in multistate  
313 supervision, the commissioner may:

314 (i) cooperate, coordinate, and share information with other state and federal  
315 regulators in accordance with subsection (b)

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

319 (iii) cooperate, coordinate, and share information with organizations the membership  
320 of which is made up of state or federal governmental agencies, provided that the organizations  
321 agree in writing to maintain the confidentiality and security of the shared information in  
322 accordance with subsection (b).

323           (2)     The commissioner may not waive, and nothing in this subsection constitutes a  
324 waiver of, the commissioner's authority to conduct an examination or investigation or otherwise  
325 take independent action authorized by this chapter or a rule adopted or order issued under this  
326 chapter to enforce compliance with applicable state or federal law.

327           (3)     A joint examination or investigation, or acceptance of an examination or  
328 investigation report, does not waive an examination assessment provided for in this chapter.

329           (e)(1) In the event state money transmission jurisdiction is conditioned on a federal law,  
330 any inconsistencies between a provision of this chapter and the federal law governing money  
331 transmission shall be governed by the applicable federal law to the extent of the inconsistency.

332           (2)     In the event of any inconsistencies between this chapter and a federal law that  
333 governs pursuant to paragraph (1), the commissioner may provide interpretive guidance that:

334           (i)     identifies the inconsistency; and

335           (ii)    identifies the appropriate means of compliance with federal law.

336           Section 5.(a)(1)     A person may not engage in the business of money transmission or  
337 advertise, solicit, or hold itself out as providing money transmission unless the person is licensed  
338 under this chapter;

339           (2)     This subsection does not apply to:

340           (i)     A person that is an authorized delegate of a person licensed under this chapter  
341 acting within the scope of authority conferred by a written contract with the licensee; or

342 (ii) A person that is exempt pursuant to subsection (a) of section 3 and does not  
343 engage in money transmission outside the scope of such exemption.

344 (3) A license issued under subsection (e) is not transferable or assignable.

345 (b)(1) To establish consistent licensing between Massachusetts and other states, the  
346 commissioner is authorized to:

347 (i) implement all licensing provisions of this chapter in a manner that is consistent with  
348 other states that have adopted this chapter or multistate licensing processes; and

349 (ii) participate in nationwide protocols for licensing cooperation and coordination among  
350 state regulators provided that such protocols are consistent with this chapter.

351 (2) In order to fulfill the purposes of this chapter, the Commissioner is authorized to  
352 establish relationships or contracts with NMLS or other entities designated by NMLS to enable  
353 the Commissioner to:

354 (i) collect and maintain records;

355 (ii) coordinate multistate licensing processes and supervision processes;

356 (iii) process fees; and

357 (iv) facilitate communication between the division and licensees or other persons subject  
358 to this chapter.

359 (3) The commissioner may participate in a multistate licensing process and the NMLS for  
360 the sharing of regulatory information and for the application, by electronic or other means, and  
361 licensing of persons engaged in money transmission. The commissioner may establish

362 requirements for participation by an applicant in the NMLS that vary from the provisions of this  
363 chapter. The applicant shall pay directly to the NMLS any additional fee relating to participation  
364 in such multistate licensing system.

365 (4) The commissioner is authorized to utilize NMLS forms, processes, and functionalities  
366 in accordance with this chapter. In the event NMLS does not provide functionality, forms, or  
367 processes for a provision of this chapter, the commissioner is authorized to implement the  
368 requirements in a manner that facilitates uniformity with respect to licensing, supervision,  
369 reporting, and regulation of licensees which are licensed in multiple jurisdictions.

370 (5) For the purpose of participating in the NMLS, the commissioner is authorized to  
371 waive or modify, in whole or in part, by rule, regulation or order, any or all of the requirements  
372 and to establish new requirements as reasonably necessary to participate in the NMLS.

373 (c)(1)The application for a license shall be in a form prescribed by the commissioner and  
374 shall contain the name and address or addresses where the business of the applicant is located  
375 and if the applicant is a partnership, association, corporation or other form of business  
376 organization, the names and addresses of each member, director and principal officer thereof.  
377 Such application shall also include a description of the activities of the applicant, in such detail  
378 and for such periods as the commissioner may require, and such further information as the  
379 commissioner may require.

380 (2) Each application for a license shall be accompanied by an investigation fee and a  
381 license fee. The investigation and license fees shall be determined annually by the secretary of  
382 administration and finance under section 3B of chapter 7.

383 (d)(1) Any individual in control of a licensee or applicant, any individual that seeks to  
384 acquire control of a licensee, and each key individual shall furnish to the commissioner through  
385 NMLS the following items:

386 (i) The individual's fingerprints for submission to the Federal Bureau of Investigation  
387 and the commissioner for purposes of a national criminal history background check unless the  
388 person currently resides outside of the United States and has resided outside of the United States  
389 for the last ten years.

390 (ii) Personal history and experience in a form and in a medium prescribed by the  
391 commissioner, to obtain the following:

392 (A) An independent credit report from a consumer reporting agency unless the  
393 individual does not have a Social Security number, in which case, this requirement shall be  
394 waived;

395 (B) Information related to any criminal convictions or pending charges; and

396 (C) Information related to any regulatory or administrative action and any civil  
397 litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds,  
398 breach of fiduciary duty, or breach of contract.

399 (2) If the individual has resided outside of the United States at any time in the last ten  
400 years, the individual shall also provide an investigative background report prepared by an  
401 independent search firm that meets the following requirements:

402 (i) At a minimum, the search firm shall:

403 (A) Demonstrate that it has sufficient knowledge, resources, and employs accepted  
404 and reasonable methodologies to conduct the research of the background report; and

405 (B) Not be affiliated with or have an interest with the individual it is researching.

406 (ii) At a minimum, the investigative background report shall be written in the English  
407 language and shall contain the following:

408 (A) If available in the individual's current jurisdiction of residency, a comprehensive  
409 credit report, or any equivalent information obtained or generated by the independent search firm  
410 to accomplish such report, including a search of the court data in the countries, provinces, states,  
411 cities, towns, and contiguous areas where the individual resided and worked;

412 (B) Criminal records information for the past ten years, including, but not limited to,  
413 felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces,  
414 states, cities, towns, and contiguous areas where the individual resided and worked;

415 (C) ; Employment history;

416 (D) Media history, including an electronic search of national and local publications,  
417 wire services, and business applications; and

418 (E) Financial services-related regulatory history, including but not limited to, money  
419 transmission, securities, banking, insurance, and mortgage-related industries.

420 (3) The commissioner may, as part of an investigation or examination of a licensee,  
421 require a background investigation by means of state criminal history record checks by the  
422 department of criminal justice information services pursuant to section 172 of chapter 6 on a  
423 manager of a location from which an authorized delegate engages in money transmission.

424 (e)(1) When an application for an original license under this chapter appears to include  
425 all the items and addresses all of the matters that are required, the application is complete and the  
426 commissioner shall promptly notify the applicant in a record of the date on which the application  
427 is determined to be complete:

428 (2) A determination by the commissioner that an application is complete and is  
429 accepted for processing means only that the application, on its face, appears to include all of the  
430 items, including the Criminal Background Check response from the FBI, and address all of the  
431 matters that are required, and is not an assessment of the substance of the application or of the  
432 sufficiency of the information provided.

433 (3) When an application is filed and considered complete under this subsection, the  
434 commissioner shall investigate the applicant's financial condition and responsibility, financial  
435 and business experience, character, and general fitness. The commissioner may conduct an on-  
436 site investigation of the applicant, the reasonable cost of which the applicant must pay. The  
437 commissioner shall issue a license to an applicant under this subsection if the commissioner finds  
438 that all of the following conditions have been fulfilled:

439 (i) The applicant has complied with subsection (c) and subsection (d); and

440 (ii) the financial condition and responsibility, financial and business experience,  
441 competence, character, and general fitness of the applicant; and the competence, experience,  
442 character, and general fitness of the key individuals and persons in control of the applicant  
443 indicate that it is in the interest of the public to permit the applicant to engage in money  
444 transmission.

445           (4)     The commissioner is authorized to accept the results of an investigation  
446 conducted by another state regulatory agency for the purpose of paragraph (3) if a licensee avails  
447 itself or is otherwise subject to the multistate licensing process.

448           (5)     The commissioner shall issue a formal written notice of the denial of a license  
449 application within 30 days of the decision to deny the application. The Commissioner shall set  
450 forth in the notice of denial the specific reasons for the denial of the application. An applicant  
451 whose application is denied by the commissioner under this paragraph may appeal pursuant to  
452 the procedures set forth in chapter 30A of the General Laws.

453           (6)     The initial license term shall begin on the day the application is approved. The  
454 license shall expire on December 31st of the year in which the license term began, unless the  
455 initial license date is between November 1st and December 31st, in which instance the initial  
456 license term shall run through December 31st of the following year.

457           (f) A license may be renewed upon the filing of a renewal application in such form and  
458 containing all such information as the commissioner may prescribe.

459           (1)     An annual renewal fee to be determined annually by the secretary of  
460 administration and finance under the provisions of section 3B of chapter 7 shall be paid upon  
461 submission of the renewal application.

462           (2)     The renewal term shall be for a period of 1 year and shall begin on January 1st of  
463 each year after the initial license term and shall expire on December 31st of the year the renewal  
464 term begins.



465 (g)(1) If a licensee does not continue to meet the qualifications or satisfy the  
466 requirements that apply to an applicant for a new money transmission license, the Commissioner  
467 may suspend or revoke the licensee's license in accordance with the procedures established by  
468 this chapter or chapter 30A of the General Laws..

469 (2) An applicant for a money transmission license must demonstrate that it meets or  
470 will meet, and a money transmission licensee must at all times meet, the requirements in  
471 subsections (a) through (c), inclusive, of section 10of this chapter.

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

479 Section 6.(a)(1) Any person, or group of persons acting in concert, seeking to  
480 acquire control of a licensee shall file notice with the commissioner prior to acquiring control.  
481 An addition or replacement of a key individual pursuant to subsection (b) is not deemed to be an  
482 acquisition of control of a licensee and is not subject to these acquisition of control provisions.

483 (2) A person, or group of persons acting in concert, seeking to acquire control of a  
484 licensee shall, in cooperation with the licensee submit a notice in a form and in a medium  
485 prescribed by the commissioner.

486           (3)     Upon request, the commissioner may permit a licensee or the person, or group of  
487 persons acting in concert, to submit some or all information required by the commissioner  
488 pursuant to paragraph (2) without using NMLS.

489           (4)     The notice required by paragraph (2) shall include information required by  
490 subsection (d) of section 5 for any new key individuals that have not previously completed the  
491 requirements of subsection (d) of section 5 for a licensee.

492           (5)     When a notice is filed, the commissioner shall investigate as deemed necessary  
493 the person, or group of persons acting in concert, seeking to acquire control. The commissioner  
494 shall not object to an acquisition of control pursuant to this subsection if the commissioner finds  
495 that all of the following conditions have been fulfilled:

496           (i)     The requirements of paragraphs (2) and (4) of this subsection have been met, as  
497 applicable; and

498           (ii)    the financial condition and responsibility, character, and general fitness of the  
499 person, or group of persons acting in concert, seeking to acquire control; and the competence,  
500 experience, character, and general fitness of the key individuals and persons that would be in  
501 control of the licensee after the acquisition of control indicate that it is in the interest of the  
502 public consistent with the purposes of this chapter to permit the person, or group of persons  
503 acting in concert, to control the licensee.

504

505           (6)     The requirements of paragraph (1) and paragraph (2) of this subsection do not  
506 apply to any of the following:

507 (i) A person that acts as a proxy for the sole purpose of voting at a designated  
508 meeting of the shareholders or holders of voting shares or voting interests of a licensee or a  
509 person in control of a licensee;

510 (ii) A person that acquires control of a licensee by devise or descent;

511 (iii) A person that acquires control of a licensee as a personal representative,  
512 custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent  
513 jurisdiction or by operation of law;

514 (iv) A person that is exempt under paragraph (7) of subsection (a) of section 3;

515 (v) A public offering of securities of a licensee or a person in control of a licensee; or

516 (vi) An internal reorganization of a person in control of the licensee where the  
517 ultimate person in control of the licensee remains the same.

518 (7) Persons in clauses (ii) through (iv), inclusive, of paragraph (6) in cooperation with  
519 the licensee shall notify the commissioner within 15 days after the acquisition of control.

520 (8) The commissioner is authorized to accept the determination pursuant to  
521 subsection (a) of section 6 of this chapter of another state regulatory agency if a licensee avails  
522 itself or is otherwise subject to the multistate licensing process.

523 (b)(1) A licensee adding or replacing any key individual shall:

524 (i) Provide notice in a manner prescribed by the commissioner within 15 days after  
525 the effective date of the key individual's appointment; and

526 (ii) Provide information as required by subsection (d) of section 5.

527           (2)     When a notification pursuant to this section is filed, the commissioner shall  
528 investigate as deemed necessary the key individual. The commissioner shall not object to the  
529 change of key individual pursuant to this section if the commissioner finds that the financial  
530 responsibility, character, and general fitness of the key individual would indicate that it is in the  
531 interest of the public consistent with the purposes of this chapter.

532           (3)     The commissioner is authorized to accept the determination pursuant to  
533 subsection (b) of section 6 of this chapter of another state regulatory agency if the licensee  
534 avails itself or is otherwise subject to the multistate licensing process.

535           Section 7.(a)(1)       Each licensee shall submit a report of condition within 45 days of  
536 the end of the calendar quarter, or within any extended time as the commissioner may prescribe.

537           (2)     The report of condition shall include:

538           (i)     Financial information at the licensee level;

539           (ii)    Nationwide and state-specific money transmission transaction information in  
540 every jurisdiction in the United States where the licensee is licensed to engage in money  
541 transmission;

542           (iii)   Permissible investments report;

543           (iv)    Transaction destination country reporting for money received for transmission, if  
544 applicable; and

545           (v)     Any other information the commissioner reasonably requires with respect to the  
546 licensee. The commissioner is authorized and encouraged to utilize NMLS for the submission of  
547 the report required by paragraph (1) of this subsection this and is authorized to change or update

548 as necessary the requirements of this subsection to carry out the purposes of this chapter and  
549 maintain consistency with NMLS reporting.

550 (3) The information required by clause (iv) of paragraph (2) of this subsection shall  
551 only be included in a report of condition submitted within 45 days of the end of the fourth  
552 calendar quarter.

553 (b)(1) Each licensee shall, within 90 days after the end of each fiscal year, or within any  
554 extended time as the commissioner may prescribe, file with the commissioner:

555 (i) An audited financial statement of the licensee for the fiscal year prepared in  
556 accordance with United States generally accepted accounting principles; and

557 (ii) Any other information as the commissioner may reasonably require.

558 (2) The audited financial statements shall be prepared by an independent certified  
559 public accountant;

560 (3) The audited financial statements shall include or be accompanied by a certificate  
561 of opinion of the independent certified public accountant that is satisfactory in form and content  
562 to the commissioner. If the certificate or opinion is qualified, the commissioner may order the  
563 licensee to take any action as the Commissioner may find necessary to enable the independent or  
564 certified public accountant or independent public accountant to remove the qualification.

565 (c)(1) Each licensee shall submit a report of authorized delegates within 45 days of the  
566 end of the calendar quarter. The commissioner is authorized and encouraged to utilize NMLS for  
567 the submission of the report required by this paragraph provided that such functionality is  
568 consistent with the requirements of this subsection.

569 (2) The authorized delegate report shall include, at a minimum, each authorized  
570 delegate's:

571 (i) Company legal name;

572 (ii) Taxpayer employer identification number;

573 (iii) Principal provider identifier;

574 (iv) Physical address;

575 (v) Mailing address;

576 (vi) Any business conducted in other states;

577 (vii) Any fictitious or trade name;

578 (viii) Contact person name, phone number, and email

579 (ix) Start date as licensee's authorized delegate;

580 (x) End date acting as licensee's authorized delegate, if applicable;

581 and

582 (xi) Any other information the commissioner reasonably requires with respect to the  
583 authorized delegate.

584 (d)(1) A licensee shall file a report with the commissioner within one business day after  
585 the licensee has reason to know of the occurrence of any of the following events:

586 (i) the filing of a petition by or against the licensee under the United States  
587 Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to time, for  
588 bankruptcy or reorganization;

589 (ii) the filing of a petition by or against the licensee for receivership, the  
590 commencement of any other judicial or administrative proceeding for its dissolution or  
591 reorganization, or the making of a general assignment for the benefit of its creditors; or

592 (iii) the commencement of a proceeding to revoke or suspend its license in a state or  
593 country in which the licensee engages in business or is licensed.

594 (2) A licensee shall file a report with the commissioner within three business day  
595 after the licensee has reason to know of the occurrence of any of the following events:

596 (i) a charge or conviction of the licensee or of a key individual or person in control of  
597 the licensee for a felony; or

598 (ii) a charge or conviction of an authorized delegate for a felony.

599 (e) A licensee and an authorized delegate shall file all reports required by federal  
600 currency reporting, record keeping, and suspicious activity reporting requirements as set forth in  
601 the Bank Secrecy Act and other federal and state laws pertaining to money laundering. The  
602 timely filing of a complete and accurate report required under this subsection with the  
603 appropriate federal agency is deemed compliant with the requirements of this subsection.

604 (f)(1) Licensee shall maintain the following records, for determining its compliance  
605 with this chapter for at least 3 years:

606 (i) a record of each outstanding money transmission obligation sold;

- 607           (ii)    a general ledger posted at least monthly containing all asset, liability, capital,  
608 income, and expense accounts;
- 609           (iii)   bank statements and bank reconciliation records;
- 610           (iv)    records of outstanding money transmission obligations;
- 611           (v)     records of each outstanding money transmission obligation paid within the three-  
612 year period;
- 613           (vi)    a list of the last known names and addresses of all of the licensee's authorized  
614 delegates; and
- 615           (vii)   any other records the commissioner reasonably requires by rule.

616           (2)    The items specified in paragraph (1) of this subsection may be maintained in any  
617 form of record.

618           (3)    Records specified in paragraph (1) of this subsection may be maintained outside  
619 this state if they are made accessible to the commissioner on 7 business-days' notice that is sent  
620 in a record.

621           (4)    All records maintained by the licensee as required in clauses (i) through (iii),  
622 inclusive, of this subsection are open to inspection by the commissioner pursuant to paragraph  
623 (1) of subsection (c) of section 4.

624           Section 8.(a)(1)       In this subsection, "remit" means to make direct payments of  
625 money to a licensee or its representative authorized to receive money or to deposit money in a  
626 bank in an account specified by the licensee.



627           (2)     Before a licensee is authorized to conduct business through an authorized delegate  
628 or allows a person to act as the licensee's authorized delegate, the licensee must:

629           (i)     adopt, and update as necessary, written policies and procedures reasonably  
630 designed to ensure that the licensee's authorized delegates comply with applicable state and  
631 federal law;

632           (ii)    enter into a written contract that complies with paragraph (4); and

633           (iii)   conduct a reasonable risk-based background investigation sufficient for the  
634 licensee to determine whether the authorized delegate has complied and will likely comply with  
635 applicable state and federal law.

636           (3)     An authorized delegate must operate in full compliance with this chapter.

637           (4)     The written contract required by paragraph (2) must be signed by the licensee and  
638 the authorized delegate and, at a minimum, must:

639           (i)     appoint the person signing the contract as the licensee's authorized delegate with  
640 the authority to conduct money transmission on behalf of the licensee;

641           (ii)    set forth the nature and scope of the relationship between the licensee and the  
642 authorized delegate and the respective rights and responsibilities of the parties;

643           (iii)   require the authorized delegate to agree to fully comply with all applicable state  
644 and federal laws, rules, and regulations pertaining to money transmission, including this chapter  
645 and regulations implementing this chapter, relevant provisions of the Bank Secrecy Act and the  
646 USA PATRIOT ACT;

647 (iv) require the authorized delegate to remit and handle money and monetary value in  
648 accordance with the terms of the contract between the licensee and the authorized delegate;

649 (v) impose a trust on money and monetary value net of fees received for money  
650 transmission for the benefit of the licensee;

651 (vi) require the authorized delegate to prepare and maintain records as required by this  
652 chapter or regulations implementing this chapter, or as reasonably requested by the  
653 Commissioner;

654 (vii) acknowledge that the authorized delegate consents to examination or investigation  
655 by the commissioner;

656 (viii) state that the licensee is subject to regulation by the Commissioner and that, as  
657 part of that regulation, the commissioner may suspend or revoke an authorized delegate  
658 designation or require the licensee to terminate an authorized delegate designation; and

659 (ix) acknowledge receipt of the written policies and procedures required under clause  
660 (i) of paragraph (2).

661 (5) If the licensee's license is suspended, revoked, surrendered, or expired, the  
662 licensee must, within 5 business days, provide documentation to the commissioner that the  
663 licensee has notified all applicable authorized delegates of the licensee whose names are in a  
664 record filed with the commissioner of the suspension, revocation, surrender, or expiration of a  
665 license. Upon suspension, revocation, surrender, or expiration of a license, applicable authorized  
666 delegates shall immediately cease to provide money transmission as an authorized delegate of  
667 the licensee.

668           (6)     An authorized delegate of a licensee holds in trust for the benefit of the licensee  
669 all money net of fees received from money transmission. If any authorized delegate commingles  
670 any funds received from money transmission with any other funds or property owned or  
671 controlled by the authorized delegate, all commingled funds and other property shall be  
672 considered held in trust in favor of the licensee in an amount equal to the amount of money net  
673 of fees received from money transmission.

674           (7)     An authorized delegate may not use a subdelegate to conduct money transmission  
675 on behalf of a licensee.

676           (b)     A person shall not engage in the business of money transmission on behalf of a  
677 person not licensed under this chapter or not exempt pursuant to section 3 of this chapter. A  
678 person that engages in such activity provides money transmission to the same extent as if the  
679 person were a licensee, and shall be jointly and severally liable with the unlicensed or nonexempt  
680 person.

681           Section 9.(a)(1)     Every licensee shall forward all money received for transmission  
682 in accordance with the terms of the agreement between the licensee and the sender unless the  
683 licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim  
684 of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may  
685 occur.

686           (2)     If a licensee fails to forward money received for transmission in accordance with  
687 this section, the licensee must respond to inquiries by the sender with the reason for the failure  
688 unless providing a response would violate a state or federal law, rule, or regulation.

689           (b)(1) This subsection does not apply to:

690 (i) money received for transmission subject to the federal Remittance Rule (12  
691 C.F.R. Part 1005, Subpart B), as amended or recodified from time to time; or

692 (ii) money received for transmission pursuant to a written agreement between the  
693 licensee and payee to process payments for goods or services provided by the payee.

694 (2) Every licensee shall refund to the sender within 10 days of receipt of the sender's  
695 written request for a refund of any and all money received for transmission unless any of the  
696 following occurs:

697 (i) The money has been forwarded within 10 days of the date on which the money  
698 was received for transmission;

699 (ii) Instructions have been given committing an equivalent amount of money to the  
700 person designated by the sender within 10 days of the date on which the money was received for  
701 transmission;

702 (iii) The agreement between the licensee and the sender instructs the licensee to  
703 forward the money at a time that is beyond 10 days of the date on which the money was received  
704 for transmission. If funds have not yet been forwarded in accordance with the terms of the  
705 agreement between the licensee and the sender, the licensee shall issue a refund in accordance  
706 with the other provisions of this subsection; or

707 (iv) The refund is requested for a transaction that the licensee has not completed based  
708 on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or  
709 regulation has occurred, is occurring, or may occur.

710 (v) The refund request does not enable the licensee to:

- 711 (A) Identify the sender's name and address or telephone number; or
- 712 (B) Identify the particular transaction to be refunded in the event the sender has  
713 multiple transactions outstanding.
- 714 (c)(1) This subsection does not apply to:
- 715 (i) Money received for transmission subject to the federal Remittance  
716 Rule (12 C.F.R. Part 1005, Subpart B), as amended or recodified from time to time;
- 717 (ii) money received for transmission that is not primarily for personal, family or  
718 household purposes; or
- 719 (iii) money received for transmission pursuant to a written agreement between the  
720 licensee and payee to process payments for goods or services provided by the payee.
- 721 (2) For purposes of this subsection "receipt" means a paper receipt, electronic record  
722 or other written confirmation. For a transaction conducted in person, the receipt may be provided  
723 electronically if the sender requests or agrees to receive an electronic receipt. For a transaction  
724 conducted electronically or by phone, a receipt may be provided electronically. All electronic  
725 receipts shall be provided in a retainable form.
- 726 (3) Every licensee or its authorized delegate shall provide the sender a receipt for  
727 money received for transmission.
- 728 (i) The receipt shall contain the following information, as applicable:
- 729 (A) The name of the sender;

- 730 (B) The name of the designated recipient;
- 731 (C) The date of the transaction;
- 732 (D) The unique transaction or identification number;
- 733 (E) The name of the licensee, NMLS Unique ID, the licensee's business address, and  
734 the licensee's customer service telephone number;
- 735 (F) The amount of the transaction in United States dollars;
- 736 (G) Any fee charged by the licensee to the sender for the transaction; and
- 737 (H) Any taxes collected by the licensee from the sender for the transaction.
- 738 (ii) The receipt required by this subsection shall be in English and in the language  
739 principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either  
740 orally or in writing, for a transaction conducted in person, electronically or by phone, if other  
741 than English.

742 Section 10.(a)(1) A licensee under this chapter shall maintain at all times a tangible  
743 net worth of the greater of \$100,000 or 3 percent of total assets for the first \$100 million, 2  
744 percent of additional assets for \$100 million to \$1 billion, and 0.5 percent of additional assets for  
745 over \$1 billion.

746 (2) Tangible net worth must be demonstrated at initial application by the applicant's  
747 most recent audited or reviewed financial statements.

748 (3) Notwithstanding the foregoing provisions of this subsection, the Commissioner  
749 shall have the authority, for good cause shown, to exempt, in-part or in whole, from the  
750 requirements of this subsection any applicant or licensee.

751 (b)(1) An applicant for a money transmission license must provide, and a licensee at all  
752 times must maintain, security consisting of a surety bond in a form satisfactory to the  
753 commissioner.

754 (2) The amount of the required security shall be the greater of \$100,000 or an amount  
755 equal to one hundred percent of the licensee's average daily money transmission liability in this  
756 state calculated for the most recently completed three-month period, up to a maximum of  
757 \$500,000.

758 (3) A licensee that maintains a bond in the maximum amount provided for in clause  
759 (1) or (2) of this subsection shall not be required to calculate its average daily money  
760 transmission liability in this state for purposes of this subsection.

761 (4) A licensee may exceed the maximum required bond amount pursuant to clause (v)  
762 of paragraph (1) of subsection d.

763 (c)(1) A licensee shall maintain at all times permissible investments that have a market  
764 value computed in accordance with United States generally accepted accounting principles of not  
765 less than the aggregate amount of all of its outstanding money transmission obligations.

766 (2) Except for permissible investments enumerated in paragraph (1) of subsection (d),  
767 the Commissioner, with respect to any licensee, may by rule or order limit the extent to which a  
768 specific investment maintained by a licensee within a class of permissible investments may be

769 considered a permissible investment, if the specific investment represents undue risk to  
770 customers, not reflected in the market value of investments.

771 (3) Permissible investments, even if commingled with other assets of the licensee, are  
772 held in trust for the benefit of the purchasers and holders of the licensee's outstanding money  
773 transmission obligations in the event of insolvency, the filing of a petition by or against the  
774 licensee under the United States Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or  
775 recodified from time to time, for bankruptcy or reorganization, the filing of a petition by or  
776 against the licensee for receivership, the commencement of any other judicial or administrative  
777 proceeding for its dissolution or reorganization, or in the event of an action by a creditor against  
778 the licensee who is not a beneficiary of this statutory trust. No permissible investments  
779 impressed with a trust pursuant to this paragraph shall be subject to attachment, levy of  
780 execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

781 (4) Upon the establishment of a statutory trust in accordance with paragraph (3) or  
782 when any funds are drawn on a letter of credit pursuant to clause (iv) of paragraph (1) of  
783 subsection (d), the commissioner shall notify the applicable regulator of each state in which the  
784 licensee is licensed to engage in money transmission, if any, of the establishment of the trust or  
785 the funds drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if  
786 performed pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of  
787 credit, and any other permissible investments held in trust for the benefit of the purchasers and  
788 holders of the licensee's outstanding money transmission obligations, are deemed held in trust for  
789 the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with  
790 statutes pursuant to which permissible investments are required to be held in this state, and other



791 states, as applicable. Any statutory trust established hereunder shall be terminated upon  
792 extinguishment of all of the licensee's outstanding money transmission obligations.

793 (5) The commissioner by rule or by order may allow other types of investments that  
794 the commissioner determines are of sufficient liquidity and quality to be a permissible  
795 investment. The commissioner is authorized to participate in efforts with other state regulators to  
796 determine that other types of investments are of sufficient liquidity and quality to be a  
797 permissible investment.

798 (d)(1) The following investments are permissible under subsection (c):

799 (i) cash (including demand deposits, savings deposits, and funds in such accounts  
800 held for the benefit of the licensee's customers in a federally insured depository financial  
801 institution) and cash equivalents including ACH items in transit to the licensee and ACH items  
802 or international wires in transit to a payee, cash in transit via armored car, cash in smart safes,  
803 cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed  
804 by any bank, or money market mutual funds rated "AAA" by S&P, or the equivalent from any  
805 eligible rating service;

806 (ii) certificates of deposit or senior debt obligations of an insured depository  
807 institution, as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813,  
808 as amended or recodified from time to time, or as defined under the federal Credit Union Act, 12  
809 U.S.C. Section 1781, as amended or recodified from time to time;

810 (iii) an obligation of the United States or a commission, agency, or instrumentality  
811 thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or  
812 an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

813 (iv) the full drawable amount of an irrevocable standby letter of credit for which the  
814 stated beneficiary is the commissioner under such terms as the commissioner may define by  
815 regulation, policies, procedures, or other guidance;

816 (v) One hundred percent of the surety bond [or deposit] provided for under subsection  
817 (b) that exceeds the average daily money transmission liability in this state.

818 (2) Unless permitted by the commissioner by rule or by order to exceed the limit as  
819 set forth herein, the following investments are permissible under subsection (c) to the extent  
820 specified:

821 (i) receivables that are payable to a licensee from its authorized delegates in the  
822 ordinary course of business that are less than seven days old, up to 50% of the aggregate value of  
823 the licensee's total permissible investments;

824 (ii) of the receivables permissible under clause (i) of paragraph (2), receivables that  
825 are payable to a licensee from a single authorized delegate in the ordinary course of business  
826 may not exceed 10% of the aggregate value of the licensee's total permissible investments.

827 (iii) the following investments are permissible up to 20% per category and combined  
828 up to 50% of the aggregate value of the licensee's total permissible investments:

829 (A) A short-term (up to six months) investment bearing an eligible rating;

830 (B) Commercial paper bearing an eligible rating;

831 (C) A bill, note, bond, or debenture bearing an eligible rating;

832 (D) U.S. tri-party repurchase agreements collateralized at 100% or more with U.S.  
833 government or agency securities, municipal bonds, or other securities bearing an eligible rating;

834 (E) Money market mutual funds rated less than "AAA" and equal to or higher than  
835 "A-" by S&P, or the equivalent from any other eligible rating service; and

836 (F) A mutual fund or other investment fund composed solely and exclusively of one  
837 or more permissible investments listed in clauses (i) through (iii), inclusive, of paragraph (1).

838 (iv) cash (including demand deposits, savings deposits, and funds in such accounts  
839 held for the benefit of the licensee's customers) at foreign depository institutions are permissible  
840 up to 10% of the aggregate value of the licensee's total permissible investments if the licensee  
841 has received a satisfactory rating in its most recent examination and the foreign depository  
842 institution:

843 (A) has an eligible rating; is registered under the Foreign Account Tax Compliance  
844 Act;

845 (B) is not located in any country subject to sanctions from the Office of Foreign Asset  
846 Control; and

847 (C) is not located in a high-risk or non-cooperative jurisdiction as designated by the  
848 Financial Action Task Force.

849 Section 11.(a)(1) The commissioner may suspend or revoke a license or order a  
850 licensee to revoke the designation of an authorized delegate if:

851 (i) the licensee violates this chapter or a rule adopted or an order issued under this  
852 chapter;

853 (ii) the licensee does not cooperate with an examination or investigation by the  
854 commissioner;

855 (iii) the licensee engages in fraud, intentional misrepresentation, or gross negligence;

856 (iv) an authorized delegate is convicted of a violation of a state or federal anti-money  
857 laundering statute, or violates a rule adopted or an order issued under this chapter, as a result of  
858 the licensee's willful misconduct or willful blindness;

859 (v) the competence, experience, character, or general fitness of the licensee, authorized  
860 delegate, person in control of a licensee, key individual, or responsible person of the authorized  
861 delegate indicates that it is not in the public interest to permit the person to provide money  
862 transmission;

863 (vi) the licensee engages in an unsafe or unsound practice;

864 (vii) the licensee is insolvent, suspends payment of its obligations, or makes a general  
865 assignment for the benefit of its creditors; or

866 (viii) the licensee does not remove an authorized delegate after the commissioner issues  
867 and serves upon the licensee a final order including a finding that the authorized delegate has  
868 violated this chapter.

869 (2) In determining whether a licensee is engaging in an unsafe or unsound practice, the  
870 commissioner may consider the size and condition of the licensee's money transmission, the  
871 magnitude of the loss, the gravity of the violation of this chapter, and the previous conduct of the  
872 person involved.

873 (b)(1) The Commissioner may issue an order suspending or revoking the designation of  
874 an authorized delegate, if the Commissioner finds that:

875 (i) the authorized delegate violated this chapter or a rule adopted or an order issued  
876 under this chapter;

877 (ii) the authorized delegate did not cooperate with an examination or investigation by  
878 the commissioner;

879 (iii) the authorized delegate engaged in fraud, intentional misrepresentation, or gross  
880 negligence;

881 (iv) the authorized delegate is convicted of a violation of a state or federal anti-money  
882 laundering statute;

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

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

887 (2) In determining whether an authorized delegate is engaging in an unsafe or unsound  
888 practice, the commissioner may consider the size and condition of the authorized delegate's  
889 provision of money transmission, the magnitude of the loss, the gravity of the violation of this  
890 chapter or a rule adopted or order issued under this chapter, and the previous conduct of the  
891 authorized delegate.

892 (3) An authorized delegate may apply for relief from a suspension or revocation of  
893 designation as an authorized delegate according to procedures prescribed by the commissioner.

894 (c)(1) If the commissioner determines, after giving notice of and opportunity for a  
895 hearing, that a person or entity has engaged in or is about to engage in an act or practice  
896 constituting a violation of a provision of this chapter or a rule, regulation or order hereunder,  
897 they may order such person or entity to cease and desist from such unlawful act or practice and  
898 take such affirmative action as in their judgment will effect the purposes of this chapter.

899 (2) If the commissioner makes written findings of fact that the public interest will be  
900 irreparably harmed by delay in issuing an order under subsection (a) they may issue a temporary  
901 cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner  
902 shall promptly notify, in writing, the person or entity affected thereby that such order has been so  
903 entered, the reasons therefor, and that within twenty days after the receipt of a written request  
904 from such person or entity, the matter will be scheduled for hearing to determine whether or not  
905 such temporary order shall become permanent and final. If no such hearing is requested and none  
906 is ordered by the commissioner, the order shall remain in effect until it is modified or vacated by  
907 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of  
908 and opportunity for a hearing to the person or entity subject to said order, shall, by written  
909 finding of facts and conclusions of law, vacate, modify or make permanent the order.

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

914 (4) Any order issued pursuant to this section shall be subject to review as provided in  
915 chapter thirty A.

916 (d) The Commissioner may assess a civil penalty against a person or entity that  
917 violates this chapter or a rule adopted or an order issued under this chapter in an amount not to  
918 exceed two thousand dollars per day for each day the violation is outstanding or per transaction,  
919 plus this State's costs and expenses for the investigation and prosecution of the matter, including  
920 reasonable attorney's fees.

921 (e) The commissioner may enforce the provisions of this chapter or restrain  
922 violations thereof by filing a civil action in the superior court department of the trial court.

923 Section 12.(a) In applying and construing this act, consideration must be given to the  
924 need to promote uniformity of the law with respect to its subject matter among states that enact  
925 it.

926 (b) If any provision of this act or its application to any person or circumstance is held  
927 invalid, the invalidity does not affect other provisions or applications of this act which can be  
928 given effect without the invalid provision or application, and to this end the provisions of this act  
929 are severable.

930 SECTION 4. (a) A license issued pursuant to chapter 169 of the General Laws or  
931 section 4 of chapter 167F of the General Laws, including all authorized delegate location  
932 designations, that is in effect immediately before the effective date of chapter 169B shall remain  
933 in force as a license under said chapter 169 or said section 4 of said chapter 167F. Such licensees  
934 shall file a renewal application in accordance with section 6 of chapter 169B of the General  
935 Laws, as inserted by SECTION 3.

936 (b) Any person that was not required to obtain a license pursuant to chapter 169 of the  
937 General Laws or pursuant to section 4 of chapter 167F of the General Laws, but that is now

938 required to obtain a license under chapter 169B of the General Laws shall file an application for  
939 a license within 6 months of the effective date of Section 5 of chapter 169B, as inserted by  
940 SECTION 3, to continue conducting money transmission in the commonwealth directly or  
941 through authorized delegates. If such application is timely filed and pending with the  
942 commissioner, that person may continue to conduct money transmission in the commonwealth,  
943 until such time as the application has been approved, withdrawn or denied.

944 (c) All authorized delegate designations under section 4 of chapter 167F of the General  
945 Laws that are in effect as of the effective date of chapter 169B shall be deemed in compliance  
946 with chapter 169B.-

947 (d) A licensee shall only be required to amend its authorized delegate contracts for  
948 contracts entered into or amended after the effective date. Nothing herein shall be construed as  
949 limiting an authorized delegate's obligations to operate in full compliance with chapter 169B.

950 SECTION 5. Section 4 of chapter 169B of the General Laws, as inserted by  
951 SECTION 3, shall take effect upon passage. SECTION 1, SECTION 2, and the remainder of  
952 SECTION 3 shall take effect 9 months after the effective date of this act.