

SENATE No. 2997

The Commonwealth of Massachusetts

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

SENATE, December 19, 2024.

The committee on Senate Ways and Means to whom was referred the House Bill relative to the regulation of money transmission by the Division of Banks (House, No. 4840); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2997.

For the committee,
Michael J. Rodrigues

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
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1 SECTION 1. Chapter 167F of the General Laws is hereby amended by striking out
2 section 4, as appearing in the 2022 Official Edition, and inserting in place thereof the following
3 section:-

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

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 Chapter 169 of the General Laws is hereby repealed.

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

9 CHAPTER 169B

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

12 “Acting in concert”, persons knowingly acting together with a common goal of jointly
13 acquiring control of a licensee whether or not pursuant to an express agreement.

14 “Authorized delegate”, a person designated by a licensee to engage in money
15 transmission on behalf of the licensee.

16 “Average daily money transmission liability”, the amount of the licensee’s outstanding
17 money transmission obligations in the commonwealth at the end of each day in a specified
18 period of time, added together and divided by the total number of days in the specified period of
19 time. For purposes of calculating average daily money transmission liability under this chapter, a
20 specified period of time shall mean a calendar quarter ending on either March 31, June 30,
21 September 30 or December 31.

22 “Bank Secrecy Act”, the Bank Secrecy Act, 31 U.S.C. § 5311, et seq. and its
23 implementing regulations, as amended and recodified from time to time.

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

27 “Commissioner”, the commissioner of banks.

28 “Control”, the power to: (i) vote, directly or indirectly, not less than 25 per cent of the
29 outstanding voting shares or voting interests of a licensee or person in control of a licensee; (ii)
30 elect or appoint a majority of key individuals or executive officers, managers, directors, trustees
31 or other persons exercising managerial authority of a person in control of a licensee; or (iii)
32 exercise, directly or indirectly, a controlling influence over the management or policies of a
33 licensee or person in control of a licensee; provided, however, that for rebuttable presumptions of
34 control a person shall be presumed to exercise a controlling influence when the person holds the
35 power to vote, directly or indirectly, not less than 10 per cent of the outstanding voting shares or
36 voting interests of a licensee or person in control of a licensee; provided further, that a person
37 presumed to exercise a controlling influence may rebut the presumption of control if the person

38 is a passive investor; provided further, that, for purposes of determining the percentage of a
39 person or licensee is controlled by another person, the person or licensee's interest shall be
40 aggregated with the interest of any other immediate family member, including the person or
41 licensee's spouse, parents, children, siblings, mothers- and fathers-in law, sons- and daughters-
42 in-law, brothers- and sisters-in-law and any other person who shares such person or licensee's
43 home; and provided further, that, consistent with the authority described in subsection (b) of
44 section 4, the commissioner may adopt regulations, policies and procedures as necessary, which
45 may modify the definition of "control" as used in this chapter.

46 "Division", the division of banks.

47 "Eligible rating", a credit rating within any of the 3 highest credit rating categories
48 provided by an eligible credit rating agency; provided, however, that any such category may
49 include credit rating category modifiers such as "plus" or "minus" for Standard & Poor's
50 Corporation or an equivalent credit rating category modifier of another eligible credit rating
51 service; provided further, that long-term credit ratings shall be deemed eligible if the credit rating
52 is equal to or greater than A- by Standard & Poor's Corporation or an equivalent credit rating
53 from another eligible credit rating service; provided further, that short-term credit ratings shall be
54 deemed eligible if the credit rating is equal to or higher than A-2 or SP-2 by Standard & Poor's
55 Corporation or an equivalent credit rating of another eligible credit rating service; and provided
56 further, that, in the event that credit ratings differ among eligible credit rating agencies, the
57 highest rating shall apply when determining whether a security bears an eligible rating.

58 “Eligible credit rating agency”, a nationally recognized statistical rating organization as
59 defined by the United States Securities and Exchange Commission or any other organization
60 designated by the commissioner by rule or order.

61 “Federally insured depository financial institution”, a bank, credit union, savings and loan
62 association, trust company, savings association, savings bank, industrial bank or industrial loan
63 company organized under federal or state law; provided, however, that such bank, credit union,
64 savings and loan association, trust company, savings association, savings bank, industrial bank or
65 industrial loan company has federally insured deposits.

66 “Individual”, a natural person.

67 “In the commonwealth”, at a physical location within the commonwealth for a
68 transaction requested in person; provided, however, that for a transaction requested electronically
69 or by phone, the provider of money transmission may determine if the person requesting the
70 transaction is in the commonwealth by relying on information provided by the person regarding
71 the location of the individual’s residential address or a business entity’s principal place of
72 business or other physical address and any records associated with the person that the provider of
73 money transmission may have that indicate such location, including, but not limited to, a
74 physical address associated with an account.

75 “Key individual”, an individual ultimately responsible for establishing or directing
76 policies and procedures to which a licensee is subject including, but not limited to, an executive
77 officer, manager, director or trustee.

78 “Licensee”, a person licensed under this chapter.

79 “Material litigation”, litigation that, according to generally accepted accounting
80 principles issued by the Financial Accounting Standards Board, is significant to a person’s
81 financial health and would be required to be disclosed in the person’s annual audited financial
82 statements, report to shareholders or similar records.

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

84 “Money”, a medium of exchange that is authorized or adopted by the United States or a
85 foreign government; provided, however, that money shall include a monetary unit of account
86 established by an intergovernmental organization or by agreement between 2 or more
87 governments.

88 “Money transmission”, either: (i) selling or issuing payment instruments to a person
89 located in the commonwealth; (ii) selling or issuing stored value to a person located in the
90 commonwealth; or (iii) receiving money for transmission from a person located in the
91 commonwealth; provided, however, that money transmission shall only refer to transactions
92 engaged in by a person for personal, family or household purposes and shall not include the
93 provision solely of online or telecommunications services or network access.

94 “MSB accredited state”, a state agency that is accredited by the Conference of State Bank
95 Supervisors and Money Transmitter Regulators Association for money transmission licensing
96 and supervision.

97 “Multistate licensing process”, an agreement entered into by and among state regulators
98 relating to coordinated processing of applications for money transmission licenses, applications
99 for the acquisition of control of a licensee, control determinations or notice and information
100 requirements for a change of key individuals.

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

105 “Outstanding money transmission obligations”, obligations that shall be established and
106 extinguished in accordance with applicable state law and shall include: (i) any payment
107 instrument or stored value issued or sold by the licensee to a person located in the United States
108 or reported as sold by an authorized delegate of the licensee to a person that is located in the
109 United States that has not yet been paid or refunded by or for the licensee, or escheated in
110 accordance with applicable abandoned property laws; or (ii) money received for transmission by
111 the licensee or an authorized delegate in the United States from a person located in the United
112 States that has not been received by the payee or refunded to the sender or escheated in
113 accordance with applicable abandoned property laws.

114 “Passive investor”, a person that: (i) does not have the power to elect a majority of key
115 individuals or executive officers, managers, directors, trustees or other persons exercising
116 managerial authority of a person in control of a licensee; (ii) is not employed by and does not
117 have any managerial duties of the licensee or person in control of a licensee; (iii) does not have
118 the power to exercise, directly or indirectly, a controlling influence over the management or
119 policies of a licensee or person in control of a licensee; and (iv) either: (A) attests to conformity
120 with the passivity characteristics in clauses (i), (ii) and (iii) in a form and in a medium prescribed
121 by the commissioner; or (B) commits to conformity with the passivity characteristics of clauses
122 (i), (ii) and (iii) in a written document.

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

130 “Person”, an individual, general partnership, limited partnership, limited liability
131 company, corporation, trust, association, joint stock corporation or other corporate entity
132 identified by the commissioner.

133 “Prepaid access”, as defined under subsection (ww) of 31 C.F.R. 1010.100, as amended
134 or recodified from time to time.

135 “Receiving money for transmission” or “money received for transmission”, receiving
136 money or monetary value in the United States for transmission within or outside the United
137 States by electronic or other means.

138 “Remit”, to make direct payments of money to a licensee or its representative authorized
139 to receive money or to deposit money in a bank in an account specified by the licensee.

140 “Stored value”, monetary value representing a claim against the issuer evidenced by an
141 electronic or digital record and that is intended and accepted for use as a means of redemption
142 for money or monetary value, or payment for goods or services; provided, however, that stored
143 value shall include, but shall not be limited to, prepaid access; and provided further, that stored

144 value shall not include a payment instrument or closed loop stored value, or stored value not sold
145 to the public but issued and distributed as part of a loyalty, rewards or promotional program.

146 “Tangible net worth”, the aggregate assets of a licensee excluding intangible assets, less
147 liabilities, as determined in accordance with generally accepted accounting principles issued by
148 the Financial Accounting Standards Board.

149 “United States”, (i) a state, territory or possession of the United States; (ii) the District of
150 Columbia; (iii) the commonwealth of Puerto Rico; or (iv) a United States military installation
151 located in a foreign country.

152 Section 2. (a) This chapter shall not apply to:

153 (i) an operator of a payment system to the extent that the payment system provides
154 processing, clearing or settlement services, between or among persons exempted by this
155 subsection or licensees, in connection with wire transfers, credit card transactions, debit card
156 transactions, stored-value transactions, automated clearing house transfers or similar funds
157 transfers;

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

166 (iii) a person who acts as an intermediary by processing payments between an entity that
167 has directly incurred an outstanding money transmission obligation to a sender, and the sender's
168 designated recipient; provided, however, that the entity: (A) is properly licensed or exempt from
169 licensing requirements under this chapter; (B) provides a receipt, electronic record or other
170 written confirmation to the sender identifying the entity as the provider of money transmission in
171 the transaction; and (C) bears sole responsibility to satisfy the outstanding money transmission
172 obligation to the sender, including the obligation to make the sender whole in connection with
173 any failure to transmit the funds to the sender's designated recipient;

174 (iv) the United States or a department, agency or instrumentality thereof, or its agent;

175 (v) money transmission by the United States Postal Service or by an agent of the United
176 States Postal Service;

177 (vi) a state, county, city or any other governmental agency or governmental subdivision
178 or instrumentality of a state, or its agent;

179 (vii) a federally insured depository financial institution, bank holding company, office of
180 an international banking corporation, foreign bank that establishes a federal branch pursuant to
181 the International Banking Act of 1978, 12 U.S.C. § 3102, as amended or recodified from time to
182 time, corporation organized pursuant to the Bank Service Company Act, 12 U.S.C. §§ 1861 to
183 1867, inclusive, as amended or recodified from time to time or corporation organized under the
184 Edge Act, 12 U.S.C. §§ 611 to 633, inclusive, as amended or recodified from time to time;

185 (viii) electronic funds transfer of governmental benefits for a federal, state, county or
186 governmental agency by a contractor on behalf of the United States or a department, agency or

187 instrumentality thereof, or on behalf of a state or governmental subdivision, agency or
188 instrumentality thereof;

189 (ix) a board of trade designated as a contract market under the Commodity Exchange Act,
190 7 U.S.C. §§ 1 to 25, inclusive, as amended or recodified from time to time, or a person that, in
191 the ordinary course of business, provides clearance and settlement services for a board of trade to
192 the extent of its operation as or for such a board;

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

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

197 (xii) an individual employed by a licensee, authorized delegate or any person exempted
198 from the licensing requirements of the chapter when acting within the scope of employment and
199 under the supervision of the licensee, authorized delegate or exempted person as an employee
200 and not as an independent contractor;

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

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

212 (b) The commissioner may require any person claiming to be exempt from licensing
213 pursuant to subsection (a) to provide information and documentation to the commissioner
214 demonstrating that such person qualifies for any claimed exemption.

215 Section 3. (a)(1) To carry out the purposes of this chapter, the commissioner may, subject
216 to paragraphs (1) and (2) of subsection (b):

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

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

223 (iii) accept, from other state or federal government agencies or officials, licensing,
224 examination or investigation reports made by such other state or federal government agencies or
225 officials; and

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

229 (2) The commissioner may administer, interpret and enforce this chapter, promulgate
230 rules or regulations implementing this chapter and recover the cost of administering and
231 enforcing this chapter by imposing and collecting proportionate and equitable fees and costs
232 associated with applications, examinations, investigations and other actions required to achieve
233 the purpose of this chapter.

234 (b)(1) Except as otherwise provided in paragraph (2), information or reports obtained by
235 the commissioner from an applicant, licensee or authorized delegate and information contained
236 in or related to an examination, investigation, operating report or condition report prepared by,
237 on behalf of or for the use of the commissioner, financial statements, balance sheets and
238 authorized delegate information, shall be confidential and privileged, shall not be subject to
239 subpoena and shall not be a public record under chapter 66. For the purpose of this paragraph,
240 records of investigation and reports of examinations shall include records of investigation and
241 reports of examinations conducted by a financial regulatory agency of the federal government
242 and any other state, and of any foreign government, which are considered confidential by the
243 agency or foreign government and are in the possession of the commissioner. In a proceeding
244 before a court, the court may issue a protective order to seal the record in appropriate
245 circumstances to protect the confidentiality of any such record of investigation and reports, other
246 than any such record of investigation and reports that is on file with the court or filed in
247 connection with the court proceeding, and the court may exclude the public from any portion of
248 the proceeding at which any such record may be disclosed. Copies of the reports of examination
249 shall be furnished to a licensee for its use only and shall not be exhibited to any other person,
250 organization or agency without prior written approval by the commissioner. The commissioner
251 may, in their discretion, furnish to regulatory agencies of the federal government, other states or

252 foreign countries and any law enforcement agency, the information, reports, inspections and
253 statements relating to the licensees under the commissioner's supervision.

254 (2) The commissioner may disclose information not otherwise subject to disclosure under
255 paragraph (1): (i) to representatives of state or federal agencies who agree in writing that they
256 will keep the information confidential; or (ii) if the commissioner finds that the release is
257 reasonably necessary for the protection and public interest in accordance with chapter 66.

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

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

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

264 (ii) the business address of a licensee's registered agent for service;

265 (iii) the name, business address and telephone number of all authorized delegates;

266 (iv) the terms of or a copy of any bond filed by a licensee; provided, however, that
267 confidential information, including, but not limited to, prices and fees for such bond shall be
268 redacted;

269 (v) copies of any non-confidential final orders of the division relating to any violation of
270 this chapter or regulations implementing this chapter; and

271 (vi) imposition of an administrative fine or penalty under this chapter.

272 (c)(1) The commissioner may conduct an examination or investigation of a licensee or
273 authorized delegate or otherwise take independent action authorized by this chapter or by a rule
274 adopted or order issued under this chapter as reasonably necessary or appropriate to administer
275 and enforce this chapter, regulations implementing this chapter, and as authorized by other
276 applicable law, including the Bank Secrecy Act and the USA Patriot Act, Pub. Law 107-56.

277 (2) To carry out the purposes of paragraph (1), the commissioner may:

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

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

282 (iii) accept the examination report of an agency of another state or of the federal
283 government or a report prepared by an independent accounting firm, which on being accepted
284 shall be considered for all purposes as an official report of the commissioner; and

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

288 (3) A licensee or authorized delegate shall provide, and the commissioner shall have full
289 access to, all records the commissioner may reasonably require to conduct a complete
290 examination. The records shall be provided at the location and in the format specified by the
291 commissioner; provided, however, that the commissioner may utilize multistate record

292 production standards and examination procedures when such standards will reasonably achieve
293 the requirements of this paragraph.

294 (4) Unless otherwise directed by the commissioner, a licensee shall pay all costs
295 reasonably incurred in connection with an examination of the licensee or the licensee's
296 authorized delegates.

297 (d)(1) The commissioner may participate in multistate supervisory processes established
298 between states and coordinated through the Conference of State Bank Supervisors, the Money
299 Transmitter Regulators Association and affiliates and successors thereof for all licensees that
300 hold licenses in the commonwealth and other states. As a participant in such multistate
301 supervisory processes, the commissioner may:

302 (i) cooperate, coordinate and share information with other state and federal regulators in
303 accordance with subsection (b);

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

307 (iii) cooperate, coordinate and share information with organizations the membership of
308 which is made up of state or federal governmental agencies; provided, however, that the
309 organizations shall agree in writing to maintain the confidentiality and security of the shared
310 information in accordance with subsection (b).

311 (2) The commissioner shall not waive, and nothing in this subsection shall constitute a
312 waiver of, the commissioner's authority to conduct an examination or investigation or otherwise

313 take independent action authorized by this chapter or a rule adopted or order issued under this
314 chapter to enforce compliance with applicable state or federal law.

315 (3) A joint examination or investigation, or acceptance of an examination or investigation
316 report, shall not waive an examination assessment provided for in this chapter.

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

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

323 (i) identifies the inconsistency; and

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

325 Section 4. (a)(1) A person shall not engage in the business of money transmission or
326 advertise, solicit or hold itself out as providing money transmission unless the person is licensed
327 under this chapter.

328 (2) This subsection shall not apply to:

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

331 (ii) a person that is exempt pursuant to subsection (a) of section 2 and does not engage in
332 money transmission outside the scope of such exemption.

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

334 (b)(1) To establish consistent licensing between the commonwealth and other states, the
335 commissioner may: (i) implement all licensing provisions of this chapter in a manner that is
336 consistent with other states that have adopted laws that are consistent with this chapter or
337 multistate licensing processes; and (ii) participate in nationwide protocols for licensing
338 cooperation and coordination among state regulators to the extent that such protocols are
339 consistent with this chapter.

340 (2) For the purposes of administering this chapter, the commissioner may establish
341 relationships or contracts with NMLS or other entities designated by NMLS to enable the
342 commissioner to: (i) collect and maintain records; (ii) coordinate multistate licensing processes
343 and supervision processes; (iii) process fees; and (iv) facilitate communication between the
344 division and licensees or other persons subject to this chapter.

345 (3) The commissioner may participate in a multistate licensing process and the NMLS for
346 the sharing of regulatory information and for the application, by electronic or other means, and
347 licensing of persons engaged in money transmission. The commissioner may establish
348 requirements for participation by an applicant in the NMLS that vary from the provisions of this
349 chapter. The applicant shall pay directly to the NMLS any additional fee relating to participation
350 in such multistate licensing system.

351 (4) The commissioner may utilize NMLS forms, processes and functionalities in
352 accordance with this chapter. If NMLS does not provide functionality, forms or processes for a
353 provision of this chapter, the commissioner may implement the requirements in a manner that

354 facilitates uniformity with respect to licensing, supervision, reporting and regulation of licensees
355 that are licensed in multiple jurisdictions.

356 (5) For the purpose of participating in the NMLS, the commissioner may waive or
357 modify, in whole or in part, by rule, regulation or order, requirements or establish new
358 requirements as reasonably necessary to participate in the NMLS.

359 (c)(1) The application for a license shall be in a form prescribed by the commissioner and
360 shall contain the name and address or addresses where the business of the applicant is located
361 and if the applicant is a partnership, association, corporation or other form of business
362 organization, the names and addresses of each member, director and principal officer thereof.
363 The application shall also include a description of the activities of the applicant, in such detail
364 and for such periods as the commissioner may require and such further information as the
365 commissioner may require.

366 (2) An application for a license shall be accompanied by payment of an investigation fee
367 and a license fee. The investigation and license fees shall be determined annually by the
368 secretary of administration and finance under section 3B of chapter 7.

369 (d)(1) An individual in control of a licensee or applicant, an individual that seeks to
370 acquire control of a licensee and a key individual shall furnish to the commissioner through
371 NMLS:

372 (i) the individual's fingerprints for submission to the Federal Bureau of Investigation and
373 the commissioner for purposes of a national criminal history background check unless the
374 individual currently resides outside of the United States and has resided outside of the United
375 States for the preceding 10 years; and

376 (ii) personal history and experience in a form and in a medium prescribed by the
377 commissioner, to obtain: (A) an independent credit report from a consumer reporting agency
378 unless the individual does not have a Social Security number, in which case, this requirement
379 shall be waived; (B) information related to any criminal convictions or pending charges; and (C)
380 information related to any regulatory or administrative action and any civil litigation involving
381 claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary
382 duty or breach of contract.

383 (2)(A) If the individual has resided outside of the United States at any time in the
384 preceding 10 years, the individual shall provide an investigative background report prepared by
385 an independent search firm that shall, at a minimum: (i) demonstrate that it has sufficient
386 knowledge and resources and employs accepted and reasonable methodologies to conduct the
387 research of the background report; and (ii) not be affiliated with or have an interest in the
388 individual it is researching.

389 (B) At a minimum, the investigative background report shall be written in English and
390 shall contain:

391 (i) if available in the individual's current jurisdiction of residency, a comprehensive
392 credit report, or any equivalent information obtained or generated by the independent search firm
393 to accomplish such report, including a search of the court data in the countries, provinces, states,
394 cities, towns and contiguous areas where the individual resided and worked;

395 (ii) criminal records information for the past 10 years, including, but not limited to,
396 felonies, misdemeanors or similar convictions for violations of law in the countries, provinces,
397 states, cities, towns and contiguous areas where the individual resided and worked;

398 (iii) employment history;

399 (iv) media history, including an electronic search of national and local publications, wire
400 services and business applications; and

401 (v) financial services-related regulatory history, including, but not limited to, money
402 transmission, securities, banking, insurance and mortgage-related industries.

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

407 (e)(1) When an application for an original license under this chapter appears to include all
408 the items and addresses all of the matters that are required, the application shall be considered
409 complete and the commissioner shall promptly notify the applicant in writing of the date on
410 which the application is determined to be complete.

411 (2) A determination by the commissioner that an application is complete and is accepted
412 for processing shall mean only that the application, on its face, appears to include all of the
413 items, including the criminal background check response from the Federal Bureau of
414 Investigation, and address all of the matters that are required, and shall not be considered an
415 assessment of the substance of the application or of the sufficiency of the information provided.

416 (3) When an application is filed and considered complete under this subsection, the
417 commissioner shall investigate the applicant's financial condition and responsibility, financial
418 and business experience, character and general fitness. The commissioner may conduct an on-

419 site investigation of the applicant, the reasonable cost of which the applicant shall pay. The
420 commissioner shall issue a license to an applicant under this subsection if the commissioner finds
421 that: (i) the applicant has complied with subsection (c) and subsection (d); and (ii) the financial
422 condition and responsibility, financial and business experience, competence, character, and
423 general fitness of the applicant, and the competence, experience, character and general fitness of
424 the key individuals and persons in control of the applicant indicate that it is in the public interest
425 to permit the applicant to engage in money transmission.

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

429 (5) The commissioner shall issue a formal written notice of the denial of a license
430 application within 30 days of the decision to deny the application. The commissioner shall set
431 forth in the notice of denial the specific reasons for the denial of the application. An applicant
432 whose application is denied by the commissioner under this paragraph may appeal pursuant to
433 the procedures set forth in chapter 30A.

434 (6) The initial license term shall begin on the day the application is approved. The license
435 shall expire on December 31 of the year in which the license term began, unless the initial
436 license date is between November 1 and December 31, in which instance the initial license term
437 shall run through December 31 of the following year.

438 (f)(1) A license may be renewed upon the filing of a renewal application in such form and
439 containing all such information as the commissioner may prescribe.

440 (2) An annual renewal fee to be determined annually by the secretary of administration
441 and finance under the provisions of section 3B of chapter 7 shall be paid upon submission of the
442 renewal application.

443 (3) The renewal term shall be for a period of 1 year and shall begin on January 1 of each
444 year after the initial license term and shall expire on December 31 of the year the renewal term
445 begins.

446 (g)(1) If a licensee does not continue to meet the qualifications or satisfy the requirements
447 that apply to an applicant for a new money transmission license, the commissioner may suspend
448 or revoke the licensee's license in accordance with the procedures established by this chapter or
449 chapter 30A.

450 (2) An applicant for a money transmission license shall demonstrate that it meets or will
451 meet, and a money transmission licensee shall at all times meet, the requirements in subsections
452 (a) to (c), inclusive, of section 9.

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

460 Section 5. (a)(1) Any person, or group of persons acting in concert, seeking to acquire
461 control of a licensee shall, in cooperation with the licensee, file a notice, in a form and in a

462 medium prescribed by the commissioner, with the commissioner prior to acquiring control. An
463 addition or replacement of a key individual pursuant to subsection (b) shall not be deemed to be
464 an acquisition of control of a licensee and shall not be subject to this section.

465 (2) Upon request, the commissioner may permit a licensee or the person, or group of
466 persons acting in concert, to submit some or all information required by the commissioner
467 pursuant to paragraph (1) without using NMLS.

468 (3) The notice required by paragraph (1) shall include information required by subsection
469 (d) of section 4 for any new key individuals that have not previously completed the requirements
470 of said subsection (d) of said section 4 for a licensee.

471 (4) When a notice is filed, the commissioner shall investigate, as the commissioner
472 determines is necessary, the person, or group of persons acting in concert, seeking to acquire
473 control. The commissioner shall not object to an acquisition of control pursuant to this
474 subsection if the commissioner finds that: (i) the requirements of paragraphs (1) and (3) have
475 been met, as applicable; and (ii) the financial condition and responsibility, character and general
476 fitness of the person, or group of persons acting in concert, seeking to acquire control, and the
477 competence, experience, character and general fitness of the key individuals and persons that
478 would be in control of the licensee after the acquisition of control, indicate that it is in the public
479 interest consistent with the purposes of this chapter to permit the person, or group of persons
480 acting in concert, to control the licensee.

481 (5) The requirements of paragraph (1) shall not apply to:

482 (i) a person that acts as a proxy for the sole purpose of voting at a designated meeting of
483 the shareholders or holders of voting shares or voting interests of a licensee or a person in control
484 of a licensee;

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

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

489 (iv) a person that is exempt under paragraph (7) of subsection (a) of section 2;

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

491 (vi) an internal reorganization of a person in control of the licensee where the ultimate
492 person in control of the licensee remains the same.

493 (6) Persons referenced under clauses (ii) through (iv), inclusive, of paragraph (5) in
494 cooperation with the licensee shall notify the commissioner within 15 days after the acquisition
495 of control.

496 (7) The commissioner may accept a determination under this subsection of another state
497 regulatory agency if a licensee avails itself or is otherwise subject to the multistate licensing
498 process.

499 (b)(1) A licensee adding or replacing any key individual shall: (i) provide notice in a
500 manner prescribed by the commissioner not later than 15 days after the effective date of the key
501 individual's appointment; and (ii) provide information as required by subsection (d) of section 4.

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

507 (3) The commissioner may accept the determination pursuant to this subsection of
508 another state regulatory agency if the licensee avails itself or is otherwise subject to the
509 multistate licensing process.

510 Section 6. (a)(1) Each licensee shall submit a report of condition within 45 days of the
511 end of the calendar quarter, or within any extended time as the commissioner may prescribe.

512 (2) The report of condition shall include:

513 (i) financial information of the licensee;

514 (ii) nationwide and state-specific money transmission transaction information in every
515 jurisdiction in the United States where the licensee is licensed to engage in money transmission;

516 (iii) a permissible investments report;

517 (iv) transaction destination country reporting for money received for transmission, if
518 applicable; and

519 (v) any other information the commissioner reasonably requires with respect to the
520 licensee.

521 (3) The commissioner may utilize NMLS for the submission of the report required by
522 paragraph (1) and may change or update as necessary the requirements of this subsection to carry
523 out the purposes of this chapter and maintain consistency with NMLS reporting.

524 (4) The information required by clause (iv) of paragraph (2) shall only be included in a
525 report of condition submitted within 45 days of the end of the fourth calendar quarter.

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

528 (i) an audited financial statement of the licensee for the fiscal year prepared in accordance
529 with generally accepted accounting principles issued by the Financial Accounting Standards
530 Board; and

531 (ii) any other information as the commissioner may reasonably require.

532 (2) The audited financial statements shall be prepared by an independent certified public
533 accountant and shall include or be accompanied by a certificate of opinion of the independent
534 certified public accountant that is satisfactory in form and content to the commissioner. If the
535 certificate or opinion is qualified, the commissioner may order the licensee to take any action as
536 the commissioner may find necessary to enable the independent or certified public accountant or
537 independent public accountant to remove the qualification.

538 (c)(1) Each licensee shall submit a report of authorized delegates within 45 days of the
539 end of the calendar quarter. The commissioner may utilize NMLS for the submission of the
540 report required by this paragraph; provided, however, that such functionality is consistent with
541 the requirements of this subsection.

542 (2) The authorized delegate report shall include, at a minimum, each authorized
543 delegate's: (i) company legal name; (ii) taxpayer employer identification number; (iii) principal
544 provider identifier; (iv) physical and mailing addresses; (v) business conducted in other states, if
545 any; (vi) fictitious or trade name, if any; (vii) contact person name, phone number and email
546 address; (viii) start date as licensee's authorized delegate; (ix) end date acting as licensee's
547 authorized delegate, if applicable; and (x) other information, as the commissioner reasonably
548 requires.

549 (d)(1) A licensee shall file a report with the commissioner within 1 business day after the
550 licensee has reason to know of the occurrence of:

551 (i) the filing of a petition by or against the licensee under 11 U.S.C. § 101 to 110,
552 inclusive, as amended or recodified from time to time, for bankruptcy or reorganization;

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

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

558 (2) A licensee shall file a report with the commissioner within 3 business days after the
559 licensee has reason to know of the occurrence of a charge or conviction of the licensee, a key
560 individual, a person in control of the licensee or an authorized delegate for a felony committed
561 by the licensee.

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

567 (f)(1) A licensee shall maintain, for not less than 3 years, for determining its compliance
568 with this chapter:

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

570 (ii) a general ledger posted not less than monthly containing all asset, liability, capital,
571 income and expense accounts;

572 (iii) bank statements and bank reconciliation records;

573 (iv) records of outstanding money transmission obligations;

574 (v) records of each outstanding money transmission obligation paid within the 3-year
575 period;

576 (vi) a list of the last known names and addresses of all of the licensee's authorized
577 delegates; and

578 (vii) any other records the commissioner reasonably requires by rule or regulation.

579 (2) The items specified in paragraph (1) may be maintained in any form of record.

580 (3) Records specified in paragraph (1) may be maintained outside the commonwealth if
581 they are made accessible to the commissioner on 7 business-days' notice that is sent in writing.

582 (4) All records maintained by the licensee as required in clauses (i) to (iii), inclusive, of
583 paragraph (1) shall be subject to inspection by the commissioner pursuant to paragraph (1) of
584 subsection (c) of section 3.

585 Section 7. (a)(1) Before a licensee is authorized to conduct business through an
586 authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee
587 shall:

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

590 (ii) enter into a written contract that complies with paragraph (3); and

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

594 (2) An authorized delegate shall operate in full compliance with this chapter.

595 (3) The written contract required by paragraph (1) shall be signed by the licensee and the
596 authorized delegate and, at a minimum, shall:

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

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

601 (iii) require the authorized delegate to agree to fully comply with applicable state and
602 federal laws, rules and regulations pertaining to money transmission, including, but not limited
603 to, this chapter and regulations implementing this chapter and relevant provisions of the Bank
604 Secrecy Act and the USA Patriot Act, Pub. Law 107-56;

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

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

609 (vi) require the authorized delegate to prepare and maintain records as required by this
610 chapter or regulations implementing this chapter, or as reasonably requested by the
611 commissioner;

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

614 (viii) state that the licensee shall be subject to regulation by the commissioner and that, as
615 part of that regulation, the commissioner may suspend or revoke an authorized delegate
616 designation or require the licensee to terminate an authorized delegate designation; and

617 (ix) acknowledge receipt of the written policies and procedures required under clause (i)
618 of paragraph (1).

619 (4) If the licensee's license is suspended, revoked, surrendered or expired, the licensee
620 shall, within 5 business days, provide documentation to the commissioner that the licensee has
621 notified all applicable authorized delegates of the licensee whose names are in a record filed with

622 the commissioner of the suspension, revocation, surrender or expiration of a license. Upon
623 suspension, revocation, surrender or expiration of a license, applicable authorized delegates shall
624 immediately cease to provide money transmission as an authorized delegate of the licensee.

625 (5) An authorized delegate of a licensee shall hold in trust for the benefit of the licensee
626 all money net of fees received from money transmission. If any authorized delegate commingles
627 any funds received from money transmission with any other funds or property owned or
628 controlled by the authorized delegate, all commingled funds and other property shall be
629 considered held in trust in favor of the licensee in an amount equal to the amount of money net
630 of fees received from money transmission.

631 (6) An authorized delegate shall not use a subdelegate to conduct money transmission on
632 behalf of a licensee.

633 (b) A person shall not engage in the business of money transmission on behalf of a person
634 not licensed under this chapter or not exempt pursuant to section 2. A person that engages in
635 such activity shall be considered to provide money transmission to the same extent as if the
636 person were a licensee and shall be jointly and severally liable with the unlicensed or nonexempt
637 person.

638 Section 8. (a)(1) A licensee shall forward all money received for transmission in
639 accordance with the terms of the agreement between the licensee and the sender unless the
640 licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim
641 of fraud or that a crime or violation of law, rule or regulation has occurred, is occurring or may
642 occur.

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

646 (b)(1) This subsection shall not apply to:

647 (i) money received for transmission subject to 12 C.F.R. Part 1005, Subpart B, as
648 amended or recodified from time to time; or

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

651 (2) A licensee shall refund to the sender within 10 days of receipt of the sender's written
652 request for a refund of any and all money received for transmission unless:

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

655 (ii) instructions have been given committing an equivalent amount of money to the
656 person designated by the sender within 10 days of the date on which the money was received for
657 transmission;

658 (iii) the agreement between the licensee and the sender instructs the licensee to forward
659 the money at a time that is not less than 10 days after the date on which the money was received
660 for transmission; provided, however, that if funds have not yet been forwarded in accordance
661 with the terms of the agreement between the licensee and the sender, the licensee shall issue a
662 refund in accordance with the other provisions of this subsection;

663 (iv) the refund is requested for a transaction that the licensee has not completed based on
664 a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule or
665 regulation has occurred, is occurring or may occur; or

666 (v) the refund request does not enable the licensee to: (A) identify the sender's name and
667 address or telephone number; or (B) identify the particular transaction to be refunded in the event
668 the sender has multiple transactions outstanding.

669 (c)(1) This section shall not apply to:

670 (i) money received for transmission subject to the 12 C.F.R. Part 1005, Subpart B, as
671 amended or recodified from time to time;

672 (ii) money received for transmission that is not primarily for personal, family or
673 household purposes; or

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

676 (2) For purposes of this section, "receipt" shall mean a paper receipt, electronic record or
677 other written confirmation. For a transaction conducted in person, the receipt may be provided
678 electronically if the sender requests or agrees to receive an electronic receipt. For a transaction
679 conducted electronically or by phone, a receipt may be provided electronically. All electronic
680 receipts shall be provided in a retainable form.

681 (3)(1) Every licensee or its authorized delegate shall provide the sender a receipt for
682 money received for transmission. The receipt shall contain the following information, as
683 applicable:

- 684 (i) the name of the sender;
- 685 (ii) the name of the designated recipient;
- 686 (iii) the date of the transaction;
- 687 (iv) the unique transaction or identification number;
- 688 (v) the name of the licensee, NMLS Unique Identifier, the licensee's business address
689 and the licensee's customer service telephone number;
- 690 (vi) the amount of the transaction in United States dollars;
- 691 (vii) any fee charged by the licensee to the sender for the transaction; and
- 692 (viii) any taxes collected by the licensee from the sender for the transaction.

693 (2) The receipt required by this section shall be in English and in the language principally
694 used by the licensee or authorized delegate, if the language is other than English, to advertise,
695 solicit or negotiate, either orally or in writing, for a transaction conducted in person,
696 electronically or by phone.

697 Section 9. (a)(1) A licensee under this chapter shall maintain at all times: (i) a tangible
698 net worth of the greater of \$100,000 or 3 per cent of total assets for the first \$100,000,000; (ii) 2
699 per cent of additional assets for \$100,000,000 to \$1,000,000,000; and (iii) 0.5 per cent of
700 additional assets for over \$1,000,000,000.

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

703 (3) The commissioner may, for good cause shown, exempt, in-part or in whole, any
704 applicant or licensee from the requirements of this section.

705 (b)(1) An applicant for a money transmission license shall provide, and a licensee shall at
706 all times maintain, security consisting of a surety bond in a form satisfactory to the
707 commissioner.

708 (2) The amount of the required security shall be the greater of \$100,000 or an amount
709 equal to 100 per cent of the licensee's average daily money transmission liability in the
710 commonwealth calculated for the most recently completed 3-month period not more than
711 \$500,000.

712 (3) A licensee that maintains a bond in the maximum amount provided for in paragraphs
713 (1) and (2) shall not be required to calculate its average daily money transmission liability in the
714 commonwealth for purposes of this subsection.

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

717 (c)(1) A licensee shall maintain at all times permissible investments, pursuant to
718 subsection (d), that have a market value computed in accordance with the generally accepted
719 accounting principles issued by the Financial Accounting Standards Board of not less than the
720 aggregate amount of all of its outstanding money transmission obligations.

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

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

726 (3) Permissible investments, even if commingled with other assets of the licensee, shall
727 be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money
728 transmission obligations in the event of insolvency, the filing of a petition by or against the
729 licensee pursuant to 11 U.S.C. § 101 to 110, inclusive, as amended or recodified from time to
730 time, for bankruptcy or reorganization, the filing of a petition by or against the licensee for
731 receivership, the commencement of any other judicial or administrative proceeding for its
732 dissolution or reorganization or in the event of an action by a creditor against the licensee who is
733 not a beneficiary of this statutory trust. No permissible investments impressed with a trust
734 pursuant to this paragraph shall be subject to attachment, levy of execution or sequestration by
735 order of any court, except for a beneficiary of this statutory trust.

736 (4) Upon the establishment of a statutory trust in accordance with paragraph (3) or when
737 any funds are drawn on a letter of credit pursuant to clause (iv) of paragraph (1) of subsection
738 (d), the commissioner shall notify the applicable regulator of each state in which the licensee is
739 licensed to engage in money transmission, if any, of the establishment of the trust or the funds
740 drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed
741 pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any
742 other permissible investments held in trust for the benefit of the purchasers and holders of the
743 licensee's outstanding money transmission obligations, shall be deemed held in trust for the
744 benefit of such purchasers and holders on a pro rata and equitable basis in accordance with
745 statutes pursuant to which permissible investments are required to be held in the commonwealth,

746 and other states, as applicable. A statutory trust established hereunder shall be terminated upon
747 extinguishment of all of the licensee's outstanding money transmission obligations.

748 (5) The commissioner may, by rule or order, allow other types of investments that the
749 commissioner determines are of sufficient liquidity and quality to be a permissible investment.
750 The commissioner may participate in efforts with other state regulators to determine that other
751 types of investments are of sufficient liquidity and quality to be a permissible investment.

752 (d)(1) Investments permissible under subsection (c) shall include:

753 (i) cash, including demand deposits, savings deposits and funds in such accounts held for
754 the benefit of the licensee's customers in a federally insured depository financial institution and
755 cash equivalents, including automated clearing house items in transit to the licensee and
756 automated clearing house items or international wires in transit to a payee, cash in transit via
757 armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-
758 funded transmission receivables owed by any bank or money market mutual funds rated AAA by
759 Standard & Poor's Corporation or the equivalent from any eligible credit rating agency;

760 (ii) certificates of deposit or senior debt obligations of an insured depository institution,
761 as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813, as amended or
762 recodified from time to time, or as defined in the Federal Credit Union Act, 12 U.S.C. § 1781, as
763 amended or recodified from time to time;

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

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

770 (v) 100 per cent of the surety bond provided for under subsection (b) that exceeds the
771 average daily money transmission liability in the commonwealth.

772 (2) Unless permitted by the commissioner by rule or by order to exceed the limit as set
773 forth herein, investments permissible under subsection (c) to the extent specified shall include:

774 (i) receivables that are payable to a licensee from its authorized delegates in the ordinary
775 course of business that are not more than 7 days old, up to 50 per cent of the aggregate value of
776 the licensee's total permissible investments;

777 (ii) of the receivables permissible under clause (i) of paragraph (2), receivables that are
778 payable to a licensee from a single authorized delegate in the ordinary course of business may
779 not exceed 10 per cent of the aggregate value of the licensee's total permissible investments;

780 (iii) up to 20 per cent per category and combined up to 50 per cent of the aggregate value
781 of the licensee's total permissible investments:

782 (A) a short-term, not more than 6 months, investment bearing an eligible rating;

783 (B) commercial paper bearing an eligible rating;

784 (C) a bill, note, bond or debenture bearing an eligible rating;

785 (D) United States tri-party repurchase agreements collateralized at 100 per cent or more
786 with United States government or agency securities, municipal bonds or other securities bearing
787 an eligible rating;

788 (E) money market mutual funds rated less than AAA and equal to or higher than A- by
789 Standard & Poor's Corporation or the equivalent from any other eligible credit rating agency;
790 and

791 (F) a mutual fund or other investment fund composed solely and exclusively of 1 or more
792 permissible investments listed in clauses (i) through (iii), inclusive, of paragraph (1); and

793 (iv) cash, including demand deposits, savings deposits and funds in such accounts held
794 for the benefit of the licensee's customers, at foreign depository institutions, up to 10 per cent of
795 the aggregate value of the licensee's total permissible investments if the licensee has received a
796 satisfactory rating in its most recent examination and the foreign depository institution:

797 (A) has an eligible rating;

798 (B) is registered under the federal Foreign Account Tax Compliance Act;

799 (C) is not located in any country subject to sanctions from the Office of Foreign Asset
800 Control of the United States Department of the Treasury; and

801 (D) is not located in a high-risk or non-cooperative jurisdiction as designated by the
802 Financial Action Task Force.

803 Section 10. (a)(1) The commissioner may suspend or revoke a license or order a licensee
804 to revoke the designation of an authorized delegate if:

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

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

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

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

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

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

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

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

823 (2) In determining whether a licensee is engaging in an unsafe or unsound practice, the
824 commissioner may consider the size and condition of the licensee's money transmission, the

825 magnitude of the loss, the gravity of the violation of this chapter and the previous conduct of the
826 person involved.

827 (b)(1) The commissioner may issue an order suspending or revoking the designation of
828 an authorized delegate if the commissioner finds that:

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

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

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

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

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

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

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

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

848 (c)(1) If the commissioner determines, after giving notice of and opportunity for a
849 hearing, that a person or entity has engaged in or is about to engage in an act or practice
850 constituting a violation of this chapter or a rule, regulation or order hereunder, the commissioner
851 may order such person or entity to cease and desist from such unlawful act or practice and take
852 such affirmative action as in their judgment shall effect the purposes of this chapter.

853 (2) If the commissioner makes written findings of fact that the public interest will be
854 irreparably harmed by delay in issuing an order pursuant to subsection (a), the commissioner
855 may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist
856 order, the commissioner shall promptly notify, in writing, the person or individual affected
857 thereby that such order has been so entered, the reasons therefor, and that within 20 days after
858 the receipt of a written request from such person or individual, the matter shall be scheduled for a
859 hearing to determine whether such temporary order shall become permanent and final. If no such
860 hearing is requested and none is ordered by the commissioner, the order shall remain in effect
861 until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the
862 commissioner, after giving notice of and opportunity for a hearing to the person or individual
863 subject to said order, shall, by written finding of facts and conclusions of law, vacate, modify or
864 make permanent the order.

865 (3) No order under this section, except an order issued pursuant to subsection (b), shall be
866 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or

867 modify an order under this section upon finding that the conditions that required such an order
868 have changed and that it is in the public interest to so vacate or modify.

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

871 (d) The commissioner may assess a civil penalty against a person or individual that
872 violates this chapter or a rule adopted or an order issued under this chapter in an amount not to
873 exceed \$2,000 per day for each day the violation is outstanding or per transaction, plus the
874 commonwealth's costs and expenses for the investigation and prosecution of the matter,
875 including reasonable attorney's fees.

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

878 Section 11. In implementing and interpreting this act, consideration shall be given to the
879 need to promote uniformity of the law with respect to its subject matter among states that enact
880 it.

881 SECTION 4. (a) A license issued pursuant to chapter 169 of the General Laws or section
882 4 of chapter 167F of the General Laws, including authorized delegate location designations, that
883 is in effect immediately before the effective date of chapter 169B of the General Laws shall
884 remain in effect as a license pursuant to said chapter 169 or said section 4 of said chapter 167F.
885 Such licensees shall file a renewal application in accordance with section 5 of said chapter 169B,
886 as inserted by section 3.

887 (b) A person that was not required to obtain a license pursuant to chapter 169 of the
888 General Laws or pursuant to section 4 of chapter 167F of the General Laws but that is required to
889 obtain a license pursuant to chapter 169B of the General Laws shall file an application for a
890 license within 6 months of the effective date of section 45 of said chapter 169B, to continue
891 conducting money transmission in the commonwealth directly or through authorized delegates. If
892 such application is timely filed and pending with the commissioner, that person may continue to
893 conduct money transmission in the commonwealth, until such time as the application has been
894 approved, withdrawn or denied.

895 (c) All authorized delegate designations pursuant to section 4 of chapter 167F of the
896 General Laws that are in effect as of the effective date of chapter 169B of the General Laws shall
897 be deemed in compliance with said chapter 169B.

898 (d) A licensee shall only be required to amend its authorized delegate contracts for
899 contracts entered into or amended after the effective date of chapter 169B of the General Laws.
900 Nothing herein shall be construed as limiting an authorized delegate's obligations to operate in
901 full compliance with said chapter 169B.

902 SECTION 5. Sections 1 and 2 shall take effect 9 months after the effective date of this
903 act.

904 SECTION 6. Sections 1 and 2 and 4 to 11, inclusive, of chapter 169B of the General
905 Laws shall take effect 9 months after the effective date of this act.

906 SECTION 7. Section 3 of chapter 169B of the General Laws shall take effect upon the
907 passage of this act.

SECTION 8. Section 4 shall take effect 90 days after the passage of this act.