

HOUSE No. 4840

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 9, 2024.

The committee on Ways and Means, to whom was referred the Bill relative to the regulation of money transmission by the Division of Banks (House, No. 1106), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4840).

For the committee,

AARON MICHLEWITZ.

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 Chapter 169 of the General Laws is hereby repealed.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

8 CHAPTER 169B

9 THE MONEY TRANSMISSION ACT

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

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 a licensee designates to engage in money transmission
15 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 given period of
18 time, added together and divided by the total number of days in the given period of time. For
19 purposes of calculating average daily money transmission liability under this chapter for any
20 licensee required to do so, the given period of time shall be the quarters ending March 31, June
21 30, September 30 and December 31.

22 “Bank Secrecy Act”, the Bank Secrecy Act, 31 U.S.C. section 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, at least 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, that for rebuttable presumptions of control a
34 person shall be presumed to exercise a controlling influence when the person holds the power to
35 vote, directly or indirectly, at least 10 per cent of the outstanding voting shares or voting interests
36 of a licensee or person in control of a licensee; and provided further, that a person presumed to
37 exercise a controlling influence may rebut the presumption of control if the person is a passive
38 investor. For purposes of determining the percentage of a person controlled by any other person,
39 the person's interest shall be aggregated with the interest of any other immediate family member,
40 including the person's spouse, parents, children, siblings, mothers- and fathers-in law, sons- and
41 daughters-in-law, brothers- and sisters-in-law and any other person who shares such person's
42 home. Consistent with the authority described in subsection (b) of section 4, the commissioner
43 may adopt regulations, policies and procedures as necessary, which may modify the definition of
44 "control".

45 "Division", the division of banks.

46 "Eligible rating", a credit rating of any of the 3 highest rating categories provided by an
47 eligible rating service, whereby each category may include rating category modifiers such as
48 "plus" or "minus" for S&P, or the equivalent for any other eligible rating service. Long-term
49 credit ratings shall be deemed eligible if the rating is equal to A- or higher by S&P, or the
50 equivalent from any other eligible rating service. Short-term credit ratings shall be deemed
51 eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any
52 other eligible rating service. In the event that ratings differ among eligible rating services, the
53 highest rating shall apply when determining whether a security bears an eligible rating.

54 “Eligible rating service”, any nationally recognized statistical rating organization, as
55 defined by the United States Securities and Exchange Commission, and any other organization
56 designated by the commissioner by rule or order.

57 “Federally insured depository financial institution”, a bank, credit union, savings and loan
58 association, trust company, savings association, savings bank, industrial bank, or industrial loan
59 company organized under the laws of the United States or any state of the United States, when
60 such bank, credit union, savings and loan association, trust company, savings association,
61 savings bank, industrial bank or industrial loan company has federally insured deposits.

62 “Individual”, a natural person.

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

71 “Key individual”, any individual ultimately responsible for establishing or directing
72 policies and procedures of the licensee, such as an executive officer, manager, director, or
73 trustee.

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

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

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

80 “Money”, a medium of exchange that is authorized or adopted by the United States or a
81 foreign government. Money shall include a monetary unit of account established by an
82 intergovernmental organization or by agreement between 2 or more governments.

83 “Money transmission”, (i) selling or issuing payment instruments to a person located in
84 the commonwealth; (ii) selling or issuing stored value to a person located in the commonwealth;
85 or (iii) receiving money for transmission from a person located in the commonwealth. Money
86 transmission shall apply only to those transactions engaged in by a person for personal, family or
87 household purposes and shall not include the provision solely of online or telecommunications
88 services or network access.

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

92 “Multistate licensing process”, any agreement entered into by and among state regulators
93 relating to coordinated processing of applications for money transmission licenses, applications
94 for the acquisition of control of a licensee, control determinations, or notice and information
95 requirements for a change of key individuals.

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

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

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

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

124 “Person”, any individual, general partnership, limited partnership, limited liability
125 company, corporation, trust, association, joint stock corporation or other corporate entity
126 identified by the commissioner.

127 “Prepaid access”, as defined by 31 C.F.R. 1010.100, as amended or recodified from time
128 to time.

129 “Receiving money for transmission” or “money received for transmission”, receiving
130 money or monetary value in the United States for transmission within or outside the United
131 States by electronic or other means.

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

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

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

140 “Tangible net worth”, the aggregate assets of a licensee excluding all intangible assets,
141 less liabilities, as determined in accordance with United States generally accepted accounting
142 principles.

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

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

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

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

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

167 (iv) the United States or a department, agency, or instrumentality thereof, or its agent.

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

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

172 (vii) a federally insured depository financial institution, bank holding company, office of
173 an international banking corporation, foreign bank that establishes a federal branch pursuant to
174 the International Bank Act, 12 U.S.C. section 3102, as amended or recodified from time to time,
175 corporation organized pursuant to the Bank Service Corporation Act, 12 U.S.C. sections 1861 to
176 1867, inclusive, as amended or recodified from time to time or corporation organized under the
177 Edge Act, 12 U.S.C. sections 611 to 633, inclusive, as amended or recodified from time to time;

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

180 instrumentality thereof, or on behalf of a state or governmental subdivision, agency or
181 instrumentality thereof;

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

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

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

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

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

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

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

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

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

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

216 (iii) accept, from other state or federal government agencies or officials, licensing,
217 examination or investigation reports made by such other state or federal government agencies or
218 officials; and

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

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

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

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

247 (2) The commissioner may disclose information not otherwise subject to disclosure under
248 paragraph (1): (i) to representatives of state or federal agencies who agree in writing that they
249 will maintain the confidentiality of the information; or (ii) if the commissioner finds that the
250 release is reasonably necessary for the protection and interest of the public in accordance with
251 chapter 66.

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

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

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

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

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

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

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

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

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

270 (2) The commissioner may:

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

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

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

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

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

285 standards and examination procedures when such standards will reasonably achieve the
286 requirements of this paragraph.

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

290 (d)(1) The commissioner may participate in multistate supervisory processes established
291 between states and coordinated through the Conference of State Bank Supervisors, the Money
292 Transmitter Regulators Association and affiliates and successors thereof for all licensees that
293 hold licenses in the commonwealth and other states. As a participant in multistate supervision,
294 the commissioner may:

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

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

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

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

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

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

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

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

315 (i) identifies the inconsistency; and

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

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

320 (2) This subsection shall not apply to:

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

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

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

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

332 (2) In order to administer this chapter, the commissioner may establish relationships or
333 contracts with NMLS or other entities designated by NMLS to enable the commissioner to: (i)
334 collect and maintain records; (ii) coordinate multistate licensing processes and supervision
335 processes; (iii) process fees; and (iv) facilitate communication between the division and licensees
336 or other persons subject to this chapter.

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

343 (4) The commissioner may utilize NMLS forms, processes and functionalities in
344 accordance with this chapter. If NMLS does not provide functionality, forms or processes for a
345 provision of this chapter, the commissioner may implement the requirements in a manner that
346 facilitates uniformity with respect to licensing, supervision, reporting and regulation of licensees
347 that are licensed in multiple jurisdictions.

348 (5) For the purpose of participating in the NMLS, the commissioner may waive or
349 modify, in whole or in part, by rule, regulation or order, any or all of the requirements and to
350 establish new requirements as reasonably necessary to participate in the NMLS.

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

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

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

364 (i) the individual's fingerprints for submission to the Federal Bureau of Investigation and
365 the commissioner for purposes of a national criminal history background check unless the person
366 currently resides outside of the United States and has resided outside of the United States for the
367 last 10 years;

368 (ii) personal history and experience in a form and in a medium prescribed by the
369 commissioner, to obtain: (A) an independent credit report from a consumer reporting agency

370 unless the individual does not have a Social Security number, in which case, this requirement
371 shall be waived; (B) information related to any criminal convictions or pending charges; and (C)
372 information related to any regulatory or administrative action and any civil litigation involving
373 claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary
374 duty, or breach of contract.

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

381 (B) At a minimum, the investigative background report shall be written in English and
382 shall contain the following:

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

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

390 (iii) employment history;

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

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

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

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

403 (2) A determination by the commissioner that an application is complete and is accepted
404 for processing shall mean only that the application, on its face, appears to include all of the
405 items, including the criminal background check response from the FBI, and address all of the
406 matters that are required, and shall not be considered an assessment of the substance of the
407 application or of the sufficiency of the information provided.

408 (3) When an application is filed and considered complete under this subsection, the
409 commissioner shall investigate the applicant's financial condition and responsibility, financial
410 and business experience, character, and general fitness. The commissioner may conduct an on-
411 site investigation of the applicant, the reasonable cost of which the applicant shall pay. The
412 commissioner shall issue a license to an applicant under this subsection if the commissioner finds

413 that: (i) the applicant has complied with subsection (c) and subsection (d); and (ii) the financial
414 condition and responsibility, financial and business experience, competence, character, and
415 general fitness of the applicant, and the competence, experience, character and general fitness of
416 the key individuals and persons in control of the applicant indicate that it is in the interest of the
417 public to permit the applicant to engage in money transmission.

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

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

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

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

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

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

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

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

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

452 Section 5. (a)(1) Any person, or group of persons acting in concert, seeking to acquire
453 control of a licensee shall, in cooperation with the licensee, file a notice, in a form and in a
454 medium prescribed by the commissioner, with the commissioner prior to acquiring control. An
455 addition or replacement of a key individual pursuant to subsection (b) shall not be deemed to be
456 an acquisition of control of a licensee and shall not be subject to this section.

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

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

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

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

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

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

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

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

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

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

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

487 (7) The commissioner may accept the determination pursuant to this subsection of
488 another state regulatory agency if a licensee avails itself or is otherwise subject to the multistate
489 licensing process.

490 (b)(1) A licensee adding or replacing any key individual shall: (i) provide notice in a
491 manner prescribed by the commissioner within 15 days after the effective date of the key
492 individual's appointment; and (ii) provide information as required by subsection (d) of section 4.

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

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

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

503 (2) The report of condition shall include:

504 (i) financial information at the licensee level;

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

507 (iii) permissible investments report;

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

510 (v) any other information the commissioner reasonably requires with respect to the
511 licensee.

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

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

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

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

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

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

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

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

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

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

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

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

548 (2) A licensee shall file a report with the commissioner within 3 business day after the
549 licensee has reason to know of the occurrence of a charge or conviction of the licensee, a key
550 individual, a person in control of the licensee or an authorized delegate for a felony.

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

556 (f)(1) A licensee shall maintain the following records for not less than 3 years, for
557 determining its compliance with this chapter:

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

559 (ii) a general ledger posted at least monthly containing all asset, liability, capital, income
560 and expense accounts;

561 (iii) bank statements and bank reconciliation records;

562 (iv) records of outstanding money transmission obligations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

608 (4) If the licensee's license is suspended, revoked, surrendered or expired, the licensee
609 shall, within 5 business days, provide documentation to the commissioner that the licensee has
610 notified all applicable authorized delegates of the licensee whose names are in a record filed with
611 the commissioner of the suspension, revocation, surrender or expiration of a license. Upon
612 suspension, revocation, surrender or expiration of a license, applicable authorized delegates shall
613 immediately cease to provide money transmission as an authorized delegate of the licensee.

614 (5) An authorized delegate of a licensee shall hold in trust for the benefit of the licensee
615 all money net of fees received from money transmission. If any authorized delegate commingles
616 any funds received from money transmission with any other funds or property owned or
617 controlled by the authorized delegate, all commingled funds and other property shall be
618 considered held in trust in favor of the licensee in an amount equal to the amount of money net
619 of fees received from money transmission.

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

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

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

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

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

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

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

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

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

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

647 (iii) the agreement between the licensee and the sender instructs the licensee to forward
648 the money at a time that is beyond 10 days of the date on which the money was received for
649 transmission; provided, that if funds have not yet been forwarded in accordance with the terms of
650 the agreement between the licensee and the sender, the licensee shall issue a refund in
651 accordance with the other provisions of this subsection;

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

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

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

659 (i) money received for transmission subject to the federal Remittance Rule 12 C.F.R. Part
660 1005, Subpart B, as amended or recodified from time to time;

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

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

665 (2) For purposes of this section, “receipt” shall mean a paper receipt, electronic record or
666 other written confirmation. For a transaction conducted in person, the receipt may be provided
667 electronically if the sender requests or agrees to receive an electronic receipt. For a transaction
668 conducted electronically or by phone, a receipt may be provided electronically. All electronic
669 receipts shall be provided in a retainable form.

670 (3)(1) Every licensee or its authorized delegate shall provide the sender a receipt for
671 money received for transmission. The receipt shall contain the following information, as
672 applicable:

673 (i) the name of the sender;

674 (ii) the name of the designated recipient;

675 (iii) the date of the transaction;

676 (iv) the unique transaction or identification number;

677 (v) the name of the licensee, NMLS Unique ID, the licensee’s business address and the
678 licensee’s customer service telephone number;

679 (vi) the amount of the transaction in United States dollars;

680 (vii) any fee charged by the licensee to the sender for the transaction; and

681 (viii) any taxes collected by the licensee from the sender for the transaction.

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

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

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

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

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

696 (2) The amount of the required security shall be the greater of \$100,000 or an amount
697 equal to 100 per cent of the licensee's average daily money transmission liability in the
698 commonwealth calculated for the most recently completed 3-month period not greater than
699 \$500,000.

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

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

705 (c)(1) A licensee shall maintain at all times permissible investments, pursuant to
706 subsection (d), that have a market value computed in accordance with the United States generally
707 accepted accounting principles of not less than the aggregate amount of all of its outstanding
708 money transmission obligations.

709 (2) Except for permissible investments enumerated in paragraph (1) of subsection (d), the
710 commissioner, with respect to any licensee, may limit, by rule or order, the extent to which a
711 specific investment maintained by a licensee within a class of permissible investments may be
712 considered a permissible investment, if the specific investment represents undue risk to
713 customers, not reflected in the market value of investments.

714 (3) Permissible investments, even if commingled with other assets of the licensee, shall
715 be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money
716 transmission obligations in the event of insolvency, the filing of a petition by or against the
717 licensee pursuant to the United States Bankruptcy Code, 11 U.S.C. section 101-110, as amended
718 or recodified from time to time, for bankruptcy or reorganization, the filing of a petition by or
719 against the licensee for receivership, the commencement of any other judicial or administrative
720 proceeding for its dissolution or reorganization or in the event of an action by a creditor against
721 the licensee who is not a beneficiary of this statutory trust. No permissible investments

722 impressed with a trust pursuant to this paragraph shall be subject to attachment, levy of execution
723 or sequestration by order of any court, except for a beneficiary of this statutory trust.

724 (4) Upon the establishment of a statutory trust in accordance with paragraph (3) or when
725 any funds are drawn on a letter of credit pursuant to clause (iv) of paragraph (1) of subsection
726 (d), the commissioner shall notify the applicable regulator of each state in which the licensee is
727 licensed to engage in money transmission, if any, of the establishment of the trust or the funds
728 drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed
729 pursuant to a multistate agreement or through NMLS. Funds drawn on a letter of credit, and any
730 other permissible investments held in trust for the benefit of the purchasers and holders of the
731 licensee's outstanding money transmission obligations, shall be deemed held in trust for the
732 benefit of such purchasers and holders on a pro rata and equitable basis in accordance with
733 statutes pursuant to which permissible investments are required to be held in the commonwealth,
734 and other states, as applicable. Any statutory trust established hereunder shall be terminated upon
735 extinguishment of all of the licensee's outstanding money transmission obligations.

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

740 (d)(1) The following investments shall be permissible under subsection (c):

741 (i) cash, including demand deposits, savings deposits and funds in such accounts held for
742 the benefit of the licensee's customers in a federally insured depository financial institution and
743 cash equivalents, including ACH items in transit to the licensee and ACH items or international

744 wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-
745 owned locations, debit card or credit card-funded transmission receivables owed by any bank or
746 money market mutual funds rated AAA by S&P or the equivalent from any eligible rating
747 service;

748 (ii) certificates of deposit or senior debt obligations of an insured depository institution,
749 as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. section 1813, as amended
750 or recodified from time to time, or as defined in the Federal Credit Union Act, 12 U.S.C. section
751 1781, as amended or recodified from time to time;

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

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

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

760 (2) Unless permitted by the commissioner by rule or by order to exceed the limit as set
761 forth herein, the following investments shall be permissible under subsection (c) to the extent
762 specified:

763 (i) receivables that are payable to a licensee from its authorized delegates in the ordinary
764 course of business that are less than 7 days old, up to 50 per cent of the aggregate value of the
765 licensee's total permissible investments;

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

769 (iii) the following shall be permissible up to 20 per cent per category and combined up to
770 50 per cent of the aggregate value of the licensee's total permissible investments:

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

772 (B) commercial paper bearing an eligible rating;

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

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

777 (E) money market mutual funds rated less than AAA and equal to or higher than A- by
778 S&P or the equivalent from any other eligible rating service; and

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

781 (iv) cash, including demand deposits, savings deposits and funds in such accounts held
782 for the benefit of the licensee's customers, at foreign depository institutions, shall be permissible

783 up to 10 per cent of the aggregate value of the licensee's total permissible investments if the
784 licensee has received a satisfactory rating in its most recent examination and the foreign
785 depository institution:

786 (A) has an eligible rating;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

842 (2) If the commissioner makes written findings of fact that the public interest will be
843 irreparably harmed by delay in issuing an order pursuant to subsection (a), the commissioner
844 may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist
845 order, the commissioner shall promptly notify, in writing, the person or entity affected thereby
846 that such order has been so entered, the reasons therefor, and that within 20 days after the receipt
847 of a written request from such person or entity, the matter shall be scheduled for a hearing to
848 determine whether or not such temporary order shall become permanent and final. If no such
849 hearing is requested and none is ordered by the commissioner, the order shall remain in effect
850 until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the
851 commissioner, after giving notice of and opportunity for a hearing to the person or entity subject
852 to said order, shall, by written finding of facts and conclusions of law, vacate, modify or make
853 permanent the order.

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

858 (4) Any order issued pursuant to this section shall be subject to review as provided in
859 chapter 30A.

860 (d) The commissioner may assess a civil penalty against a person or entity that violates
861 this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed
862 \$2,000 per day for each day the violation is outstanding or per transaction, plus the

863 commonwealth's costs and expenses for the investigation and prosecution of the matter,
864 including reasonable attorney's fees.

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

867 Section 11. In applying and construing this act, consideration shall be given to the need to
868 promote uniformity of the law with respect to its subject matter among states that enact it.

869 SECTION 4. (a) A license issued pursuant to chapter 169 of the General Laws or section
870 4 of chapter 167F of the General Laws, including all authorized delegate location designations,
871 that is in effect immediately before the effective date of chapter 169B of the General Laws shall
872 remain in effect as a license pursuant to said chapter 169 or said section 4 of said chapter 167F.
873 Such licensees shall file a renewal application in accordance with section 5 of said chapter 169B,
874 as inserted by section 3.

875 (b) Any person that was not required to obtain a license pursuant to chapter 169 of the
876 General Laws or pursuant to section 4 of chapter 167F of the General Laws, but that is now
877 required to obtain a license pursuant to chapter 169B of the General Laws shall file an
878 application for a license within 6 months of the effective date of section 45 of said chapter 169B,
879 as inserted by section 3, to continue conducting money transmission in the commonwealth
880 directly or through authorized delegates. If such application is timely filed and pending with the
881 commissioner, that person may continue to conduct money transmission in the commonwealth,
882 until such time as the application has been approved, withdrawn or denied.

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

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

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

892 SECTION 6. Sections 1, 2 and 4 to 11, inclusive, of chapter 169B of the General Laws,
893 inserted by section 3, shall take effect 9 months after the effective date of this act.

894 SECTION 7. Section 3 of chapter 169B of the General Laws, inserted by section 3, shall
895 take effect upon passage.