

**SENATE . . . . . No. 3048**

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The Commonwealth of Massachusetts

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

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

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

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

7 SECTION \_\_\_\_ Chapter 169 of the General Laws is hereby repealed.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

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

11 CHAPTER 169B.

12 LICENSING AND SUPERVISION OF MONEY TRANSMITTERS.

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

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

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

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

22           “Commissioner”, the commissioner of banks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

83 (d) a bank, as defined in section 1 of chapter 167, a national banking association, a  
84 federally chartered credit union, a federal savings and loan association, a federal savings bank, or  
85 any subsidiary of the above, or any bank, trust company, savings bank, savings and loan  
86 association, or credit union organized under the laws of any other state, or any subsidiary of the  
87 above, a bank holding company, an office of an international banking corporation, a branch of a  
88 foreign bank, a corporation organized pursuant to the Bank Service Company Act 12 U.S.C.  
89 1861 et seq, or a corporation organized under the Edge Act 12 U.S.C. 611-632, under the laws of  
90 a state or the United States if the person does not issue, sell or provide payment instruments or  
91 stored value through an authorized delegate that is not such a person;

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

95 (f) a board of trade designated as a contract market under the Commodity Exchange Act  
96 7 U.S.C. 1 or a person that, in the ordinary course of business, provides clearance and settlement  
97 services for a board of trade to the extent of its operation as or for such a board of trade;

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

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

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

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

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

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

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

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

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

136 Section 4. (a) The commissioner may establish a minimum net worth not greater than  
137 \$5,000,000 for entities engaged in the business of money transmission.

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

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

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

148 This section shall take effect upon passage.

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

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



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

170 (3) Each application for a license shall be accompanied by an investigation fee.  
171 Investigation and license fees shall be determined annually by the secretary of administration and  
172 finance under section 3B of chapter 7.

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

187 this chapter or regulations promulgated hereunder, any similar regulatory scheme of another  
188 jurisdiction or any other law applicable to the conduct of the business sought to be licensed; or  
189 (iv) a licensee or authorized delegate of a licensee located at the address at which the applicant  
190 intends to operate the business has had any license, registration or other authorization issued by  
191 the commissioner suspended or revoked within 6 months of the date of the new application.  
192 Within 20 days thereafter, the commissioner shall enter upon the records a written decision and  
193 findings containing the reasons supporting the denial and shall forthwith give written notice  
194 thereof by registered mail to the applicant. Within 30 days after the date of such notice, the  
195 applicant may appeal from such denial to the superior court for Suffolk county, sitting in equity.  
196 The court shall hear all pertinent evidence and determine the facts and upon the facts as so  
197 determined, review said denial and, as justice and equity may require, affirm the same or order  
198 the commissioner to issue such license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

397 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
398 an order issued pursuant to subsection (b) or (c), has been prohibited from participating in whole  
399 or in part in the conduct of the business of money transmission in the commonwealth shall not,  
400 while such order is in effect, continue or commence to perform in the capacity of a principal  
401 employee, or otherwise participate in any manner, if so prohibited by order of the commissioner,  
402 in the conduct of the affairs of: (i) any licensee under this chapter; (ii) any other business which  
403 requires a license from the commissioner; or (iii) any bank, as defined under section 1 of chapter  
404 167, or any subsidiary thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

447 Companies Act of 1940, 15 U.S.C. Section 80a-1-64 and whose portfolio is restricted by the  
448 management company's investment policy to investments specified in paragraphs (1) through  
449 (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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