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HOUSE BILL NO. 343

Offered January 10, 2024

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A BILL to amend and reenact §§ 6.2-1900 through 6.2-1904, 6.2-1905 through 6.2-1914, 6.2-1916, 6.2-1917, 6.2-1918, 6.2-1920, and 6.2-1921 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 19 of Title 6.2 an article numbered 2, consisting of sections numbered 6.2-1922 through 6.2-1956, relating to financial institutions; regulation of money transmitters; penalty.

Patron—Cole

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1900 through 6.2-1904, 6.2-1905 through 6.2-1914, 6.2-1916, 6.2-1917, 6.2-1918, 6.2-1920, and 6.2-1921 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 19 of Title 6.2 an article numbered 2, consisting of sections numbered 6.2-1922 through 6.2-1956, as follows:

*Article 1.**Money Sellers.***§ 6.2-1900. Definitions.**

As used in this chapter article, unless the context requires a different meaning:

"Authorized delegate" means a person designated or appointed by a licensee to sell money orders or provide money transmission services on behalf of the licensee.

"Licensee" means a person licensed under this chapter article to engage in the business of selling money orders or the business of money transmission, or both.

"Member" means a person who owns or controls a 10 percent or greater interest in a limited liability company.

"Monetary value" means a medium of exchange, whether or not redeemable in money.

"Money order" means a check, traveler's check, draft, or other instrument for the transmission or payment of money or monetary value whether or not negotiable.

"Money order seller" means a person engaged in the business of selling money orders.

"Money transmission" means receiving money or monetary value for transmission by wire, facsimile, electronic means or other means or selling or issuing stored value.

"Money transmitter" means a person engaged in the business of money transmission.

"Nationwide Multistate Licensing System and Registry" or "Registry" means the licensing and registration system operated by the State Regulatory Registry LLC.

"Outstanding" means:

1. With respect to a money order, a money order that has been issued and sold directly by a licensee, or sold by an authorized delegate of the licensee and reported to the licensee, that has not yet been paid by or on behalf of the licensee; or

2. With respect to a money transmission transaction, a money transmission transaction for which the licensee, directly or through an authorized delegate of the licensee, has received money or monetary value from a customer for transmission, but has not yet (i) completed the money transmission transaction by delivering the money or monetary value to the person designated by the customer, or (ii) refunded the money or monetary value to the customer.

"Principal" means any person who, directly or indirectly, owns or controls a 10 percent or greater interest in any form of entity.

"Stored value" means monetary value that is evidenced by an electronic record.

§ 6.2-1901. License required; exception.

A. No person shall engage in the business of selling money orders or engage in the business of money transmission, whether or not the person has a location in the Commonwealth, unless the person obtains from the Commission a license issued pursuant to this chapter article.

B. No license under this chapter article shall be required of any authorized delegate of a licensee.

C. Every person required to be licensed under this chapter article shall register with the Registry and be subject to such registration and renewal requirements as may be established by the Registry, in addition to any requirements of this chapter article. In adopting regulations pursuant to § 6.2-1913, the Commission shall include any terms, conditions, or requirements applicable to such registration and renewal. Any fees required by the Registry shall be separate and apart from any fees imposed by this

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59 ~~chapter article~~. The Commission, at its discretion, may collect any registration and renewal fees on
60 behalf of the Registry and remit such fees to the Registry or permit the Registry to collect any fees
61 imposed by this ~~chapter article~~ and remit such fees to the Commission.

62 D. In connection with its implementation and administration of this ~~chapter article~~, the Commission
63 may establish agreements or contracts with the Registry or other entities designated by the Registry to
64 collect, distribute, and maintain information and records and process fees related to persons required to
65 be licensed under this ~~chapter article~~. In establishing such agreements or contracts, the Commission shall
66 not be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

67 **§ 6.2-1902. Scope and construction of article.**

68 A. The provisions of this ~~chapter article~~ shall not apply to:

69 1. The United States, or any department, instrumentality or agency thereof;

70 2. Any state, or any department, instrumentality, agency, locality, municipality, or political
71 subdivision thereof;

72 3. Any bank, trust company, savings institution, or credit union operating under the laws of the
73 United States or any state or territory thereof; ~~or other person to the extent the person provides money~~
74 ~~transmission services as an agent of one or more banks, trust companies, savings institutions, or credit~~
75 ~~unions operating under the laws of the United States or any state or territory thereof;~~

76 4. Any private security services business, licensed under § 9.1-139, that transports or offers to
77 transport money; or

78 5. Any entity that has been explicitly designated in a written agreement as an agent of any
79 governmental authority or unit identified in subdivision 1 or 2, provided that any funds collected by the
80 agent shall be deemed for all purposes to be received by the governmental authority or unit. This
81 subdivision shall not be construed to prohibit the governmental authority or unit from seeking
82 indemnification from its agent for any direct losses incurred due to the agent's failure to remit funds in
83 accordance with its agreement.

84 B. This ~~chapter article~~ shall be construed by the Commission for the purpose of protecting, against
85 financial loss, residents of the Commonwealth who ~~(i) purchase money orders or (ii) give money or~~
86 ~~control of their funds or credit into the custody of another person for transmission~~, regardless of whether
87 the money order seller ~~or money transmitter~~ has any office, facility, authorized delegate, or other
88 physical presence in the Commonwealth.

89 **§ 6.2-1903. Application for license; financial statements; application fee.**

90 A. Applications for a license shall be made on forms furnished by the Commissioner and shall set
91 forth the name and address of the applicant, which shall be an entity, a description of the manner in
92 which and the locations at which it proposes to do business, and such additional relevant information as
93 the Commissioner requires. If any material information provided by the applicant changes during the
94 investigation period, the applicant shall immediately notify the Commissioner.

95 B. The application shall be accompanied by such audited financial statements as the Commissioner
96 may require and an application fee of \$1,000. If an application for a license under this ~~chapter article~~ is
97 denied, the application fee shall not be refunded. The fee shall not be abated by the expiration,
98 surrender, or revocation of the license.

99 **§ 6.2-1904. Bond required.**

100 A. The application for a license shall be accompanied by a surety bond satisfactory to the
101 Commissioner in the principal amount as determined by the Commissioner. The amount of the bond
102 shall be not less than \$25,000 nor more than \$1 million. The bond shall be conditioned upon the
103 licensee (i) performing its obligations to purchasers, payees, and holders of money orders ~~and money~~
104 ~~transmission services~~ sold by the licensee and its authorized delegates and (ii) conducting the licensed
105 business in conformity with this ~~chapter article~~.

106 B. As an alternative security device and in lieu of the surety bond required by subsection A, a
107 license applicant may deposit with a financial institution designated by such applicant and approved by
108 the Commissioner for that purpose, cash, stocks and bonds, notes, debentures or other obligations of the
109 United States or any agency or instrumentality thereof, or guaranteed by the United States, or of the
110 Commonwealth, or of a locality or other political subdivision of the Commonwealth, in an aggregate
111 amount, based upon the principal amount or market value, whichever is lower, of not less than the
112 amounts required by the Commissioner pursuant to subsection A. Such cash or securities shall be
113 deposited and held to secure obligations established in subsection A, but the licensee shall be entitled to
114 (i) receive all interest and dividends thereon and (ii) substitute, with the Commissioner's prior approval,
115 other securities for those deposited. The Commissioner may also direct the licensee, for good cause
116 shown, to substitute other securities for those deposited.

117 C. The security device required by this section shall remain in place for five years after a licensee
118 ceases money order sales ~~or money transmission activities~~. The Commissioner may permit the security
119 device to be reduced or eliminated prior to that time to the extent the amount of such licensee's
120 outstanding money orders ~~and money transmission transactions~~ are reduced. The Commissioner may also

121 permit any licensee to substitute a letter of credit, or such other form of security device as may be
 122 acceptable to the Commissioner, for the security device in place at the time the licensee ceases money
 123 order sales or ~~money transmission activities~~.

124 **§ 6.2-1905. Annual fees; expenses; annual reports; renewal.**

125 A. Each licensee shall pay to the Commission annually on or before December 31 a license renewal
 126 fee of \$750. All fees paid pursuant to this ~~chapter~~ *article* shall be paid into the state treasury and
 127 credited to the "Financial Institutions Special Fund — State Corporation Commission."

128 B. In order to defray the costs of their examination and supervision, every licensee under this ~~chapter~~
 129 *article* shall pay an annual assessment calculated in accordance with a schedule set by the Commission.
 130 The schedule shall bear a reasonable relationship to the dollar volume of money orders sold and
 131 ~~Virginia money transmission business~~ conducted by licensees, either directly or through their authorized
 132 delegates, the costs of their examinations, and to other factors relating to their supervision and
 133 regulation. All such fees shall be assessed on or before August 1 for every calendar year. All such fees
 134 shall be paid by licensees to the State Treasurer on or before September 1 following each assessment.

135 C. In addition to the annual assessment prescribed in subsection B, when it becomes necessary to
 136 examine or investigate the affairs, business, premises, books, or records of a licensee or any of its
 137 authorized delegates at a location outside the Commonwealth, the licensee shall be liable for and shall
 138 pay to the Commission within 30 days of the presentation of an itemized statement, the actual travel and
 139 reasonable living expenses incurred on account of its examination or investigation, or shall pay a
 140 reasonable per diem rate approved by the Commission.

141 D. Each licensee under this ~~chapter~~ *article* shall file periodic written reports with the Commissioner
 142 or the Registry containing such information as the Commissioner may require concerning the licensee's
 143 business and operations, including audited financial statements. Reports shall be in the form and be
 144 submitted with such frequency and by such dates as may be prescribed by the Commissioner. If a
 145 licensee is unable to furnish copies of its audited financial statements by the dates prescribed by the
 146 Commissioner, the licensee may request an extension, which may be granted by the Commissioner for
 147 good cause shown.

148 E. If a license has expired or has been surrendered or revoked, the former licensee shall immediately
 149 (i) cease selling money orders and ~~engaging in the money transmission business~~, and (ii) instruct its
 150 authorized delegates to cease selling money orders and ~~accepting funds for transmission on behalf of the~~
 151 ~~licensee~~. The Commission may grant relief from this subsection for good cause shown.

152 F. A license issued under this ~~chapter~~ *article* shall expire on December 31 of each year unless it is
 153 renewed by a licensee prior to the expiration date. A licensee may renew its license by (i) requesting
 154 renewal through the Registry; (ii) complying with any requirements associated with such renewal request
 155 that are imposed by the Registry; (iii) paying the license renewal fee prescribed in subsection A; (iv)
 156 paying the annual assessment prescribed in subsection B; (v) filing the periodic written reports and
 157 audited financial statements prescribed in subsection D; and (vi) maintaining the minimum net worth
 158 specified in subsection B of § 6.2-1906, as evidenced by its audited financial statements. If the
 159 Commissioner finds that the licensee has satisfied these requirements, the Commissioner shall renew
 160 such person's license. If a license has expired, the former licensee may seek reinstatement on or before
 161 the last day of February of the following calendar year. Upon finding that the former licensee has
 162 complied with the renewal requirements set forth in this subsection and remitted payment of a
 163 reinstatement fee of \$1,000, the Commissioner shall reinstate such person's license.

164 **§ 6.2-1906. Conditions prerequisite to issuance of license; net worth requirement.**

165 A. The Commission shall not issue a license to an applicant unless it determines that:

166 1. The applicant will be able to and will perform its obligations to ~~purchasers of money transmission~~
 167 ~~services and~~ purchasers, payees, and holders of money orders sold by it and its authorized delegates; and

168 2. The financial responsibility, character, reputation, experience, and general fitness of the applicant
 169 and its members, senior officers, directors, and principals are such as to warrant belief that the business
 170 will be operated efficiently and fairly, in the public interest, and in accordance with applicable law and
 171 regulations.

172 B. Each licensee shall at all times have a net worth of not less than \$200,000, or a higher amount
 173 not to exceed \$1 million as determined by the Commission, calculated in accordance with generally
 174 accepted accounting principles.

175 **§ 6.2-1906.1. Licenses; places of business; changes.**

176 A. Each license shall state the address at which the principal place of business is to be conducted
 177 and shall state fully the legal name of the licensee as well as any fictitious names by which the licensee
 178 is conducting business under this ~~chapter~~ *article*. Licenses shall not be transferable or assignable, by
 179 operation of law or otherwise. No licensee shall use any names other than the legal name or fictitious
 180 names set forth on the license issued by the Commission.

181 B. Every licensee shall notify the Commissioner, in writing, at least 30 days prior to relocating its

principal place of business and confirm the change in writing within five days after such relocation.

C. Every licensee shall within 10 days notify the Commissioner, in writing, of (i) any change to its legal name, (ii) any change to or additional fictitious name by which the licensee is conducting business under this ~~chapter~~ article, and (iii) the name, address, and position of each new member, senior officer, director, or principal. At the direction of the Commissioner, any such individual shall be treated as a member, senior officer, director, or principal of an applicant for the purpose of being investigated pursuant to subsection B of § 6.2-1904.1. The licensee shall provide such other information with respect to the changes and persons identified in this subsection as the Commissioner may reasonably require.

D. Every license shall remain in force until it expires or has been surrendered or revoked. The expiration, surrender, or revocation of a license shall not affect any preexisting legal right or obligation of the licensee.

§ 6.2-1907. License revocation.

A. The Commission may revoke a license issued under this ~~chapter~~ article:

1. If it reasonably determines that (i) a licensee is engaging in one or more unsafe or unsound practices, (ii) a licensee may be unable to perform its obligations, or (iii) a licensee has willfully failed without reasonable cause to pay or provide for the payment of any of its obligations; or

2. Upon any of the following grounds:

a. Any ground for denial of a license under this ~~chapter~~ article;

b. Any violation of the provisions of this ~~chapter~~ article or regulations adopted by the Commission pursuant thereto, or a violation of any other law or regulation applicable to the conduct of the licensee's business;

c. Conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;

d. Entry of a judgment against such licensee involving fraud, misrepresentation, or deceit;

e. Entry of a federal or state administrative order against such licensee for violation of any law or any regulation applicable to the conduct of his business;

f. Refusal to permit an investigation or examination by the Commission;

g. Failure to pay any fee or assessment imposed by this ~~chapter~~ article; or

h. Failure to comply with any order of the Commission.

B. For the purposes of this section, acts of any officer, director, member, partner, or principal shall be deemed acts of the licensee.

§ 6.2-1908. Notice of proposed revocation.

The Commission may not revoke a license issued under this ~~chapter~~ article upon any of the grounds set forth in § 6.2-1907 until it has given the licensee 21 days' notice in writing of the reasons for the proposed revocation and has given the licensee an opportunity to introduce evidence and be heard. The notice shall be sent by certified mail to the principal place of business of such licensee and shall state with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the person or persons named therein may file with the clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not revoke the license except based upon findings made at such hearing.

§ 6.2-1909. Cease and desist orders.

A. If the Commission determines that (i) any person has violated any provision of this ~~chapter~~ article or any regulation adopted hereunder or (ii) a licensee is engaging in one or more unsafe or unsound practices, the Commission may, upon 21 days' notice in writing, order such person to cease and desist from such practices and to comply with the provisions of this ~~chapter~~ article. The notice shall be sent by certified mail to the principal place of business of such person or other address authorized under § 12.1-19.1 and shall state the grounds for the contemplated action. Within 14 days of mailing the notice, the person or persons named therein may file with the clerk of the Commission a written request for a hearing. The Commission may enforce compliance with any such order issued under this section by imposition and collection of such fines and penalties as may be prescribed by law.

B. When, in the opinion of the Commission, immediate action is required to protect the public interest, a cease and desist order may be issued immediately without prior hearing. In such cases, the Commission shall make a hearing available to the person on an expedited basis.

C. If required to conserve the assets of a licensee or protect the public interest, the Commission may order a licensee and its authorized delegates to cease and desist from selling additional money orders ~~or receiving additional funds for transmission.~~

D. The Commission shall have jurisdiction to enter and enforce a cease and desist order against any person, regardless of whether such person is present in the Commonwealth, who directly or indirectly ~~(i) sells money orders to citizens of the Commonwealth or (ii) obtains money or control over such citizens' funds for transmission.~~

§ 6.2-1910. Investigations; examinations; reporting violations.

A. The Commission shall have authority to investigate and examine the affairs, business, premises, books, and records of all money order sellers ~~and money transmitters~~ and their authorized delegates.

Except as provided herein, the Commission shall make an examination of each licensee at least once in every three-year period and shall adjust the surety bond or alternative security device as it may deem necessary in accordance with § 6.2-1904. The Commission may also examine any authorized delegate of a licensee as often as it is deemed to be in the public interest. Examinations under this section may be conducted in conjunction with examinations to be performed by representatives of agencies of the federal government or another state. The Commission, in lieu of an examination, may accept the examination report of the federal government or another state.

B. Any person designated by the Commission to make investigations or examinations pursuant to this section shall have authority to (i) administer oaths; (ii) examine under oath in the course of such investigations or examinations, the principals, members, owners, officers, directors, partners, and employees of any person required to be licensed by this ~~chapter~~ *article* or such person's authorized delegates; and (iii) compel the production of documents. The principals, members, owners, officers, directors, partners, and employees of any person being investigated or examined shall, upon demand of the person making such investigation or examination, afford full access to all premises, books, records, and information that the person making such investigation or examination deems necessary.

C. The Commission shall report violations of the licensing requirements of § 6.2-1901 to the attorney for the Commonwealth of the city or county in which such violation occurs.

§ 6.2-1911. Conduct of business through authorized delegates of licensee.

A. A licensee may conduct its business through or by means of such authorized delegates as the licensee may designate or appoint under a written agreement with such authorized delegates. The agreement between a licensee and an authorized delegate shall (i) require the authorized delegate to comply with the provisions of this ~~chapter~~ *article* and all other applicable state and federal laws and regulations; (ii) require the authorized delegate to remit all sums owing to the licensee in accordance with the terms of the written agreement; (iii) require the authorized delegate to permit the Commission to investigate or examine its business pursuant to § 6.2-1910; and (iv) prohibit the authorized delegate from using a subdelegate, or from otherwise designating or appointing another person to sell money orders ~~or engage in money transmission business~~ on behalf of the licensee.

B. A licensee shall conduct a due diligence review of all new authorized delegates. A licensee shall be responsible for implementing and maintaining a reasonable risk-based supervision program to monitor its authorized delegates.

§ 6.2-1912. Liability of licensee for payment of money order; money order to bear name of licensee.

A. A licensee shall be liable for the payment of ~~all funds collected for transmission by the licensee or its authorized delegates~~ and all money orders which it sells, in whatever form and whether directly or through an authorized delegate, as the maker or drawer thereof according to the negotiable instrument laws of the Commonwealth. A licensee who sells a money order, whether directly or through an authorized delegate, upon which he is not designated as maker or drawer shall nevertheless have the same liabilities with respect thereto as if he had signed the money order as the maker or drawer thereof.

B. Every money order sold by a licensee, whether directly or through an authorized delegate, shall bear the name of the licensee clearly imprinted thereon as it appears on its license.

§ 6.2-1913. Regulations.

The Commission may adopt such regulations as it deems appropriate to effect the purposes of this ~~chapter~~ *article*. Before adopting any such regulation, the Commission shall give reasonable notice of its content and shall afford interested parties an opportunity to be heard, in accordance with the Commission's Rules.

§ 6.2-1914. Acquisition of control; application.

A. Except as provided in this section, no person shall acquire directly or indirectly 25 percent or more of the voting shares of a corporation or 25 percent or more of the ownership of any other entity licensed to conduct business under this ~~chapter~~ *article* unless such person first:

1. Files an application with the Commission in such form as the Commission may prescribe from time to time;

2. Delivers such information as the Commission may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, principals, and members, and of any proposed new directors, senior officers, principals, or members of the licensee;

3. Furnishes to the Commissioner information concerning the identity of the directors, senior officers, principals, and members of the applicant, and of any proposed new directors, senior officers, principals, or members of the licensee. For the purpose of investigating these directors, senior officers, principals, and members, such individuals shall comply with one or both of the following, as applicable:

a. In the case of directors, senior officers, principals, and members who have resided in the United States at any time within the previous 10 years, such individuals shall consent to a national and state criminal history records check and submit to fingerprinting. Each director, senior officer, principal, and

member shall pay for the cost of such fingerprinting and criminal records check. Such individuals shall cause their fingerprints, personal descriptive information, and records check fees to be submitted to either of the following, as prescribed by the Commissioner:

(1) The Bureau, which shall forward these items to the Central Criminal Records Exchange. The Central Criminal Records Exchange shall (i) conduct a search of its own criminal history records and forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individuals, and (ii) forward the results of the state and national records search to the Commissioner or his designee, who shall be an employee of the Commission; or

(2) The Registry, provided that it is capable of processing such criminal history records check.

b. In the case of directors, senior officers, principals, and members who have resided outside of the United States at any time within the previous 10 years, such individuals shall cause an investigative background report to be submitted to the Commissioner. The report shall be prepared by an independent search firm that is acceptable to the Commissioner and be in the English language. Each director, senior officer, principal, and member shall pay for the cost of such report, and the report shall be sent directly by the search firm to the Commissioner or his designee, who shall be an employee of the Commission; and

4. Pays such application fee as the Commission may prescribe.

B. If any material information provided by the applicant changes during the investigation period, the applicant shall immediately notify the Commissioner.

C. Upon the filing and investigation of an application, the Commission shall permit the applicant to acquire the interest in the licensee if it finds that the applicant, its members if applicable, its directors, senior officers, and principals, and any proposed new directors, members, senior officers, and principals have the financial responsibility, character, reputation, experience, and general fitness to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with the applicable laws and regulations. The Commission shall grant or deny the application within 90 days from the date a completed application, accompanied by the required fee, is filed unless the period is extended by the Commission. If the application is denied, the Commission shall notify the applicant of the denial and the reasons for the denial.

D. The provisions of this section shall not apply to the acquisition of an interest in a licensee directly or indirectly by merger, consolidation, or otherwise, (i) by or with a person licensed under this ~~chapter~~ article, (ii) by or with a person affiliated through common ownership with the licensee, or (iii) by bequest, descent, survivorship, or by operation of law. The person acquiring an interest in a licensee in a transaction which is exempt from filing an application by this subsection shall send written notice to the Commission of such acquisition within 30 days after its closing.

E. If any person acquires an ownership interest in a licensee without obtaining prior approval from the Commission as required by this section, the Commission may for good cause shown order such person to divest himself or itself of such ownership interest.

F. The Commission may not enter an order requiring divestiture pursuant to subsection E until it has given the person 21 days' notice in writing of the reasons for the proposed divestiture and has given the person an opportunity to introduce evidence and be heard. The notice shall be sent by certified mail to such person and shall state with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the person named therein may file with the clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not require divestiture except based upon findings made at such hearing.

§ 6.2-1916. Retention of books, accounts, and records.

A. Every licensee shall maintain in its principal place of business such books, accounts, and records as the Commission may reasonably require in order to determine whether such licensee is complying with the provisions of this ~~chapter~~ article and other laws applicable to the conduct of its licensed business. Such books, accounts, and records shall be maintained apart and separate from any other business in which the licensee is involved.

B. Each licensee shall retain the following records for at least three years:

1. A record of each ~~money transmission transaction~~ and money order sold;

2. A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;

3. Bank statements and bank reconciliation records;

4. Records of outstanding money orders and ~~money transmission transactions~~;

5. Records of each money order and ~~money transmission transaction~~ paid or completed within the three-year period; and

6. A list of the names, addresses, and telephone numbers of all of the licensee's authorized delegates.

C. Each licensee shall maintain policies and procedures sufficient for it to comply with this ~~chapter~~ article and all other laws and regulations applicable to the conduct of its licensed business. A licensee

shall furnish copies of its policies and procedures, as amended, to all of its authorized delegates.

§ 6.2-1917. Other reporting requirements.

A. A licensee or other person shall file a report with the Commissioner within 15 days after the licensee or other person becomes aware of any material changes in information previously provided in an application filed under § 6.2-1903 or 6.2-1914. This requirement shall be applicable only to material changes that occur within one year after the date the licensee begins business or the acquisition is consummated.

B. A licensee shall file with the Commissioner no later than 45 days after the end of each fiscal quarter its quarterly financial statements along with a current list of all authorized delegates and locations where the licensee or an authorized delegate of the licensee sells money orders ~~or receives money for transmission~~. The licensee shall state the name, street address, and telephone number of each location and authorized delegate.

C. A licensee shall file a report with the Commissioner within one business day after the licensee becomes aware of the occurrence of any of the following events:

1. The filing of a petition by or against the licensee for bankruptcy or reorganization;
2. The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

3. The commencement of administrative or regulatory proceedings against the licensee by any governmental authority;

4. The cancellation or other impairment of the licensee's bond or other security;

5. Any felony indictment of the licensee or any of its members, partners, directors, officers, principals, or authorized delegates;

6. Any felony conviction of the licensee or any of its members, partners, directors, officers, principals, or authorized delegates; or

7. Such other events as the Commission may prescribe by regulation.

D. Any reports or filings required by this section may be submitted to the Commissioner through the Registry, provided that the Registry is capable of receiving such reports or filings.

§ 6.2-1918. Maintenance of permissible investments.

A. A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate dollar amount of all of its ~~(i) outstanding money orders from all states and (ii) outstanding money transmission transactions from all states~~. For purposes of this subsection, a licensee may calculate the aggregate dollar amount of its outstanding stored value products in accordance with generally accepted accounting principles.

B. The Commission, with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The Commission may prescribe by regulation other types of investments that the Commission determines to have a safety substantially equivalent to other permissible investments.

C. Permissible investments shall be deemed to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money orders ~~and money transmission services~~ in the event of bankruptcy or receivership of the licensee.

§ 6.2-1920. Civil penalties.

In addition to the authority conferred under §§ 6.2-1907 and 6.2-1909, the Commission may impose a civil penalty not exceeding \$2,500 upon any person licensed or required to be licensed under this chapter article who the Commission determines has violated any of the provisions of this chapter article or any other law or regulation applicable to the conduct of the person's business. For the purposes of this section, each separate violation shall be subject to the civil penalty herein prescribed. In the case of a violation of § 6.2-1901, each money order sale ~~or money transmission transaction~~ shall constitute a separate violation.

§ 6.2-1921. Criminal penalty.

Any person required by this chapter article to have a license who sells money orders ~~or engages in the business of money transmission~~ without first being licensed as required by § 6.2-1901 is guilty of a Class 1 misdemeanor.

Article 2.

Money Transmitters.

§ 6.2-1922. Definitions.

As used in this article:

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

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

430 "Average daily money transmission liability" means the amount of the licensee's outstanding money
431 transmission obligations in the Commonwealth at the end of each day in a given period of time, added
432 together, and divided by the total number of days in the given period of time. For purposes of
433 calculating average daily money transmission liability under this article for any licensee required to do
434 so, the given period of time shall be the quarters ending March 31, June 30, September 30, and
435 December 31.

436 "Bank Secrecy Act" means the federal Bank Secrecy Act (31 U.S.C. § 5311, et seq.) and its
437 implementing regulations.

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

441 "Control" means the power to (i) vote, directly or indirectly, at least 25 percent of the outstanding
442 voting shares or voting interests of a licensee or person in control of a licensee; (ii) elect or appoint a
443 majority of key individuals or executive officers, managers, directors, trustees, or other persons
444 exercising managerial authority of a person in control of a licensee; or (iii) exercise, directly or
445 indirectly, a controlling influence over the management or policies of a licensee or person in control of
446 a licensee. A person shall be presumed to exercise a controlling influence when the person holds the
447 power to vote, directly or indirectly, at least 10 percent of the outstanding voting shares or voting
448 interests of a licensee or person in control of a licensee. Such presumption is rebuttable if the person is
449 a passive investor. For purposes of determining the percentage of a person controlled by any other
450 person, the person's interest shall be aggregated with the interest of any other immediate family
451 member, including the person's spouse, parents, children, siblings, mothers-in-law and fathers-in law,
452 sons-in-law and daughters-in-law, brothers-in-law and sisters-in-law, and any other person who shares
453 such person's home.

454 "Eligible rating" means a credit rating of any of the three highest rating categories provided by an
455 eligible rating service, whereby each category may include rating category modifiers such as "plus" or
456 "minus" for S&P, or the equivalent for any other eligible rating service. Long-term credit ratings shall
457 be deemed eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other
458 eligible rating service. Short-term credit ratings shall be deemed eligible if the rating is equal to or
459 higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event
460 that ratings differ among eligible rating services, the highest rating shall apply when determining
461 whether a security bears an eligible rating.

462 "Eligible rating service" means any Nationally Recognized Statistical Rating Organization (NRSRO)
463 as defined by the U.S. Securities and Exchange Commission, and any other organization designated by
464 the Commission by rule or order.

465 "Federally insured depository financial institution" means a bank, credit union, savings and loan
466 association, trust company, savings association, savings bank, industrial bank, or industrial loan
467 company organized under the laws of the United States or any state of the United States, when such
468 bank, credit union, savings and loan association, trust company, savings association, savings bank,
469 industrial bank, or industrial loan company has federally insured deposits.

470 "In the Commonwealth" means at a physical location within the Commonwealth for a transaction
471 requested in person. For a transaction requested electronically or by phone, the provider of money
472 transmission may determine if the person requesting the transaction is in the Commonwealth by relying
473 on other information provided by the person regarding the location of the individual's residential
474 address or a business entity's principal place of business or other physical address location, and any
475 records associated with the person that the provider of money transmission may have that indicate such
476 location, including an address associated with an account.

477 "Individual" means a natural person.

478 "Key individual" means any individual ultimately responsible for establishing or directing policies
479 and procedures of the licensee, such as an executive officer, manager, director, or trustee.

480 "Licensee" means a person licensed under this article.

481 "Material litigation" means litigation that, according to generally accepted accounting principles, is
482 significant to a person's financial health and would be required to be disclosed in the person's annual
483 audited financial statements, report to shareholders, or similar records.

484 "Money" means a medium of exchange that is authorized or adopted by the United States or a
485 foreign government. The term includes a monetary unit of account established by an intergovernmental
486 organization or by agreement between two or more governments.

487 "Monetary value" means a medium of exchange, whether or not redeemable in money.

488 "Money transmission" means (i) selling or issuing payment instruments to a person located in the
489 Commonwealth, (ii) selling or issuing stored value to a person located in the Commonwealth, or (iii)

receiving money for transmission from a person located in the Commonwealth. "Money transmission" includes payroll processing services and does not include the provision solely of online or telecommunications services or network access.

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

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

"Nationwide Multistate Licensing System and Registry" or "NMLS" means the licensing and registration system operated by the State Regulatory Registry LLC.

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

"Passive investor" means a person that (i) does not have the power to elect a majority of key individuals or executive officers, managers, directors, trustees, or other persons exercising managerial authority of a person in control of a licensee; (ii) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee; (iii) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and (iv) attests to clauses (i), (ii), and (iii) in a form and in a medium prescribed by the Commission or commits to the passivity characteristics of (i), (ii), and (iii) in a written document.

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

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

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

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

"Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with generally accepted accounting principles.

§ 6.2-1923. Exemptions.

A. The provisions of this article shall not apply to:

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

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

551 3. A person that acts as an intermediary by processing payments between an entity that has directly
552 incurred an outstanding money transmission obligation to a sender, and the sender's designated
553 recipient, provided that the entity (i) is properly licensed or exempt from licensing requirements under
554 this article; (ii) provides a receipt, electronic record, or other written confirmation to the sender
555 identifying the entity as the provider of money transmission in the transaction; and (iii) bears sole
556 responsibility to satisfy the outstanding money transmission obligation to the sender, including the
557 obligation to make the sender whole in connection with any failure to transmit the funds to the sender's
558 designated recipient.

559 4. The United States or any department, agency, or instrumentality thereof, or its agent.

560 5. Money transmission by the United States Postal Service or by an agent of the United States Postal
561 Service.

562 6. A state, county, city, or any other governmental agency or governmental subdivision or
563 instrumentality of a state, or its agent.

564 7. A federally insured depository financial institution, bank holding company, office of an
565 international banking corporation, foreign bank that establishes a federal branch pursuant to the federal
566 International Bank Act (12 U.S.C. § 3102 et seq.), corporation organized pursuant to the federal Bank
567 Service Corporation Act (12 U.S.C. § 1861 et seq.), or corporation organized under the federal Edge
568 Act (12 U.S.C. § 611 et seq.), under the laws of a state or the United States.

569 8. An electronic funds transfer of governmental benefits for a federal, state, county, or governmental
570 agency by a contractor on behalf of the United States or a department, agency, or instrumentality
571 thereof, or on behalf of a state or governmental subdivision, agency, or instrumentality thereof.

572 9. A board of trade designated as a contract market under the federal Commodity Exchange Act (7
573 U.S.C. § 1 et seq.) or a person that, in the ordinary course of business, provides clearance and
574 settlement services for a board of trade to the extent of its operation as or for such a board.

575 10. A registered futures commission merchant under the federal commodities laws to the extent of its
576 operation as such a merchant.

577 11. A person registered as a securities broker-dealer under federal or state securities laws to the
578 extent of its operation as such a broker-dealer.

579 12. An individual employed by a licensee, authorized delegate, or any person exempted from the
580 licensing requirements of this article when acting within the scope of employment and under the
581 supervision of the licensee, authorized delegate, or exempted person as an employee and not as an
582 independent contractor.

583 13. A person expressly appointed as a third-party service provider to or agent of an entity exempt
584 under subdivision 7 solely to the extent that (i) such service provider or agent is engaging in money
585 transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the
586 specific functions that the service provider or agent is to perform and (ii) the exempt entity assumes all
587 risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations
588 owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the
589 purchaser's or holder's money or monetary value by the service provider or agent.

590 14. A person exempt by regulation or order if the Commission finds such exemption to be in the
591 public interest and that the regulation of such person is not necessary for the purposes of this article.

592 B. The Commission may require that any person claiming to be exempt from licensing pursuant to
593 subsection A provide information and documentation demonstrating that it qualifies for any claimed
594 exemption.

595 **§ 6.2-1924. Implementation.**

596 A. In order to carry out the purposes of this article, the Commission may:

597 1. Enter into agreements or relationships with other government officials or federal and state
598 regulatory agencies and regulatory associations in order to improve efficiencies and reduce regulatory
599 burden by standardizing methods or procedures, and sharing resources, records, or related information
600 obtained under this article;

601 2. Use, hire, contract, or employ analytical systems, methods, or software to examine or investigate
602 any person subject to this article;

603 3. Accept, from other state or federal government agencies or officials, licensing, examination, or
604 investigation reports made by such other state or federal government agencies or officials; and

605 4. Accept audit reports made by an independent certified public accountant or other qualified
606 third-party auditor for an applicant or licensee and incorporate the audit report in any report of
607 examination or investigation.

608 B. The Commission shall have the broad administrative authority to administer, interpret, and
609 enforce this article and promulgate rules or regulations implementing this article and to recover the cost
610 of administering and enforcing this article by imposing and collecting proportionate and equitable fees
611 and costs associated with applications, examinations, investigations, and other actions required to
612 achieve the purpose of this article.

§ 6.2-1925. Confidentiality.

A. Except as otherwise provided in subsection B, all information or reports obtained by the Commission from an applicant, licensee, or authorized delegate, and all information contained in or related to an examination, investigation, operating report, or condition report prepared by, on behalf of, or for the use of the Commission, or financial statements, balance sheets, or authorized delegate information, are confidential.

B. The Commission may disclose information to representatives of state or federal agencies who promise in a record that they will maintain the confidentiality of the information or where the Commission finds that the release is reasonably necessary for the protection and interest of the public.

C. This section shall not prohibit the Commission from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

D. Information contained in the records of Commission that is not confidential and may be made available to the public either on the Commission's website, upon receipt by the Commission of a written request, or in NMLS shall include:

1. The name, business address, telephone number, and unique identifier of a licensee;
2. The business address of a licensee's registered agent for service;
3. The name, business address, and telephone number of all authorized delegates;
4. The terms of or a copy of any bond filed by a licensee, provided that confidential information, including prices and fees for such bond, is redacted; and
5. Copies of any nonconfidential final orders of the Commission relating to any violation of this article or regulations implementing this article.

§ 6.2-1926. Supervision.

A. The Commission may conduct an examination or investigation of a licensee or authorized delegate or otherwise take independent action authorized by this article or by a rule adopted or order issued under this article as reasonably necessary or appropriate to administer and enforce this article, regulations implementing this article, and other applicable law, including the Bank Secrecy Act and the U.S.A. Patriot Act of 2001 (49 U.S.C. § 5103a et seq.). The Commission may:

1. Conduct an examination either on site or off site as the Commission may reasonably require;
2. Conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;
3. Accept the examination report of another state agency or an agency of another state or of the federal government, or a report prepared by an independent accounting firm, which on being accepted is considered for all purposes as an official report of the Commission; and
4. Summon and examine under oath a key individual or employee of a licensee or authorized delegate and require the person to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

B. A licensee or authorized delegate shall provide, and the Commission shall have full and complete access to, all records the Commission may reasonably require to conduct a complete examination. The records shall be provided at the location and in the format specified by the Commission, provided that the Commission may utilize multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this section.

C. Unless otherwise directed by the Commission, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.

§ 6.2-1927. Networked supervision.

A. To efficiently and effectively administer and enforce this article and to minimize regulatory burden, the Commission is authorized and encouraged to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof for all licensees that hold licenses in the Commonwealth and other states. As a participant in multistate supervision, the Commission shall:

1. Cooperate, coordinate, and share information with other state and federal regulators in accordance with § 6.2-1925;
2. Enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations whose membership is made up of state or federal governmental agencies; and
3. Cooperate, coordinate, and share information with organizations whose membership is made up of state or federal governmental agencies, provided that the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with § 6.2-1925.

B. The Commission shall not waive, and nothing in this section shall constitute a waiver of, the Commission's authority to conduct an examination or investigation or otherwise take independent action authorized by this article or a rule adopted or order issued under this article to enforce compliance with applicable state or federal law.

674 C. A joint examination or investigation, or acceptance of an examination or investigation report,
675 shall not waive an examination assessment provided for in this article.

676 **§ 6.2-1928. Relationship to federal law.**

677 A. In the event state money transmission jurisdiction is conditioned on a federal law, any
678 inconsistencies between a provision of this article and the federal law governing money transmission
679 shall be governed by the applicable federal law to the extent of the inconsistency.

680 B. In the event of any inconsistencies between this article and a federal law that governs pursuant to
681 subsection A, the Commission may provide interpretive guidance that identifies the inconsistency and
682 identifies the appropriate means of compliance with federal law.

683 **§ 6.2-1929. License required.**

684 A. No person shall engage in the business of money transmission or advertise, solicit, or hold itself
685 out as providing money transmission unless the person is licensed under this article.

686 B. No person that is an authorized delegate of a person licensed under this article acting within the
687 scope of authority conferred by a written contract with the licensee shall be required to be licensed
688 under this article.

689 C. A license issued under § 6.2-1933 is not transferable or assignable.

690 **§ 6.2-1930. Consistent state licensing.**

691 A. In order to establish consistent licensing between the Commonwealth and other states, the
692 Commission may (i) implement all licensing provisions of this article in a manner that is consistent with
693 other states that have adopted similar provisions or multistate licensing processes and (ii) participate in
694 nationwide protocols for licensing cooperation and coordination among state regulators provided that
695 such protocols are consistent with this article.

696 B. In order to fulfill the purposes of this article, the Commission may establish relationships or
697 contracts with NMLS or other entities designated by NMLS to enable the Commission to (i) collect and
698 maintain records, (ii) coordinate multistate licensing processes and supervision processes, (iii) process
699 fees, and (iv) facilitate communication between the Commonwealth and licensees or other persons
700 subject to this article.

701 C. The Commission may utilize NMLS for all aspects of licensing in accordance with this article,
702 including license applications, applications for acquisitions of control, surety bonds, reporting, criminal
703 history background checks, credit checks, fee processing, and examinations.

704 D. The Commission may utilize NMLS forms, processes, and functionalities in accordance with this
705 article. In the event NMLS does not provide functionality, forms, or processes for a provision of this
706 article, the Commission may strive to implement the requirements in a manner that facilitates uniformity
707 with respect to licensing, supervision, reporting, and regulation of licensees that are licensed in multiple
708 jurisdictions.

709 E. The Commission may establish and adopt, by rule or regulation, requirements for participation by
710 applicants and licensees in NMLS upon the Commission's determination that each requirement is
711 consistent with law, public interest, and the purposes of this article.

712 **§ 6.2-1931. Application for license.**

713 A. Applicants for a license shall apply in a form and in a medium as prescribed by the Commission.
714 Each such form shall contain content as set forth by rule, regulation, instruction, or procedure of the
715 Commission and may be changed or updated by the Commission in accordance with applicable law in
716 order to carry out the purposes of this article and maintain consistency with NMLS licensing standards
717 and practices. The application shall include, as applicable:

718 1. The legal name and residential and business addresses of the applicant and any fictitious or trade
719 name used by the applicant in conducting its business;

720 2. A list of any criminal convictions of the applicant and any material litigation in which the
721 applicant has been involved in the 10-year period next preceding the submission of the application;

722 3. A description of any money transmission previously provided by the applicant and the money
723 transmission that the applicant seeks to provide in the Commonwealth;

724 4. A list of the applicant's proposed authorized delegates and the locations in the Commonwealth
725 where the applicant and its authorized delegates propose to engage in money transmission;

726 5. A list of other states in which the applicant is licensed to engage in money transmission and any
727 license revocations, suspensions, or other disciplinary action taken against the applicant in another
728 state;

729 6. Information concerning any bankruptcy or receivership proceedings affecting the licensee or a
730 person in control of a licensee;

731 7. A sample form of contract for authorized delegates, if applicable;

732 8. A sample form of payment instrument or stored value, as applicable;

733 9. The name and address of any federally insured depository financial institution through which the
734 applicant plans to conduct money transmission; and

735 10. Any other information the Commission or NMLS reasonably requires with respect to the

applicant.

B. If an applicant is a corporation, limited liability company, partnership, or other legal entity, the applicant shall also provide:

1. The date of the applicant's incorporation or formation and jurisdiction of incorporation or formation;

2. If applicable, a certificate of good standing from the jurisdiction in which the applicant is incorporated or formed;

3. A brief description of the structure or organization of the applicant, including any parents or subsidiaries of the applicant, and whether any parents or subsidiaries are publicly traded;

4. The legal name, any fictitious or trade name, all business and residential addresses, and the employment, as applicable, in the 10-year period next preceding the submission of the application of each key individual and person in control of the applicant;

5. A list of any criminal convictions and material litigation in which a person in control of the applicant that is not an individual has been involved in the 10-year period preceding the submission of the application;

6. A copy of audited financial statements of the applicant for the most recent fiscal year and for the two-year period next preceding the submission of the application or, if determined to be acceptable to the Commission, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the Commission;

7. A certified copy of unaudited financial statements of the applicant for the most recent fiscal quarter;

8. If the applicant is a publicly traded corporation, a copy of the most recent report filed with the United States Securities and Exchange Commission under § 13 of the federal Securities Exchange Act of 1934;

9. If the applicant is a wholly owned subsidiary of (i) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under § 13 of the U.S. Securities Exchange Act of 1934 or (ii) a corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

10. The name and address of the applicant's registered agent in the Commonwealth; and

11. Any other information the Commission reasonably requires with respect to the applicant.

C. A nonrefundable application fee of \$1,000 shall accompany an application for a license under this section.

D. The Commission may waive one or more requirements of subsections A and B or permit an applicant to submit other information in lieu of the required information.

§ 6.2-1932. Information required for certain individuals.

A. Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual shall furnish to the Commission through NMLS the following items:

1. The individual's fingerprints for submission to the Federal Bureau of Investigation and the Commission for purposes of a national criminal history background check unless the person currently resides outside of the United States and has resided outside of the United States for the last 10 years.

2. Personal history and experience in a form and in a medium prescribed by the Commission, to obtain (i) an independent credit report from a consumer reporting agency unless the individual does not have a social security number, in which case this requirement shall be waived; (ii) information related to any criminal convictions or pending charges; and (iii) information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

B. If the individual has resided outside of the United States at any time in the last 10 years, the individual shall also provide an investigative background report prepared by an independent search firm. At a minimum, the search firm shall (i) demonstrate that it has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report and (ii) not be affiliated with or have an interest with the individual it is researching. At a minimum, the investigative background report shall be written in the English language and shall contain the following: (a) if available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked; (b) criminal records information for the past 10 years, including felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked; (c) employment history; (d) media history, including an electronic search of national and local

publications, wire services, and business applications; and (e) financial services-related regulatory history, including money transmission, securities, banking, insurance, and mortgage-related industries.

§ 6.2-1933. Issuance of license.

A. When the Commission determines that an application is complete, the Commission shall promptly notify the applicant in a record of the date on which the application is determined to be complete, and shall approve or deny the application within 120 days after the completion date. If the application is not approved or denied within 120 days after the completion date, the application shall be deemed approved and the license shall take effect as of the first business day after expiration of the 120-day period. The Commission may for good cause extend the application period.

B. A determination by the Commission that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items, including the criminal background check response from the FBI, and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

C. When an application is filed and considered complete under this section, the Commission shall investigate the applicant's financial condition and responsibility, financial and business experience, character, and general fitness. The Commission may conduct an on-site investigation of the applicant, the reasonable cost of which the applicant shall pay. The Commission shall issue a license to an applicant if the Commission finds that (i) the applicant has complied with §§ 6.2-1931 and 6.2-1932 and (ii) the financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant and the competence, experience, character, and general fitness of the key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

D. If an applicant avails itself or is otherwise subject to a multistate licensing process, (i) the Commission may accept the investigation results of a lead investigative state for the purpose of subsection C if the lead investigative state has sufficient staffing, expertise, and minimum standards or (ii) if the Commonwealth is a lead investigative state, the Commission may investigate the applicant pursuant to subsection C and the timeframes established by agreement through the multistate licensing process, provided, however, that in no case shall such timeframe be noncompliant with the application period established in subsection A.

E. The Commission shall issue a formal written notice of the denial of a license application within 30 days of the decision to deny the application. The Commission shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the Commission under this subsection may appeal within 30 days after receipt of the written notice of the denial.

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

§ 6.2-1934. License renewal.

A. A license issued under this article shall be renewed annually. An annual renewal fee of \$750 shall be paid no more than 60 days before the license expiration. The renewal term shall be for a period of one year and shall begin on January 1 of each year after the initial license term and shall expire on December 31 of the year the renewal term begins.

B. A licensee shall submit a renewal report with the renewal fee, in a form and in a medium prescribed by the Commission. The renewal report shall state or contain a description of each material change in information submitted by the licensee in its original license application that has not been reported to the Commission.

C. The Commission for good cause may grant an extension of the renewal date.

D. The Commission may utilize NMLS to process license renewals provided that such functionality is consistent with this section.

§ 6.2-1935. Maintenance of license.

A. If a licensee does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license, the Commission may suspend or revoke the licensee's license in accordance with the procedures established by this article or other applicable state law for such suspension or revocation.

B. An applicant for a money transmission license shall demonstrate that it meets or will meet, and a money transmission licensee shall at all times meet, the requirements in §§ 6.2-1950, 6.2-1951, and 6.2-1952.

§ 6.2-1936. Acquisition of control.

A. Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the Commission prior to acquiring control. An individual shall not be deemed to acquire control of a licensee and shall not be subject to provisions of this section if that

individual becomes a key individual in the ordinary course of business.

B. A person, or group of persons acting in concert, seeking to acquire control of a licensee shall, in cooperation with the licensee submit (i) an application in a form and in a medium prescribed by the Commission and (ii) a nonrefundable fee of \$1,000 with the request for approval.

C. Upon request, the Commission may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the Commission without using NMLS.

D. The application required shall include information required by § 6.2-1932 for any new key individuals that have not previously completed the requirements of § 6.2-1932 for a licensee.

E. When the Commission determines that an application is complete, the Commission shall promptly notify the applicant in a record of the date on which the application was determined to be complete and shall approve or deny the application within 60 days after the completion date. If the application is not approved or denied within 60 days after the completion date, the application shall be deemed approved and the person, or group of persons acting in concert, may acquire control. The Commission may for good cause extend the application period.

F. A determination by the Commission that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

G. When an application is filed and considered complete under subsection E, the Commission shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control. The Commission shall approve an acquisition of control if the Commission finds that:

1. The requirements of subsections B and D have been met, as applicable; and
2. The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control, and the competence, experience, character, and general fitness of the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the public interest to permit the person, or group of persons acting in concert, to control the licensee.

H. If an applicant avails itself or is otherwise subject to a multistate licensing process, (i) the Commission may accept the investigation results of a lead investigative state for the purpose of subsection G, if the lead investigative state has sufficient staffing, expertise, and minimum standards or (ii) if the Commonwealth is a lead investigative state, the Commission may investigate the applicant pursuant to subsection G and the timeframes established by agreement through the multistate licensing process.

I. The Commission shall issue a formal written notice of the denial of an application to acquire control within 30 days of the decision to deny the application. The Commission shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the Commission may appeal within 30 days after receipt of the written notice of the denial.

J. The requirements of subsections A and B do not apply to any of the following:

1. A person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

2. A person that acquires control of a licensee by devise or descent;

3. A person that acquires control of a licensee as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law;

4. A person that the Commission determines is not subject to subsection A based on the public interest;

5. A public offering of securities of a licensee or a person in control of a licensee; or

6. An internal reorganization of a person in control of the licensee where the ultimate person in control of the licensee remains the same.

K. Persons described in subdivisions J 2, 3, 5, and 6 shall notify the Commission within 15 days after the acquisition of control.

L. The requirements of subsections A and B do not apply to a person that has complied with and received approval to engage in money transmission under this article or was identified as a person in control in a prior application filed with and approved by the Commission or by an MSB-accredited state pursuant to a multistate licensing process, provided that:

1. The person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous five years;

2. If the person is a licensee, the person is well-managed and has received at least a satisfactory rating for compliance at its most recent examination by an MSB-accredited state if such rating was

920 given;

921 3. The licensee to be acquired is projected to meet the requirements of §§ 6.2-1950, 6.2-1951, and
922 6.2-1952 after the acquisition of control is completed, and if the person acquiring control is a licensee,
923 that licensee is also projected to meet the requirements of §§ 6.2-1950, 6.2-1951, and 6.2-1952 after
924 the acquisition of control is completed;

925 4. The licensee to be acquired will not implement any material changes to its business plan as a
926 result of the acquisition of control, and if the person acquiring control is a licensee, that licensee also
927 will not implement any material changes to its business plan as a result of the acquisition of control;
928 and

929 5. The person provides notice of the acquisition in cooperation with the licensee and attests to
930 subdivisions 1 through 4 in a form and in a medium prescribed by the Commission.

931 If such notice is not disapproved within 30 days after the date on which the notice was determined
932 to be complete, the notice shall be deemed approved.

933 M. Before filing an application for approval to acquire control of a licensee, a person may request
934 in writing a determination from the Commission as to whether the person would be considered a person
935 in control of a licensee upon consummation of a proposed transaction. If the Commission determines
936 that the person would not be a person in control of a licensee, the proposed person and transaction is
937 not subject to the requirements of subsections A and B.

938 N. If a multistate licensing process includes a determination pursuant to subsection M and an
939 applicant avails itself or is otherwise subject to the multistate licensing process, (i) the Commission may
940 accept the control determination of a lead investigative state with sufficient staffing, expertise, and
941 minimum standards or (ii) if the Commonwealth is a lead investigative state, the Commission may
942 investigate the applicant using the timeframes established by agreement through the multistate licensing
943 process.

944 **§ 6.2-1937. Change of key individual; notice and required information.**

945 A. A licensee adding or replacing any key individual shall provide (i) notice in a manner prescribed
946 by the Commission within 15 days after the effective date of the key individual's appointment and (ii)
947 information as required by § 6.2-1932 within 45 days after the effective date.

948 B. Within 90 days after the date on which the notice provided pursuant to subsection A was
949 determined to be complete, the Commission may issue a notice of disapproval of a key individual if the
950 competence, experience, character, or integrity of the individual is not in the best interests of the public
951 or the customers of the licensee to permit the individual to be a key individual of such licensee.

952 C. A notice of disapproval shall contain a statement of the basis for disapproval and shall be sent to
953 the licensee and the disapproved individual. A licensee may appeal a notice of disapproval within 30
954 days after receipt of such notice of disapproval.

955 D. If the notice provided pursuant to subsection A is not disapproved within 90 days after the date
956 on which the notice was determined to be complete, the key individual shall be deemed approved.

957 E. If a multistate licensing process includes a key individual notice review and disapproval process
958 and the licensee avails itself of or is otherwise subject to the multistate licensing process, (i) the
959 Commission may accept the determination of another state if the investigating state has sufficient
960 staffing, expertise, and minimum standards or (ii) if the Commonwealth is a lead investigative state, the
961 Commission may investigate the applicant using the timeframes established by agreement through the
962 multistate licensing process.

963 **§ 6.2-1938. Report of condition.**

964 A. Each licensee shall submit a report of condition within 45 days of the end of the calendar
965 quarter, or within any extended time as the Commission may prescribe.

966 B. The report of condition shall include:

967 1. Financial information at the licensee level;

968 2. Nationwide and state-specific money transmission transaction information in every jurisdiction in
969 the United States where the licensee is licensed to engage in money transmission;

970 3. A permissible investments report;

971 4. Transaction destination country reporting for money received for transmission, if applicable; and

972 5. Any other information the Commission reasonably requires with respect to the licensee. The
973 Commission is authorized and encouraged to utilize NMLS for the submission of the report required by
974 this section and is authorized to update as necessary the requirements of this section to carry out the
975 purposes of this article and maintain consistency with NMLS reporting.

976 C. The information required by subdivision B 4 shall only be included in a report of condition
977 submitted within 45 days of the end of the fourth calendar quarter.

978 **§ 6.2-1939. Audited financials.**

979 A. Each licensee shall, within 90 days after the end of each fiscal year, or within any extended time
980 as the Commission may prescribe, file with the Commission:

981 1. An audited financial statement of the licensee for the fiscal year prepared in accordance with

generally accepted accounting principles; and

2. Any other information as the Commission may reasonably require.

B. The audited financial statements shall be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the Commission.

C. The audited financial statements shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the Commission. If the certificate or opinion is qualified, the Commission may order the licensee to take any action as the Commission may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification.

§ 6.2-1940. Authorized Delegate Reporting.

A. Each licensee shall submit a report of its authorized delegates within 45 days of the end of the calendar quarter. The Commission is authorized and encouraged to utilize NMLS for the submission of such report provided that such functionality is consistent with the requirements of this section.

B. The authorized delegate report shall include each authorized delegate's:

1. Company legal name;

2. Taxpayer employer identification number;

3. Principal provider identifier;

4. Physical address;

5. Mailing address;

6. Business conducted in other states, if any;

7. Fictitious or trade name, if any;

8. Contact person name, phone number, and email;

9. Start date as the licensee's authorized delegate;

10. End date acting as the licensee's authorized delegate, if applicable; and

11. Other information, if any, that the Commission reasonably requires with respect to the authorized delegate.

§ 6.2-1941. Reports of certain events.

A. A licensee shall file a report with the Commission within one business day after the licensee has reason to know of the occurrence of any of the following events:

1. The filing of a petition by or against the licensee under the United States Bankruptcy Code (11 U.S.C. § 101 et seq.) for bankruptcy or reorganization;

2. The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors; or

3. The commencement of a proceeding to revoke or suspend its license in a jurisdiction in which the licensee engages in business or is licensed.

B. A licensee shall file a report with the Commission within three business day after the licensee has reason to know of the occurrence of any of the following events:

1. A conviction of the licensee or of a key individual or person in control of the licensee for a felony; or

2. A conviction of an authorized delegate for a felony.

§ 6.2-1942. Reports required by federal law.

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

§ 6.2-1943. Records.

A. Licensee shall maintain the following records for determining its compliance with this article for at least three years:

1. A record of each outstanding money transmission obligation sold;

2. A general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;

3. Bank statements and bank reconciliation records;

4. Records of outstanding money transmission obligations;

5. Records of each outstanding money transmission obligation paid within the three-year period;

6. A list of the last known names and addresses of all of the licensee's authorized delegates; and

7. Any other records the Commission reasonably requires by rule.

B. The items specified in subsection A may be maintained in any form of record.

C. Records specified in subsection A may be maintained outside the Commonwealth if they are made accessible to the Commission on seven business days' notice that is sent in a record.

D. All records maintained by the licensee as required in this section are open to inspection by the Commission pursuant to subsection A of § 6.2-1926.

§ 6.2-1944. Relationship between licensee and authorized delegate; prohibited activities.

A. As used in this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

B. Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

1. Adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;

2. Enter into a written contract that complies with subsection D; and

3. Conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law.

C. An authorized delegate shall operate in full compliance with this article.

D. The written contract required by subsection B shall be signed by the licensee and the authorized delegate and, at a minimum, shall:

1. Appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;

2. Set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties;

3. Require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this article and regulations implementing the relevant provisions of the Bank Secrecy Act and the U.S.A. Patriot Act of 2001 (49 U.S.C. § 5103a et seq.);

4. Require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate;

5. Impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee;

6. Require the authorized delegate to prepare and maintain records as required by this article or regulations implementing this article, or as reasonably requested by the Commission;

7. Acknowledge that the authorized delegate consents to examination or investigation by the Commission;

8. State that the licensee is subject to regulation by the Commission and that, as part of that regulation, the Commission may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

9. Acknowledge receipt of the written policies and procedures required under subdivision B 1.

E. If the licensee's license is suspended, revoked, surrendered, or expired, the licensee shall, within five business days, provide documentation to the Commission that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the Commission of the suspension, revocation, surrender, or expiration of a license. Upon suspension, revocation, surrender, or expiration of a license, applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.

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

G. An authorized delegate shall not use a subdelegate to conduct money transmission on behalf of a licensee.

H. No person shall engage in the business of money transmission on behalf of a person not licensed under this article or not exempt pursuant to § 6.2-1923. A person that engages in such activity provides money transmission to the same extent as if the person were a licensee, and shall be jointly and severally liable with the unlicensed or nonexempt person.

§ 6.2-1945. Timely transmission.

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

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

§ 6.2-1946. Refunds.

A. Every licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund of any and all money received for transmission unless any of the following occurs:

1. The money has been forwarded within 10 days of the date on which the money was received for transmission;

2. Instructions have been given committing an equivalent amount of money to the person designated by the sender within 10 days of the date on which the money was received for transmission;

3. The agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond 10 days of the date on which the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with the other provisions of this section;

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

5. The refund request does not enable the licensee to identify (i) the sender's name and address or telephone number or (ii) the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

B. The provisions of subsection A shall not apply to (i) money received for transmission subject to the federal Remittance Rule (12 C.F.R. Part 1005, Subpart B) or (ii) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

§ 6.2-1947. Receipts.

A. As used in this section, "receipt" means a paper receipt, electronic record, or other written confirmation. For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

B. Every licensee or its authorized delegate shall provide the sender a receipt for money received for transmission. The receipt shall contain, as applicable:

1. The name of the sender;

2. The name of the designated recipient;

3. The date of the transaction;

4. The unique transaction or identification number;

5. The name of the licensee, NMLS Unique ID, the licensee's business address, and the licensee's customer service telephone number;

6. The amount of the transaction in United States dollars;

7. Any fee charged by the licensee to the sender for the transaction; and

8. Any taxes collected by the licensee from the sender for the transaction.

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

D. The provisions of this section shall not apply to (i) money received for transmission subject to the federal Remittance Rule (12 C.F.R. Part 1005, Subpart B); (ii) money received for transmission that is not primarily for personal, family, or household purposes; (iii) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or (iv) payroll processing services.

§ 6.2-1948. Notice.

Every licensee or authorized delegate shall include on a receipt or disclose on the licensee's website or mobile application the phone number and website of the Commission and a statement that the licensee's customers can contact the Commission with questions or complaints about the licensee's money transmission services.

§ 6.2-1949. Disclosures for payroll processing services.

A. A licensee that provides payroll processing services shall:

1. Issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

2. Make available worker paystubs or equivalent statements to workers.

B. The provisions of subsection A shall not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures required by subdivision A 2.

§ 6.2-1950. Net worth.

A. A licensee shall maintain at all times a tangible net worth of the greater of \$100,000 or three

1166 percent of total assets for the first \$100 million, two percent of additional assets for \$100 million to \$1
1167 billion, and 0.5 percent of additional assets for over \$1 billion.

1168 B. Tangible net worth shall be demonstrated at initial application by the applicant's most recent
1169 audited or unaudited financial statements pursuant to § 6.2-1931.

1170 C. The Commission shall have the authority, for good cause shown, to exempt any applicant or
1171 licensee, in part or in whole, from the requirements of this section.

1172 **§ 6.2-1951. Surety bond.**

1173 A. An applicant for a money transmission license shall provide, and a licensee at all times shall
1174 maintain, security consisting of a surety bond, in a form satisfactory to the Commission, or, with the
1175 Commission's approval, a deposit instead of a bond in accordance with this section.

1176 B. The amount of the required security shall be:

1177 1. The greater of \$100,000 or an amount equal to 100 percent of the licensee's average daily money
1178 transmission liability in the Commonwealth calculated for the most recently completed three-month
1179 period, up to a maximum of \$1 million; or

1180 2. In the event that the licensee's tangible net worth exceeds 10 percent of total assets, the licensee
1181 shall maintain a surety bond of \$100,000.

1182 C. A licensee that maintains a bond in the maximum applicable amount provided for in subsection B
1183 shall not be required to calculate its average daily money transmission liability in the Commonwealth
1184 for purposes of this section.

1185 D. A licensee may exceed the maximum required bond amount pursuant to subdivision A 5 of
1186 § 6.2-1953.

1187 **§ 6.2-1952. Maintenance of permissible investments.**

1188 A. A licensee shall maintain at all times permissible investments that have a market value computed
1189 in accordance with generally accepted accounting principles of not less than the aggregate amount of
1190 all of its outstanding money transmission obligations.

1191 B. Except for permissible investments enumerated in subsection A of § 6.2-1953, the Commission,
1192 with respect to any licensee, may by rule or order limit the extent to which a specific investment
1193 maintained by a licensee within a class of permissible investments may be considered a permissible
1194 investment, if the specific investment represents undue risk to customers, not reflected in the market
1195 value of investments.

1196 C. Permissible investments, even if commingled with other assets of the licensee, shall be held in
1197 trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission
1198 obligations in the event of insolvency, the filing of a petition by or against the licensee under the United
1199 States Bankruptcy Code (11 U.S.C. § 101 et seq.) for bankruptcy or reorganization, the filing of a
1200 petition by or against the licensee for receivership, the commencement of any other judicial or
1201 administrative proceeding for its dissolution or reorganization, or an action by a creditor against the
1202 licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a
1203 trust pursuant to this subsection shall be subject to attachment, levy of execution, or sequestration by
1204 order of any court, except for a beneficiary of this statutory trust.

1205 D. Upon the establishment of a statutory trust in accordance with subsection C or when any funds
1206 are drawn on a letter of credit pursuant to subdivision A 4 of § 6.2-1953, the Commission shall notify
1207 the applicable regulator of each state in which the licensee is licensed to engage in money transmission,
1208 if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice
1209 shall be deemed satisfied if performed pursuant to a multistate agreement or through NMLS. Funds
1210 drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the
1211 purchasers and holders of the licensee's outstanding money transmission obligations, shall be deemed
1212 held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in
1213 accordance with statutes pursuant to which permissible investments are required to be held in the
1214 Commonwealth and other states, as applicable. Any statutory trust established hereunder shall be
1215 terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

1216 E. The Commission by rule or by order may allow other types of investments that the Commission
1217 determines are of sufficient liquidity and quality to be a permissible investment. The Commission is
1218 authorized to participate in efforts with other state regulators to determine that other types of
1219 investments are of sufficient liquidity and quality to be a permissible investment.

1220 **§ 6.2-1953. Permissible investments.**

1221 A. The following investments are permissible under § 6.2-1952:

1222 1. Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit
1223 of the licensee's customers in a federally insured depository financial institution, and cash equivalents
1224 including ACH items in transit to the licensee and ACH items or international wires in transit to a
1225 payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card
1226 or credit card-funded transmission receivables owed by any bank, or money market mutual funds rated
1227 "AAA" by S&P, or the equivalent from any eligible rating service.

2. *Certificates of deposit or senior debt obligations of an insured depository institution, as defined in the Federal Deposit Insurance Act (12 U.S.C. § 1811 et seq.) or as defined under the federal Credit Union Act (12 U.S.C. § 1781 et seq.).*

3. *An obligation of the United States or a commission, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality thereof.*

4. *The full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the Commission that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subdivision c.*

a. *Such letter of credit shall:*

(1) *Be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state that (i) bears an eligible rating or whose parent company bears an eligible rating and (ii) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies;*

(2) *Be irrevocable, unconditional, and indicate that it is not subject to any condition or qualifications outside of the letter of credit;*

(3) *Not contain reference to any other agreements, documents, or entities, or otherwise provide for any security interest in the licensee; and*

(4) *Contain an issue date and expiration date, and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies the Commission in writing by certified or registered mail or courier mail or other receipted means at least 60 days prior to any expiration date that the irrevocable letter of credit will not be extended.*

b. *In the event of any notice of expiration or nonextension of a letter of credit issued under subdivision a (4), the licensee shall be required to demonstrate to the satisfaction of the Commission, 15 days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with subsection A of § 6.2-1952 upon the expiration of the letter of credit. If the licensee is not able to do so, the Commission may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with subsection A of § 6.2-1952. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the Commission or the Commission's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.*

c. *The letter of credit shall provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:*

(1) *The original letter of credit including any amendments; and*

(2) *A written statement from the beneficiary stating that any of the following events have occurred:*

(a) *The filing of a petition by or against the licensee under the United States Bankruptcy Code (11 U.S.C. § 101 et seq.) for bankruptcy or reorganization;*

(b) *The filing of a petition by or against the licensee for receivership, or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization;*

(c) *The seizure of assets of a licensee by the Commission pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation, or condition that has caused or is likely to cause the insolvency of the licensee; or*

(d) *The beneficiary has received notice of expiration or nonextension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with subsection A of § 6.2-1952 upon the expiration or nonextension of the letter of credit.*

d. *The Commission may designate an agent to serve on the Commission's behalf as beneficiary to a letter of credit so long as the agent and letter of credit meet requirements established by the Commission. The Commission's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of this subdivision A 4 are assigned to the Commission.*

e. *The Commission may participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including services provided by the NMLS and State Regulatory Registry LLC.*

5. *One hundred percent of the surety bond provided for under § 6.2-1951 that exceeds the average*

1289 *daily money transmission liability in the Commonwealth.*

1290 *B. Unless permitted by the Commission by rule or by order to exceed the limit as set forth herein,*
1291 *the following investments are permissible under § 6.2-1952 to the extent specified:*

1292 *1. Receivables that are payable to a licensee from its authorized delegates in the ordinary course of*
1293 *business that are less than seven days old, up to 50 percent of the aggregate value of the licensee's total*
1294 *permissible investments.*

1295 *2. Of the receivables permissible under subdivision 1, receivables that are payable to a licensee from*
1296 *a single authorized delegate in the ordinary course of business shall not exceed 10 percent of the*
1297 *aggregate value of the licensee's total permissible investments.*

1298 *3. The following investments are permissible up to 20 percent per category and combined up to 50*
1299 *percent of the aggregate value of the licensee's total permissible investments:*

1300 *a. A short-term, up to six months, investment bearing an eligible rating;*

1301 *b. Commercial paper bearing an eligible rating;*

1302 *c. A bill, note, bond, or debenture bearing an eligible rating;*

1303 *d. United States tri-party repurchase agreements collateralized at 100 percent or more with United*
1304 *States government or agency securities, municipal bonds, or other securities bearing an eligible rating;*

1305 *e. Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P, or*
1306 *the equivalent from any other eligible rating service; and*

1307 *f. A mutual fund or other investment fund composed solely and exclusively of one or more*
1308 *permissible investments listed in subdivisions A 1 through A 3.*

1309 *4. Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit*
1310 *of the licensee's customers, at foreign depository institutions are permissible up to 10 percent of the*
1311 *aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory*
1312 *rating in its most recent examination and the foreign depository institution:*

1313 *a. Has an eligible rating;*

1314 *b. Is registered under the Foreign Account Tax Compliance Act;*

1315 *c. Is not located in any country subject to sanctions from the Office of Foreign Asset Control; and*

1316 *d. Is not located in a high-risk or noncooperative jurisdiction as designated by the Financial Action*
1317 *Task Force.*

1318 **§ 6.2-1954. Suspension or revocation of license.**

1319 *A. The Commission may suspend or revoke a license or order a licensee to revoke the designation of*
1320 *an authorized delegate if:*

1321 *1. The licensee violates the provisions of this article or a rule adopted or an order issued under this*
1322 *article;*

1323 *2. The licensee does not cooperate with an examination or investigation by the Commission;*

1324 *3. The licensee engages in fraud, intentional misrepresentation, or gross negligence;*

1325 *4. An authorized delegate is convicted of a violation of a state or federal anti-money laundering*
1326 *statute or violates a rule adopted or an order issued under this article as a result of the licensee's*
1327 *willful misconduct or willful blindness;*

1328 *5. The competence, experience, character, or general fitness of the licensee, authorized delegate,*
1329 *person in control of a licensee, key individual, or responsible person of the authorized delegate*
1330 *indicates that it is not in the public interest to permit the person to provide money transmission;*

1331 *6. The licensee engages in an unsafe or unsound practice;*

1332 *7. The licensee is insolvent, suspends payment of its obligations, or makes a general assignment for*
1333 *the benefit of its creditors; or*

1334 *8. The licensee does not remove an authorized delegate after the Commission issues and serves upon*
1335 *the licensee a final order including a finding that the authorized delegate has violated this article.*

1336 *B. The Commission may issue an order suspending or revoking the designation of an authorized*
1337 *delegate if the Commission finds that:*

1338 *1. The authorized delegate violated this article or a rule adopted or an order issued under this*
1339 *article;*

1340 *2. The authorized delegate did not cooperate with an examination or investigation by the*
1341 *Commission;*

1342 *3. The authorized delegate engaged in fraud, intentional misrepresentation, or gross negligence;*

1343 *4. The authorized delegate has been convicted of a violation of a state or federal anti-money*
1344 *laundering statute;*

1345 *5. The competence, experience, character, or general fitness of the authorized delegate or a person*
1346 *in control of the authorized delegate indicates that it is not in the public interest to permit the*
1347 *authorized delegate to provide money transmission; or*

1348 *6. The authorized delegate is engaging in an unsafe or unsound practice.*

1349 *C. In determining whether a licensee or authorized delegate is engaging in an unsafe or unsound*
1350 *practice, the Commission may consider the size and condition of the licensee's money transmission, the*

1351 magnitude of the loss, the gravity of the violation of this article, and the previous conduct of the person
1352 involved.

1353 **§ 6.2-1955. Civil penalties.**

1354 The Commission may impose a civil penalty not exceeding \$2,500 upon any person licensed or
1355 required to be licensed under this article who the Commission determines has violated any of the
1356 provisions of this article or any other law or regulation applicable to the conduct of the person's
1357 business. For the purposes of this section, each separate violation shall be subject to the civil penalty
1358 herein prescribed. In the case of a violation of § 6.2-1929, each money transmission transaction shall
1359 constitute a separate violation.

1360 **§ 6.2-1956. Criminal penalty.**

1361 Any person required by this article to have a license who sells money orders or engages in the
1362 business of money transmission without first being licensed as required by § 6.2-1929 is guilty of a
1363 Class 1 misdemeanor.