

## ALERTS

# Massachusetts Passes Act To Expand & Modernize Money Transmission Regulatory Regime

January 10, 2025

On Jan. 1, 2025, Massachusetts Governor Maura Healey signed H4840,[1] also known as the Massachusetts Money Transmission Act (“MTA”), into law.[2] The MTA, closely modeled on the Money Transmission Modernization Act (“Model Law”), replaces the state’s previous laws governing the sale of checks and money transmission by non-banks. Historically, Massachusetts regulated only the sale and issuance of checks or money orders under Chapter 167F(4) (“Sale of Checks Law”) and foreign (cross-border) money transmission under Chapter 169 of the Massachusetts General Laws (“Foreign Transmittal Law” and collectively, the “Existing Laws”).[3] The new law significantly expands the authority of the Massachusetts Division of Banks (“DOB”) to regulate additional activities, namely domestic money transmission and the issuance and sale of stored value, neither of which are regulated under the Existing Laws.[4] As a result, entities engaging in money transmission activities in Massachusetts and not previously licensed under the Existing Laws will be required to obtain a money transmission license from the DOB.[5] Licensees operating under the Existing Laws will have their licenses converted to the license under the new MTA law as part of the license renewal process in 2025. The MTA is set to take effect on Oct. 1, 2025.[6]

The MTA largely incorporates the key elements of the Model Law while making specific adjustments to suit Massachusetts’ regulatory framework. Below are the main features of the new law, including its adoption of certain Model Law provisions and departures from both the Model Law and the Existing Laws:

- **Expanded Definition of Money Transmission:** The MTA adopts the Model Law’s broad definition of money transmission, including the sale or issuance of payment instruments or stored value, such as prepaid access cards, to individuals in Massachusetts, as well as receiving money for transmission within the state.[7] This represents a significant shift from the Existing Laws.[8]
- **Retains Exemption for Providing Money Transmission Services to Businesses:** Unlike the Model Law, the MTA retains an existing exemption in the Foreign Transmittal Law for money transmission services provided to businesses or commercial customers by defining “money transmission” to only apply to “those transactions engaged in by a person for personal, family or household purposes” (the “Business Exemption”).[9] Notably, the MTA does not define “money transmission” to include payroll processing services like the Model Law, which would be consistent with the MTA’s Business Exemption.[10]
- **Surety Bond Requirements:** The MTA adopts the Model Law’s framework for calculating surety bond amounts, requiring licensees to maintain a bond in the greater of \$100,000 or 100% of their average daily money transmission liability in the state, calculated over the most recent three-month period, with a cap of \$500,000.[11] This new bond requirement marks a significant departure from the existing Foreign Transmittal Law, which requires a bond equal to twice the average weekly amount transmitted to foreign countries (if that amount exceeded \$50,000), with no cap.[12]
- **Did Not Adopt Model Law Virtual Currency Provisions:** While the Model Law includes optional provisions for regulating the issuance, exchange, transfer, or storing of virtual currencies, the MTA does not adopt such provisions.[13]

It is expected that the DOB will issue guidance prior to the law’s effective date to assist with compliance under the new regime. Entities currently licensed under the Existing Laws will retain their licenses; however, they will be required to submit their annual renewal applications in accordance with the new licensing framework.[14] Entities engaged in domestic money transmission not previously required to be licensed under the old law, including those engaged in the issuance and sale of stored value, will have a six-month window from the MTA’s effective date to apply for a license if they wish to continue engaging in money transmission activities in Massachusetts.[15] We recommend that entities potentially involved in

money transmission in Massachusetts seek counsel to determine whether they are required to apply for licensure under the MTA.

Schulte Roth & Zabel's lawyers are available to assist you in addressing any questions you may have regarding these developments. Please contact the Schulte Roth & Zabel lawyer with whom you usually work, or any of the following attorneys:

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[1] H4840 An Act Relative to the Regulation of Money Transmission by the Division of Banks (2023-2024), *available at* <https://malegislature.gov/Bills/193/H1106>.

[2] Office of Maura Healey, *Governor Healey Signs Money Transmission Bill that Protects Consumers Using Payment Apps like Venmo and PayPal* (Jan. 2, 2025), *available at* <https://www.mass.gov/news/governor-healey-signs-money-transmission-bill-that-protects-consumers-using-payment-apps-like-venmo-and-paypal>.

[3] *See generally* Mass. Gen. Laws ch. 167F, § 4; ch. 169, § 1.

[4] H.4840, 193rd Gen. Ct., § 1, at 1; § 3(1), at 5.

[5] H.4840, 193rd Gen. Ct., § (4)(a-b), at 44.

[6] H.4840, 193rd Gen. Ct., § 5-6, at 44.

[7] H.4840, 193rd Gen. Ct., § 3(1), at 5.

[8] Mass. Gen. Laws ch. 167F, § 1.

[9] H.4840, 193rd Gen. Ct., § 3(1), at 5.

[10] H.4840, 193rd Gen. Ct., § 3(1), at 5.

[11] H.4840, 193rd Gen. Ct., §10.02 (b)(2), at 35. However, Massachusetts did not adopt the Model Law's provision that allows licensees with a tangible net worth exceeding 10% of total assets to maintain the minimum \$100,000 bond amount in lieu of calculating the amount based on a licensee's average daily money transmission liability in the state. Model Law §10.02(b)(2), at 35.

[12] *See generally* Mass. Gen. Laws ch. 167F, § 4; ch. 169, § 2.

[13] Model Law art. XIII, at 45-52. Selected opinions of the DOB analyzing various virtual currency arrangements under Existing Laws are available online at <https://www.mass.gov/info-details/selected-opinions-of-the-division-of-banks-related-to-consumer-virtual-currency#2023>. We would expect the DOB's practice of analyzing requests involving virtual currency to continue under the MTA.

[14] H.4840, 193rd Gen. Ct., § 4(a), at 43.

[15] H.4840, 193rd Gen. Ct., § 4(b), at 43.

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