

Chapter 422

(House Bill 250)

AN ACT concerning

Financial Institutions – Third-Party Service Providers – Examinations

FOR the purpose of authorizing the Commissioner of Financial Regulation to examine a third-party service provider as to services and activities performed on behalf of an entity licensed or chartered by the Office of Financial Regulation; and generally relating to the Commissioner of Financial Regulation and the power to examine third-party service providers.

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 1–101(a)
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

BY adding to
Article – Financial Institutions
Section 1–101(w) and (x) and 2–122
Annotated Code of Maryland
(2020 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Financial Institutions

1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(W) “REGULATED ENTITY” MEANS A PERSON WHO IS LICENSED OR CHARTERED BY THE OFFICE OF FINANCIAL REGULATION.

(X) (1) “THIRD-PARTY SERVICE PROVIDER” MEANS A PERSON WHO PERFORMS ACTIVITIES RELATING TO FINANCIAL SERVICES ON BEHALF OF A REGULATED ENTITY FOR THAT REGULATED ENTITY’S CUSTOMERS.

(2) “THIRD-PARTY SERVICE PROVIDER” INCLUDES A PERSON WHO PROVIDES:

- (I) DATA PROCESSING SERVICES;
- (II) ACTIVITIES THAT SUPPORT FINANCIAL SERVICES,
INCLUDING:
1. LENDING;
 2. FUNDS TRANSFER;
 3. FIDUCIARY ACTIVITIES;
 4. TRADING ACTIVITIES; AND
 5. DEPOSIT TAKING;
- (III) INTERNET-RELATED SERVICES, INCLUDING:
1. WEB SERVICES AND ELECTRONIC BILL PAYMENTS;
 2. MOBILE APPLICATIONS;
 3. SYSTEM AND SOFTWARE DEVELOPMENT AND
MAINTENANCE; AND
 4. SECURITY MONITORING; OR
- (IV) ANY OTHER SIMILAR ACTIVITY THE COMMISSIONER
DESIGNATES BY REGULATION AS RELATED TO FINANCIAL SERVICES.

(3) “THIRD-PARTY SERVICE PROVIDER” DOES NOT INCLUDE ~~A~~:

(I) A PROVIDER OF AN INTERACTIVE COMPUTER SERVICE OR A
GENERAL AUDIENCE INTERNET OR COMMUNICATIONS PLATFORM, EXCEPT TO THE
EXTENT THAT THE SERVICE OR PLATFORM IS SPECIALLY DESIGNED OR ADAPTED
FOR FINANCIAL SERVICES AND ACTIVITIES RELATED TO FINANCIAL SERVICES; OR

(II) ANY PERSON THAT CONTROLS, OR IS UNDER COMMON
CONTROL WITH, AN ENTITY LICENSED BY THE COMMISSIONER UNLESS THE PERSON
PERFORMS FOR THE LICENSED ENTITY ANY OF THE ACTIVITIES DESCRIBED IN
PARAGRAPH (2) OF THIS SUBSECTION.

2-122.

(A) THE COMMISSIONER MAY EXAMINE A THIRD-PARTY SERVICE PROVIDER AS TO SERVICES AND ACTIVITIES PERFORMED ON BEHALF OF THE REGULATED ENTITY TO THE SAME EXTENT AS IF THE SERVICE OR ACTIVITY WAS PERFORMED BY THE REGULATED ENTITY.

(B) TO THE EXTENT AUTHORIZED BY LAW, REGULATION, OR ANY OTHER AGREEMENT TO WHICH THE OFFICE OF FINANCIAL REGULATION IS A PARTY, THE COMMISSIONER SHALL NOTIFY A PERSON LICENSED BY THE COMMISSIONER OF ANY EXAMINATION INITIATED BY THE COMMISSIONER OF ANY THIRD-PARTY SERVICE PROVIDER WHO PERFORMS ACTIVITIES RELATING TO FINANCIAL SERVICES ON BEHALF OF THE LICENSED PERSON.

~~(B)~~ (C) THE POWER OF THE COMMISSIONER TO EXAMINE A THIRD-PARTY SERVICE PROVIDER UNDER THIS SECTION IS NOT LIMITED TO SERVICES AND ACTIVITIES CONDUCTED ON THE PREMISES OF A REGULATED ENTITY.

(D) AFTER COMMENCEMENT OF AN EXAMINATION OF A PERSON LICENSED BY THE COMMISSIONER OR ANY THIRD-PARTY SERVICE PROVIDER WHO PERFORMS ACTIVITIES RELATING TO FINANCIAL SERVICES ON BEHALF OF A PERSON LICENSED BY THE COMMISSIONER:

(1) THE COMMISSIONER MAY REQUEST INFORMATION FROM THE THIRD-PARTY SERVICE PROVIDER WHO PERFORMS ACTIVITIES RELATING TO FINANCIAL SERVICES FOR THE LICENSED PERSON; AND

(2) IF THE LICENSED PERSON HAS ACCESS TO THE INFORMATION, THE LICENSED PERSON MAY PROVIDE THE INFORMATION TO THE COMMISSIONER:

(I) WITH THE CONSENT OF THE COMMISSIONER; OR

(II) IF THE THIRD-PARTY SERVICE PROVIDER FAILS TO PROVIDE THE INFORMATION.

~~(C)~~ (E) THE COMMISSIONER MAY COLLECT A FEE IN CONNECTION WITH EACH EXAMINATION TO COVER THE COST OF THE EXAMINATION FROM:

(1) THE EXAMINED THIRD-PARTY SERVICE PROVIDER; OR

(2) ~~THE~~ IF THE EXAMINED THIRD-PARTY SERVICE PROVIDER FAILS TO COVER THE COST OF THE EXAMINATION WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER SENDS AN INVOICE FOR THE EXAMINATION TO THE THIRD-PARTY SERVICE PROVIDER, THE REGULATED ENTITY THAT CONTRACTS WITH THE THIRD-PARTY SERVICE PROVIDER.

~~(D)~~ (F) THE COMMISSIONER MAY ACCEPT THE RESULTS OF AN EXAMINATION OF A FEDERAL SUPERVISORY AGENCY OR RESPONSIBLE SUPERVISORY AGENCY OF ANOTHER STATE AS THE RESULTS OF AN EXAMINATION BY THE COMMISSIONER UNDER THIS SECTION ~~IF THE EXAMINATION HAS BEEN CONDUCTED WITHIN THE PRECEDING 24 MONTHS.~~

~~(E)~~ (G) THE COMMISSIONER MAY EXAMINE:

(1) ALL BOOKS, ACCOUNTS, AND RECORDS OF A REGULATED ENTITY OR A THIRD-PARTY SERVICE PROVIDER AS THE COMMISSIONER DETERMINES NECESSARY TO CONDUCT A COMPLETE EXAMINATION; AND

(2) ANY OFFICER, DIRECTOR, OR EMPLOYEE OF THE REGULATED ENTITY OR, AS APPROPRIATE, THE THIRD-PARTY SERVICE PROVIDER, UNDER OATH, WHO MAY PROVIDE INFORMATION ON BEHALF OF THE REGULATED ENTITY OR THE THIRD-PARTY SERVICE PROVIDER.

~~(F)~~ (H) (1) THE COMMISSIONER IS AUTHORIZED TO TAKE AN ENFORCEMENT ACTION AGAINST ANY THIRD-PARTY SERVICE PROVIDER WHO:

(I) REFUSES TO SUBMIT TO AN EXAMINATION;

(II) REFUSES TO PAY ANY ASSESSED FEE FOR THE COST OF THE EXAMINATION; OR

(III) ENGAGES IN ACTIVITIES THAT THE COMMISSIONER DEEMS UNSAFE OR UNSOUND.

(2) THE COMMISSIONER MAY ADVISE ANY REGULATED ENTITY THAT USES THE SERVICES OF A THIRD-PARTY SERVICE PROVIDER WHO REFUSES TO SUBMIT TO EXAMINATION OR ENGAGES IN UNSAFE OR UNSOUND ACTIVITIES THAT THE CONTINUED USE OF THE THIRD-PARTY SERVICE BY THE REGULATED ENTITY MAY CONSTITUTE UNSAFE OR UNSOUND ACTIVITY.

~~(G)~~ (I) THE COMMISSIONER, AND ANY EMPLOYEE OF THE COMMISSIONER'S OFFICE, SHALL HOLD AS CONFIDENTIAL, AS PROVIDED IN §§ 2-117 AND 2-117.1 OF THIS SUBTITLE, ANY INFORMATION OBTAINED OR GENERATED IN THE COURSE OF EXERCISING THE COMMISSIONER'S AUTHORITY TO EXAMINE THIRD-PARTY SERVICE PROVIDERS.

(J) THE EXAMINATION POWERS OF THE COMMISSIONER AUTHORIZED UNDER THIS SECTION ARE IN ADDITION TO ANY EXAMINATION POWERS OF THE COMMISSIONER AUTHORIZED UNDER ANY OTHER PROVISION OF LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 9, 2024.