

BANK SERVICE COMPANY EXAMINATION COORDINATION
ACT OF 2023

DECEMBER 1, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. MCHENRY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 1109]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1109) to amend the Bank Service Company Act to provide improvements with respect to State banking agencies, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Bank Service Company Examination Coordination Act of 2023”.

SEC. 2. BANK SERVICE COMPANY ACT IMPROVEMENTS.

The Bank Service Company Act (12 U.S.C. 1861 et seq.) is amended—

(1) in section 1(b)—

(A) in paragraph (8), by striking “and” at the end;

(B) by redesignating paragraph (9) as paragraph (10); and

(C) by inserting after paragraph (8) the following:

“(9) the term ‘State banking agency’ shall have the same meaning given the term ‘State Bank Supervisor’ under section 3 of the Federal Deposit Insurance Act; and”;

(2) in section 5(a), by inserting “, in consultation with the State banking agency,” after “banking agency”; and

(3) in section 7—

(A) in subsection (a)—

(i) in the first sentence, by inserting “or State banking agency” after “appropriate Federal banking agency”; and

(ii) in the second sentence, by striking “Federal banking agency that supervises any other shareholder or member” and inserting “Federal or

State banking agency that supervises any other shareholder or member”;

(B) in subsection (c)—

(i) by inserting “or a State banking agency” after “appropriate Federal banking agency”; and

(ii) by striking “such agency” each place such term appears and inserting “such Federal or State agency”;

(C) by redesignating subsection (d) as subsection (f);

(D) by inserting after subsection (c) the following:

“(d) AVAILABILITY OF INFORMATION.—Information obtained pursuant to the regulation and examination of service providers under this section or applicable State law may be furnished by and accessible to Federal and State agencies to the same extent that supervisory information concerning depository institutions is authorized to be furnished to and required to be accessible by Federal and State agencies under section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) or State law, as applicable.

“(e) COORDINATION WITH STATE BANKING AGENCIES.—Where a State bank is principal shareholder or principal member of a bank service company or where a State bank is any other shareholder or member of the bank service company, the appropriate Federal banking agency, in carrying out examinations authorized by this section, shall—

“(1) provide reasonable and timely notice to the State banking agency; and

“(2) to the fullest extent possible, coordinate and avoid duplication of examination activities, reporting requirements, and requests for information.”;

(E) in subsection (f), as so redesignated, by inserting “, in consultation with State banking agencies,” after “appropriate Federal banking agencies”; and

(F) by adding at the end the following:

“(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as granting authority for a State banking agency to examine a bank service company where no such authority exists in State law.”.

PURPOSE AND SUMMARY

Introduced on February 17, 2023, by Representative Roger Williams, H.R. 1109, the *Bank Service Company Examination Coordination Act of 2023*, requires the coordination of state and federal banking agencies in regulating and examining the activities of bank service companies. The bill provides for the sharing of information related to examinations and regulations between federal and state agencies. It also requires that state and federal agencies coordinate and avoid duplicative examination activities, reporting requirements, and requests for information.

BACKGROUND AND NEED FOR LEGISLATION

The *Bank Service Company Examination Coordination Act of 2023* enhances the ability of state and federal bank regulators to coordinate examinations of and share information on banks’ third-party service providers and vendors. The bill promotes more efficient supervision of third-party service providers, allows regulators to use limited resources more effectively, avoids duplicative examinations, and reduces regulatory burden.

The Bank Service Company Act (BSCA) is the primary Federal statute governing third-party bank service providers (TSPs) and authorizes the Federal banking agencies to examine the TSPs services they provide financial institutions to assess potential risks TSPs may pose to individual client banks and the broader banking system.¹ Many state banking agencies also examine and supervise

¹ 12 U.S.C. 1867(a) permits federal banking agencies to examine a service company that is owned in whole or in part by a bank or multiple banks and 12 U.S.C. 1867(c) permits federal banking agencies to examine TSPs that have contractual obligations with a bank.

TSPs under the authority of state law.² Given this overlapping supervisory authority, the BSCA needs to be modernized to provide clarity on the ability of state and federal banking regulators to share examination findings of bank service companies, including TSPs. There has been frustration from state and Federal banking agencies over the inability to fully share supervisory information that could reveal weaknesses of individual institutions and allow agencies to use their limited resources more effectively.

Along with promoting better communication among regulators, it is important to maintain the appropriate level of oversight for new risks to the financial system. The 2017 Annual Report of the Financial Stability Oversight Council (FSOC) recommended that “Congress pass legislation that . . . encourages coordination among the federal and state regulators in the oversight of [third-party service] providers.”³ The 2022 Annual Report also recommended “that federal banking regulators continue coordinating third-party service provider examinations, work collaboratively with states, and identify additional ways to support information sharing among state and federal regulators.”⁴ While access to new financial products and services as well as greater operating efficiency for financial institutions is positive, it is imperative that bank regulators are able to identify emerging risks when they develop. Increased exam coordination and information sharing ensure that no gaps exist where weaknesses can produce risks to the financial system.

Finally, it is important that state banking agencies and the Federal banking agencies coordinate examination activities and improve information sharing to avoid duplicative examinations and needless burden on financial institutions, including community banks, and to preserve limited regulatory resources.

HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 1109: The Subcommittee on Financial Institutions and Monetary Policy of the Committee on Financial Services held a hearing on February 8, 2023, titled “Revamping and Revitalizing Banking in the 21st Century.”

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on February 28, 2023, and ordered H.R. 1109 to be reported favorably to the House as amended by a recorded vote of 39 ayes to 0 nays (Record vote no. FC–17), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Williams by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. H.R. 1109 was or-

² 38 state banking agencies currently have authority under state law to examine TSPs.

³ 2017 Annual Report of the Financial Stability Oversight Council. (Dec. 2017). Available at https://home.treasury.gov/system/files/261/FSOC_2017_Annual_Report.pdf.

⁴ 2022 Annual Report of the Financial Stability Oversight Council (Dec. 2022). Available at <https://home.treasury.gov/system/files/261/FSOC2022AnnualReport.pdf>.

dered reported favorably to the House as amended by a recorded vote of 39 ayes to 0 nays (Record vote no. FC-17), a quorum being present.

Record vote no. FC- 17

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	X	—	—	Ms. Waters	X	—	—
Mr. Hill	X	—	—	Mrs. Velazquez	—	—	—
Mr. Lucas	—	—	—	Mr. Sherman	—	—	—
Mr. Sessions	—	—	—	Mr. Meeks	X	—	—
Mr. Posey	X	—	—	Mr. Scott	—	—	—
Mr. Luetkemeyer	X	—	—	Mr. Lynch	—	—	—
Mr. Huelskamp	X	—	—	Mr. Green	X	—	—
Mrs. Wagner	X	—	—	Mr. Cleaver	—	—	—
Mr. Barr	X	—	—	Mr. Himes	—	—	—
Mr. Williams (TX)	—	—	—	Mr. Foster	X	—	—
Mr. Emmer	—	—	—	Mrs. Beatty	X	—	—
Mr. Loudermilk	X	—	—	Mr. Vargas	X	—	—
Mr. Mooney	X	—	—	Mr. Gottheimer	X	—	—
Mr. Davidson	X	—	—	Mr. Gonzalez	X	—	—
Mr. Rose	X	—	—	Mr. Casten	X	—	—
Mr. Steel	—	—	—	Ms. Pressley	X	—	—
Mr. Timmons	X	—	—	Mr. Horsford	X	—	—
Mr. Norman	X	—	—	Ms. Tlaib	X	—	—
Mr. Meuser	X	—	—	Mr. Torres	X	—	—
Mr. Fitzgerald	X	—	—	Ms. Garcia	X	—	—
Mr. Garbarino	—	—	—	Ms. Williams (GA)	X	—	—
Mrs. Kim	X	—	—	Mr. Nickel	X	—	—
Mr. Donalds	—	—	—	Ms. Petersen	X	—	—
Mr. Flood	X	—	—				
Mr. Lawler	X	—	—				
Mr. Nunn	X	—	—				
Ms. De La Cruz	X	—	—				
Mrs. Houchin	X	—	—				
Mr. Ogles	X	—	—				

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 1109 is to establish the coordination of state and federal banking agencies in regulation and examine the activities of bank service companies. Further, the bill provides for the sharing of information related to examinations and regulations between federal and state agencies and requires that state and federal agencies coordinate and avoid duplicative examination activities, reporting requirements, and requests for information.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

H.R. 1109, Bank Service Company Examination Coordination Act of 2023			
As ordered reported by the House Committee on Financial Services on February 28, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	*	*
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply? Yes	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$5 billion	Mandate Effects	
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and \$500,000.			

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1973.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, the Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 1: Short title

This Act may be cited as the “Bank Service Company Examination Coordination Act of 2023”.

Sec. 2: Bank Service Company Act improvements

This section allows for the sharing of information obtained through the examination and regulation of bank service providers between federal and state agencies and additionally requires that state and federal agencies coordinate and avoid duplicative examination activities, reporting requirements, and requests for information.