



KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

January 29, 2024

Dear Senate Majority Leader/President Pro Tempore Stewart-Cousins and Speaker Heastie:

Pursuant to the requirements of Chapter 18-A, Article 2, §205-b of the Financial Services Law, I hereby submit a report on the State Charter Advisory Board meetings held during the calendar year 2023.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Adrienne A. Harris".

Adrienne A. Harris
Superintendent of Financial Services

State Charter Advisory Board

Meetings Report



FOR CALENDAR YEAR 2023

JANUARY 2024



Background

The State Charter Advisory Board (“Board”) was created pursuant to Section 205-b of the Financial Services Law, with its term extended to October 3, 2026. The Board is charged with working with the Superintendent of the New York State Department of Financial Services (the “Department” or “DFS”) to retain state-chartered banking institutions, encourage federally-chartered institutions to convert to state charters, and promote the state banking system. The members of the Board, who are appointed by the Superintendent, consist of representatives of consumers, credit unions, foreign banks, and banks which, to the extent practicable, reflect a range of sizes and geographic locations, provided that, at least one member shall represent institutions of more than \$3 billion in assets, and at least two members shall represent institutions of less than \$500 million in assets.

The Board meets at least three times annually. Board discussions typically focus on promoting the state banking system and provide a forum for exchanging views and discussing supervisory and regulatory developments. Board meetings also foster regular discussions with the industry and consumers concerning trends and other issues of concern, such as financial inclusion, commercial real estate, updates to state guidance and regulations, and consumer protection.

The Superintendent is required to make an annual report no later than thirty days after the end of each year to the temporary president of the Senate and the speaker of the Assembly, which shall include a summary of topics discussed at the Board meetings and any legislative recommendations related to topics at the Board meetings.

DFS thanks all board members for their time, commitment, and valuable contributions throughout 2023.

Summary Of State Charter Advisory Board Meetings: 2023 Meetings Held

- March 9, 2023
- September 18, 2023
- December 7, 2023

**State Charter Advisory Board Meeting:
March 9, 2023 (10:00 – 11:00 a.m.)**

The first meeting of the Board in 2023 was called to order, and after the board members present announced themselves, the meeting commenced for presentations and discussions related to the following agenda:

1. Introductory Remarks by Executive Deputy Superintendent of Banking
2. Overdraft Study
3. Open Forum for Discussions and Feedback from Members

Summary of Discussions

1. Introductory Remarks by Executive Deputy Superintendent of Banking

Executive Deputy Superintendent of Banking, Shirin Emami, started the meeting by emphasizing the important role that New York State-regulated institutions play in New York's economy and provided a high-level overview of the state of banking and DFS's supervisory focus. Executive Deputy Superintendent Emami highlighted DFS initiatives to assist New York State-regulated institutions in their continued efforts to provide valuable banking services to communities in New York. Initiatives highlighted included wildcard expansion through a potential legislative action to amend the wildcard authority under Section 12-a of the New York Banking Law, review of a request to allow hybrid shareholder-member meetings for credit unions, consideration of a cannabis banking checklist to assist institutions in providing services to legally authorized businesses, and the Superintendent's ongoing meetings with the chief executive officers of New York-regulated banking institutions.

Next, the Executive Deputy Superintendent highlighted the Department's regular engagements and collaboration with federal regulators. She emphasized the focus on enhanced coordination relating to the examination process, and reduction of unnecessary regulatory burden on New York-regulated institutions. She welcomed any suggestions that institutions might have to further promote such coordination.

The Executive Deputy Superintendent then highlighted the Department's proposed climate guidance on managing material financial and operational risks from climate change, which was issued in December of 2022. Given that risks from climate change may vary from institution to institution depending on the size, complexity, and operations of the institutions, she noted that the proposed guidance emphasized that institutions should take a proportionate approach to managing their risks from climate change. She encouraged all institutions to provide feedback and comments on the proposed guidance by the deadline for comments of March 21, 2023.

Finally, Executive Deputy Superintendent Emami provided an overview of the Department's December 2022 guidance that informed New York-regulated banking organizations that if they wish to engage in any virtual currency-related activity, they should seek the Department's prior approval. She asked that any institution currently engaged in virtual currency-related activity promptly notify its point of contact at the Department so the Department could review the activity, seek additional information, and impose supervisory requirements as needed.

2. DFS Overdraft Study

Special Counsel to the Superintendent for Policy Polly Klyce Pennoyer provided an overview of the Department's study on overdraft practices in New York. Special Counsel Klyce Pennoyer thanked the institutions for their participation in the study and their responses to a request for information sent out to New York-regulated institutions in the fall of 2022. She noted that the goal of the study was not merely to meet the statutory mandate, but to continue to develop a more comprehensive understanding of the landscape of overdraft practices affecting New York consumers. She noted that as the Department continues to develop and supplement the regulatory framework applicable to overdraft and consumer fee practices, the Department does this with the dual mandate in mind: protecting New York consumers, while ensuring the safety and soundness of regulated institutions. She also highlighted the Department's awareness of federal requirements pertaining to consumer fees, the need for parity of treatment for consumers, and the Department's goal of maintaining the competitiveness of the New York charter.

3. Open Forum for Discussions and Feedback from Members

During the open forum section of the meeting, Executive Deputy Superintendent Emami raised questions to garner discussions. She asked if: (i) there were suggestions regarding the Department's examination process, including coordination and communication; (ii) there were suggestions to ensure the New York State charter remains attractive and competitive; and (iii) regulatory expectations should differ based on institutions' sizes and complexity.

Regarding the first question, a board member suggested the Department ensure coordination with its federal counterparts, including sharing information in a timely fashion. Another board member suggested that, given remote work experience since Covid-19, the

Department think about what is leverageable from such experience and find the right balance between on-site and off-site examinations.

Regarding the second question, a board member noted that, while the member knows the value of the New York charter, it would be helpful for the Department to find out why others are not considering it, which would then inform the Department how to better promote the New York charter.

Finally, regarding the third question, a board member stressed the difficulty of compliance with various data requests for smaller-sized institutions. This member noted that smaller-sized institutions do not have the size and scale to re-program their data gathering process, and they lack the ability to change their programming at a fast pace. Another board member noted that the Department should be aware of duplicative regulatory requirements and find opportunities to leverage oversight by others to avoid unnecessary duplication. Another board member commented that risk-based focused examinations are helpful in easing regulatory burden on institutions.

There being no further items on the agenda, Superintendent Adrienne A. Harris adjourned the meeting at 11:00 a.m.

**State Charter Advisory Board Meeting:
September 18, 2023 (2:00 – 3:00 p.m.)**

The second meeting of the Board in 2023 was called to order, and after the board members present announced themselves, the meeting commenced for presentations and discussions related to the following agenda:

1. Introductory Remarks by Superintendent Harris
2. DFS Internal Processes and Bank Operational Readiness
3. Commercial Real Estate and Other Potential Risk Areas
4. Total Loss Absorbing Capacity and Long-Term Debt Requirements

Summary of Discussions

1. Introductory Remarks by Superintendent Harris

Superintendent Adrienne A. Harris commenced the meeting by noting that in the wake of bank failures in March, the Department’s Office of General Counsel was directed by the Superintendent to review the collapse of Signature Bank and produce a public report. The purpose of the report was to document the events that led to the bank’s failure and identify opportunities to improve the Department’s supervisory process. Superintendent Harris noted specific recommendations for improvement of the Department’s supervisory process, including the need for policy and procedural updates, rebuilding examination capacity, clearer guidelines for escalating regulatory issues, operational readiness of regulated institutions to collect and produce accurate financial data at a rapid pace, liquidity risk modeling, and the strengthening of

regulatory tools. Superintendent Harris welcomed feedback and engagement on any of these subjects.

Discussions then followed on a variety of these topics. One board member added that their institution had success in creating a tracking sheet that they would submit to examiners on a regular basis to show examiners how their institution was progressing on resolving examination findings.

Another board member asked if there would be an increase in on-site examinations, as they saw tremendous value and success in working with the Department in-person. The Superintendent agreed that there is value in being on-site, and that the Department has already started planning on resuming on-site examinations.

In response to staffing challenges mentioned by the Superintendent, a member suggested that the Department look to the field of retired examiners as a pool of potential talent.

Finally, a board member brought up coordination between federal regulators and the Department. The member was complimentary of the Department's coordination efforts with federal regulators during a particular event in the Summer of 2022. The member asked if the Department is planning to increase its coordination, and whether there was anything the member's institution could do to facilitate that coordination. Superintendent Harris responded that it is important for the Department to continue its coordination with federal regulators, and noted that it is helpful when institutions proactively reach out to the Department to identify inefficiencies that could be resolved by increased coordination.

2. DFS Internal Processes and Bank Operational Readiness

Superintendent Harris asked the board members to offer their views relating to the Department's examination process, as well as possible areas for improvement. A board member responded that it would be helpful if examination First-Day Letters outlined whether the examination would be off-site, on-site, or hybrid, so that institutions could be better prepared for examinations. The member also noted that it would be helpful for First-Day Letters to contain an explicit protocol for hybrid meetings, such as, whether cameras should be on or off. Another board member noted that recent turnaround times for receiving examination reports from the Department have improved, whereas in previous years, there were delays.

3. Commercial Real Estate (CRE) and Other Potential Risk Areas

Superintendent Harris mentioned that the Department has been taking a closer look at CRE-related issues, including engagements with trade associations and institutions, and asked if board members had any insights they might be interested in sharing. She also welcomed any insight on other areas that may raise potential risks. One board member expressed concern over inflated prices of homes, interest rate risk, and long-term affordability of housing. Another board member remarked that it is best practice to not solely focus on housing inventory and mortgage rates, but also financial empowerment of buyers and advising them to perhaps wait and purchase later.

Board members also brought up the issue of appraisal bias. A member suggested the process of valuation of comparable homes should be automated to mitigate the risk of human bias.

Additional concerns raised by board members included credit tightening post-Signature Bank collapse, unfair labels placed on commercial real estate, and whether consumers were leaving New York and causing a migration of wealth. Superintendent Harris noted the importance of keeping New York-regulated institutions competitive and having regulations that are appropriate for the 21st century. Superintendent Harris also encouraged board members to alert the Department of regulations that may be outdated and no longer relevant or applicable to the current methods of industry operation.

4. Total Loss Absorbing Capacity and Long-Term Debt Requirements

Superintendent Harris continued discussions by asking questions related to recently announced federal proposals for regulatory capital requirements. She also asked the group for any feedback regarding total loss absorbing capacity, long-term debt proposals, and deposit insurance levels.

Discussions then followed about leveling the playing field for banking institutions and money market mutual funds, and the amount of focus on uninsured deposits. Additionally, there was discussion surrounding the ripple effect of the Signature Bank and Silicon Valley Bank collapses on deposit withdrawals, causing decreased liquidity that might be challenging to reverse. Superintendent Harris responded by noting that the Department would welcome suggestions on how to incentivize depositors to retain their deposits with banks.

There being no further items on the agenda, Superintendent Harris adjourned the meeting at 3:00 p.m.

**State Charter Advisory Board Meeting:
December 7, 2023 (2:00 – 3:00 p.m.)**

The third and final meeting of the Board in 2023 was called to order, and after the board members present announced themselves, the meeting commenced for presentations and discussions related to the following agenda:

1. Introductory Remarks by Superintendent Harris
2. Cybersecurity Regulation
3. Banking Climate Guidance
4. Industry Letter on Best Practices on Lending to Owners/Operators of Multifamily Residential Buildings

Summary of Discussions

1. Introductory Remarks by Superintendent Harris

The meeting started with Superintendent Adrienne A. Harris providing high-level information on the state of the banking industry. This was followed by an update on the Department's progress of its implementation of supervisory initiatives, as recommended by the Department's report on the Signature Bank failure. Superintendent Harris noted that the Department has been updating its policies and procedures to establish clear procedures for examiners regarding timely escalation of repeat regulatory findings or supervisory recommendations, as well as updating policies and defined workflows to ensure examination findings and supervisory recommendations are communicated in a timely fashion to the regulated institutions. Further, she noted that the Department has kicked off a reconsideration of

its examiner training framework with timelines to enhance training and to better equip the supervisory team to conduct risk-based examinations. She also mentioned that the Department has been working to identify resource gaps, initiate recruitments, and build examination capacity. Finally, she highlighted that the Department has done important strategic thinking about how to ensure that regulated institutions are operationally ready to take key actions, including collecting and producing accurate data at a rapid pace.

Following the introductory remarks, the Executive Deputy Superintendent of the Cybersecurity Division, the Executive Deputy Superintendent of the Climate Division, and the Director of Financial Inclusion and Empowerment, each provided presentations, respectively, as follows.

2. Cybersecurity Regulation

Executive Deputy Superintendent of the Cybersecurity Division, Harriet Pearson presented on the recent revisions to the Department's Cybersecurity Regulation that were published on November 1, 2023. Executive Deputy Superintendent Pearson discussed the Department's decision to amend the regulation, highlighting the fact that much has changed since the original regulation went into effect in 2017. She noted how differently companies operate today, and that cybercriminals continue to multiply in number and become more sophisticated. Executive Deputy Superintendent Pearson noted that the amended cybersecurity regulation further tailors cybersecurity requirements to different sizes and types of organizations, and that the changes required by the amendment will occur in phases over a two-year period, with different effective dates for key substantive requirements. Next, the Executive Deputy Superintendent highlighted the Department's Cybersecurity Resource Center, available on the Department website, with several resources on the amended regulation for businesses of all sizes.

She noted the Department planned to have training videos added to the resources, as well. Finally, the Executive Deputy Superintendent informed the board members that they can sign up to receive emails on important regulatory guidance, cybersecurity alerts, and other cybersecurity information relating to the financial services sector by accessing the Department's email updates sign-up page.

Discussions then followed regarding which staff members of an institution can submit the regulation's required certification. Executive Deputy Superintendent Pearson noted that any individual designated within a given organization can submit the required certification, and the certification needs to be signed by the institution's highest-ranking executive and Chief Information Security Officer or equivalent.

3. Banking Climate Guidance

Executive Deputy Superintendent of the Climate Division, Rajesh Bhandula presented on the Guidance to New York State-regulated banking and mortgage organizations relating to management of material financial and operational risks from climate change. Executive Deputy Superintendent Bhandula highlighted the proportionate and principles-based approach of the guidance, as well as its focus on material risks, and noted that there is no cut-off by asset size. The Executive Deputy Superintendent relayed the Department wishes to support smaller institutions to build capacity to manage their climate-related financial risks. Superintendent Harris emphasized that the focus of the Guidance is best practices and that there is no implementation timeframe, while also noting that disadvantaged communities are already at greater risk with respect to climate change and the Department does not wish to see regulated organizations exacerbating those dynamics as part of their own risk-mitigation methods.

Regulated organizations must manage this risk prudently while continuing to meet their consumer protection obligations, including fair lending.

Discussions followed with a board member asking if the Department had collaborated with federal counterparts on this Guidance. Executive Deputy Superintendent Bhandula responded that throughout the process of developing the Guidance, the Department coordinated with both federal and state counterparts, as well as international banking regulators.

4. Industry Letter on Best Practices on Lending to Owners/Operators of Multifamily Residential Buildings

Director of Financial Inclusion and Empowerment, Lindsey Counts shared an update on the Department's ongoing review of banks' lending practices to multifamily properties. She shared that Superintendent Harris directed a cross-divisional team at the Department to review banks' lending practices to such properties to ensure that banks understand and meet their statutory obligations to engage in due diligence of their borrowers. She noted that over the past several months, the Department met with state-chartered bank lenders active in the multifamily housing market, as well as housing advocates, to discuss the data inputs lenders use to make lending decisions. Director Counts indicated that these continuing conversations and next steps will inform ongoing work with state-chartered bank lenders active in this area, as well as with housing advocates, impacted tenants, and elected officials.

Director Counts shared that the Department will continue to ensure that banks are engaged in safe and sound lending practices relating to multifamily housing properties, as such lending is essential to the viability and growth of needed affordable housing across the state. She reiterated, in conclusion, that the Department is committed to working with stakeholders to

support innovative solutions to strengthen tools available to banks, including University Neighborhood Housing Program's Building Indicator Project.

There being no further items on the agenda, Superintendent Harris adjourned the meeting at 3:00 p.m.