

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1204 (Delegate Grammer)
Economic Matters

Financial Institutions - Decentralized Financial Regulatory Sandbox Program

This bill establishes the Decentralized Financial Regulatory Sandbox Program, administered and implemented by the Office of the Commissioner of Financial Regulation (OCFR) within the Maryland Department of Labor. The purpose of the program is to enable a person to obtain limited access to the financial market in the State in order to test a product or service without obtaining a license or other authorization. By October 1, 2023 (and annually thereafter), OCFR must report to the General Assembly on the implementation of the program.

Fiscal Summary

State Effect: General fund revenues increase minimally beginning in FY 2023, as discussed below. Implementation and related enforcement can likely be handled with existing resources; to the extent that participation in the program exceeds expectations, general fund expenditures may increase for staff.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill defines “product or service” as an innovative decentralized financial product or service that (1) generally requires a license, registration, or other authorization in the State and (2) uses or incorporates new or emerging technology (or a new use of existing technology, including blockchain technology) to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery

mechanism that is not known by OCFR to have a comparable widespread offering in Maryland.

Application Requirements and Procedures

To apply to participate in the program, an applicant must provide OCFR with:

- the completed application;
- a nonrefundable application fee in an amount determined by OCFR; and
- all relevant personal and contact information for the applicant, as specified.

Among other requirements, the applicant must describe the product or service to be tested (*e.g.*, how the product or service is subject to licensing requirements outside of the program, a list of the requirements the applicant seeks to have waived during the testing period, how the product or service will benefit consumers, *etc.*).

Generally, OCFR must notify the applicant if the application was approved or denied within 90 days. The bill requires OCFR to take into account specified factors when reviewing an application and, if approved, notify other businesses in the applicant's industry that the application has been approved and extend an invitation to those businesses to apply. If an application is denied, OCFR must provide the applicant a written description of the reasons for the denial.

A program participant may enter into agreements with (or follow the best practices of) the U.S. Consumer Financial Protection Bureau or similar programs in other states.

OCFR may not approve an applicant if the applicant has been convicted of certain serious crimes.

Conditions of Program

Once an application is approved, a participant has 12 months to test the product or service. The bill establishes conditions that a program participant must meet. Specifically, the following conditions apply:

- each consumer during the test of the product or service must be a Maryland resident;
- OCFR may specify the maximum number of products or services that a participant may offer to a consumer.

A participant that is testing a product or service is not subject to State laws, regulations, or licensing or authorization requirements identified in the required application. However, a

participant must maintain appropriate licensing and authorization in accordance with federal law. Additionally, a participant is not immune from criminal liability for acts committed during the testing period.

OCFR may terminate a participant in the program on written notice. The bill also specifies that OCFR and other specified entities may not be held liable for losses due to program participation.

Required Disclosures

The bill establishes various disclosure requirements that a participant must provide to a consumer in a clear and conspicuous manner. OCFR may require additional disclosures.

Termination or Extension

At least 30 days before the end of the 12-month testing period, a participant must notify OCFR that the participant will, within 60 days after the end of the testing period, exit the program, discontinue testing, and stop offering the products or services to consumers. If OCFR does not receive the required notice, the participant must end testing and stop offering products or services at the end of the 12-month period.

A participant may request an extension for the purpose of obtaining a license or other authorization, and OCFR must make a determination by the last day of the original 12-month testing period. Should an extension be granted, the participant must report to OCFR once every three months on efforts to obtain a license or other authorization.

Records Retention

The bill requires program participants to retain records, documents, and data produced during the testing period regarding the product or service produced. If a product or service fails, the participant must (1) notify OCFR and (2) report on actions taken to ensure consumers are not harmed by the failure. A participant must report quarterly on complaints received. In addition, OCFR may request other records, documents, or data from a participant.

If OCFR determines that a participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of the bill or that constitutes a violation of federal or State criminal law, OCFR may terminate the participant's involvement in the program.

Current Law: There is no regulatory sandbox program in the State.

OCFR supervises the activities of the financial services industry through periodic on-site examinations and off-site monitoring programs. The mission of OCFR is to ensure that the citizens of Maryland are able to conduct their financial transactions through safe, sound, and well-managed institutions that comply with Maryland law, while providing a flexible, yet sound regulatory environment that promotes fair competition, encourages innovative business development, and supports the economy of Maryland.

OCFR is responsible for chartering and supervising Maryland trust companies, State-chartered banks, and State-chartered credit unions; licensing and supervising State-licensed financial entities, including mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, affiliated insurance producer-originators, check cashers, money transmitters, consumer debt collection agencies, consumer lenders, installment lenders, sales finance businesses, credit services businesses, and debt management companies; and registering and supervising credit reporting agencies and debt settlement companies, to ensure compliance with the laws and regulations of Maryland.

OCFR provides assistance to consumers by investigating complaints of questionable business practices involving State-chartered, licensed, and registered financial institutions under its supervision and authority.

State Fiscal Effect: Although the bill specifies that program participants must apply to participate in the program and pay a required fee, the required fee has not yet been established and OCFR is unable to identify how many entities may apply under the program. Further, as the bill does not direct fee revenues to the Nondepository Special Fund, any fee revenues collected are assumed to be general fund revenues. While the exact impact on general fund revenues cannot be determined at this time, any impact is assumed to be minimal.

OCFR indicates that it may need additional staff in order to process and oversee the approval process and reporting requirements. However, the Department of Legislative Services notes that, due to the uncertainty of how many entities may apply for participation in the sandbox program and make subsequent decisions to apply for a license or other authorization, OCFR can likely accommodate any short-term influx of applications with existing resources. To the extent that there are significantly more applicants than expected over multiple years, OCFR may need to hire additional staff. As the Nondepository Special Fund is not authorized to be used for this purpose, any staffing requirements are assumed to be covered with general funds. The number of program participants is expected to be minimal, however.

Small Business Effect: Although the number of small businesses in the State that may choose to participate in the program is unknown, any such businesses may benefit due to the bill's regulatory exemptions. However, because the testing period is generally limited

to one year, the impact may be mitigated unless such businesses are able to continue offering the product or service either under an extension or another regulatory process.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

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