§ 36. Examinations; right of inspection; penalties for refusing to permit examination. * 1. The superintendent shall have the power to examine every banking organization, every bank holding company and any non-banking subsidiary thereof (as such terms "bank holding company" and "non-banking subsidiary" are defined in article three-A of this chapter) and every licensed lender at any time prior to its dissolution whenever in his judgment such examination is necessary or advisable.

* NB Effective until certain provisions are met (see Ch. 58 of 2025, Part Y, § 13)

* 1. The superintendent shall have the power to examine every banking organization, every bank holding company and any non-banking subsidiary thereof (as such terms "bank holding company" and "non-banking subsidiary" are defined in article three-A of this chapter) and every licensed lender and licensed buy-now-pay-later lender at any time prior to its dissolution whenever in the superintendent's judgment such examination is necessary or advisable.

* NB Effective upon the one hundred eightieth day after the promulgation of rules and/or regulations by the department of financial services to effectuate certain provisions (see Ch. 58 of 2025, Part Y, § 13)

2. At least once in each calendar year upon such date or dates within each such period as in his or her discretion he or she deems proper, the superintendent shall cause every banking organization to be examined; provided, however, that:

(a) the provisions of this subdivision shall not be applicable to an investment company unless (i) such investment company has been authorized by the superintendent of financial services to receive deposits, in accordance with the terms of subdivision three of section five hundred eight of this chapter, (ii) a bank or trust company, or any two or more of such organizations, shall own an aggregate of twenty-five per centum or more of the capital stock of such investment company, or (iii) such investment company is a corporation which, under the terms of subdivision six of this section, is deemed for the purposes of this section to be a corporation affiliated with a corporate banking organization, and

(b) the superintendent may extend the examination interval from at

least once in each calendar year to at least once in each eighteen month period if the banking organization to be examined:

(1) has total assets of less than one billion dollars;

(2) is well-capitalized, which for purposes of this paragraph is defined as having capital which significantly exceeds the required minimum level for each relevant capital measure or as having such capital as the superintendent shall otherwise define by regulation;

(3) at its most recent examination, was found to be well-managed and its composite condition was found to be outstanding or good;

(4) is not currently subject to a formal enforcement proceeding or order by the superintendent, the federal deposit insurance corporation or any other federal banking agency; and

(5) has not been acquired by any person during the twelve month period in which an examination would be required but for this paragraph, and

(c) the superintendent may modify the examination intervals as prescribed by this subdivision to the extent the superintendent deems appropriate, in his or her sole discretion, in order to obtain the efficient use of the personal and nonpersonal resources of the department by maximizing coordination with identical or parallel examinations having differing or varying intervals performed by federal banking regulators, whether such examinations are performed in conjunction with the department or on an alternating schedule with such federal banking regulators; provided, that nothing in this paragraph shall be deemed in any manner to lessen or modify the requirement imposed pursuant to section ten of this article.

3. On every such examination of any banking organization inquiry shall be made as to (a) its financial condition, (b) the security afforded to those by whom its engagements are held, (c) the policies of its management, (d) whether the requirements of law have been complied with in the administration of its affairs, and (e) such other matters as the superintendent may prescribe. Examination of a licensed lender shall be made only for the purposes set forth in section three hundred forty-eight of this chapter.

4. The superintendent shall also have power at any time to examine every agency, branch or office located in this state of any foreign

banking corporation, including, but not limited to, all of the books, accounts or records of every agency, branch or office located in this state of such foreign banking corporation as well as all of the books, accounts or records maintained in this state of any agency, branch or office not located in this state of such foreign banking corporation for the purpose of ascertaining whether it has violated any law and for any other purpose.

5. The superintendent shall have the power to make such special investigations as he shall deem necessary to determine whether any individual, partnership, unincorporated association or corporation has violated any of the provisions of this chapter; and to the extent necessary for this purpose the superintendent shall have the power to examine all relevant books, records, accounts and documents.

6. For the purpose of determining the financial condition of a banking organization, the superintendent shall have the power, when in his or her judgment it is necessary or advisable, to examine corporations or any other entity affiliated with any such banking organization. The following are deemed for the purposes of this section to be corporations or other entities affiliated with a banking organization:

(a) (i) Any corporation or other entity, the capital stock of which such banking organization directly or indirectly, or through a subsidiary or subsidiaries, owns or controls ten per centum or more of the voting shares of such corporation or other entity; or (ii) any corporation or other entity the election of a majority of the board of directors of which is in any manner directly or indirectly controlled by such banking organization; or (iii) any corporation or other entity the management or policies over which the banking organization has the power, directly or indirectly, to exercise a controlling influence, as determined by the superintendent; provided, however, the foregoing definition of affiliate corporations and other entities shall not apply to small business investment companies as defined in and operating pursuant to the provisions of an act of congress entitled "Small Business Investment Act of 1958," and such companies shall be deemed to be corporations affiliated with the banking organization for the purposes of this subdivision, if such banking organization directly or

indirectly owns or controls twenty-five per centum or more of the voting shares or more than twenty-five per centum of the shares voted for the election of directors at the preceding annual meeting of such small business investment company; or any such small business investment company the election of at least twenty-five per centum of the board of directors of which is in any other manner directly or indirectly controlled by such banking organization; or

(b) Any corporation or other entity which directly or indirectly, or through a subsidiary or subsidiaries, owns or controls ten per centum or more of the voting shares of capital stock of such banking organization; or any corporation or other entity which in any manner directly or indirectly controls the election of a majority of the board of directors of such banking organization; or with respect to the management or policies of such banking organization has the power, directly or indirectly, to exercise a controlling influence, as determined by the superintendent.

6-a. (a) For the purposes of determining the financial condition of a banking organization, the superintendent shall have the power, when in his or her judgment it is necessary or advisable, to examine a non-banking subsidiary of a corporation or other entity which corporation or other entity, pursuant to paragraph (b) of subdivision six of this section, is deemed to be an affiliate of a banking organization.

(b) For the purposes of this subdivision, a "subsidiary" of such affiliated corporation or other entity shall mean:

(1) Any corporation or other entity ten per centum or more of whose voting stock is directly or indirectly, or through a subsidiary or subsidiaries, owned, controlled, or held with power to vote, by an affiliated corporation or other entity; or (2) any corporation or other entity, the election of a majority of whose directors is controlled in any manner by an affiliated corporation or other entity; or (3) any corporation or other entity, ten per centum or more of whose voting stock is directly or indirectly owned, controlled, or held with power to vote, by a trustee or trustees for the benefit of the stockholders or members of an affiliated corporation or other entity; or (4) any corporation or other entity, at least ten per centum of the voting stock

of which is directly or indirectly, or through a subsidiary or subsidiaries, owned, controlled or held with power to vote by a combination of an affiliated corporation or other entity and by a trustee or trustees for the benefit of the stockholders or members of such affiliated corporation or other entity; or (5) any entity, corporate or unincorporated, with respect to the management or policies of which such affiliated corporation or other entity has the power, directly or indirectly, to exercise a controlling influence, as determined by the superintendent, after notice and opportunity for a hearing. For the purposes of this subdivision, voting stock shall not be deemed to include voting stock owned by the United States or by any corporation wholly owned by the United States.

(c) A "non-banking subsidiary" for the purposes of this subdivision means one which is not a banking organization or which is not engaged in the banking business as defined in subdivision one of section one hundred thirty-one of this chapter.

(d) The superintendent may use the reports of regulatory agencies of this state, of other states, of any foreign government, and of federal regulatory agencies in making such examinations or in conjunction with such examination. All regulatory agencies of this state, shall upon request of the superintendent, furnish or make available to him or her reports of examination made by them of any such non-banking subsidiary.

6-b. For purposes of subdivisions six and six-a of this section, any references contained therein to "voting stock" or "voting shares" shall be deemed to include any ownership interest with respect to any entity other than a corporation, any references to "stockholders" or "shareholders" shall include persons or entities who have an equity interest in any entity other than a corporation, and any references to "board of directors" shall be deemed to mean the governing body with respect to any entity other than a corporation.

7. The superintendent may cause any corporation, association or partnership having business transactions or relations with any corporate banking organization to be examined if such examination is found by a justice of the supreme court, on application of the superintendent and on notice to such company, to be necessary or expedient in order to

ascertain whether the capital stock of such corporate banking organization is impaired or whether safety of depositors with it has been imperilled.

8. Examinations may be made and inquiries instituted or continued in the discretion of the superintendent after he has taken possession of the property and business of any banking organization or after it has entered upon voluntary dissolution until it shall resume business or its affairs shall be finally liquidated.

9. Any individual, partnership, unincorporated association or corporation, or any other entity, which refuses to permit examination or investigation in accordance with the terms of this section shall forfeit to the people of the state an amount as determined pursuant to section forty-four of this chapter for every day such refusal continues.

* 10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed casher of checks, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed student loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, any other person or entity subject to supervision under this chapter, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or

any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

* NB Effective until certain provisions are met (see Ch. 58 of 2025, Part Y, § 13)

* 10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed buy-now-pay-later lender, licensed casher of checks, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed student loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, any other person or entity subject to supervision under this chapter, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the

purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

* NB Effective upon the one hundred eightieth day after the promulgation of rules and/or regulations by the department of financial services to effectuate certain provisions (see Ch. 58 of 2025, Part Y, § 13)