



**COMMONWEALTH OF MASSACHUSETTS**  
**DIVISION OF BANKS**

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**INDUSTRY LETTER REGARDING APPLICABILITY OF THIRD PARTY LOAN SERVICER  
REGISTRATION REQUIREMENT IN MASSACHUSETTS**

To All Interested Parties:

The Division of Banks (the Division) has issued this Industry Letter to remind entities who engage in the business of third party loan servicing of the registration requirements under Massachusetts General Laws (MGL) c. 93, section 24A.<sup>1</sup> This letter is not intended to address student loan servicer licensing requirements under MGL c. 93L. Further information regarding student loan servicers can be found here: [Student Loan Servicers FAQs](#)

Loans Originated by Entities

MGL c. 93, Section 24A(b) states in pertinent part: “A person shall not directly or indirectly engage in the commonwealth in the business of a third party loan servicer without registering with the commissioner.” MGL c. 93, section 24 defines a third party loan servicer as “a person who uses an instrumentality of interstate commerce or the mails in any business the principal purpose of servicing a loan directly or indirectly, **owed or due or asserted to be owed or due another.**” [Emphasis supplied.] Therefore, an entity servicing a portfolio of loans that it has originated and retained in its portfolio would not be considered a third party loan servicer. **However, a registration is required if an entity services loans after the loans have been sold to a third party, notwithstanding the fact that the entity originated or held title to the loan at some point in time.** A common example of such a scenario where a registration would be required is when a mortgage lender originates a mortgage loan and thereafter sells it on the secondary market to government sponsored enterprises such as the Federal Home Loan Mortgage Corporation (aka Freddie Mac) with mortgage servicing rights retained.

Master Servicers and Subservicers

MGL c. 93, section 24 defines servicing as “receiving a scheduled periodic payment from a borrower pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments to the owner of the loan or other third party of principal and interest and other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the servicing loan document or servicing contract. In the case of a home

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<sup>1</sup> Note that pursuant to 209 CMR 18.01(2)(b), persons licensed as Massachusetts debt collectors who engage in loan servicing are not required to also obtain a third party loan servicer registration.

equity conversion mortgage or reverse mortgage as referenced in this section, servicing includes making payments to the borrower.”

A master servicer that holds servicing rights but contracts out the servicing activity to a registered third party loan servicer or to a licensed debt collector is not required to be registered as a third party loan servicer because the entity is not engaging in “servicing,” as defined above.

#### Unregistered Loan Servicing – Enforcement

Pursuant to MGL, c. 93, section 28, engaging in third party loan servicing activity without obtaining a third party loan servicer registration constitutes an unfair or deceptive act or practice under MGL c. 93A. Entities found to be engaging in unregistered third party loan servicing shall be subject to regulatory actions, including but not limited to, the imposition of fines and penalties, as further described in the Division’s Bulletin 5.1-101: [Enforcement Policy for Unlicensed Entities](#).

Should you have any questions with regard to this Industry Letter, please contact Deputy Commissioner Kevin Cuff at (617) 956-1539.

Sincerely,

Mary L. Gallagher  
Commissioner of Banks