A STUDY ON THE IMPACT OF THE COVID-19 PANDEMIC ON BUSINESS IN NEW YORK

A REPORT ON THE PAYROLL SERVICE PROVIDER INDUSTRY IN NEW YORK, PURSUANT TO CHAPTER 792 OF THE LAWS OF 2022

DATE: DECEMBER 27, 2022

I. Introduction

Adrienne A. Harris, Superintendent of the Department of Financial Services (DFS), respectfully submits this report, prepared in consultation with Empire State Development Corporation (ESD), on the findings of DFS's study performed pursuant to Chapter 792 of the Laws of 2022, on the following impacts as a result of the COVID-19 pandemic:

- The financial impact in underbanked and underserved areas by assessing the ability of individuals in those areas to receive, access, and use their stimulus checks in banks in the underserved and underbanked areas.

- The impact resulting in closures or changes to hours, staffing levels, or services in banks in underbanked or underserved areas;

- The impact on the number of small businesses applying for loans; the number of small businesses receiving approval for such loans; and the amount of money such small businesses have received in loans;

- The impact on the number of minority- and women-owned business enterprises applying for loans; the number of minority- and women-owned business enterprises receiving approval for such loans; and the amount of money such minority- and women-owned business enterprises have received in loans.

II. The Department of Financial Services and Empire State Development Corporation and Finance

DFS is New York's banking, insurance, and financial services regulator, established in 2011 by the Legislature, which consolidated the New York Banking Department and Insurance Department and authorized the resulting agency to oversee a broader array of financial products and services, with the goal of modernizing regulation. DFS supervises and regulates the activities of more than 3,000 financial institutions with total assets of more than $9 trillion, including more than 1,700 insurance companies and 1,200 banking and other financial institutions.

DFS seeks to build an equitable, transparent, and resilient financial system that benefits individuals and supports business. The Department and its employees are responsible for empowering consumers and protecting them from financial harm; ensuring the health of regulated entities; driving economic growth in New York through responsible innovation; and preserving the stability of the global financial system. The Financial Services Law tasks DFS with, among other things, "provid[ing] for the effective and efficient enforcement of the banking and insurance laws," "promot[ing] the reduction and elimination of fraud, criminal abuse and unethical conduct by, and with respect to, banking, insurance and other financial services institutions and their customers," and "educat[ing] and protect[ing] users of banking, insurance, and financial services products and services through the provision of timely and understandable information." DFS's Banking Division supervises bank and non-bank service providers, including money transmitters. DFS also houses a Consumer Protection and Financial

Enforcement Division (CPFED), which fights consumer fraud; ensures that regulated entities comply with related New York and federal law; and educates consumers about financial services.

Empire State Development Corporation's purpose is to promote a vigorous and growing state economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing, and other forms of assistance. To achieve this goal invests strategically in infrastructure, innovation, place-making and revitalization, tradable sectors and workforce development through transparent and responsive to the needs of diverse communities across the state through the active participation of the Regional Councils; supports the retention and health of existing businesses, the retention of populations, and the development of new businesses and industries that will contribute to the development of the 21st century economy. ESD is the primary agency that promotes equality of economic opportunities for minority- and women-owned businesses ("MWB") as defined in New York State Law.

III. Background: The Impact of the COVID-19 Pandemic on Small Business Operations in New York

The COVID-19 pandemic is an ongoing global pandemic of coronavirus disease 2019 (COVID-19), caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The World Health Organization (WHO) declared the outbreak a public health emergency of international concern on January 30, 2020, and a pandemic on March 11, 2020. New York State, in particular New York City, became the pandemic's epicenter in the United States.

In response to public health needs, federal, state, and local governments instituted policies to mitigate the spread of the virus, including social distancing and the mandated closing of communal gathering areas, including schools, parks, and restaurants. These health and safety measures and business shutdowns resulted in economic disruption throughout the state. On March 20, 2020, New York's Governor issued Executive Order No. 202.8 (the "New York State on PAUSE Order"), which included a directive requiring all non-essential for-profit or non-profit businesses statewide to close their in-office personnel functions, effective Sunday, March 22, 2020.[1] The Governor also issued guidance identifying the businesses or entities considered essential (Executive Order 202.6).[2] These health and safety measures resulted in economic disruption and business closures throughout the state.

Among the list of entities designated as essential, the state designated "financial institutions such as banks; insurance; payroll; accounting; services related to financial markets," to be essential businesses for the purposes of COVID-19 protocols.

New York's Governor extended the PAUSE Order (E.O. 206) on April 16, 2020, and for a second time on May 14, 2020, including new guidelines for reopening businesses. Known as the "NY Forward Reopening Plan," the guidelines established a phased approach for reopening the

[1] https://www.governor.ny.gov/sites/default/files/atoms/files/EO_202.8.pdf

[2] https://www.governor.ny.gov/sites/default/files/atoms/files/EO202.6.pdf; https://esd.ny.gov/guidance-executive-order-2026

state. In addition, federal agencies, including the Centers for Disease Control and Prevention (CDC), issued guidelines on safely operating businesses during the pandemic.

The federal government's health guidelines, along with state and local orders, had a significant impact on how small businesses could operate. While the economic impact was significant across the state, the scope varied among small businesses depending on factors such as whether a business was deemed essential, how easily a business could continue operating online or with social distancing, the location of the business, and the ability of employees to continue working given family needs such as childcare.

A. ***The financial impact of COVID-19 in underbanked and underserved areas by assessing the ability of individuals in those areas to receive, access, and use their stimulus checks in banks in the underserved and under banked areas*.**

The federal CARES Act, the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 (Public Laws 116-136, 116-260, and 117-2, respectively) authorized three rounds of Economic Impact Payments (EIPs) that went to around 165 million Americans. The federal government made these payments to individuals, totaling $931 billion, to address pandemic-related financial stress between April 2020 and December 2021.[3] The vast majority of these payments were paid by direct deposit into personal bank accounts, with the remainder paid by prepaid cards or paper checks.[4]

The American Rescue Plan Act of 2021 also temporarily expanded eligibility for the Child Tax Credit (CTC) to more families and increased the credit amounts. From July to December 2021, eligible families received advance monthly payments of half their total expected CTC, benefiting about 84% of children in the U.S.

The federal Internal Revenue Department (IRS) was charged with the application process and distribution of the above funds to eligible New Yorkers. New York State did not have any role in administering these programs. Any complaints by New Yorkers about the program, including their ability to receive, access and use their EIP funds would have been filed with the federal government.

In addition, neither state nor federal financial institutions were directed by the IRS to collect data on the number of payments processed through their institutions for this federal program. Therefore, New York State-chartered or licensed institutions processed those stimulus payments the same way they handle any other check or debit card.

Given that these payments were issued directly by federal agencies, DFS does not have any available data identifying challenges recipients had in their ability to access and use federal stimulus payments.

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3 https://www.irs.gov/coronavirus/economic-impact-payments

4 https://fiscal.treasury.gov/files/news/eip-operational-faqs-for-financial-industry.pdf and https://www.irs.gov/newsroom/treasury-issues-millions-of-second-economic-impact-payments-by-debit-card

B. ***Closures or changes to hours, staffing levels, or services in banks in underbanked or underserved areas;***

DFS administers New York State's Banking Development District (BDD) program, which was designed to encourage the establishment of bank branches in areas across New York State with a demonstrated need for banking services. The New York State Legislature created the BDD program in 1997 by enacting Banking Law §96-d, which became effective January 1, 1998. As of December 12, 2019, §96-d was amended to include credit unions as banking institutions eligible to participate in the BDD program.

The purpose of the law is to encourage the establishment of bank and credit union branches within such Banking Development Districts to enhance access by consumers to banking services and promote local economic development. This state-wide program recognizes that underserved consumers may reside in urban or rural areas that may have different income levels, demographic characteristics, and population densities. Regardless of an area's characteristics, it is anticipated that greater access to banking services will encourage the area's residents, who may have no (or limited) banking relationships, to become part of the financial mainstream.

The Department determined that the best way to model banking access in "underbanked and undeserved areas" during the pandemic was to focus on banks operating in the BDD program[5]. For this study, the Department conducted a survey of institutions currently participating in the BDD program to provide a snapshot of banking access in designated underserved areas between March 2020 and March 2022. For this study, DFS surveyed 20 BDD branches across the state, of which 18, or 90%, responded.

During the pandemic, these financial institutions' branches had to adhere to health and safety protocols to ensure their employees and customers were safe in the same way other businesses were required to. Despite the challenges, save for the earliest weeks of the pandemic, the institutions indicated that there was minimal impact to their ability to serve their communities.

Most branches reported they experienced temporary closures during the pandemic period surveyed, lasting generally no longer than one month. Only one reported being closed longer than six months. Further, branches that reported temporary closures provided alternative banking options, such as the following: online and mobile banking, live telephone assistance, and full-service ATMs. Those branches that did not have drive-through windows and offered only in-person services at a particular branch had more difficulties reopening and providing direct customer services.

Roughly 30% of branches surveyed did not experience staffing changes during the pandemic, while the remainder experienced some short-term, temporary staff reductions. Branches that experienced COVID-related staff changes reported they were mainly due to COVID infections.

[5] Also note that many financial institutions operating in the state are federally-chartered and outside the jurisdiction of the Department.

Eleven of 18 branches reported changes to hours. Most reported the changes as temporary, with only 20% of respondents indicating they permanently changed branch hours.

For detailed BDD Branch survey results, please see the attached Appendix.

C. COVID-19's impact on the number of small businesses applying for loans; the number of small businesses receiving approval for such loans; and the amount of money such small businesses have received in loans;

New York State-chartered banks and credit unions provide a variety of business services to local small businesses. Many New York State-chartered banks and credit unions partner with the federal Small Business Administration (SBA) to provide loan products to small businesses throughout the state.

During COVID-19, DFS took steps to encourage state-chartered institutions to participate in federal programs to assist small businesses during the pandemic. DFS actions include:

- **April 3, 2020:** DFS issued an industry letter calling on all New York-regulated banks and credit unions to participate in the SBA Paycheck Protection Program (PPP), generating over $13 billion in loans to New York Small businesses.[6]
- **April 5, 2020:** DFS requested that all New York-regulated banks and credit unions increase funding to New York Community Development Financial Institutions (CDFIs) implementing the SBA PPP. In addition, to make PPP loans more available, DFS worked closely with Pursuit, a CDFI and SBA 7(a)-approved lender, to facilitate access to the SBA PPP for New York State-chartered banks and credit unions not previously approved by the SBA.
- **May 6, 2020:** DFS and ESD engaged with and encouraged fintech companies, including Kabbage, Square, Affirm, Funding Circle, On Deck, and Cross River Bank, to join in PPP lending to New York Small businesses.
- **June 30, 2020:** DFS issued an industry letter to encourage state-chartered banking institutions to participate in the PPP program by outlining the circumstances in which the Department would award Community Reinvestment Act ("CRA") credit for activities undertaken in response to the COVID-19 pandemic. Loans to businesses in amounts of $1 million or less, including PPP loans, would be considered small business loans under the applicable CRA lending test. PPP loans could also receive consideration as innovative or flexible lending practices. A PPP loan in an amount greater than $1 million to a small business could qualify as a community development loan under the purpose of economic development if the loan helped to create or retain jobs, or under revitalization and stabilization tests if the loan benefitted low- or moderate-income areas or distressed or underserved areas.[7]

New York State small businesses received a total of $37.44 billion in PPP federal loans, with New York State-chartered banks administering $13.35 billion of these loans, and national banks

[6] https://www.dfs.ny.gov/industry_guidance/industry_letters/il20200403_paycheck_protection_loan_program
[7] https://www.dfs.ny.gov/industry_guidance/industry_letters/il20200630_cra_considerations_covid-19_activities

administering $24.09 billion in loans. New York State-chartered institutions' PPP program resulted in a total number of loans for 68,089 businesses, with the average loan amount of $196,052.

D. *COVID-19's impact the number of minority- and women-owned business enterprise applying for loans; the number of minority- and women-owned business enterprises receiving approval for such loans; and the amount of money such minority- and women-owned business enterprises have received in loans;*

- Linked Deposit Program (LDP): Between March 1, 2020 and March 31, 2022, LDP approved 37 loans for a total of $14.8 million of which three were issued to woman-owned firms, for a total of $2.1 million. One of the woman-owned firms was a minority woman-owned business for a $1.6 million loan. Types of loans include: 2 buyouts, 25 equipment purchases, 7 expansions, and 3 real estate purchases.

- Regional Revolving Loan Trust Fund (RRLTF): Between March 1, 2020 and March 31, 2022, RRLTF issued 30 loans for a total of $ $1.3 million, which included nine loans issued to woman-owned firms for a total of $345,629, of which one was a minority woman-owned firm for a loan for $15,000. Types of loans include: 26 working capital loans ($949,629) and four equipment loans ($330,000).

- Minority & Women Revolving Loan Trust Fund (MWRLTF): Between March 1, 2020 and March 31, 2022, MWRLTF issued 13 loans for a total of $ $281,595, which included three loans issued to minority-owned firms for a total of $90,600; six issued to minority women-owned firms for a total of $129,045; and four issued to women-owned firms for a total of $61,950. Types of loans include: 12 working capital loans ($248,050) and one fixed asset loan ($33,545).

- Small Business Revolving Loan Fund (SBRLF): Between March 1, 2020 and March 31, 2022, SBRLF issued 4,379 loans for a total of $26.8 million which included 13 loans issued to minority-owned firms for a total of $195,167; 4,321 loans issued to minority women-owned firms for a total of $21.3 million; and 18 were issued to women-owned firms for a total of $371,927.

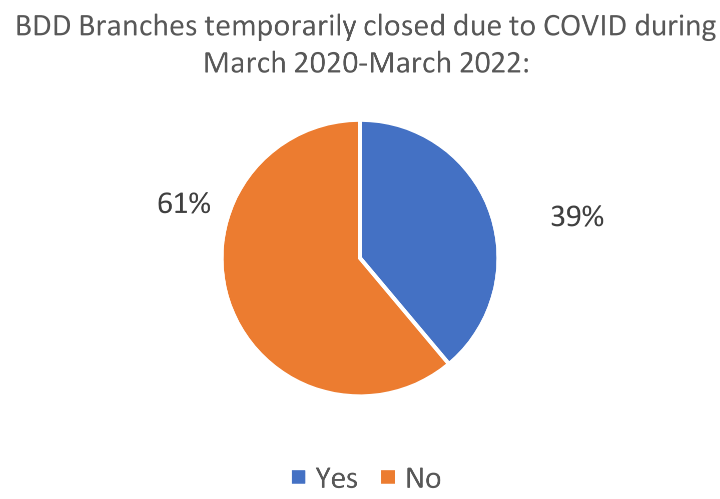
- Bridge to Success (BTS): Between March 1, 2020 and March 31, 2022, BTS issued 44 loans for a total of $9.8 million, which included 28 loans issued to minority-owned firms for a total of $6.5 million; 11 loans issued to minority women-owned firms for a total of $2.5 million; and three issued to women-owned firms for a total of $316,000.

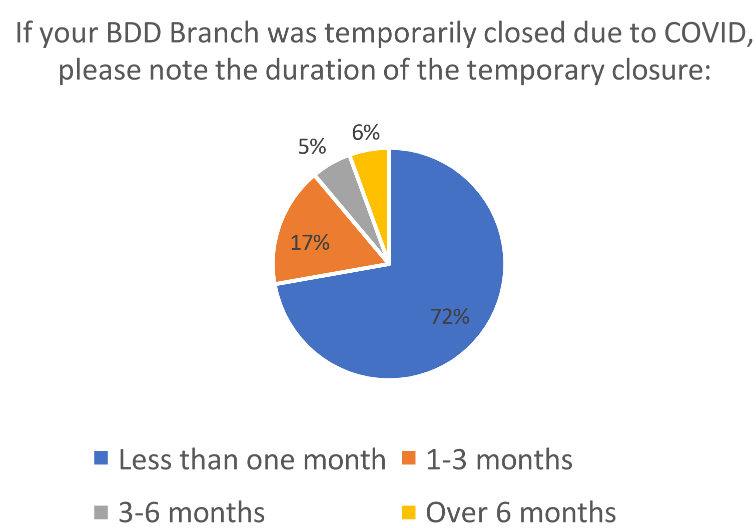
- JDA Agriculture: Between March 1, 2020 and March 31, 2022, JDA Ag issued 17 loans for a total of $26.8 million, which included two loans issued to minority women-owned firms for a total of $2,278,306.

- New York Forward Loan Fund (NYFLF): Between March 1, 2020 and March 31, 2022, NYFLF issued 1,719 loans for a total of $96.2 million, which included 1,100 loans issued to minority women-owned firms for a total of $61.5 million.

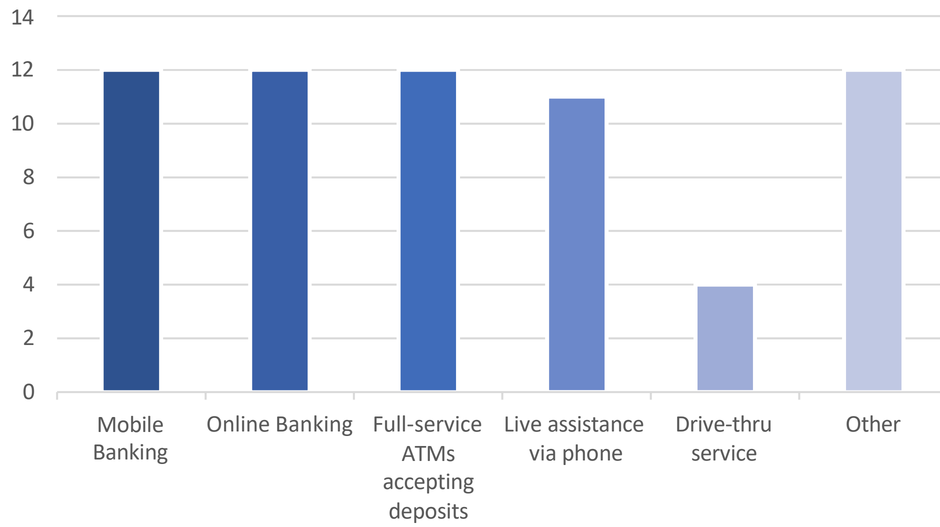
<u>**Appendix**</u>

Department of Financial Services
Aggregated Banking Development District (BDD) Branch
COVID Survey Results

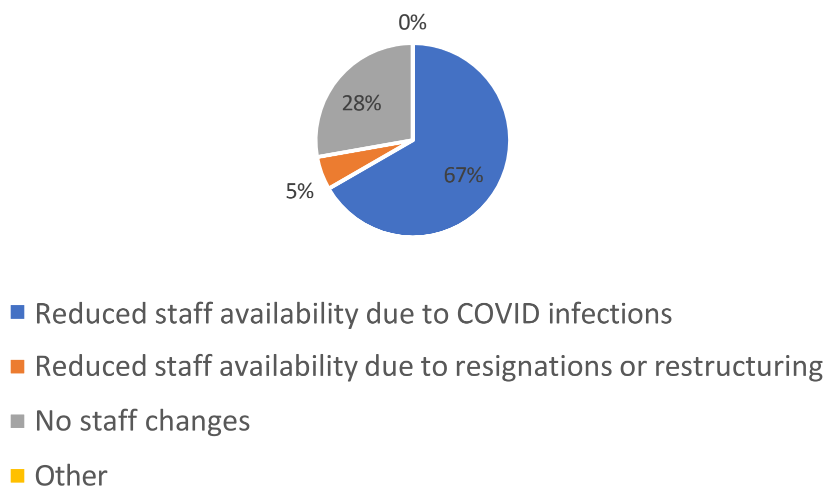


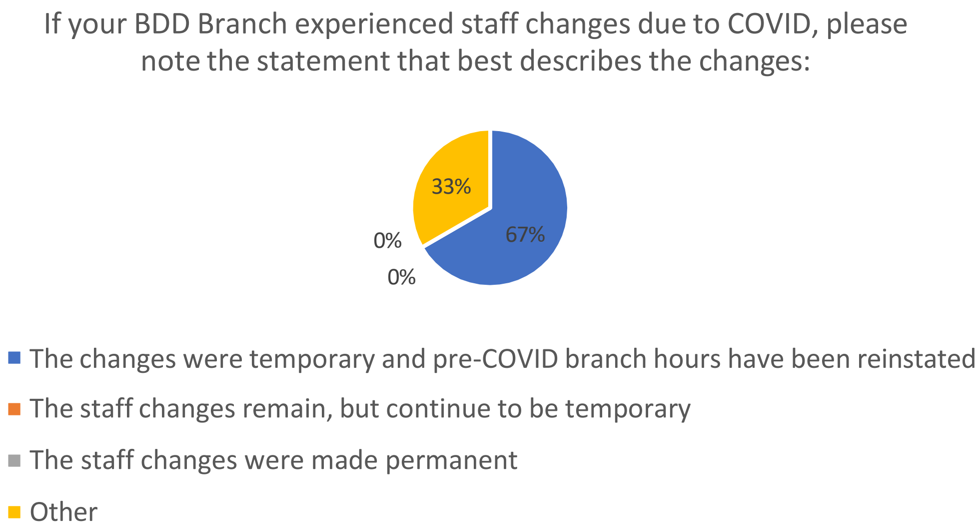


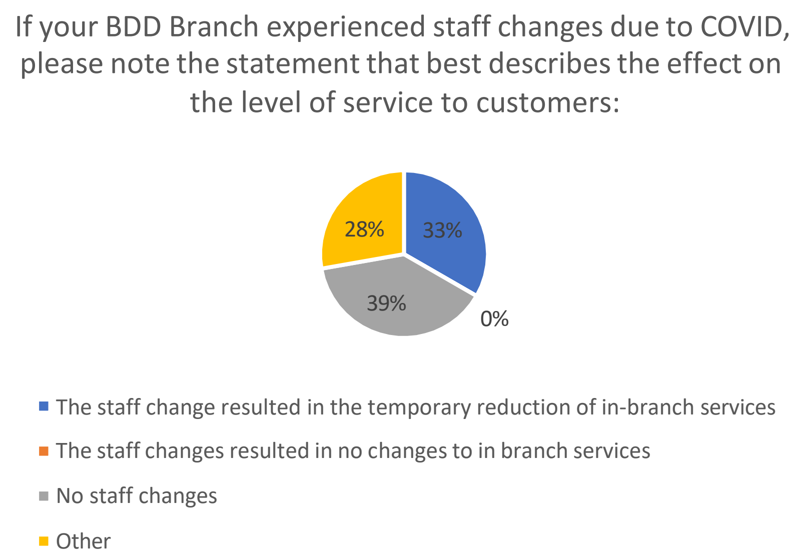
If your BDD Branch was temporarily closed due to COVID, please note the options provided to customers in lieu of BDD Branch availability:



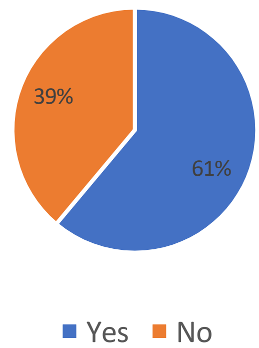
Did your BDD Branch experience any of the following staff changes due to COVID between March 2020 and March 2022?



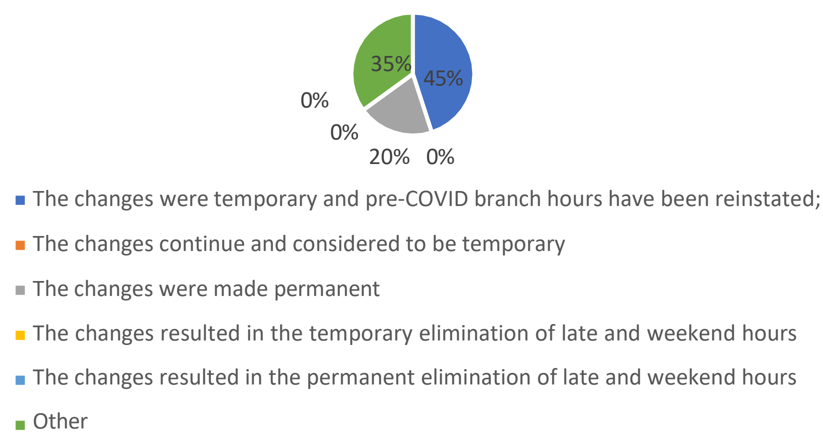

If your BDD Branch experienced staff changes due to COVID, please note the statement that best describes the changes:
33%
67%
0%
0%
The changes were temporary and pre-COVID branch hours have been reinstated
The staff changes remain, but continue to be temporary
The staff changes were made permanent
Other


If your BDD Branch experienced staff changes due to COVID, please note the statement that best describes the effect on the level of service to customers:
28%
33%
39%
0%
The staff change resulted in the temporary reduction of in-branch services
The staff changes resulted in no changes to in branch services
No staff changes
Other

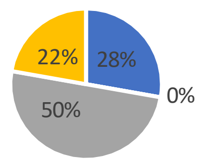
Did your BDD Branch implement changes to branch hours of operation due to COVID between March 2020- March 2022 (this does not include temporary closures):



If your BDD Branch implemented changes to branch hours due to COVID, please select the statements that best describe the change:



If your BDD Branch experienced changes to branch hours due to COVID, please note the statement that best describes the effect on services to customers:



- The changes to branch hours resulted in the temporary reduction of in-branch services
- The changes to branch hours resulted in the temporary reduction of in-branch services
- The changes to branch hours resulted in no changes to in-branch services
- Other