Washington Department of Financial Institutions
Fall 2020 Newsletter

DFI Continues To Carry Out Its Mission During COVID-19 Pandemic

Message from DFI Director Charlie Clark

When the Pandemic hit Washington State in the beginning of this year, DFI ramped up our preparations to work remotely. We thought it would only be for a few months.

We were wrong. Nearly five months after we sent staff home to work, our Tumwater office is still closed to the public and more than 95% of our staff are still teleworking. This may continue to be the case through the rest of 2020. We're doing our part to keep each other, and you, safe from spreading COVID-19 and flatten the numbers of new cases in our state.

Something we got right, however, was our initial thought – "We got this. Our staff is resilient, talented and resourceful. They're committed to doing a great job, no matter where they're sitting."

DFI staff have continued to provide excellent service to our licensees, regulated entities, partners and consumers – from a distance.

In our Consumer Services Division, we kept up with our review of licenses, and in the last six months we received 1,740 applications and issued 1,596 licenses. We continue to complete our consumer services exams with more than 130 remote exams taking place during this period. Our Securities Division brought 29 enforcement actions - more than the number brought during the same time one year ago. Since the stay at home order went into effect, our divisions of Banks and Credit Unions completed their exams of our state chartered banks and credit unions remotely – with only one needing to be rescheduled.

We recognize that all of our licensees and partners have had to balance day-to-day business while supporting their own employees working remotely, implementing new federal programs, and continuing to meet the needs of their customers. While this has not been an ideal situation for any of us, we have all worked together throughout this pandemic to make sure services continue for Washington residents.

We recognize, also, this pandemic has brought with it economic devastation to many in our state. With more than a million Washington residents unemployed and often in dire need of financial assistance, it's more important than ever to remember to watch out for those who are most vulnerable – both to the virus and the financial scams that seem to develop daily, ready to separate people from what savings or retirement funds they have left.

Though we are far from getting back to "normal," we'll get there together by doing what we need to be safe: wearing our masks, following social distancing guidelines, washing our hands thoroughly and often, and being kind to ourselves and one another as we find some semblance of balance in this unusual time.

Thank you for all that you do.

DFI Director, Charlie Clark

Upcoming Furlough Dates

In compliance with the Governor's directive for all state agencies to furlough staff one day a month for four months, DFI staff will be on furlough and the DFI office will be closed the following days:

- Friday, October 30
- Wednesday, November 25

On these dates, online services will still be available. However, staff will not be available to answer calls, respond to e-mail or process applications or complaints.

Despite these shortened work weeks, we remain committed to serving our licensees and the residents of Washington.

DFI Awarded 2020 Rainbow Alliance and Inclusion Network (RAIN) Outstanding Agency Award!

DFI takes pride in being an inclusive and safe environment for LGTBQ+ employees. Our agency is one of three to receive this award in 2020.

Reverse Mortgages – An Introduction

Reverse mortgages may help some seniors meet financial needs if they have significantly paid down, or paid off, their mortgage. Unlike a conventional mortgage where the borrower makes monthly payments to the lender, in a reverse mortgage the lender pays the borrower (a lump sum, a monthly amount, or some combination of scheduled and unscheduled amounts). The amount a borrower will receive from a reverse mortgage generally depends on the borrower's age, the home's value and location, and the cost of the loan. The loan does not have to be repaid until the borrower sells the house, moves, dies, or some other triggering event occurs. Reverse mortgages can be specific, to make home repairs , or can be general to obtain cash to use for other purposes.

There are many types of lenders and reverse mortgages, including loans offered by various government programs, banks, credit unions, or mortgage companies. One of the most commonly used reverse mortgage programs, and the only program insured by the U.S. Federal government, is the U.S. Department of Housing and Urban Development's (HUD) Home Equity Conversion Mortgage (HECM). A HECM is insured by the Federal Housing Administration (FHA) and is only available through an FHA-approved lender.

A HECM is available to homeowners who are at least 62 years old who own a single-family home, a unit in a two-to-four unit dwelling, a condominium, or mobile home with a fixed foundation, and live in the home most of the year. The borrower cannot be delinquent on any federal debt and must have the financial resources to make timely payment of ongoing property charges (like property taxes, insurance, and maintenance costs). Before receiving a HECM, the borrower must receive counseling from a HUD-approved counselor.

The borrower will also pay fees in addition to the interest rate, some or all of which may be financed and paid from the proceeds of the loan. The initial fee for HUD mortgage insurance is 2 percent of the appraised value of the home and then 0.5 percent annually. In addition, loan origination fees up to $6,000 and closing costs may be charged. Lastly, the borrower will pay a loan-servicing fee of no more than $35 per month.

When the borrower sells the house, moves, or dies, the amount owed under the HECM can be repaid by the borrower or the borrower's heirs, or deducted from the proceeds of the sale of the house. If the house sells for more than the amount owed under the reverse mortgage, the borrower or the borrower's heirs will receive any money left over. If the home's sale price is less than the amount owed under the reverse mortgage, the borrower's heirs won't have to pay more than 95% of the appraised value due to the FHA insurance. You can find more information at www.hud.gov/program_offices/housing/sfh/hecm/hecmhome.

Look for our next article, Reverse mortgages – Pt. 2, about proprietary reverse mortgages in our next newsletter.

State and Federal Banking Regulators Issue COVID-19 Guidance

The state and federal financial institution regulatory agencies issued joint guidance to outline examination standards and principles for assessing the safety and soundness of institutions in light of the ongoing impact of the COVID-19 pandemic. The pandemic places extraordinary burdens on financial institutions. Bank management teams across the state face challenging lending and operational decisions, while dealing with historic economic uncertainty. The guidance emphasizes not only how examiners will conduct examinations, but also to inform financial institutions what they should expect from examinations in light of the pandemic.

During an examination, management's assessment of risk and the appropriateness of response to the risks identified are the regulatory and supervisory priorities. The guidance speaks to the importance of an institution-wide risk assessment, incorporating the potential impacts of the pandemic on the institution. DFI examiners will differentiate between issues and risks created by the pandemic versus those arising from management and board decisions. Furthermore, examiners will focus their assessment on management and the board's ability to respond to and manage the risks the pandemic brings to their institution. Many potential issues arising from the pandemic are outside management's control; however, risk identification and mitigation, and portfolio monitoring remain essential.

On Aug. 3, 2020, federal regulators released additional interagency guidance regarding loan modifications. Per the guidance, regulatory agencies encourage reasonable loan modifications to assist borrowers. This guidance describes prudent banking practices with respect to loan modifications, emphasizing the importance of management gathering updated borrower information when available, following applicable accounting standards, and implementing proper controls.

Division of Banks Information Technology (IT) examiners are also assessing the impacts of the pandemic on bank IT operations. Prior to 2020, pandemic preparedness was assessed as part of standard IT examinations because of its importance in bank business continuity management programs. However, the effectiveness of pandemic planning has been a significant focus in 2020. Examiners will evaluate the effectiveness of pandemic response procedures and assess if the current pandemic has identified any risks that need further mitigation or practices that need improvement. Examples of potential concerns include altered processes due to a lack of staff availability, changes to approval processes and security controls, and adequate security for remote access. Overall, banks have successfully navigated the IT risks of the COVID-19 pandemic, and were largely equipped to support remote workers prior to the pandemic. As a result, financial institutions in this state have continued to successfully serve their communities while keeping personnel and customers safe.

Division of Credit Unions Speciality Exams Program Enhancements

The Division of Credit Unions (DCU) specialty exams section is getting a tune-up to ensure two of its most important programs run smoothly and at peak efficiency in the future. First, DCU has recently created a new commercial lending training program to train three financial examiners to be subject matter experts. Second, DCU is reevaluating its IT security exam processes to make its exams more useful, effective and efficient.

Commercial Lending SME Training Program

The Division decided to develop a formal subject matter expert (SME) training program. After careful consideration of what a robust Member Business Loans (MBL) exam program needs to include, the SME training program was developed and is now being implemented. The plan is comprised of training courses and mainly on-the-job training. The plan includes the following three commercial lending examination parts:

- <u>Overall Program Review</u> – Evaluates the credit union's overall commercial lending program's effectiveness by examining 12 of its most important components;
- <u>Commercial Loan File Review</u> – Focuses on the safety and soundness and the underwriting of the individual commercial loans; and
- <u>Reconciliation of the Information and Findings from the Two Reviews</u> - The examiners effectively communicate the exam results and any areas that could be strengthened to credit union management.

IT Security Exam Program Build-out

DCU IT security examiners and the specialty exams management team have been reviewing the IT security exam processes, procedures and exam tools (questionnaires) from top to bottom to make them more meaningful and effective. One of the major program changes is using the InTREx CU program for performing IT security exams. InTREx CU is an integrated IT security exam software program, which was patterned after the FDIC version of InTREx that was customized for credit union IT examinations. Use of the InTREx CU program will help create better continuity, less duplication, more consistency and more comprehensiveness in DCU's IT security exam process from year-to-year. A new focus area is examining whether a credit union's use of remote access for employees is well managed and effectively reduces cybersecurity risks. This is particularly important with the dramatic increase of remote work due to the COVID-19 pandemic.

In addition to these changes, all of DCU's examiners have done a remarkable job of being flexible and successfully performing remote/offsite exams.

Investing Through Mobile Trading Apps

Have you been thinking about trading stocks through a mobile trading app? Or are you already trading stocks through one of these platforms? If so, you're not alone. Since the onset of the COVID-19 pandemic, companies that offer mobile trading apps have reported significant growth in both the number of individuals trading through these apps and the amount of funds invested through them.

Users may be attracted to using these apps based on the convenience of mobile phone apps, the ability to place trades without commissions, the ability to buy a fraction of a full share that may be trading in the hundreds of dollars, free stock giveaways, and other sign up promotions. Some of these apps make the experience of trading stocks seem like playing a game with cartoonish graphics and push notifications that may encourage users to make trades.

While investing is a goal everyone should pursue and these apps have their allure, it is important for users to keep in mind some investing basics when using these apps or any other traditional investing platform.

- First, don't invest more than you can afford to lose. No one should use money they need for their current daily living expenses to invest in stocks. Save your rent money to pay your rent!
- Second, make your investment decisions with an understanding of the risks of each investment. Some investments are much riskier than others and the potential returns are generally reflective of the risks of the investment.
- Third, don't put all your eggs in one basket! Diversify your investments so that your risk of loss is spread across a number of investments. Some types of investment products, such as mutual funds and exchange traded funds (ETFs), allow investors to invest in a ready-made diversified portfolio of investments.
- Fourth, invest for the long term. Research has shown time and again that investors who succeed invest for the long term. Those that attempt to time the market or profit from rapid trading strategies are rarely successful.
- Finally, these are just a few of the most basic investing principles that you should follow. Take the time to learn about investing and to investigate opportunities before you dedicate your money to particular investments. You can find additional investing resources on our website at https://dfi.wa.gov/financial-education/information/investing.

The Evolving Cryptocurrency Investment Scene

Initial coin offerings (ICOs) burst onto the business financing scene several years ago. The coins, often called tokens, involved in these offerings are commonly referred to as cryptocurrency. The proponents of this type of offering claimed that initial coin offerings were not offerings of securities and could be used to raise money without the constraints of the securities laws. By mid-2017, the Securities and Exchange Commission had thrown cold water on this idea. Nevertheless, companies continued to try to raise money by selling ICOs.

The Securities Division of DFI brought its first enforcement action in April of 2019, entering into a consent order with a company that had been trying to raise money to fund its investment business. The same month, the Securities Division entered a statement of charges against another local company, which offered coins to fund its real estate brokerage business catering to Chinese investors seeking to buy U.S. property. The Securities Division entered into a consent order with this firm in July 2019.

Issuers of ICOs have become more sophisticated than they once were. Most accept that ICOs are offerings of securities and seek to rely on exemptions from registration for those offerings. However, some issuers still have a tendency to make unsupported claims of future profit for those who purchase the investments they are offering. The comparative novelty of cryptocurrency as an investment has also created regulatory issues relating to trading of cryptocurrency and custody of cryptocurrency held in connection with trading activities.

The Securities Division took enforcement action in two more cases relating to cryptocurrency in 2019 and has already taken enforcement action on two more in 2020. In November 2019, the Securities Division entered into a consent order with a company that was acting as an unregistered investment adviser to a cryptocurrency fund. In December 2019, the Securities Division issued a statement of charges against a company that sold its tokens to fund the building of a digital platform to connect cannabis consumers with cannabis retailers. In February 2020, the Securities Division entered into a consent order with a firm that raised $30 million through a series of offerings of tokens. The following month, the Securities Division issued a statement of charges against two related companies who offered tokens, which they claimed were going to be the exclusive digital currency accepted by a popular ridesharing company.

The cryptocurrency scene continues to evolve. In January 2020, the Securities and Exchange Commission issued an [investor alert on initial exchange offerings](), which are similar to initial coin offerings but are offered directly by online trading platforms on behalf of issuers.

Learn more about ICOs: https://www.nasaa.org/investor-education/multimedia-library/nasaa-videos/#

Moving Financial Education Online

Teaching financial education is a major part of our role in DFI Communications. We want all Washington residents to have access to the information they need to make wise financial decisions, especially during a time of financial difficulty for so many. With the pandemic, all of our travel and in-person outreach has come to a halt. We have begun setting up financial outreach from a distance.

Instead of cancelling all of our scheduled outreach, we switched to virtual presentations. Using web conferencing platforms, such as Skype and WebEx, we have been able to present to groups while still staying apart.

A few of our virtual presentations so far have included:

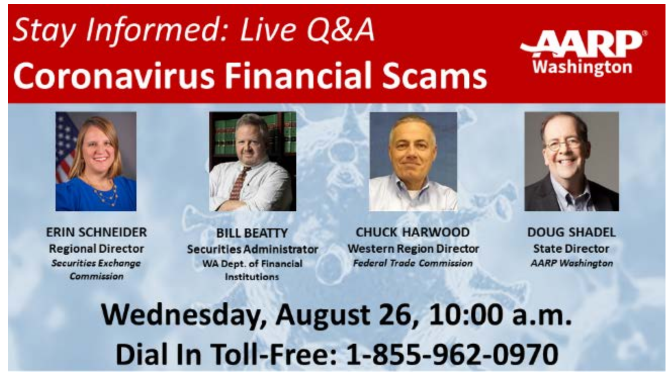
- A presentation at the Washington Association of Career and Technical Education Summer conference. This conference is for business teachers. A member from DFI gives a presentation on identity theft and fraud every year. This year the conference was conducted virtually and we were able to still have an interactive presentation with the group.
- A presentation for The Enilda Clinic with Peter Tassoni from the Department of Commerce talking to parents about funding college for their students, including those with special needs.
- Our quarterly webinar with the Department of Retirement Systems on fraud and identity theft.
- Readings of financial education story books done by several of our DFI employees. These readings were recorded and posted on our YouTube channel and promoted on our Facebook and Twitter accounts.

DFI's Outreach and Education team is creating handouts students can print from home for hands-on, engaging financial education lessons. These handouts include topics such as identity theft, fraud, budgeting and saving. Students are doing all of their learning on a computer for the near future and we wanted to produce something they could work on offline. These handouts have information as well as short activities for kids to complete and will be available to download on our website.

The financial education section of the DFI website has been updated with resources for teachers, parents and students from partner organizations. Resources include videos, interactive games, lesson plans and student worksheets. With parents teaching from home, these resources will provide them lesson plans to add financial education into their own curriculum.

State And Federal Agencies Help Washington Residents Identify COVID-19 Related Scams

More than 7,600 Washington residents called in to the Aug. 26 AARP Tele Town Hall on how to spot and avoid becoming a victim of COVID-19-related scams – from fake vaccines or cures and at-home tests, online sales that never come through, companies selling Personal Protective Equipment (PPE) or companies asking you to invest in them.



DFI Director of Securities Bill Beatty was one of four experts informing and assisting those who called in. Other speakers included:

- Erin Schneider, Regional Director with the Securities Exchange Commission
- Chuck Harwood, Western Region Director with the Federal Trade Commission
- Doug Shadel, State Director for AARP Washington

Beatty shared with listeners the most common denominator with scams detected by DFI was they were found on Craiglist, including:

- Coronavirus Penny Stock. Craigslist offer to trade your account in bio-tech stocks and split the profits. Beatty noted these “Exploit the current coronavirus crises by trading penny stocks from the pharmaceutical and biotechnology industry whose stocks are experiencing significant price fluctuations due to the pandemic.”
- Income during Corona Crisis. Craigslist offer of 25% returns monthly through efforts of a commodity and futures trader who will split the profits with you.
- Bio-Tek Medical. Advertised as “Silver Lining Bio Tech Opportunity” promising $8-16K monthly ROI from selling medical products that are in demand because of the crisis.
- Coronavirus Precious Metals Opportunity. Craigslist add offering investment in precious metals dealer with a 1,000% ROI +. Based in Vancouver, Washington

Beatty told listeners participating in the call was an important first step, adding it is important for residents to share information.

“It’s so important to hear from people who have been approached or have heard pitches,” Beatty said. “The cases don’t’ come to our attention until after the scam is completed and the money is gone.”

Harwood noted the FTC has received 180,000 COVID-19-related complaints nationally with at least $120 million in losses - adding those are unprecedented numbers, that no single prior event has generated this many complaints.

Other tips from the call included:

- Be wary of investment opportunities that suggest you liquidate your current portfolio to invest in something "better."
- Be skeptical – ask questions.
- If it seems too good to be true, it's almost always a scam.
- Investigate before you invest by contacting the Washington State Department of Financial Institutions at www.dfi.wa.gov or call 1-877-RING DFI.
    - We can tell you:
        - Whether the companies or persons offering the investment are licensed.
        - Whether the investment is registered in Washington.
        - Whether we have any cases related to the investment or its promoters.

Get In The Know Video: COVID-19 Scams

The North American Securities Administrators Association Get in the Know series of 3-5 minute videos walks viewers through complex investment topic in easy-to-understand language.

View this short video on avoiding COVID-19 scams.

Get more information about investment scams at:

- Washington State Department of Financial Institutions
  www.dfi.wa.gov
- Securities and Exchange Commission
  www.investor.gov
- AARP
  www.aarp.org/wa
- Federal Trade Commission
  www.ftc.gov/coronavirus/scams-consumer-advice

NASAA Model Whistleblower Award and Protection Act

On Aug. 31, 2020, the North American Securities Administrators Association (NASAA) adopted a model state law that is designed to incentivize individuals who have knowledge of potential securities law violations to make reports to state regulators in the interest of investor protection.

In a press release announcing the adoption of the Model Whistleblower Award and Protect Act (the “Act”), Christopher W. Gerold, NASAA President and Chief of the New Jersey Bureau of Securities stated “Providing a safe environment for whistleblowers to come forward can lead to the earlier detection of securities law violations, which, in turn, provides regulators with greater opportunities to prevent harm to additional investors by disrupting alleged misconduct sooner.”

Washington State DFI’s Faith Anderson spearheaded the development of the Act as a member of NASAA’s’ State Legislation Committee.

The Act provides not only for monetary awards to whistleblowers, but also protects those who make whistleblower complaints from retaliation by their employer. The Act draws upon the whistleblower award provisions contained in Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the SEC’s related rules in Regulation 21F, in addition to the whistleblower laws enacted in Indiana and Utah (Indiana Code § 23-19-7, and Utah Code § 61-1-101 et. seq.). In summary, the new model act promulgated by NASAA:

- Provides a state’s securities regulator with the authority to make monetary awards to whistleblowers based on the amount of monetary sanctions collected in a resulting administrative or judicial action.
- Allows individuals to make anonymous whistleblower complaints if represented by counsel.
- Provides that if the regulator exercises its discretion to make an award, the aggregate amount of awards made in connection with an administrative or judicial action shall be 10-30% of the monetary sanctions collected.
- Sets forth certain non-exclusive factors to be considered in determining the amount of an award.
- Disqualifies certain individuals from being eligible to receive a whistleblower award.

- Prohibits retaliation by an employer against an individual who reports information concerning a potential state or federal securities law violation to the state or another law enforcement agency or against an individual that makes an internal report to a supervisor or compliance officer.

- Allows lawsuits against employers that unlawfully retaliate against whistleblowers and establishes the type of relief that may be obtained.

- Exempts information that would identify a whistleblower from public disclosure.

- Invalidates confidentiality agreements to the extent they would impede communications with the state securities regulator concerning a potential securities law violation.

- Invalidates waivers of the rights and remedies available under the Act.

- Contains an optional bracketed provision granting rulemaking authority under the Act to the securities regulator.

Before the law becomes valid in a state, the state's legislature would have to pass it into law. The Act makes clear in a prefatory note that the source of payment for whistleblower awards should be separate from the operational funds of the agency.

The two states that have already enacted whistleblower award legislation have made two whistleblower awards. Since Indiana's law was enacted in 2012, the state made one whistleblower award in the amount of $95,000[1] in connection with a $950,000 settlement with JPMorgan Chase Bank, N.A. and J.P. Morgan Securities LLC. [2]

In the press release announcing the whistleblower award, the Indiana Secretary of State indicated that this case was "a perfect example of why the whistleblower statute is in place" because in the absence of the whistleblower complaint "the office would not have uncovered this issue and Hoosiers would still be at risk. Thanks to [Indiana's whistleblower law], we are able to provide a safe environment for individuals to come forth and protect Hoosiers from wrongful securities practices." [3]

Utah has also reported making one whistleblower award since its whistleblower legislation was enacted in 2011. In its first whistleblower award, the Utah Securities Division awarded $15,000 to a Utah financial adviser who reported a suspicious investment sold to one of his clients. [4]

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[1] JP Morgan Whistleblower Awarded $95,000 First whistleblower award in the state, Indiana Secretary of State (Aug. 19, 2016), *available at* https://calendar.in.gov/site/sos/event/sos-jp-morgan-whistleblower-awarded-95000first-whistleblower-award-in-the-state/

[2] In the Matter of JPMorgan Chase Bank, N.A. and J.P. Morgan Securities, LLC, Cause No. 16-0003 CA (July 27, 2016).

[3] JP Morgan Whistleblower Awarded $95,000 First whistleblower award in the state, *supra* note 1.

[4] Securities Commission approves first whistleblower award for $15K since S.B.100 *Securities Fraud Reporting Program Act* passed in 2011, State of Utah Department of Commerce Securities Division (May 22, 2014), *available at* https://commerce.utah.gov/releases/14-05-22_sec-whistleblower-award.pdf.

Consumer Services Reminds Licensees about Upcoming Renewal Deadlines

With the arrival of September, it is time for thousands of Consumer Services' licensees to start preparing for renewals. Given the fluidity and uncertainty of the COVID-19 pandemic, this is the year to get your renewal done early!

Check Casher and Payday Lender Licensees - To prepare for renewals, review your company and branch records in the Nationwide Multistate Licensing System (NMLS) and make any necessary changes to ensure accuracy. Clear any outstanding license items. You can submit renewals starting November 1 through NMLS. The fees are NMLS system fees of $100 for the main office and $20 per branch.

Consumer Loan Licensees – To prepare for renewals, review your company and branch records in NMLS and make any necessary changes to ensure accuracy. Verify your company is current on all Mortgage Call Report (MCR) filings. Clear any outstanding license items. You can submit renewals starting November 1 through NMLS. The fees are NMLS system fees of $100 for the main office and $20 per branch.

Escrow Agent Licensees – To prepare for renewals, ensure your most recent insurance policies are on file with the Department and the policies are valid into 2021. Verify the Department has your correct mailing address. Look for renewal notices in the mail starting in mid-October and pay via check. The renewal fee is $386.55 per location if renewed before 12/31.

Money Services Licensees - To prepare for renewals, review your company record in NMLS and make any necessary changes to ensure your record is accurate. Verify your company is current on all MSB Call Report and financial statement filings. Clear any outstanding license items. You can submit renewals starting November 1 through NMLS. The fee is a NMLS system fee of $100.

Mortgage Broker Licensees - To prepare for renewals, review your company and branch records in NMLS and make any necessary changes to ensure accuracy. Verify your company is current on all Mortgage Call Report (MCR) filings. Clear any outstanding license items. For your Designated Broker, complete the required continuing education. You can submit renewals starting November 1 through NMLS. The fees are $630 for the main office and $550 per branch if renewed before 12/31.

Mortgage Loan Originator Licensees - To prepare for renewals, review your record in NMLS and make any necessary changes to ensure accuracy. Clear any outstanding license items. Complete the required continuing education. You can submit renewals starting November 1 through NMLS. You must authorize a new credit report and Criminal Background Check (CBC) when submitting a renewal. The fees are $75 plus the cost of a credit report and CBC.

Refund Anticipation Loan Facilitators (RALs) – To prepare to submit your registration, review the registration form and start compiling a list of your locations. Look for an email in mid-October regarding registration filing. Submit payment via check and email list of locations with your Electronic Filing Identification Numbers (EFIN). The fee is $35 per EFIN.