



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

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June 18, 2018

**Concise Explanatory Statement**  
Pursuant to RCW 34.05.325(6)

Rule Amendments to the Uniform Money Services Act (UMSA), chapter 19.230 RCW and chapter 208-690 WAC.

**Agency reasons for adopting the rules.** (RCW 34.05.325(6)(a)(i))

Chapter 30, Laws of 2017 amended chapter 19.230 RCW. The rules are proposed for amendment to implement the changes, which include, but are not limited to, new rules and amendments to existing rules that take into account innovations in technology used by the regulated industry and to change the definition of stored value to be consistent with federal law. Other amendments include, but are not limited to, technical and clarifying changes, and making the regulated industry aware of the federal and other state laws they must comply with. The anticipated effect is clear and consistent rules for the regulated industry.

**Describe differences between the text of the proposed rules as published in the Washington State Register and the text of the rules as adopted, other than editing changes, stating the reasons for differences.** (RCW 34.05.325(6)(a) (ii))

See attachment 1.

**Summary of comments received by DFI during the rulemaking process, and DFI's responses to the comments.** (RCW 34.05.325(6)(a) (iii))

I. Written comments received. See attachment 2.

II. Oral comments received during the public hearing held May 22, 2018, at the Department's location in Tumwater, Washington: No attendees; no comments.

The comment period was open from the filing of the CR-101 on June 28, 2017, until May 22, 2018.

Additionally, DFI held an industry call on May 2, 2018, to discuss the proposed rules.

The written comments in their entirety are available on our website:  
<http://dfi.wa.gov/money-services/rulemaking>

The complete audio of the CR-102 public hearing is available on our website.

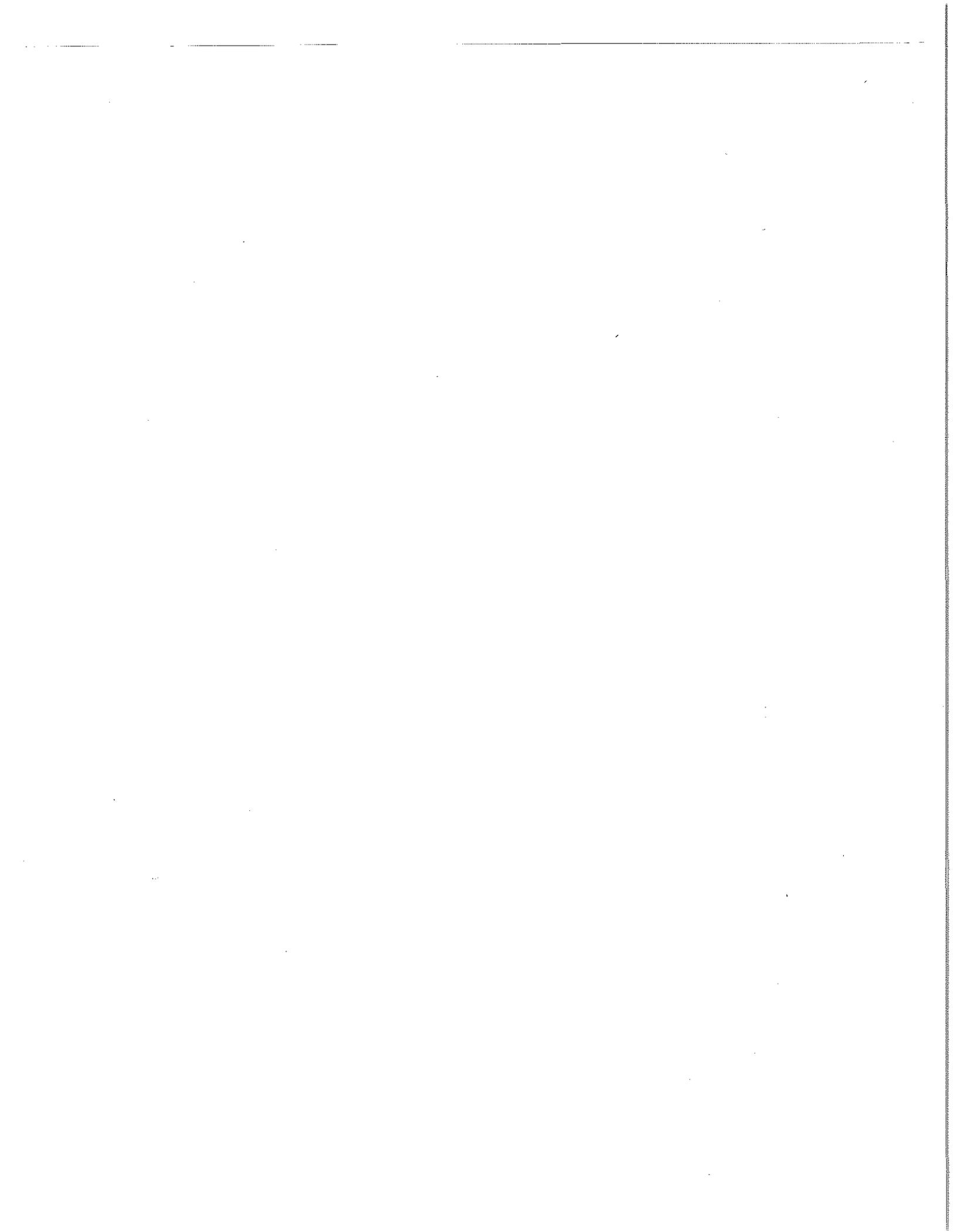
## **CONCLUSION**

DFI made the proposed rule amendments available to all interested parties by notifying the licensed industry and interested persons through GovDelivery notifications and notifying all others by publishing the proposed amendments to the department website along with all rulemaking notices, documents, and the audio of the public meeting. The final proposed rule is the product of an open, deliberative process with stakeholder input.

**Attachment 1 to Concise Explanatory Statement**  
**Pursuant to RCW 34.05.325(6)(a)(i)**

**Describe differences between the text of the proposed rules as published in the Washington State Register and the text of the rules as adopted, other than editing changes, stating the reasons for differences.** (RCW 34.05.325(6)(a) (ii))

1. WAC 208-690-010: definitions. Several definitions were removed because they were contained in the statute.
2. WAC 208-690-015. The lead in question was amended to more closely describe the content of the rule. In addition, the language relating to payment processors and other exemptions were moved to a new section.
3. WAC 208-690-018. This is a new section made up of language from the prior -015 and amended for clarity.
4. WAC 208-690-030. This section was amended to remove language that exists verbatim in the statute.
5. WAC 208-690-040. This section was amended to clarify that some activities will not require a company to continue to hold a bond post-closure.
6. WAC 208-690-090. The language was amended to clarify that when certain information provided through the quarterly NMLS reporting will not be required to be resubmitted to the agency during the annual assessment period.
7. WAC 208-690-110. This section was amended to align reporting deadlines with the statute and to remove a description of the reporting requirements of material changes regarding executive officers and others.
8. WAC 208-690-140. This section was moved and renumbered to 103. Subsection (3) is new language. Stored value was changed to prepaid access. No other changes were made.
9. WAC 208-690-180. Language removed that is duplicative to the statute; reference to statute given.



**Attachment 2 to Concise Explanatory Statement**  
**Pursuant to RCW 34.05.325(6)**

**Summary of written comments received by DFI during the rulemaking process, and DFI's responses to the comments. (RCW 34.05.325(6)(a) (iii))**

See the DFI rulemaking web page for this program for the complete text of the comments submitted.

Mark Hutto, March 8, 2018	
The comment was directed to the legislature and was a general comment about the regulation of virtual currency.	No changes were made based on this comment.
Electronic Transactions Association, March 30, 2018	
208-690-010 – definitions	<p>Changes were made pursuant to this and similar comments. Rule language repeating the statutory language was removed from the rules.</p> <p>Specifically, no change was made to the definition of closed loop prepaid access after consideration of this comment. The definition is statutory.</p> <p>Specifically, no change was made to the definition of money transmission after consideration of this comment. The definition is statutory.</p> <p>Specifically, no change was made to the definition of virtual currency after consideration of this comment. The definition is statutory.</p>
208-690-015(4)(c) – Exclusions from the Act	Changes were made pursuant to this and similar comments. Rule language repeating the statutory language was removed from the rules. A new WAC, 208-690-018 was created for language on statutory exclusions that needed interpreting by the division, or clarification.
208-690-030(4) – Payment of Fees through the NMLS	No change was made based on this comment. It appears the commenter may not fully understand the licensing portal, NMLS. Specifically, the entire division uses and is privy to the information in the NMLS.

	<p>Specifically, the division has, when possible, reduced or eliminated any document requests outside of the licensing system so that licensees are not providing duplicate reports. For example, because of the new call report functionality in NMLS, the department has reduced or eliminated document requirements during the annual assessment process.</p> <p>Specifically, the recommendation to provide a report to the licensee detailing all information input into the NMLS, including fees, is rejected. Licensees have full access to all the information they input into the NMLS and have a record of payments made in either their credit card or bank account statements. Additionally, such a report does not currently exist.</p>
<p>208-690-030(8) – Use of trade names Define “unsuitable”</p>	<p>No change was made based on this comment. The department believes it would be difficult to specify each circumstance in which a trade name might be unsuitable.</p>
<p>208-690-040 – Use of bond alternative – be more specific</p>	<p>No change was made based on this comment. The department believes it would be difficult to specify each circumstance in which an alternative might be appropriate.</p>
<p>208-690-080(1) – Discretion to waive audited financials</p>	<p>No change was made based on this comment as the comment and recommendation do not seem to relate to the topic.</p>
<p>208-690-090(2-6) – Annual assessment requirements</p>	<p>No change was made based on this comment as the comment and recommendation seem to be based on the commenter not understanding the functionality of the licensing system, NMLS. The proposed amendments significantly reduce any duplication of records required during the annual assessment period because of the new call report functionality.</p>
<p>208-690-105 – NMLS Call Report</p>	<p>No change was made based on this comment. There is no fee to file a call report. The comment seems to be based on the commenter not understanding the functionality of the licensing system, NMLS.</p>
<p>208-690-110(6) –</p>	<p>The proposed amendment was changed based on this comment.</p>

Reporting material changes to the department	
208-690-110(12)- Reporting a data breach	The proposed amendment was changed based on this comment.
209-690-140(3) – Bond claims	PLEASE NOTE: SECTION 140 WAS MOVED AND RENUMBERED. SEE SECTION 103. SECTION (3) IS NEW LANGUAGE BUT THE REST IS NOT.  No change was made based on this comment. The comment seems to be based on the commenter not understanding the functionality of the licensing system, NMLS.
208-690-180(5) – Joint or concurrent examinations	No change was made based on this comment. The commenter supports the amendment.
208-690-205 – Virtual currency disclosures	No change was made based on this comment. The disclosures at (b), (c), and (d) are statutory; the disclosure at (e) provides an important consumer protection.
208-690-240 – Information security	No change was made based on this comment. The department changed the word “cyber” to “information” as that nomenclature seemed more common in technology parlance. Prior to the amendment, the rule did go through notice and comment and the proposed change is now going through notice and comment so the comment is not fully understood as to that.
208-690-250 (3)– Federal law compliance	No change was made based on this comment as this amendment is technical in that it corrects an error made inadvertently during the previous rulemaking and the error was not noticed until after the rulemaking was complete.  Prior to this amendment that corrects an error, the rule did go through notice and comment and the proposed change is now going through notice and comment so the comment is not fully understood as to that.
208-690-280 – Business recovery plan	No change was made based on this or similar comments. An information security program is an existing requirement that licensees must comply with. The proposed amendment requires the licensee’s business plan to reference that

	document. Prior to this amendment that refers to an existing requirement, the existing rule did go through notice and comment and the proposed change is now going through notice and comment so the comment is not fully understood as to that.
Mastercard, April 5, 2018	
208-690-010 – definitions  Please change the definition of closed loop prepaid access to mirror that in the federal regulation.	No changes were made after consideration of this comment. The definition is statutory.
Money Services Round Table, April 18, 2018	
208-690-010 – definitions	Changes were made pursuant to this and similar comments. Rule language repeating the statutory language was removed from the rules.
208-690-030 – License application	Changes were made pursuant to this comment. Rule language repeating the statutory language was removed from the rules. The division declines to not promulgate rules on this topic. Similarly, the division declines to not publish the Summary of requirements and General License Requirements as it is the division’s experience that having information available in more than one form and location is helpful to licensees of differing licensing sophistication.
208-690-015 – (Now WAC 208-690-018)  Exclusions	Changes were made pursuant to this and similar comments. Rule language repeating the statutory language was removed from the rules. A new WAC, 208-690-018 was created for language on statutory exclusions that needed interpreting by the division, or clarification.
208-690-035 – Authorized delegates	Changes were made pursuant to this comments. Rule language repeating the statutory language was removed from the rules. Clarifying language or language providing more information was left. A technical change was made to (2).
208-690-040(5) – Surety bonds	No change was made based on this and similar comments. The department believes it would be difficult to specify each

	circumstance in which an alternative might be appropriate but having the ability to do so is important for industry.
208-690-080(1) – Audited financial statement	No change was made based on this comment. The department believes it would be difficult to specify each circumstance in which a waiver might be appropriate but having the ability to do so is important for industry.
208-690-090(2) and (4) – Annual assessment requirements	No change was made based on this comment. The proposed amendments significantly reduce any duplication of records required during the annual assessment period because of the new call report functionality.
208-690-110 – Material change reporting	Changes were made to this section; some in connection with these comments; some not. The division feels Section (6) is an important safety and soundness issue. Section (10), formerly Section (9) is existing language and also a safety and soundness issue. The division does not agree with the commenter’s assessment of that section.
208-690-140(3) – Bond claims	PLEASE NOTE: SECTION 140 WAS MOVED AND RENUMBERED. SEE SECTION 103. SECTION (3) IS NEW LANGUAGE BUT THE REST IS NOT.  No change was made based on this comment. The division feels it is important for licensees to know their failure to pay required fees could impact their bond.
208-690-200 – Receipts	No change was made based on this comment. It is the division’s experience that this topic generates a lot of questions and keeping this is more helpful than confusing to most licensees and their authorized delegates.
208-690-280 – Business resumption plan	No change was made based on this or similar comments. An information security program is an existing requirement that licensees must comply with. The proposed amendment requires the licensee’s business plan to reference that document.
AscendantFX, Jeanne Mills, May 2, 2018	
208-690-110(6) Reporting events	This section was stricken from the rules because it was redundant. The commenter asked if we had a definition of “administrative action.” We do not.

Electronic Transactions Association, May 14, 2018	
208-690-010 -- Definition of closed loop	No change was made to the definition of closed loop prepaid access after consideration of this comment. The definition is statutory.
208-690-018(3) Payment processors holding funds	The section was clarified based on this and other comments.
208-690-030(4) -- Payment of Fees through the NMLS	No change was made based on this comment.
208-690-030(8) -- Use of trade names Define "unsuitable"	This section was changed based on this comment.
208-690-040 -- Use of bond alternative -- be more specific	No change was made based on this comment. The department believes it would be difficult to specify each circumstance in which an alternative might be appropriate.
208-690-080(1) -- Discretion to waive audited financials	No change was made based on this comment.
208-690-090(2-6) -- Annual assessment requirements	No change was made based on this comment.
208-690-100 -- Annual assessment requirements	No change was made based on this comment.
208-690-105 --	No change was made based on this comment.

NMLS Call Report	
208-690-110(6) -- Reporting material changes to the department	The proposed amendment was changed based on this and other comments.
208-690-180(5) -- Joint or concurrent examinations	The section was moved because the department's authority is statutory and does not need to be duplicated in the rules.
208-690-205 -- Virtual currency disclosures	No change was made based on this comment. The disclosures at (b), (c), and (d) are statutory; the disclosure at (e) provides an important consumer protection..
208-690-240 -- Information security	No change was made based on this comment.
208-690-250 (3)-- Federal law compliance	No change was made based on this comment.
208-690-280 -- Business recovery plan	No change was made based on this comment.
The Surety & Fidelity Association of America, May 17, 2018	
WAC 208-690-040 - Surety Bond	No change was made based on this comment.
Money Services Round Table, May 18, 2018	
208-690-018(3)(c) Payment processors holding funds	Changes were made based on this comment to clarify the department's concern about unlicensed money transmitters indefinitely holding consumer.
208-690-040(5) --	No change was made based on this comment.

Director's discretion as to bonding	
208-690-110(6)  Reporting of administrative action outside of U.S.	Changes were made to this section based on this comment
First Data, May 25, 2018	
208-690-018(4) replaces 208-690-018(3)(c)-  Payment processors holding funds	Changes were made based on earlier comments on this section to clarify the department's concern about unlicensed money transmitters indefinitely holding consumer.