



# The Importance of State-Level Regulation



## Message from DFI Director Charlie Clark

As the COVID-19 pandemic is affecting our local economy here in the state of Washington, I am reminded of the importance of state-level financial regulation. The Department of Financial Institutions performs an essential public function.

We have a mandate to protect consumers, ensure safety and soundness, and promote economic growth – all three are important at all times, but particularly in a pandemic. In recently years, we have worked closely with other state and federal regulators to make sure that our efforts are coordinated. You may hear this effort referred to as networked supervision.

### Coordinated Consumer Protection

Our agency receives approximately 1,700 consumer complaints per year. We investigate consumer complaints to ensure that state and federal legal requirements are being met.

It is extremely important that each consumer has a clear understanding of the terms around financial products and services, has comfort that the transaction

is free from fraud and deception, and is receiving a financial product or service that is fair and in compliance with all consumer protections.

With larger financial service providers that operate regionally or nationally, we often coordinate investigations with other state and federal regulators who also have jurisdiction.

For example, in the area of mortgage origination, we have participated in coordinated investigations that have included state mortgage regulators, the Consumer Financial Protection Bureau (CFPB), and state attorneys general, including our own Washington State Attorney General, Bob Ferguson. We have also participated in similar coordinated investigations in connection with violations of securities law.

### Networked Supervision

When it comes to ensuring that our financial institutions are operating in a safe and sound manner, we coordinate examinations with other regulators as well.

## DFI Director Charlie Clark's Message Continued...

For our state chartered banks, we coordinate examinations with the FDIC and Federal Reserve, and, for our state chartered credit unions, we coordinate with the NCUA. In the non-depository space, we have made great strides in coordinating examinations with other states and the CFPB.

Our agency is an active member within the Conference of State Bank Supervisors (CSBS). CSBS has several initiatives to streamline and network multistate supervision.

These exciting efforts include initiatives to reduce the number of exams a company receives in a given year through a focus on information sharing and better coordination among states.

Another initiative that states are working on is an effort to streamline the licensing process for money transmitters that want to get licensed regionally or nationwide and improvements to the Nationwide Multistate Licensing System.

Another exciting CSBS initiative is the creation of a new State Examination System to create greater efficiencies in the examination process and allow for easier information sharing between a licensee and state regulators.

As we continue our examinations throughout the pandemic, all of these advancements are proving to support coordinated supervision and complement efforts to have our examiners work remotely.

### Promoting Economic Growth

The variety of institutions our agency supervises play a crucial role in stabilizing the economy and providing financial choices for consumers. Our securities registrants support efforts to raise capital and promote economic growth.

Our banks, credit unions, and non-depository lenders are on the front lines to administer small business loans, emergency lending programs, and other relief for both Washington businesses as well as individuals.



For these relief programs to work as intended, it is vital that our institutions administering relief are operating in a safe and sound manner.

Lastly, through our consumer outreach programs, we are working hard to help educate Washingtonians about the importance of making sound financial decisions and avoiding scams.

I am confident that all of this important work, along with the work of other government agencies and other efforts of Washingtonians will help us get through this difficult time.

*DFI Director, Charlie Clark*

# Insurance Products Can Help Washington Property Owners Avoid Financial Devastation

Washington State Insurance Commissioner Mike Kreidler is here to help us spread the word to consumers about an important homeowner insurance coverage some may not know about.

## A special message from Washington state Insurance Commissioner Mike Kreidler



There are two natural disasters that people in Washington State are at high risk for but most aren't insured for – floods and earthquakes.

Many people's biggest financial asset is their home, yet many homes aren't protected against flood or earthquake damage or loss. In some cases, it's because the property owner may not be aware that their homeowner insurance doesn't cover either risk.

While most people may not necessarily correlate Washington State to large floods, 90% of all federal disaster declarations in our state were related to flooding. In 2016 alone, people in Washington filed 430 National Flood Insurance Program (NFIP) claims totaling more than \$7 million.

Our flood risk is tied to several factors, and all are related to climate change. Sea-level rise is affecting many low-lying

communities along our shorelines. Increased precipitation is collecting in the river basins causing flooding. Wildfires on both sides of the state leave land more susceptible to flooding due to the loss of vegetation and inability to absorb water.

Traditionally, [flood insurance](#) has only been available through the NFIP, run by the federal government. However, an emerging private flood insurance market is gaining momentum in many areas, including Washington State, which is a good development for homeowners and businesses.

NFIP is only available on properties that are located within [designated communities](#). NFIP policies limit coverage to \$250,000 on most residential buildings and \$100,000 for contents. It limits coverage to "actual cash value," which can be as little as 50% of the true replacement cost of a property loss. NFIP policies don't cover the loss of use of the property or additional living expenses, which is what it costs to live elsewhere while your home is uninhabitable.

## Insurance Products Can Help Washington Property Owners Avoid Financial Devastation Continued...

Private flood policies can set higher coverage limits to lessen the economic risk for the policyholder. They can also cover damage at the replacement cost and can offer protection for increased rebuilding costs due to changes in building codes. And, like a traditional homeowner policy, they can cover the property owner's loss of use and additional living expenses.

Mortgage lenders sometimes require borrowers to have flood insurance, but there can be a sticking point when they require that coverage only to come from NFIP. It is my hope that lending institutions will adapt and be receptive to accepting private flood insurance coverage in place of NFIP insurance, when the property owner can find better coverage in the private market.

Conversely, mortgage lenders don't require earthquake insurance. However, that doesn't mean homeowners and businesses should forego it. Washington State has the second-highest earthquake risk in the nation, estimated by FEMA to exceed \$438 million. Scientists say it's only a matter of time until a massive earthquake hits our state.

Despite the high level of risk, our 2018 survey of insurers found that fewer than 10% of homeowners in Washington have [earthquake insurance](#).

The best way for property owners to find flood or earthquake insurance is to contact an insurance agent or broker. You can find a licensed agent or broker on our website at [www.insurance.wa.gov](http://www.insurance.wa.gov)



# The Emergence of Virtual Currency and Digital Assets in Financial Institutions

The **Washington Division of Banks**, along with several other regulatory bodies, are closely watching the emergence of virtual currency and digital assets in financial institutions.

In 2019, the Wyoming Legislature enacted bill HB 74, which authorized the chartering of [special purpose depository institutions \(SPDIs\)](#).

SPDIs resemble custody banks in that these institutions will likely focus on fiduciary activities, safekeeping and asset management services for virtual currency and other forms of digital assets.

The SPDI charter lays the foundation to establish Wyoming as the most crypto-friendly jurisdiction in the U.S at this time.

In September 2020, the Wyoming Banking Division issued the first SPDI charter to Kraken Financial. The Wyoming Banking Division will

be the first regulatory agency to establish examination guidelines and [perform the first examination](#) of a crypto-asset SPDI.

Examinations will hold SPDIs to the same Safety and Soundness standards as any other bank, with emphasis on Bank Secrecy Act compliance, custody and fiduciary activity, and information technology.

While the SPDI is required to comply with all existing federal laws, they are not required to have FDIC insurance. SPDI chartered banks will instead generally seek direct access to the Federal Reserve Bank's payment system.

The division will be able to use the Wyoming examination processes and guidance to establish their own policies and procedures should financial institutions in Washington expand into digital asset management services.



# Understanding The Community Bank Sentiment Index (CBSI)

The [Community Bank Sentiment Index \(CBSI\)](#) polls community bankers across the nation quarterly to gain insight into their outlook on the economy.

Their answers are analyzed and compiled into a single number – a rating of 100 indicates a neutral outlook, while anything above 100 indicates a positive outlook, and anything below 100 is negative .

The benchmarks measured are business conditions, monetary policy, regulatory burden, capital expenditure, operations expansion, profitability, and franchise value.

Bankers reported an improved outlook in business conditions, up from 93 as of June 30, 2020, to 103 points Sept. 30, 2020, and franchise value, up from 98 to 116 points in the same period.

The index results currently indicate bankers feel most negative about regulatory burden with a rating of just 57, a record low for the category.

Bankers are also apprehensive of profitability prospects with a score of 68.

The aggregate index fell rapidly from a high of 123 to 90 in the second quarter of 2020 because bankers could clearly foresee how the pandemic could impact the economy and regulatory environment.

As of Sept. 30, 2020, overall banker sentiment remains negative, but improved slightly to 97.

The Western District has a slightly more positive outlook, with an overall score of 103, regulatory burden of 59, and profitability at 79.



The Washington Division of Banks is focused on controlling regulatory burden while maintaining effective supervision to promote safe and sound banking conditions in our state.

For prior survey results and to follow future survey results, visit the [CBSI survey website](#).

# Diversity Advisory Team at DFI Promoting A Culture of Inclusiveness

The Washington State Department of Financial Institutions (DFI) values diversity and inclusion among our staff in carrying out our mission. To support those values, DFI established the Diversity Advisory Team (DAT) in 2017, to develop and support inclusion strategies across DFI.

The group promotes a culture of inclusiveness and sense of community among all employees in support of DFI's foundational values of diversity, fairness and respect for individuals and institutions, and employees as our most important resource.

All DFI staff have a responsibility to model, promote, and advocate for a strong and visible culture of diversity and inclusion by creating a welcoming and respectful environment where every person is valued and honored.

DAT accomplishments:

- Members offer monthly highlights of relevant topics

- Members provide DEI items for the agency's weekly internal newsletter
- Members represent the DFI at various state level Business Resource Groups including: Veterans Employee Resource Group, Rainbow Alliance and Inclusion Network, Latino Leadership Network, Disability Inclusion Network Washington Immigrant Network, Diversity Equity and Inclusion Council and Blacks United in Leadership and Diversity.
- Gender-neutral signage on restrooms at DFI was established.
- Encouraged and supported use of personal pronouns in email signature blocks and internal messaging.
- Led Agency participation in the Tumwater SAFE Places program.
- The DAT started a monthly book review. The current book, "What If – Short Stories to Spark Inclusion and Diversity Dialogue" is nearing completion .



# Division of Credit Unions Bids Farewell to Longtime Staff Member Doug Lacy-Roberts

After more than two decades of service to DFI, Doug Lacy-Roberts is saying goodbye and taking some much-deserved time off to spend with family and (hopefully) travel.

“We greatly appreciate Doug’s 21 years of dedicated service to the credit unions of Washington State and the Department of Financial Institutions,” Credit Union Division Director Amy Hunter said. “Doug has contributed greatly in making DFI a top regulatory agency known for protecting consumers while adding stability and vitality to the financial services industry. His accomplishments and contributions to the Division of Credit Unions are sincerely appreciated.”

Prior to coming to DFI, Doug served in a dual role at the FDIC as a bank closing specialist and manager of a large portfolio of distressed loans received from the closed banks and savings & loan associations. He earned his Bachelor of Science degree in Political Science and Master of Business Administration from Washington State University.

DFI hired Doug in 1999 as a temporary employee, where he was quickly made a permanent part of DFI’s Division of Credit Unions as a Financial Examiner Senior. In

2012, he was promoted to Program Manager. He was part of the agency’s Performance Pay Design Team, working with consultants from the Dept. of Personnel for more than three years to get the program to approval in 2007. In his time at DFI, Doug was recognized numerous times for his outstanding work and contributions to the agency.

“I feel privileged to have worked for such a fine organization as DCU/DFI for over twenty-one years, and I have greatly enjoyed the people I have worked with,” Doug told staff in his farewell email. “I am proud of my work accomplishments and contributions over the same period and the accomplishments of the Division of Credit Unions. The credit union industry in Washington State is very strong and vibrant, which is reflective of the sound and progressive Washington State credit union charter we have.”

Thank you, Doug, for all that you have done for DFI, Washington State credit unions and for ensuring Washington residents can have confidence in the safety and soundness of our state’s credit unions. We wish you all the best in your future endeavors, and hope to catch up with you after your travels!





# Shop 'Til You Drop...Your Mortgage Rate



Did you know shopping for a home loan may save you thousands of dollars over the life of your loan?

Let's look at an example, on a \$300,000 30-year fixed rate mortgage the difference between a 3.25% rate and a rate of 3.5% means savings of \$41 every month or \$14,760 over the term of the loan!

But keep in mind you aren't just shopping for the best rate. You want to compare the whole package.

## Things to keep in mind:

- **Pay attention to the fees**

Pay attention to the fees charged by the lender, as well as the cost associated to buy down the rate (points).

- **Look at the APR**

A quick way to compare the overall cost of the mortgage is to look at the annual percentage rate (APR).

The APR reflects the costs associated with taking out a mortgage on a yearly basis calculated based on the interest rate, lender fees, points, and other charges.

- **Worried about how shopping will affect your credit score?**

According to the [Consumer Financial Protection Bureau](#), multiple credit checks from mortgage lenders are recorded on your credit report as a single inquiry within a 45 day period.

- **Credit less than perfect?**

Don't let credit issues or unique scenarios stop you from shopping. You may find more options than you think.

# State Regulators Issue Ransomware Mitigation Tool



State financial regulators, joined by the Bankers Electronic Crimes Task Force and the U.S. Secret Service, this week issued a self-assessment tool to banks they supervise in an effort to help mitigate ransomware attacks.

“Ransomware is a major threat to the financial services industry,” said Texas Banking Commissioner Charles G. Cooper, who leads the Bankers’ Electronic Crimes Task Force on this effort. The taskforce, composed of U.S. community financial institution CEOs, law enforcement, state bank regulators and other industry stakeholders, addresses the security needs of community financial institutions.

“State regulators are offering this tool because the rapid advancements in ransomware and potentially devastating consequences require financial institutions to be vigilant. There is no single measure to prevent ransomware attacks. It requires strong adherence to fundamental cybersecurity controls,” Commissioner Cooper said.

Incidents of ransomware across industries have been on the rise and appear to be spreading. One global cyber insurer reported 775 ransomware incidents for its U.S. customers in 2019, representing a 131% increase from the year prior. Eleven

percent of those customers were financial institutions.

“This is another example where close cooperation and developing robust partnerships is critical to accomplishing our shared goal of protecting the nation’s financial infrastructure,” said William Smarr, Special Agent in Charge of the U.S. Secret Service Dallas Field Office. “Working with the CSBS, the Secret Service recognizes the value of our trusted partners and the acumen they provide to combat cyber enabled fraud. Together, we are committed to keeping the Homeland safe from cyber threats.”

Using the ransomware tool, a bank can assess its efforts to control and mitigate risks associated with the threat of ransomware and identify gaps that require increased security.

“This newly developed and comprehensive tool gives our bank’s executive managers and board of directors an overview of our preparedness towards identifying, protecting, detecting, responding and recovering from a ransomware attack,” said Trey Maust, executive chairman of Lewis & Clark bank in Oregon City, Ore., and a Bankers’ Electronic Crimes Task Force member.

# Understanding Reverse Mortgages Part 2

Reverse Mortgages – Pt. 1 appeared in our last newsletter. See that article for information on Home Equity Conversion Mortgages (HECM), the only reverse mortgage that is insured by the federal government (FHA).

For those who did not see the prior article, unlike a conventional mortgage where the borrower makes payments to the lender for a lump sum loan, 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 to purchase a home, or can be general to obtain cash to use for other purposes.

Banks, credit unions, and mortgage lenders can also offer their own reverse mortgage product (proprietary reverse mortgage) that is unique to them. Although the products may be similar, unlike a HECM, proprietary reverse mortgages are not insured by the FHA. Lenders wishing to offer a proprietary reverse mortgage product in Washington must be licensed under the Consumer Loan Act, chapter 31.04 RCW, or be exempt from licensing pursuant to federal law, and receive approval from the Department to offer the product.

One potential benefit of a proprietary reverse mortgage product approved by the Department is that it may be made to a borrower who is at least 60 years old (as opposed to HECM's requirement of at least 62 years old).

Similar to a HECM loan, the reverse mortgage's principal or interest is only due when: 1) all borrowers cease occupying the home as a principal residence; 2) the home securing the loan is sold or title is otherwise transferred; or 3) a default event specified in the loan documents occurs.

If the borrower mortgaged 100% of the full value of the house, the amount owed will be the lesser of the home's fair market value (minus sale costs) or the outstanding balance of the loan. If the borrower mortgaged less than 100% of the full value of the house, the amount owed by the borrower must not be greater than the lesser of the outstanding balance of the loan or the percentage of the fair market value (minus sale costs).

[Learn More About How Reverse Mortgages Work](#)



# DFI Partnering with Washington State Housing Finance Commission to Promote Down Payment Assistance Programs

One of the paths to generational financial stability and generational wealth is through homeownership. For most of American history, Black, Indigenous, and People of Color (BIPOC) communities have had to overcome a variety of hurdles to homeownership – many stemming from the results of systemic racism.

In fact, the Black-white homeownership gap today is just as wide as it was in 1960. According to the National Association of Real Estate Brokers (NAREB) 2020 State of Housing in Black America (SHIBA) report, “The black-white homeownership gap in 2020 was 26 percentage points, only slightly lower than the 26.8 percentage point gap in 1960, before the passage of the 1968 Fair Housing Act.”

That same report shares how the racial gaps in income and wealth is partly to blame, “In 2018, the median income for Black households was 40 percent lower than the median for White households.”

Fortunately, programs available in Washington State can overcome some of these hurdles. For example, the Washington State Housing Finance Commission has nearly a dozen [downpayment assistance programs](#) available to our state’s residents. These

programs – in addition to WSHFC [homebuyer education programs](#) that use the [DFI Guide to Home Loans](#)- help Washington renters make the transition to becoming homeowners.

But many Washington residents don’t know these programs exist. To help increase awareness of the homeownership assistance available, DFI and WSHFC are partnering to promote both the homebuyer education and downpayment assistance programs.

Our hope is with a focused, concerted effort to promote these programs in BIPOC communities in our state, we can help cultivate a new generation of homeowners and establish a foundation for families to begin building generational wealth.

We’d love to have your help in promoting these programs. Any ideas you may have to help us get the word out are greatly appreciated. For more information, contact Lyn Peters, Director of Communications, Financial Education & Outreach at [CommunicationDir@dfi.wa.gov](mailto:CommunicationDir@dfi.wa.gov) or (360) 349-8501.

Watch/read a recent KOMO story on this: [Down payment assistance programs may be a best-kept secret for first-time home buyers | KOMO \(komonews.com\)](#)



# Investment Adviser Renewal Season Is Here

Renewal has two steps:

- (1) payment of annual renewal fees to the Investment Adviser Registration Depository ([IARD](#)), which must be received by the IARD no later than **December 14, 2020**;
- (2) annual filing requirements, which are due within 90-120 days after the investment adviser's fiscal year end (FYE).

As more information is available, it will be emailed to investment advisers at the email address listed in IARD. To be sure that you receive the information, please verify that your email address in IARD is correct.

## 2021 RENEWAL CALENDAR

| ACTION ITEM                         | WHERE/TO WHOM  | ACTION DUE DATE                         |
|-------------------------------------|--|---|
| Pay renewal fees                    | IARD   | December 14, 2020                       |
| File Form ADV Parts 1 & 2           | IARD   | 90 days <i>after</i> the Adviser's FYE  |
| Deliver or Offer Form ADV Part 2    | Clients  | 120 days <i>after</i> the Adviser's FYE |
| File GAAP Balance Sheet             | <a href="mailto:IALICENSING@DFI.WA.GOV">IALICENSING@DFI.WA.GOV</a> | 120 days <i>after</i> the Adviser's FYE |
| File Fund Audit (Private Fund only) | <a href="mailto:IALICENSING@DFI.WA.GOV">IALICENSING@DFI.WA.GOV</a> | 120 days <i>after</i> the Fund's FYE    |

In addition, investment advisers who plan to terminate their registrations may file a post-dated Form ADV-W starting on November 1. The forms must be dated December 31, 2020.

The deadline to file Form ADV Part 1 and 2 updates for 12/31 filers is March 31.

The deadline to file balance sheets and fund audits for 12/31 filers is April 30.

# DFI's Securities Division Collaborates With Other State and Federal Regulators in Recent Enforcement Actions

In September 2020, three collaborative enforcement efforts by the Securities Division came to fruition.

**First**, with the help of the Washington Attorney General's office, the Securities Division joined with the Commodities Futures Trading Commission (CFTC) and with agencies representing 28 other states in a civil action brought in federal court in Texas against metals.com and Barrick Capital.

The purpose of the action was to stop the sale of a fraudulent investment program which marketed overpriced precious metals to older investors who were encouraged to liquidate their investments in retirement accounts and to use the proceeds to buy the precious metals offered by those firms.

Nationwide, the scheme took in \$185 million from 1,600 investors, 29 of whom were in Washington State. This is the first case where the Securities Division has joined with the CFTC in a case in federal court, although it has worked with the CFTC on various matters in the past.

**Second**, the Securities Division participated in a coordinated enforcement effort with the U.S. Securities and Exchange Commission (SEC), against the Bellevue, WA based cryptocurrency firm Unikrn, Inc.

The Securities Division and the SEC each entered into settlement agreements with Unikrn. The company ran an online gaming and e-sports gambling site, conducted an

unregistered initial coin offering of its UnikoinGold digital coins. The SEC's and the Securities Division's settlements are complementary. The SEC's settlement requires that Unikrn pay \$6.1 million, substantially all of its assets, to a Fair Fund to be used to repay investors.



It also requires that Unikrn stop trading in its digital coins. The Securities Division settlement, which focuses on Unikrn's unregistered sales to Washington investors, requires Unikrn to pay \$10,000 for the costs of the Securities Division's investigation.

**Finally**, the Securities Division and the Texas Securities Board brought coordinated enforcement actions against a Washington resident, Devon Shigaki, and his company, Trademining, Inc. who sold unregistered securities.

The securities included licenses for the Infinity Trade Engine, which was to generate profits for investors by directing cryptocurrency trading in accounts the investors set up.

## DFI's Securities Division Collaborates With Other State and Federal Regulators in Recent Enforcement Actions Continued...

Trademining and the investors were to share the profits from the trading. Shigaki and Trademining solicited investors through social media and craigslist postings, and on Trademining's website.

The Securities Division's summary order to cease and desist alleges, in addition to sales of unregistered securities, misleading statements to investors.

The statements were misleading because Shigaki and Trademining omitted material information such as who managed the trade engine, the specifics of the trade engine, as well as Shigaki's background, which included tax liens, child support

liens, civil actions, and three criminal convictions.

The Texas Securities Board alerted the Securities Division to the investment solicitations Shigaki and Trademining were making from our state.

In addition to ceasing all unlawful activities, DFI is also seeking a fine of \$10,000 from Trademining, Inc., aka Trademining.io and Shigaki.

Shigaki and TradeMining have the right to challenge the Texas and Washington orders.



# Washington Corporations Must Comply With New Gender Diversity Requirements for Boards of Directors

On March 27, 2020, Governor Inslee signed into law Senate Bill 6037 to amend the Washington Business Corporation Act, Title 23B RCW, to require corporations that are organized under Washington law and that file public reports with the Securities and Exchange Commission (SEC) to satisfy gender diversity requirements with respect to their boards of directors, among other revisions. This legislation was requested by the Washington State Bar Association.

By Jan. 1, 2022, the law requires a public company to maintain a board of directors that is composed of individuals at least 25% of which self-identify as women or to alternatively provide its shareholders a discussion and analysis concerning its approach to board diversity in advance of its annual meeting. The discussion and analysis must address the following:

How the board considered diversity in nominating candidates to serve on the board of directors, or the reasons for which it did not;

Any policy of the board of directors relating to diversity in nominating candidates or the reasons for which it has not adopted such a policy; and

Any mechanisms adopted by the company to encourage turnover on its board of directors, such as term limits and mandatory retirement age policies, or the reasons for which the company has not done so.

The company can satisfy the requirement to deliver the discussion and analysis to

shareholders by posting it on its main website or including it in a proxy or information statement.

The legislation exempts certain public companies from these requirements, specifically those:

That do not have any shares listed on a U.S. stock exchange;

That qualify as an "emerging growth company" or a "smaller reporting company" as defined by the SEC;

For which 50% or more of their voting shares are held by a person or group of persons;

That have articles of incorporation that permit one or more voting groups to elect all or some of their directors; or

That are not required to hold an annual shareholder meeting.

If a company is required to provide the discussion and analysis to shareholders but fails to do so, a shareholder may seek a court order to require the company to provide the information. These new board of directors gender diversity requirements are codified at RCW [23B.08.120](#).

