



2023 Year in Review Newsletter



Message from Director Clark

Carrying Out Our Mission

It's hard to believe 2023 is already drawing to a close. DFI has a lot to celebrate this year.

Living up to our agency's mission of protecting consumers, DFI's Securities Division participated in several multi-state, multi-agency investigations and actions with multi-million dollar settlements.

In January, our Division of Banks hosted a live "Ask the Fed" at our Tumwater headquarters for senior policy advisors from the Federal Reserve to talk about risks and emerging trends in the commercial real estate market.



Kicking off February, DFI hosted a CLE for approximately 200 attorneys and state employees with guest speaker Professor Mehrsa Baradaran, author of "The Color of Money – Black Banks and the Racial Wealth Gap" and multiple panels discussing topics around narrowing the wealth gap.

We followed that up in March with an estimated 150 attendees for a conversation with industry and community in person at Highline College and online to discuss how we can work together to narrow the wealth gap through alternative lending sources. Guest panelists included the Director of the U.S. Department of the Treasury's Community Development Financial Institutions Fund, the FDIC, bank representatives, credit union representatives, and the Director of Homeowner Services for Habitat for Humanity.

As the weather began to warm, things began to heat up at DFI as well. I was officially named Chair-Elect for the Conference of State Bank Supervisors in May. We also celebrated the enactment of Washington's [Whistleblower Bill 1370](#) in July.

With the volatility of crypto, the collapse of a few out-of-state banks, and an increase in ransomware and general cybersecurity issues, our supervisory teams were extremely busy. We bolstered our efforts to ensure Washington's licensees and state-chartered institutions meet Information Security & Technology requirements with the addition of more IS&T examiners. With cybercrimes becoming more sophisticated in nature, an additional risk is created for both consumers and financial institutions.

Our Communications & Outreach Team conducted more than 100 outreach events – in English, Spanish, and even one in Tagalog. We have also started building financial education resources in other languages.

It's been a fantastic year, but we're even more excited to see what 2024 has in store.

Division of Banks Year in Review

Banks Demonstrate Resilience

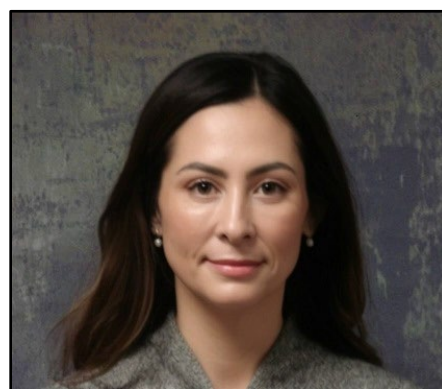
Despite weaker economic conditions, the banking industry across Washington state displayed resilience throughout the year. The industry experienced significantly higher interest rates, high inflation, and market stress. In the Spring of 2023, three large regional banks chartered out-of-state failed as a result of severe liquidity strains and the impact of higher interest rates. However, the federal regulatory agencies acted swiftly to protect consumer and business deposits which helped to ensure industry stability. Examiners have updated guidance on the review of uninsured deposits and are emphasizing forward-looking risk management. Additionally, the federal banking agencies have issued jointly proposed rulemaking that would facilitate the readiness and resolvability of insured depository institutions in the event of insolvency. The rulemaking further improves the protection of depositors in the event of a bank failure.

Despite these challenges, Washington banks — and the industry as a whole — demonstrated remarkable resilience. Banking metrics remained largely favorable throughout the year. In Washington state, as of the third quarter of 2023, net income is sufficient, asset quality is stable, and the industry remains well capitalized. However, net interest margin compression remains widespread as the cost of funding remains high in the current rate environment. State banking metrics are closely monitored by the division.

Bankers still face many uncertainties in the year ahead. Continued inflation, uncertainty about the future direction of market interest rates, mounting repricing risk on commercial real estate markets, tighter and more costly funding levels, and geopolitical uncertainty all pose potential threats to the banking industry. Continued emphasis on sound corporate governance, risk management, and flexibility in the face of uncertainty will benefit the industry going forward.

Consumer Compliance in the Division of Banks

On Nov. 1, 2023, the Division of Banks appointed Amanda Douglass to the role of Financial Legal Examiner with a focus on consumer compliance laws and regulations. This is a new role for the Division. Amanda will be working closely with DFI's federal and state bank supervision counterparts to develop a deeper understanding for consumer compliance examinations and oversight of legal/regulatory issues impacting banks and trust companies. She will be focused on consumer complaints and compliance at the largest Washington state-chartered banks in addition to banks operating or developing a banking-as-a-service model.



Consumer compliance is a critical part of a bank's risk management framework and plays a considerable role in the overall safety and soundness and financial inclusion of the industry. We look forward to building up our internal expertise, and are certain Amanda will help us support the industry with consumer protection in mind. Amanda has 12 years of experience working in banks, prior to graduating from the University of Idaho College of Law in 2021. Before joining DFI, Amanda worked as a law clerk in the Federal Bankruptcy Court for the Eastern District of Washington.

Division of Credit Unions Year in Review



Most of the Division of Credit Unions team

2023 was a busy and successful year for the Division of Credit Unions (DCU). We refined our hybrid examinations, hired a second Financial Legal Examiner, and we were able to bring in some top-notch training.

In 2023, DCU conducted 42 safety & soundness examinations, of which 22 were conducted jointly with the National Credit Union Administration (NCUA). The division also conducted four separate, standalone compliance examinations. Compliance examinations are explained more below.

Hybrid Examinations Update

During COVID, examiners conducted all examinations remotely. Now, examinations have moved to a hybrid-style approach where, for most examinations, a few examiners are onsite at the credit union, while the remaining examiners work remotely. This approach has allowed greater flexibility for both our examiners and credit unions, while still being able to effectively and efficiently conduct our examinations. Pre-COVID, our examiners traveled approximately 70% of the time; post-COVID, this has been decreased to 30%.

At the conclusion of each exam, an exam survey is sent out to the credit unions, where we ask for feedback about how the exam went. Here are some comments we have received about the hybrid examinations specifically.

- We like the new hybrid exam approach and having a few examiners on site is easier for a credit union our size to facilitate. Over the years I've seen many improvements to the exam process and appreciate the changes that have been made. We feel that the Regulatory Agencies are here to help us and they have given us credit for our accomplishments, and have also addressed any areas that may need improvements.
- The ability to have conversations directly with examiners face to face again was very much appreciated. The hybrid approach to examinations was a good fit and a good balance for us. I appreciate the ability to learn about how other CUs approach something from examiners.
- The hybrid model with some examiners onsite for a week of the exam and the rest of the examiners remote worked well; The transparency between the examiners and CU staff during the exam keeping both sides informed also worked well.

In addition, we ask the credit union to rate their agreement or disagreement with this statement: “Examiner-in-Charge and the examination team acted in a professional and objective manner.” We consistently receive a very favorable response to this statement with 100% stating they “strongly agree” with this statement.

DCU Compliance Program

Near the end of 2023, we expanded our compliance program by hiring a second Financial Legal Examiner. Hiring a second examiner had been a goal we established pre-pandemic, and due to a number of factors, it took until 2023 to make that goal a reality. The division conducts compliance examinations when a credit union’s assets grow to more than \$500 million. We try to conduct compliance-only examinations once every three years. We typically focus the compliance exam on deposits during one compliance exam and then loans during the next compliance exam. Adding a second compliance examiner should help ensure state-chartered credit unions:

- Are compliant with the various consumer protection laws; and
- Have compliance programs that are proactive and up to date with changes and additions to the consumer protection laws.

With these safeguards in place, this continues to allow DCU to continue to add value for credit unions and their members. Having a second Financial Legal Examiner also provides continuity and succession planning within the compliance examination program.

Looking Ahead to 2024

In 2024, we will be focusing on having individual examiners develop specialized expertise in a variety of areas; some of the areas we have identified include member business loans, interest rate risk, liquidity and BSA.

As consumer complaints continue to evolve in their complexity, the consumer complaint program will continue to benefit from the addition of the second financial legal examiner, and we should be able to complete more stand-alone compliance exams.

Division of Consumer Services Year in Review



Division of Consumer Services employees celebrate DFI's 30-year anniversary and attend the Money Transmitter Regulators Association (MTRA) annual conference

The Division of Consumer Services continues to be a thought leader in the non-depository space, particularly as the financial services landscape continues to change and as new products and services are introduced to the marketplace. Changes to key leadership roles – including Director Cindy Fazio's retirement in September – have been seamless due to the ongoing strength of the division.

Consumer Services Licensing Update

During 2023, the Licensing Unit strengthened its application review by increasing collaboration with the Examinations Unit and the Regulatory Affairs Unit to ensure companies entering the marketplace are compliant with existing rules and regulations. Through the end of November, the Licensing Unit approved more than 230 company applications, 950 branch applications, and nearly 3,300 individual applications across all industries the division regulates.

Consumer Services Examinations Update

The Examinations Unit continues to be a leader nationally, thanks in large part to the seasoned examiners that are on the front lines. The Examinations Unit has been working on a new initiative as part of Networked Supervision, or the One Company One Examination (OCOE) project. Adopted in May of 2023, multiple state regulators will jointly conduct an examination of a licensed company. This saves the company from having multiple individual state examinations throughout the year. It also reduces the regulatory burden on companies and leverages examination resources. Mortgage examiners completed two OCOE examinations in 2023. The Money Service Business (MSB) Multistate Examination Taskforce (MMET) conducted 58 OCOE examinations, of which Washington led three. The Examinations Unit assisted specific licensees in adopting, and adapting to, the State Examination System (SES) for single-state and multi-state examinations, which is no easy feat.

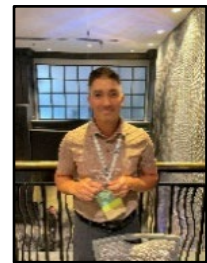
Consumer Services Enforcement Update

The Enforcement Unit continued protecting consumers by thwarting certain illegal or wrongful foreclosures, pursuing formal enforcement actions, and requiring refunds and corrective actions. Consumers have filed nearly 950 complaints as of November 2023. Of those complaints, as well as some carried over from the prior year, the steadfast Enforcement Unit closed more than 950 complaints, resulting in about \$80,000 in restitution to consumers, more than 10 foreclosures halted or postponed, and a handful of loan modifications granted. The Unit also entered into a large multi-state settlement agreement with a licensed money transmitter.

Other Items of Note in the Division of Consumer Services

Several examiners were recognized for their work throughout the year for leading multistate examinations. Jenny Tipton received American Association of Mortgage Regulator's Examiner in Charge of the Year Award. Hung Nguyen received the Money Transmitter Regulator Association Star Award, presented to Examiners in Charge who led three or more joint examinations.

Last, the Mortgage Loan Originator work from home rules went into effect on Jan. 1, 2023, and the new escrow officer licensing test went live in August 2023.



Division of Securities Year in Review

Securities

Whistleblower Award and Protection Act

Washington's new Whistleblower Award and Protection Act went into effect on July 23, 2023. This new law allows DFI's Securities Administrator to provide financial awards to whistleblowers who provide original information to the Securities Division that leads to successful enforcement action under the Securities Act. It also provides protections from retaliation and confidentiality.

We are proud to be one of five states that have adopted these provisions for whistleblowers. Learn more at [Whistleblower Award and Protection Act Frequently Asked Questions](#). You can find the text of the new legislation at [RCW 21.40](#). To file a whistleblower complaint, you can use the [Securities Division's complaint form](#).



Adoption of NASAA Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments

On Aug. 18, 2023, the Securities Division amended the franchise rules set forth in Chapter 460-80 WAC to adopt the Statement of Policy Regarding the Use of Franchise Questionnaires and Acknowledgments promulgated by the North American Securities Administrators Association, Inc. ("NASAA"). The Statement of Policy sets uniform standards for the proper use of questionnaires and acknowledgments in franchise offerings. The Statement of Policy prohibits provisions that would require a prospective franchisee to make statements that are subjective, unreasonable, or that attempt to absolve the franchisor or its agents of liability in connection with the sale of a franchise. The new section of the franchise rules reflecting the adoption of the Statement of Policy is located at WAC 460-80-325. The Rule-Making Order (Form CR-103) and the text of the final rule are available on our website at: <https://dfi.wa.gov/rulemaking/nasaa-statement-policy-regarding-use-franchise-questionnaires-and-acknowledgments>. The Statement of Policy is available at: <https://www.nasaa.org/wp-content/uploads/2022/09/NASAA-Franchise-Questionnaires-and-Acknowledgments-Statement-of-Policy-9-18-2022.pdf>. If you have questions about the rule, please contact Nathan Quigley by telephone at (360) 902-8797 or by email at Nathan.Quigley@dfi.wa.gov.

New Franchise Act Interpretive Statement on the Disclosure of Franchise Fees

On Nov. 1, 2023, the Securities Division adopted a new interpretive Statement under the Franchise Investment Protection Act, chapter 19.100 RCW, concerning the disclosure of franchise fees to prospective franchisees. The adoption of [Franchise Act Interpretive Statement No. 9](#) responds to reports of franchisors charging fees to franchisees that were not disclosed in the Franchise Disclosure Document. Franchise Act Interpretive Statement No. 9 explains a franchisor must disclose all fees, including prospective fees, to a prospective franchisee in the Franchise Disclosure Document prior to the execution of the franchise agreement or the receipt of any payment by the franchisor or any of its affiliates, and further explains that a franchisor cannot impose a fee, through the operations manual or

otherwise, without pre-sale disclosure. Please contact Timothy Varney by telephone at (360) 902-8785 or by email at timothy.varney@dfi.wa.gov with any questions.

Significant Division of Securities Enforcement Actions

DFI Joins CFTC and 29 Other States in Settlement with Safeguard Metals

On Oct. 20, 2023, a federal court in California entered a [Consent Order](#) between several regulators, including DFI, and defendants Safeguard Metals and its principal, Jeffrey Ikahn. The Consent Order arose out of a joint investigation between the CFTC, DFI, and 29 other state securities regulators. The defendants were found liable for running a nationwide \$68 million fraudulent precious metals scheme. The defendants were alleged to have charged higher than disclosed markups on its precious metal sales. They also steered elderly and retirement-aged investors into purchasing silver coins that had a much higher markup than gold coins. The sale of the silver coins generated \$66 million of the \$68 million that the defendants fraudulently obtained from its customers. The defendants agreed to permanently refrain from violating federal and state commodities and securities laws, among other injunctions. The amount of customer restitution and monetary penalties will be determined in the second phase of the proceeding.

DFI Joins \$12.4 Million Settlement with Raymond James



On July 11, 2023, the Securities Division [announced](#) a multi-state settlement with Raymond James for violating securities laws and taking more than \$8,250,000 in excess commissions from investors. This misconduct was first brought to the attention of the NASAA Broker-Dealer and Enforcement Section by our Financial Examiner, Noah Schmidt. Noah first discovered these excess commission charges while on routine examinations of various branch offices. Raymond James has agreed to refund \$8.25 million in excess commissions to clients, approximately \$105,000 to WA State investors.

DFI Participates in \$22.5 Million Settlement with Nexo Capital

On Jan. 19, 2023, DFI joined members of the North American Securities Administrators Association (NASAA) and the Securities and Exchange Commission (SEC) in entering a settlement totaling \$45 million with Nexo Capital, Inc. In the settlement, Nexo agreed to pay about \$424,500 to DFI. Over the past year, DFI led a working group of state securities regulators investigating Nexo's possible offer and sale of securities in the form of its Earn Interest Product (EIP.) Nexo's EIP accounts allowed customers to deposit crypto assets with Nexo; in exchange, customers passively earned interest on those deposits. In offering its EIP, DFI found that Nexo failed to disclose material information about the investment including, but not limited to, Nexo's EIP interest generation deployment activities, Nexo's legal and regulatory compliance in Washington, and the limitations of Nexo's financial representations. In addition to the monetary settlement, Nexo agreed that it will cease and desist from offering its EIP unless properly registered or exempt from registration.

Sentencing of Charles Richard Burgess, a/k/a Dick Burgess

On Jan. 6, 2023, Charles Richard "Dick" Burgess (Burgess) was sentenced to 75 months in prison, 3 years of supervision upon release, and \$4,383,617.98 in restitution to 32 investors. On August 11, 2022, Burgess pleaded guilty in Federal Court to one count of mail fraud in violation of USC 1341. Between October 2013 and April 2021, Burgess offered and sold approximately \$6.3 million of investments in a pooled investment vehicle to 40 investors, most of whom were Washington residents. Burgess offered and sold participation in the pool to friends, family, and to friends or family of existing pool participants. Burgess sent monthly statements to investors that falsely represented that the pool was successful, and that investors were making a consistent profit. Further, Burgess used funds from the pool to pay himself excessive fees, to pay his own personal expenses, and to make Ponzi payments to investors. The case was investigated by the Securities Division and the FBI and prosecuted by the U.S. Attorney's Office Western District of Washington.

In the Community Year in Review

DFI's Communications & Outreach

2023 was a big year for DFI outreach – with more than 100 events - presentations, workshops, resource tables and more!

We were honored to assist with the Washington LifeSmarts competition in Yakima this spring. Congratulations again to the Selah High School team for their win!

DFI's Communications & Outreach team was proud to be among the few organizations providing presentations for what has turned out to be the last Money Smart Week, and this year's was in [Spanish](#). Though we lost a little ground with some staff changes, we are happy to have a new Spanish-speaker on the team. Nathan Spiecker is busy making connections, answering the call for presentations and helping us build our resources in other languages.

If your service group or child's classroom is interested in hosting us for a presentation or workshop, please fill out DFI's [presentation request form](#) and we'll do our best to make it happen!



DFI's Financial Education & Outreach Coordinator Nathan Spiecker staffed a resource table in Nov. at the LatinX Youth Summit for students and their families at Centralia College.

Our Social Media Content Specialist has been busy, and this year's follow/like/share numbers indicate her work is striking a chord with followers – especially on LinkedIn. Our goal for 2024 is to increase the number of Instagram reels and YouTube videos with more information about who we are and what we do. If you aren't following us yet, please consider doing so:

- [X](#) :dficonsumers
- [Instagram](#) :wastatedfi
- [Facebook](#) :wadfi
- [YouTube](#) :wadfi
- [LinkedIn](#) :wadfi

We anticipate another busy year for financial education outreach and look forward to making many new partners in this endeavor!

From the Policy Team

The Covenant Homeownership Program (CHP) Committee Chair

The Policy Team in the Division of Administration is pleased to announce that Charles Moore, previously a member of DFI's Consumer Services Division, was promoted to become the program manager for the Oversight Committee of the Covenant Homeownership Program. The [Covenant Homeownership Program \(CHP\)](#) was created by the Washington State Legislature during the 2023 session.



This is the first program of its kind in the country. The CHP is studying and identifying specific harm to Washington residents caused by racist real estate covenants in effect before the enactment of the Civil Rights Act of 1964.

The CHP is housed at the Washington State Housing Finance Commission, but the legislature also wanted an oversight committee for the program and looked to DFI to establish it.

As team leader in Consumer Services' licensing unit, Charles deeply appreciates the important role DFI plays in protecting consumers. Charles also led a nationwide effort to establish a multistate licensing program at CSBS, giving him important experience in collaborating with and leading a work team comprised of members of differing organizations. Charles has a Master's in Public Administration from The Evergreen State College and is an active volunteer in his community.

Covenant Homeownership Program Committee Members Still Needed

The seven-member, governor-appointed committee still needs members to provide oversight for work done related to the program. The Boards and Commissions website states:

The oversight committee will evaluate and review program activities carried out by the Washington State Housing Finance Committee. Those activities will include an initial report to the legislature and the oversight committee arising from a study of racist covenants and their economic impact on communities. That report may lead to the creation and administration of one or more special purpose credit programs to provide mortgage down payment and closing cost assistance for persons adversely affected by racist housing covenants the program is investigating. The CHAP oversight committee also may from time to time make recommendations to the Legislature.

For more information on how to apply, please visit the Boards and Commissions [website](#).

**Washington State
Department of Financial Institutions**

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