STATE OF INDIANA DEPARTMENT OF FINANCIAL INSTITUTIONS

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To: Rep. Martin Carbaugh, Chair, and Sen. Eric Bassler, Vice Chair
Interim Study Committee on Financial Institutions and Insurance

From: Thomas C. Fite, Director, Indiana Department of Financial Institutions

Date: September 2, 2020 (deadline: September 14, 2020)

Re: Legislative Council Resolution 20-02: Request for Report by the Indiana Department of Financial Institutions

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In response to the Legislative Council's Resolution 20-02, the Indiana Department of Financial Institutions ("DFI")[1] submits the following report:

1. ***Overview of which operations or services were reduced or suspended during the pandemic including whether the suspension or reduction was required by an executive order.***

Immediately prior to the Governor's declaration of the public health emergency, the DFI halted sending examiners in person to regulated entities. In the Depository Division, the DFI delayed undertaking new depository examinations for 28 days to allow financial institutions time to identify and implement immediate shifts required to continue providing essential services and to assist customers. During this time, depository examiners embarked on an extensive risk assessment project, identifying financial institutions that may be most exposed to COVID-19 economic impacts due to their financial condition, balance sheet composition, and geographic market. After the initial delay and with the cooperation of the financial institutions, depository examiners resumed examinations, albeit remotely.

In the Consumer Credit Division, the DFI mirrored the initial delay undertaking new depository examinations of financial institutions, and undertook a comprehensive overview of its examination schedule and portfolio to upward shift out of state entities due for examination that could otherwise be accomplished in the existing remote examination framework.

While remote examinations have in general not been as efficient as in-person exams for in-state businesses and financial institutions, and have required renewed creativity particularly in the use of technology tools and

[1] Throughout this report the different divisions of the DFI will be referred to as the Depository Division, which is responsible for regulating state chartered financial institutions, and the Consumer Credit Division, which is responsible for overseeing businesses that hold Indiana licenses and registrations to extend consumer credit.

resources to operate efficiently, examiners have continued conducting routine examinations largely uninterrupted. In addition to the challenges faced by undertaking examinations exclusively in a remote capacity, both divisions have made great efforts to be flexible and accommodating to the businesses and financial institutions the DFI regulates.

Many financial institutions and consumer credit businesses were facing their own challenges with navigating their employees working remotely, ability to access records for examination, compounded by the challenges of maintaining continuity of services to Hoosiers during this time which also carried with it much financial uncertainty. Cognizant that the businesses DFI examines were all considered essential businesses and in unchartered territory, the DFI approached scheduling examinations with its regulated businesses with significant cooperation. The DFI recognized the need to be flexible with conducting its examinations. The DFI's goals during this time included not placing added stress where unnecessary, but still fulfill its mission, through the examination process. In working with its regulated businesses, the DFI found that it did not have to suspend or reduce its operations or services; in fact, the demand for the DFI's services increased significantly with regulated business entities reaching out to the DFI for assistance and guidance.

In response to this increased request for assistance, the Depository Division held several bank and credit union outreach calls with the industry to discuss DFI's operating environment, various informational items for which the industry should be aware, and discussions regarding how DFI could assist the industry. It also reached out to each individual institution to determine if the financial institution needed any assistance from the DFI in the form of written guidance or other assistance to aid them in dealing with COVID-19. The Depository Division participated in the drafting of various national guidance documents intended to provide clarity and aid financial institutions. The division aims to provide flexibility and clarity to the supervisory process. In an effort to provide institutions additional time to work with customers, the division also extended the timeframe for submissions to the DFI for items such as annual audit reports and provided clarification on in-person meeting requirements. The Depository Division waived the procedural requirement that the DFI Director approve the closing of branches for more than 48 hours and in the alternative permitted a notification process. The Depository Division served as a resource for financial institutions asking questions about the regulatory process but also prudent management of operations and financial risk.

The Consumer Credit Division undertook proactive communications with a number of regulated industries where it was identified that additional stressors may occur as a result of the in person nature of the business activity. For example, examination staff contacted all licensed pawnbrokers to ask if they had questions or concerns about continuing operations, and to be a resource for those pawnshops who chose to stay open as well as those who chose to close their storefront on a short or long term basis. In addition, the economic stimulus payments likewise raised a number of questions concerning whether or not such payments could be considered income for purposes of small loan eligibility. New small loan transactions have been significantly impacted during this time, and new small loan transactions have decreased more than 50% over the last six months. In addition to the economic impact on regulated businesses, effective July 1 a number of new consumer credit regulations went into effect as a result of SEA 395. As a result, businesses were also making attempts to understand and prepare for the new law changes. The Consumer Credit Division published extensive analysis and guidance regarding the new law changes, and has undertaken comprehensive outreach to impacted financial institutions and regulated businesses. In addition the above, agency wide the Department: worked with the IHCDA to promote housing stability pursuant to EO 20-06; published guidance to consumers and the public providing an overview of options for cashing federal stimulus checks in Indiana by regulated businesses; and created a COVID-19 resource page on the agency's website with resources for financial institutions, regulated consumer credit businesses, and consumers.

Additionally, the Consumer Credit Division's licensing area experienced a significant increase in new mortgage loan originator applications and has worked expeditiously to timely process those applications. COVID-19 also affected Mortgage Loan Originators' ("MLO") Temporary Authority to Operate ("TAO"). MLO Applicant testing facilitators, which are private entities, temporarily ceased offering national qualifying MLO testing, affecting a few Indiana individual applicants (less than 10) who were operating under TAO during the processing of their pending license application. Pursuant to federal law, TAO expires after a certain time period, and typically if the MLO does not timely complete its required national testing exams, it does not qualify for a permanent state issued MLO license. Recognizing that the private testing facilities were not operating, the DFI permitted affected MLO applicants to continue its application in pending status until such time as testing could be accomplished and the applicant had meaningful opportunity to complete the licensing application process. In early May, testing facilities began operating in a limited capacity and testing centers are now mostly open with local and state capacity restrictions in place, as well as the offering of a virtual testing option became available.

In summary, the DFI did not reduce or suspend its services. DFI services and requests for assistance actually increased during this period, as it provide comprehensive guidance to and supported its regulated entities acting as a regulator and advocate where necessary. The DFI found alternative methods to continue fulfilling its mission.

a. To the extent applicable, include citations for the laws, rules and policies affected by or authorizing the preparations

All of the statutes, rules, and policies the DFI is charged with overseeing stayed in effect and were not modified, other than the limited impact of extension of non-essential agency procedural deadlines, which were beneficial to regulated industries. The DFI supported the extension of such non-essential deadlines directed by Executive Order 20-05.

2. Overview on preparations to address future emergencies and recovery based on the agencies experience with COVID-19.

In regards to technology, the DFI has invested in its technology tools and resources over the last few years. This investment has allowed the DFI to work off-site, more efficiently, and in a more modern manner. This investment in technology is a large reason why the DFI did not have to shutter or suspend services due to COVID-19. However, COVID-19 has tested this technology infrastructure and identified pain points, opening DFI's eyes as to where it needs to continue to modify and improve its technology resources.

As for administrative matters, the DFI relied upon the Governor's Executive Orders to conduct telephonic public Members' Meetings. Without the modification to the laws regarding public meetings, the DFI could not have conducted any of its Members' (Board) Meetings, negatively affecting its regulated entities. The DFI's Members consider such activities and financial institution mergers, acquisitions, and administrative actions. The DFI's Members hail from all over the state and typically travel to attend DFI's meetings in person at its main office location. Current state law that applies to all government agencies (Ind. Code § 5-14 *et. seq.*) allows some members to participate telephonically as long as a minimum number of Members are physically present at the meeting. During COVID-19, pursuant to the Governor's Executive Orders, the DFI Members telephonically attended Members Meetings to conduct necessary business. This resulted in greater participation by our Members because they could call-in to the public meeting, instead of travelling.

Without continued modification of public meeting laws, the DFI will not be able to conduct necessary business that our Members are statutorily required to consider. COVID-19 has presented a unique challenge which has forced many businesses to require their employees to work from home, prohibit them from attending off-site meetings, or closing their offices to members of the public. These restrictions, while understood and help combat COVID-19, will prevent the DFI from obtaining a quorum at its Members Meetings. Permitting public meetings to occur telephonically on an ongoing basis, or at least during times of public health emergencies, will alleviate this problem and allow the DFI to conduct its necessary business.

In summary, the DFI is well situated to address future emergencies and recovery. Continued investment and use of technology will permit the DFI to evolve and more efficiently and effectively fulfill its mission while maintain the health and safety of the agency's employees, as well as the health and safety of the employees of regulated financial institutions and businesses. Modifications of physical attendance requirements at public meeting will allow the DFI to continue conducting necessary business during future emergencies.

a. ***To the extent applicable, include citations for the laws, rules and policies affected by or authorizing the preparations.***

Other than public meeting laws referenced above (I.C. § 5-14-15 *et seq*.), the DFI did not have any statutes it enforces affected by the pandemic (primarily, Titles 28 and Title 24). All of the statutes, rules, and policies the DFI is charged with overseeing stayed in effect and were not modified.

3. ***Recommendations, if any, for legislation that may be needed to help ensure the agency is prepared to address future emergencies.***

None.

4. ***Recommendations, if any, for legislation to permanently repeal or modify any regulations or laws that were or are partially or fully suspended due to COVID-19.***

As previously stated, the statutes the DFI is charged with overseeing were drafted to promote safety and soundness of state chartered and licensed institutions during times of financial downturn. Adherence to those statutes promotes safety and soundness and protects depositors, debtors, consumers, creditors, and the public. The DFI does not have any recommendations at this time to repeal or modify any regulations or laws it is charged with overseeing. As for other, more administrative statutes, the DFI recommends altering public meeting laws to expand quorum requirements to permit our Members' to telephonically attend a significant portion of DFI's public meeting.