Audit Highlights

Highlights of performance audit report on the Division of Financial Institutions issued on May 2, 2018. Legislative Auditor report # LA18-18.

Background

The Division of Financial Institutions (Division), created in 1983, is an agency in the Department of Business and Industry. Its mission is to maintain a financial institutions system for the citizens of Nevada that is safe and sound, protects consumers, and defends the overall public interest. The Division also promotes economic development through the efficient, effective, and equitable licensing, examination, and supervision of depository, fiduciary, and non-depository financial institutions.

The Division's primary responsibilities include reviewing applications for licensing, issuing new and renewal licenses, examining licensees on an annual basis, processing written complaints, and conducting investigations of violations. As of June 1, 2017, the Division had 2,666 licensees.

The Division is self-funded with revenues consisting primarily of assessments on depository and non-depository licensees, and license and examination fees, which amounted to over $3.3 million in fiscal year 2017. As of June 30, 2017, the Division had 30 filled positions in its Carson City, Reno, and Las Vegas offices.

Purpose of Audit

The purpose of this audit was to determine whether the Division's oversight of non-depository financial institutions effectively ensures regulatory compliance. Our audit focused on the Division's regulatory and financial activities for fiscal year 2017. We also included information in certain areas from prior years.

Audit Recommendations

This audit report contains five recommendations to enhance the Division's regulatory processes. The Division accepted the five recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on July 27, 2018. In addition, the six-month report on the status of audit recommendations is due on January 27, 2019.

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Division of Financial Institutions

Department of Business and Industry

Summary

The Division's oversight of non-depository financial institutions effectively ensured regulatory compliance; although, enhancements can be made to strengthen certain processes. The Division adequately administered annual examinations, fees, reports, violations, and complaints. However, inconsistencies in the examination process can be reduced by maintaining better documentation, improving the accuracy of reporting, and enhancing underlying policies and procedures. Additionally, the follow-up process on licensees with less-than-satisfactory examinations needs to be formalized in policies and procedures. The Division can also improve visibility into its ability to accomplish its mission by reporting an outcome-based performance measure detailing the results of examinations. Furthermore, the Division would benefit from a centralized tracking system for payday loans. These enhancements will help protect consumers and promote public interest in non-depository institutions.

Key Findings

The Division has adequately administered state laws and regulations concerning non-depository licensees. The Division completed required annual examinations, ensured licensees submit required fees and reports timely, and took prompt action regarding examination violations and consumer complaints. (page 6)

The Division could improve its documentation of the work performed during an examination. Documentation generally lacked a statement showing the population and sample selection methodology for licensee loans and check cashing transactions reviewed. Additionally, examination periods varied and often did not cover the entire period since the licensee's last examination, as management indicated is a Division practice. (page 9)

Examination reports did not always accurately reflect the scope of work performed. Our testing found instances where the standard language in the Division's report template was not revised to reflect the actual work performed. In addition, 19% of the examination reports reviewed, which stated the loan population and sample size, were inaccurate and did not agree with the reviewed loans documented in the examination workpapers. (page 11)

The Division needs to enhance its written policies and procedures over its examination process. Clearly defined policies and procedures provide a framework for conducting consistent and efficient work, while communicating approved processes and expectations to examination staff. (page 11)

The Division needs to formalize in policies and procedures the follow-up process for licensees receiving a less-than-satisfactory examination. The Division considers licensees' violation response letters and other factors when deciding whether its staff will conduct a follow-up examination to verify corrective actions were properly implemented. Considering approximately 33% of licensed payday lenders received a less-than-satisfactory examination rating annually over the last 5 years, performing adequate follow-up on licensees with noted violations of state laws and regulations is important for ensuring consumers are adequately protected against unfair or unlawful financial practices. Furthermore, documenting this process is important because licensees receiving less-than-satisfactory examinations should receive close regulatory supervision due to their increased risk of non-compliance. (page 13)

The Division can improve its performance measures by reporting an outcome-based measure detailing the results of examinations to the Legislature. Over the last 5 years, on average only 67% of licensees providing loan and check cashing services were in satisfactory compliance with state laws and regulations based on the Division's examinations. Current performance measures provide examination output and workload statistics, but do not show the impact examinations are having on licensees' overall compliance with state laws and regulations. (page 15)

A centralized tracking system for payday loans can be of significant value to the Division, its licensees, and Legislators. A database would assist licensees with managing loans and determining loan eligibility. It would also help licensees comply with state payday lending laws and help consumers avoid becoming overloaded with debt. Additionally, it would help the Division identify irregular lender activity and serve as an information system for staff preparing for an examination. A centralized tracking system would provide regulatory oversight and collect statistical information on licensees providing loan services. (page 17)