



## MEMORANDUM

TO: Karen Persichilli Keogh, Secretary to the Governor  
Elizabeth Fine, Counsel to the Governor

FROM: Acting Superintendent Adrienne A. Harris

RE: Government Transparency Initiative Departmental Next Steps

DATE: October 20, 2021

This is in response to the request set forth in the September 20, 2021, Government Transparency Initiative Memo from the Secretary and the Counsel to Governor, requesting that State agencies submit a plan to increase the transparency of the work of their agency. We fully support this request and submit below an outline of the significant measures the Department of Financial Services (“DFS”) has previously taken to operate in a transparent manner and to identify additional steps that DFS will take to further enhance this effort.

### **I. DFS’ CURRENT TRANSPARENCY MEASURES**

#### **A. Information Made Available on DFS’ Website**

In service to the public and the entities that it regulates, DFS currently makes an enormous amount of information available on through its public website.

##### **1. Educational and Informational Material for New Yorkers**

DFS’ public website provides educational and informational material for New Yorkers, both consumers and small business owners, who want to educate themselves or get help with regard to a financial institution, service, or product that DFS oversees. For example, DFS posts on its website information for or related to:

- flood and disaster victims
- homeowners and tenants needing help with insurance, shopping for a mortgage, facing foreclosure, or facing home equity theft
- banking and sending money
- credit and debt
- auto, life, and health insurance
- holocaust survivors and their heirs about art, insurance, and bank claims
- avoiding scams and fraud

- resources for small businesses
- resources for students and parents looking to finance college or manage student loans and debt relief.

## **2. Information related to the regulated entities that DFS oversees**

The website also provides online access to industry guidance, correspondence, and the applications and filings required by the agency of certain of its regulated entities (by law most information relating to banking entities must be kept confidential). In addition, DFS' website provides public access to lists of all of the many different types of persons and entities that DFS supervises, charters, licenses, examines, or requires to register or make filings with DFS, and their subsidiaries and branches, where applicable. Additional examples of information that DFS makes available through its public website related to the institutions that it regulates include:

- agency annual reports
- examination reports for certain entities that are not confidential
- reports and certain agreements related to disciplinary and enforcement actions
- regulatory activities, including proposed regulations, press releases, public hearings, and weekly Banking Bulletins (featuring change applications and notices received by the agency from banks, trusts, and credit unions, virtual currency trust companies, licensed financial services companies, and mortgage companies)
- access to agency reports
- rate and form filings for property/casualty insurers

## **3. Search tools and filings submitted to DFS that are accessible from DFS' website**

The DFS Portal is a secure transactional platform that provides the public with access to the following applications:

- an insurance producer search
- an insurance company search
- a consumer complaint submission form
- online FOIL submission
- a list of active bail agents
- an intake for external appeals of denied health insurance claims
- a lost life insurance policy finder application
- a Medicare Supplemental Insurance shopping tool
- a pre-licensing and continuing education provider search tool
- insurance company New York supplement filings
- a list of producer education testing monitors

## **B. Receipt of Public Comment**

1. DFS obtains public input related to its activities via the website about:

- proposed industry guidance
- proposed regulations
- any item in the Weekly Bulletin required under the Banking Law
- proposed health insurance rate increases
- performance of banks scheduled for New York State CRA evaluations
- matters addressed in a public hearing

2. DFS has historically held public hearings both when required to do so by statute and when the Superintendent has sought public input on matters of public concern. Statutorily required public hearings include those pertaining to insurance producer discipline, workers' compensation rates, and major insurance corporate reorganizations. Other public hearings have focused on matters such as force-placed insurance<sup>1</sup>, title insurance rates and criminal bail bond reform.

## **C. Receipt of complaints from the public regarding the persons and entities DFS regulates**

DFS accepts complaints from the public, both online and by mail, about alleged violations of the Insurance Law, Banking Law, or Financial Services Law, including about:

- financial institutions
- financial services and products offered to New Yorkers
- vacant "zombie" properties
- from health care providers about prompt payment and no-fault or workers' compensation claims
- external appeals of denied medical coverage
- surprise medical bills
- no-fault arbitration
- spikes in drug prices
- insurance fraud

## **D. Access the public has to agency leadership**

DFS has telephone operators for both our toll-free hotline and local phone numbers available from Monday through Friday, from 8:30 AM to 4:30 PM, and also accepts inquiries from the public and licensed persons and entities via email and regular mail. Calls for the Superintendent and executive staff are triaged by an operator and forwarded accordingly in real time. Legal inquiries are accepted

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<sup>1</sup> "Force-placed insurance" is also known as creditor-placed, lender-placed or collateral protection insurance, and is an insurance policy placed by a lender, bank or loan servicer on a home when the property owners' own insurance is cancelled, has lapsed or is deemed insufficient.

via direct email to our Office of General Counsel or by regular mail. The Public Information Officer accepts emails and phone calls. Phone numbers and email addresses are posted to the public website. New Yorkers can call the DFS call center Monday through Friday 8:00 AM to 5:00 PM and can request to talk to someone in the Superintendent's office.

#### **E. Most common information requests from the public**

Based on DFS's review of Call Center data and website analytics, DFS most frequently receives the following information requests:

- Questions from industry about licensing, re-licensing, printing licenses and cybersecurity requirements
- Consumer and healthcare provider complaints
- questions about DFS licensed entities and financial products and services
- questions about flood claims, health insurance claims, surprise medical bills, paid family leave, foreclosure, fraud, lost life insurance policies, how to obtain a lien release on a vehicle (banking and insurance), and DMV codes for auto insurance claims

#### **F. Areas of greatest public interest in the DFS' work**

Based on DFS' review of the most-visited pages on DFS's website, social media interactions and feedback from Public Affairs staff, the areas of greatest public interest in DFS' work are as follows:

- Consumer protection on financial and insurance issues including:
  - health insurance rates and practices and long-term care insurance premiums
  - flood claims and flood and disaster insurance
  - mortgage and foreclosure issues
- Industry guidance on best practices, risk and reserves, cybersecurity, climate change, and diversity and inclusion
- Enforcement and discipline of regulated persons and entities
- Virtual currency licensing

#### **G. Language Access**

DFS continues to comply with Executive Orders 8.26 and 8.26.1 by offering language assistance services, which includes translating vital documents and providing interpretation services, to people with limited English proficiency.

## **H. Filing Timely Reports with the Legislature**

DFS files the following reports with the Legislature, all of which are either filed in a timely fashion with the Legislature or submitted in a timely fashion to Chamber for review:

- Long Term Care Insurance Plans
- Holocaust Claims Processing Office Report
- Consumer Protection and Financial Enforcement Report
- Wild Card Report
- DFS Annual Report

## **I. How DFS Currently Participates in Community Events**

DFS extensively participates in community events through its Community Development Unit, its Student Protection Unit and its Community Affairs Unit.

- DFS' Community Development Unit ("CDU") currently engages with communities across the state in several ways:
  - In connection with the Banking Development District Program ("BDD"), CDU conducts site visits, in which it engages with community-based organizations, small businesses, residents, municipal entities, and banking institutions, to learn of their perspectives on the need for banking services in a particular area seeking BDD designation.
  - CDU also conducts meetings with community-based organizations and municipal entities that reach out to the Department seeking BDD designation and locating a banking institution in an underserved community.
  - In addition, CDU participates in inter-regulatory agency events such as regional listening sessions, bankers' roundtables, and CRA education sessions for both consumer advocates and bankers, where we have an opportunity to learn of gaps as well as opportunities in meeting CRA requirements. CDU also participates in meetings organized by community reinvestment coalitions.
- DFS' Student Protection Unit ("SPU") conducts on average 50-70 Financing Your Education and Student Loan Repayment workshops at high schools, colleges, libraries, correctional facilities, partnering with elected officials, and other community organizations across the state. The hour-long workshops include a PowerPoint with time for questions and answers along with brochures that individuals can take with them. Due to Covid restrictions in 2020, all workshops went virtual and have since

resumed in person and hybrid models. Additional resources are needed to maintain this item.

- DFS' Consumer Assistance Unit ("CAU") deploys staff to disaster recovery centers and sends out the Mobile Command Center ("MCC") to assist consumers who are confronted with a disaster to:
  - answer their questions related to insurance coverage and refer them to appropriate governmental authorities that could provide assistance (for example, CAU recently responded to over 1,000 telephone calls and 1,600 in-person contacts related to Storm Ida damage), and
  - assist them with any complaints they may have regarding the processing of their claims.
- DFS's CAU also sends staff to participate in:
  - events sponsored by federal, State and local elected officials to lend assistance to consumers related to a variety of insurance and banking matters,
  - about 40 to 50 community events per year upon request to answer questions on a variety of banking and insurance matters,
  - other annual events such as the New York State Fair, the Black and Puerto Rican Caucus and El Somos.

## **II. STEPS THAT DFS WILL TAKE TO INCREASE TRANSPARENCY**

DFS is considering taking the following steps to build on the previous work it has done to provide information to the public it serves and the entities it regulates:

### **A. Public Website and Digital Applications**

DFS plans to continue to develop and enhance its public website to be more helpful, interactive, and user-friendly and build additional public applications and tools into the website. To that end, DFS will explore enhancing IT support, staffing and infrastructure (including a communications management platform) in order to expand the information and documents posted on the website. Obtaining the funding for such increased support, staffing and infrastructure will be key to the success of the steps described below.

## **1. Post Legislative Diaries Online**

DFS is considering posting online DFS' official record of the development of legislative initiatives impacting the agency, which will illuminate the way by which laws are passed and increase transparency. Making this information available to the public will reduce the need to file FOIL requests.

## **2. Insurance Producer Search**

DFS plans to build a more comprehensive, user-friendly interface for its database of DFS-supervised insurance producers so that expansive lists of producers can be created without making a FOIL request. Making this information available to the public will allow users to search for a producer in a multitude of helpful ways and reduce the need to file FOIL requests.

## **3. Disciplinary Action Directory**

To the extent permissible under law and in conformance with confidentiality requirements, DFS will consider expanding the posting on its website of stipulations and consent orders entered into by DFS and improving access to what DFS currently posts by building a more user-friendly and searchable interface.

## **4. Financial Services Counseling Providers Directory**

DFS plans to create and maintain a centralized list of non-profit financial services counseling providers throughout the State. Making this information available to the public will allow users to find trusted help with foreclosure issues, student loan debt and general financial literacy.

## **5. Mailing Lists and Subscription Services**

DFS plans to provide sign-up and subscription opportunities and services to the public for emails, text alerts, newsletters, bulletins, web page RSS feeds and the like. Making this available to the public will allow DFS to better share important information with a particular audience (e.g., flood victims) and allow consumers and industry to opt in to receiving important agency alerts and other tailored information of interest to them.

## **B. Enhance Public Access to Agency Records**

DFS will explore proactively publishing to its public website additional records and information, particularly frequently requested information or completed FOIL requests. DFS is also considering posting annual and quarterly statements for insurers on the website. Additional resources are required to implement this item.

### **C. Open Data NY**

DFS will explore making more of the publishable data that it collects from regulated entities for annual reporting purposes available as machine-readable data sets on Open Data NY.

Currently, Open Data NY already publishes DFS data related to:

- Bank-Owned ATM Locations in NY Map
- Title Insurance Premiums written annually beginning 1998
- Property Insurance Premiums written annual beginning 1998
- Holocaust Claims Processing Office Statistics
- Automobile Insurance Company Complaint Rankings
- Health Insurance Premiums on Policies written in New York annually
- Life Insurance in force in the state of New York beginning 1996
- An institutional history of banks having operated in New York state

DFS is considering publishing additional data on Open Data NY, including the data proposed in the agency Open Data Catalogue, for example:

- State Chartered Banks in New York - Assets and Liabilities
- State Chartered Banks in New York - Locations
- Credit Unions in New York - Assets and Liabilities
- Credit Unions in New York - Locations
- Check Cashers in New York - Assets and Liabilities
- Check Cashers in New York -Locations
- Money Services Businesses in New York - Assets and Liabilities
- Money Services Businesses in New York - Locations
- Premium Finance Agencies in New York - Assets
- Premium Finance Agencies in New York - Locations
- Insurance Agent and Broker Licensing Test Statistics
- Health Insurance Complaint Ranking

### **D. Social Media**

DFS will improve its social media channel by disseminating more consumer- and small business-focused information. This channel will use plain English, and its managers will have access to resources to translate vital information. Additional resources are needed to implement this item.



## **E. Records Retention Policy**

DFS will embark on an agency-wide effort to update and expand its record retention policy. No additional resources are needed to implement this item.

## **F. Expediting Response Time to FOIL Requests**

DFS currently receives approximately 1,400 FOIL requests per year and utilizes a FOIL application and two FOIL administrative assistants to track FOIL requests and upcoming due dates. As of October 20, 2021, DFS has received 1,256 FOIL requests in 2021, of which 1,111 were closed. To expedite response times for processing FOIL requests, DFS plans to hire a third FOIL administrative assistant to fill a current vacancy and hire an additional full-time FOIL attorney to serve as a records access officer. DFS also anticipates that proactively posting frequently requested information online will reduce the number of FOIL requests that DFS receives per year, which will ultimately expedite response times for processing FOIL requests.

## **G. Compliance with Project Sunlight**

Project Sunlight is an online database, established by the Public Integrity Reform Act of 2011 (“PIRA”), to provide the public with an opportunity to see what entities and individuals are interacting with New York State government decision-makers. For an interaction to be covered by Project Sunlight it must: (i) be an appearance (an appearance is a substantive interaction (in-person or video conference) that is meant to have an impact on the decision-making process of a state entity); (ii) be between covered individuals; and (iii) concern one of the five subject areas covered by Project Sunlight, *i.e.*, (1) procurement, (2) rate making, (3) regulatory matters, (4) agency-based judicial or quasi-judicial proceedings, (5) adoption or repeal of a rule or regulation. State agencies such as DFS must work to ensure that affected staff are aware of this reporting requirement and that covered appearances are timely entered into the online database.

### **1. Steps DFS Currently Takes to Ensure Use of the Project Sunlight Database**

- DFS has designated staff (recorders) to record covered appearances into the Project Sunlight Database.
- Recorders have been provided the necessary credentials so that they can access the Project Sunlight database to add, edit, confirm and submit meeting information into the Project Sunlight database.
- Staff have been made aware of the Project Sunlight reporting requirements and Project Sunlight monitors have been designated to assist with Project Sunlight reporting in the respective units.

- DFS posts all Project Sunlight PowerPoint training materials – Substantive and Technical – on its intranet for staff to freely and easily access.
- In addition to the below listed Project Sunlight information, DFS also posts on DFS’ intranet its internal compliance plan and discipline policy and the Project Sunlight FAQs on its:
  - DFS’s Project Sunlight Appearance Reporting Form
  - Project Sunlight Policy
  - Project Sunlight Technical Training - for meeting recorders
  - Project Sunlight Substantive Training
  - Project Sunlight FAQs/Project Sunlight Public FAQs
  - DFS’ Internal Compliance Plan and Discipline Policy
- DFS created a Project Sunlight Monitoring Quarterly Report Form, which tracks, among other things, unit compliance with Project Sunlight, the number of reports each unit reported, and whether employees need training. Pre-pandemic, DFS requested quarterly monitoring reports from its monitors and expects to resume such quarterly monitoring.

**2. Steps DFS Will Take to Ensure Continued Use of the Project Sunlight Database**

- DFS will consider sending automatic periodic reminders to staff concerning DFS Project Sunlight compliance plan and discipline policy, and the Project Sunlight reporting requirements.
- In addition to the readily accessible Project Sunlight substantive and technical training materials that are posted on our intranet, DFS will explore with its Training Unit making the Project Sunlight substantive training material that is currently in the Statewide Learning Management System (SLMS) mandatory training for staff.
- DFS will resume requesting quarterly reports from its Project Sunlight Monitors. No additional resources are needed to implement these changes.

**H. Reducing Costs for Access to Agency Data**

Please see section II (F) above which discusses proactively posting frequently requested information online, which will reduce costs to DFS to process FOIL requests.

**I. Expanding Agency Participation in Community Events**

In addition to what the CDU and CAU currently does with respect to participation in community events as discussed in Section I (I) above, the CDU can expand

community involvement when evaluating the renewal of deposits for BDD participants, and the CAU will explore the development of training programs that will proactively educate New York consumers on various insurance and banking - related matters.

**J. Increasing Public Participation in Meetings, Hearings and Decision Making**

In addition to the public hearings DFS currently holds as discussed in Section I (B) (2) above, DFS will seek to hold public hearings more often on matters of public concern.