

REGULATORY GUIDANCE

Questions Regarding Licensing Requirement Determinations in New Mexico

The New Mexico Legislature has authorized the Financial Institutions Division (FID) to issue and regulate 15 different types of licenses, which results in over 21,000 individual licensees. Statutory mandates further require the Director of the FID to “investigate the facts concerning the application and the requirements” for any new applications for licensure. See *e.g.*, New Mexico Small Loan Act of 1955, NMSA 1978, § 58-15-5(A) (2018); Uniform Money Services Act, NMSA 1978, § 58-32-204(A) (2017). In addition to investigating any original application for licensure, the Director is obligated to conduct a review or investigation for more than 21,000 license renewal applications. See *e.g.*, New Mexico Mortgage Loan Originator Licensing Act, NMSA 1978, § 58-21B-19(B)(1) (2009); Escrow Company Act, NMSA 1978, § 58-22-9(A) (2015). In addition to the volume of the license investigations and renewals, the Director’s extensive licensing duties are becoming more challenging as the nature of financial organizations and transactions become increasingly complex with technological changes.

Considering the time and expense of the licensing regime dictated by statute, businesses frequently request the Director issue an informal opinion or “no action letter” regarding the necessity of a license for their specific venture. These informal requests routinely require complex analysis of the FID’s statutory authority and regulations as they may or may not apply to their venture. These informal requests strain the FID’s resources and therefore, the practice of responding to informal requests for licensing determinations is discontinued immediately. All inquiries regarding licensure will only be answered within the statutory application process for each license including the payment of the non-refundable application fee.

The Director’s responsibilities are defined by statute thereby making the legislated licensing regimen explicit and finite. The legislature has not prescribed an “informal” process for determining if a license is required, and the Director will no



longer respond to informal requests. Therefore, all licensing questions will be answered within the existing statutory application process. The fees collected will ensure all businesses using FID's resources are paying the appropriate mandatory application fee for licensure as determined by the legislature. This clarification of the procedures for license determination harmonizes with the Director's statutory assigned duties, is fiscally responsible, and in the best interests of the people of New Mexico.

