A Report by the
Money Service Business Facilitated-
Workers’ Compensation Fraud
Work Group
SUMMARY OF ISSUE

Workers’ compensation premium fraud is not a new phenomenon in Florida; however, the chosen methods to accomplish this fraud have changed over time. In the past, unscrupulous business owners who wanted to avoid paying lawful premiums did so by either under-reporting payroll or misclassifying employees. While this type of fraud still occurs, a much larger and more organized scheme has emerged which endangers the workers’ compensation insurance market and its affected industries.

This new scheme is most commonly found in the construction industry. The individuals perpetrating this scheme are “facilitators,” in the sense that they create fake or “shell” companies with no real business operations, labor force, or physical location other than a post office box. Typically, the shell companies use generic names so as not to reveal the type of construction work actually being conducted, which is a critical element to their success.

Facilitators incorporate a shell company usually by using the online incorporation process offered by the Florida Department of State’s Division of Corporations. This allows facilitators to unilaterally name the company, as well as its owner and registered agent, without any review or verification process. The facilitator’s name will rarely, if ever, be associated with the company, but rather a “nominee” owner, or in many cases, a completely fictitious owner. In either case, this person will almost never be located once the scheme is in place, allowing facilitators to use the company for illegal purposes without detection.

Once the operation is active, the facilitator will turn to an insurance agent to obtain a minimal workers’ compensation insurance policy. Only sometimes is the insurance agent directly involved and aware of the purpose for setting up the company and obtaining an insurance policy. Often, the agent is duped by the facilitator, who will accompany the nominee owner to the insurance agency and explain that he/she is helping the owner start a company and that the facilitator, and not the owner, will handle much of the paperwork and any required servicing of the policy. There have been instances where facilitators are actually able to get blank insurance policy applications and return them after completing, signing, and notarizing the form.

The insurance application will usually describe the business as a small two to four person company conducting a low-risk trade, such as drywall installation, brick paver installation, or carpentry work. The insurance agent will then obtain a workers’ compensation policy for the shell company, and generate a premium amount. The down payment is usually made in cash at the time of application, and a post office box is routinely given as the address for later bills. The payment of premium is an investment for the facilitator of the scheme, which will pay off tenfold when fraud is executed according to plan.

With a registered corporation and an insurance policy, the facilitator will begin to advertise his fraudulent scheme. His marketing strategy will be to let uninsured subcontractors use the newly formed company—for a fee. These uninsured subcontractors are either unwilling, or simply unable, to obtain a real workers’ compensation insurance policy that actually covers its employees. However, utilizing the facilitator’s shell company will allow an uninsured subcontractor appear to have coverage when asking general contractors for work. When a general contractor asks for the name of the uninsured subcontractor’s company and its insurance policy, the uninsured subcontractor will use the shell company name, and provide the workers’ compensation insurance policy’s certificate of insurance, which does not include how many employees or what operations the policy actually covers.
Once the uninsured subcontractor completes work under the guise of the shell company, payment will be made to him/her from the general contractor via company check made payable to the shell company. The check cannot be cashed at a bank because most banks will not cash a check made payable to a business or third party, but rather, will require that the check be deposited into the payee’s bank account. However, money service businesses will allow the cashing of the third-party business-to-business checks by certain “authorized” persons allegedly related to the payee. These “authorized” persons are the facilitator, and others designated by the facilitator. Many times, these people have been introduced to the money service business’ employees in advance, and limited powers of attorney listing these “authorized” persons are found in the “Know Your Customer” files of the money service business’ records.

When checks made payable to the shell company are negotiated at the money service business, two fees are taken out. One, usually between 1.5% and 2.0%, is taken out for the money service business owner as the fee for cashing the check. The second fee, usually between 6% and 8%, is taken out for the facilitator as the fee for the use of the shell company name and, more importantly, the workers’ compensation insurance policy. The balance of the check is then returned to the uninsured subcontractor, posing as the shell company, in cash.

None of the monies paid are reported to the shell company’s insurance carrier, nor are any of the payments considered payroll exposure by the general contractor’s insurance carrier. Those perpetrating this fraud do everything in their power to make the transactions appear legitimate on paper. The result however, is that no workers’ compensation premiums are assessed, premium is avoided, and workers go without coverage.

The facilitator will duplicate this fraud by soliciting as many uninsured subcontractors as possible, taking a fee for each. Having a generic shell company name assists greatly in this regard, as it helps to avoid detection. Fraud investigators have identified several instances where one shell company name has, in any given week, been used dozens—and maybe hundreds—of times. For example, one shell company alone accounted for $27 million worth of checks in excess of $10,000 over a four-year period.

This fraud is particularly financially beneficial for higher risk trades. Since workers’ compensation premiums are assessed based on a hybrid analysis of employees and the risk level of the work performed. Because higher risk trades are charged higher premiums, the savings can be significant. Further, other overhead can be avoided. For example, a modest industry class code rate is around 20%, state and federal payroll taxes are approximately an additional 10%. By avoiding these costs and only paying approximately 8% to 10% in fees to the facilitator and money service business, the fraud offers the uninsured subcontractor a fairly substantial pecuniary benefit.

Some money service businesses are at least tacitly aware of the fraud—and their role in its success. Complicit money service businesses falsify required documents regarding the true identity of those persons authorized to conduct the transactions. To do this, they will complete Currency Transaction Reports (CTR’s) for transactions in excess of $10,000 in the name of the nominee owner of the company rather than the facilitator, to protect the latter’s identity.

In the end, when a worker employed by an uninsured subcontractor is injured on the job, there is no insurance in effect to cover the cost of his/her injuries. The facilitator instructs those “renting” (i.e. the uninsured subcontractor) his or her certificate of insurance that minor injuries are to be paid for by the uninsured subcontractor, as reporting them to the shell company insurance carrier would reveal that there are other, unreported employees working under the shell company name. Catastrophic injuries cannot be covered by the
renter, and when this occurs, the general contractor holds up the certificate of insurance in the name of the shell company and states that the injured worker is an employee of a sub (shell company). The shell company insurance carrier, while it may try to defend the claim, will ultimately start processing the claim, because workers’ compensation insurance policies do not cover any one specific person, rather, they cover a company’s labor force. After further investigation, the insurer may subrogate the claim between the insurance carrier of the shell company and the insurance carrier of the general contractor, depending on where the more clearly defined employer/employee relationship existed. Nonetheless, one carrier may end up paying a claim for a person for whom it has never collected a premium.

Sometimes, the facilitators “burn” one shell company to start a new one, leaving the insurance carrier, and anyone else for that matter, looking for the nominee owner to attempt an audit, or get other information about the company and its activities. In many cases, the facilitator simply walks away. In other instances, the facilitator will actually agree to an audit each year by the shell company’s insurance carrier, but will create a separate set of books which reflects the same, small, two to four person company which was described on the application. That will generate a small premium, which the facilitator will pay as an investment in the viability of the scheme. The large business-to-business checks, covering thousands—or millions—in labor expense will never be seen by the insurance carrier, as they are cashed at the money service business, cleared through the money service business bank account, and returned to the general contractor.
HISTORY

In early 2008, the Attorney General impaneled the Eighteenth Statewide Grand Jury. In March 2008, it published the Second Interim Report of the Statewide Grand Jury entitled “Check Cashers: A Call for Enforcement.” The report described this type of workers’ compensation premium fraud in detail, and recommended the following solutions for insurance fraud, and other problems:

Recommendations for the Florida Legislature:

1. Authorize new examiner positions or support personnel or both for Money Transmitter Regulatory Unit (MTRU)
2. Grant MTRU whatever additional authority it requires to utilize 3rd party examiners under 560.118(c), F.S.
3. Authorize MTRU to utilize existing trust funds for increased training for examiners, particularly for forensic training and detection of criminal activity
4. Cap commercial transactions at a reasonable level
5. Require photographs of customer, identification and check at time of transaction for all transactions over $5,000
6. Prohibit under any circumstance the cashing of Medicaid or Medicare checks payable to providers
7. Require check cashers to establish bank account dedicated solely for check cashing functions to ease audit process
8. Require all checks cashed by check cashers to be deposited into their own bank account
9. Require licensees to submit Suspicious Activity Reports (SARs)
10. Require licensees to pay actual costs for MTRU exams
11. Require records to be retained by both MTRU and licensees for 5 years
12. Amend Chapter 560, F.S., to grant MTRU authority to immediately suspend any licensee that fails to have sufficient records at the time of the exam until that licensee provides such records to MTRU
13. Require registrations of MSBs to be renewed yearly
14. Require MTRU to refer possible or suspected criminal activity to appropriate law enforcement agencies in writing
15. Make such criminal referrals confidential and exempt from the public records law
16. Require MTRU examiners to independently report suspicious activity directly to law enforcement in writing
17. Require appropriate security measures for check cashers akin to those found in Florida’s Convenience Store Security Act including, at a minimum, security cameras to deter and help solve robberies
18. Direct DHSMV to undertake a feasibility study of creating an online system for verifying validity of Florida’s driver’s licenses as is done with credit cards

Recommendations for the Office of Financial Regulation’s Money Transmitter Regulatory Unit:

1. Enforce the provisions Chapter 560, F.S., fully
2. Require licensees to implement approved software programs for check cashing functions to streamline and standardize audit process
3. Require licensees with multiple locations to network their databases to detect attempts at structuring by their customers and to facilitate MTRU exams
4. Solicit input from examiners on potential resolutions/penalties including amending exam report to have a section for such input
5. Utilize third-party contractors for examinations as provided for in 560.118(c), F.S.
6. Hire clerical support to free up examiners to do more field examinations
7. Provide funds for continuing examiner education especially for forensic examinations and the detection of criminal activity. For the latter, take advantage of training opportunities provided by other state agencies such as Division of Insurance Fraud, Medicaid Fraud Control and Department of Law Enforcement.

8. Promulgate rules detailing additional due diligence required by check cashers to verify identities of their corporate customers commensurate with their check cashing volume including: Copies of articles of incorporation, Verifying incorporation online and updating quarterly, Verifying FEIN, Requiring at least two forms of identification, including one government issued photo ID, business or banking references, site visit or some other verification of customers’ corporate existence.

9. Create a standard table of fines for all violations of code.

10. Require check cashers to establish bank account dedicated solely for check cashing functions.

11. Require check cashers to deposit checks in their bank account within 1 business day.

12. Require applicants to have an Anti-Money Laundering program and Bank Secrecy Act manual in place and approved by the agency before issuing a license.

13. Examine all new licensees between 3-6 months after issuance of license.

14. Send 15 day advance notice of exam by certified mail. If the legislature grants authority, include warning that failure to have complete records may result in immediate suspension of license.

15. Schedule follow-up exams for specified infractions of the code between 3 to 6 months after initial examination.

16. Guidance letters should not be issued without a written policy in place. That policy should emphasize that Guidance Letters should only be issued for the most minor violations and should never be used where violations concerning CTRs’ failure to maintain adequate records, or failure to have an effective AML program in place is found.

17. Examinations should be completed and approved in a more timely fashion.

18. Reduce the amount of time Area Financial Managers (AFMs) spend duplicating examiners efforts and require AFMs to approve examination reports in a more timely fashion.

19. Examinations should be tracked from beginning to end and goals for completion should be set for both examiners and AFMs.

20. Make criminal referrals in writing, and track such referrals for annual reporting.

**Recommendations for the Division of Insurance Fraud:**

1. Require Certificates of Insurance to be issued by insurance companies only, not agents.

2. Require Certificates of Insurance to indicate on their face, in some manner, the amount of coverage purchased.

3. Require contractors relying on Certificates of Insurance provided by subcontractors to verify validity and coverage amounts with the carrier.

Many of these recommendations were incorporated into 2008 legislation, CS/CS/SB 2158. The provisions in that bill were as follows:

**General Provisions**

- Authorizes the Office of Financial Regulation (Office) to immediately suspend a license if a licensee fails to provide requested records pursuant to a written request of the Office.

- Requires an applicant to establish an anti-money laundering program as a condition of licensure, which a licensee must maintain and update, as necessary, in accordance with federal regulations. Also, requires an applicant to be registered with FinCEN, if applicable.

- Expands prohibited acts to include violations under 18 U.S.C. section 1957, which pertains to engaging in monetary transactions in property derived from specified unlawful activity. This violation would be punishable as a third-degree felony.
- Requires an examination of new licensees within the first six months after licensure and requires existing licensees to be examined at least once every five years. Previously, there was no statutorily mandated examination schedule.
- Requires licensees to incur the cost of an examination. License and renewal fees were reduced by 25 percent to offset the cost of examinations. License application fees to register branches/vendors when a change in controlling interest occurs are capped at $20,000.
- Requires the Financial Services Commission to adopt by rule disciplinary guidelines applicable to each ground for disciplinary action that may be imposed by the Office.
- Increases the record retention for licensees and the Office from three to five years. The federal Bank Secrecy Act (BSA) requires MSBs registered with the federal government to retain records for five years. Generally, the statute of limitations for financial crimes is five years.
- Authorizes the Office to seek restitution on behalf of customers and allows the Office to request the appointment of a receiver.
- Requires the Office to make referrals of violations of law that may be a felony to the appropriate criminal investigatory agency having jurisdiction.
- Requires the Office to submit an annual report to the Legislature summarizing its activities relating to the regulation of Chapter 560, F.S., entities, including examinations, investigations, referrals and the disposition of such referrals.

**Money Transmitter Provisions**
- Increases the maximum net worth requirements for a licensee from $500,000 to $2 million. The net worth requirements per location is reduced from $50,000 to $10,000. Net worth requirements had not been adjusted since 1994.
- Increases bonding requirements by raising the cap from $500,000 to $2 million. The amount of the bond will be based on the financial condition, locations, and volume of business. Bonding requirements had not been adjusted since 1994.
- Requires all licensees to submit annual financial audit reports, which are used to determine whether net worth and other safety and soundness requirements are met. (Generally, a part II licensee is required to submit annual, audited financial statements unless it is exempt pursuant to section 560.118(2)(a), Florida Statutes. The prior exemption, which was eliminated under the legislation, applied to licensees with 50 or fewer employees and agents and licensees with less than $200,000 in transactions.)
- Requires a licensee to place customer assets in a segregated account in a federally insured financial depository institution and maintain separate accounts for operating capital and the clearing of customer funds. The bill requires that transmitted funds must be available to the designated recipient within 10 business days after receipt.
- Requires certain information to be contained in the licensee's written contract with an authorized agent. These items include the scope and nature of the relationship and responsibilities of the agent. The agent is required to: report to the licensee the theft or loss of currency for a transmission or payment instrument; remit all amounts owed to the licensee for all transmissions accepted and payment instruments sold pursuant to the contractual agreement; consent to an examination or investigation by the Office; hold in trust such money until the time the money is forwarded to the licensee; and adhere to state and federal laws and regulations pertaining to a money services business. The licensee is required to develop and implement written policies and procedures to monitor compliance with applicable state and federal laws by its authorized agents.
Check Caster Provisions

- Requires check cashers subject to licensure to submit suspicious activity reports (SARs) to the federal government, if applicable. Previously, check cashers could, but were not required to, submit SARs under federal MSB laws and regulations. There was no requirement under state law for check cashers to file SARs.
- Requires check cashers to obtain from its customers acceptable identification, along with a thumbprint, for checks greater than $1,000. Previously, section 560.309, Florida Statutes, allowed a licensee to charge a higher fee if the customer did not provide proof of identification. The bill eliminated the ability of a check cashier to charge a higher fee if the customer presenting the check does not provide identification. The federal BSA requires check cashers and other MSBs to verify the identity of their customers. Previously, a check cashier could charge up to 5 percent of the face amount of a payment instrument, or 6 percent without the provision of an identification or $5, whichever is greater, if such payment instrument is not the payment of any kind of state public assistance or federal social security benefit payable to the bearer of the payment instrument. For such state or federal payments, the fees are capped at 3 and 4 percent, respectively.
- Requires check cashers to maintain copies of the identification and thumbprint for five years.
- Requires check cashers to maintain detailed customer files on corporate entities cashing checks exceeding $1,000. This enhanced due diligence will assist the industry in making sure that checks cashed can be traced back to their source, and that the check cashier will have records available to law enforcement similar to the records maintained on corporate accounts by traditional financial institutions such as banks.
- Requires check cashers to maintain an electronic payment instrument log for checks cashed over $1,000.
- Upon acceptance of a payment instrument that is cashed by the licensee, the payment instrument must be endorsed using the legal name under which the licensee is licensed. Also, a licensee is required to deposit or sell payment instruments within 5 business days after acceptance of the payment instrument.
- Revises the check cashing exemption, which is referred to as the “incidental retail business exemption.” The legislation imposes an additional requirement, which provides that in order to qualify for the exemption, the person must not engage in a check cashing transaction that exceeds $2,000 per person per day.
- Requires check cashers to be equipped with a security camera system that is capable of recording and retrieving an image in order to assist in identifying and apprehending offenders. The licensee does not have to install a security camera system if the licensee has installed a bulletproof or bullet-resistant partition or enclosure in the area where checks are cashed.

Deferred Presentment Provider Transactions ("Payday Loans")

- Requires a deferred presentment provider (DPP) to notify the Office within 15 business days after ceasing operations. Pursuant to section 560.404, Florida Statutes, the Office maintains a database of deferred presentment transactions to ensure that consumers do not have more than one outstanding transaction at any time. The DPP is required to enter certain data regarding a transaction and verify whether any open deferred presentment transactions exist for a particular person. The Office has encountered problems in which the vendor has ceased operations and has failed to reconcile open transactions in the database. The bill authorizes the Financial Services Commission to adopt rules regarding the reconciliation of open transactions. If the DPP does not comply with the notice requirement, the Office is authorized to take administrative action to release all open and pending transactions in the database after the Office becomes aware of the closure.
While these reforms were positive in many regards, the legislation unfortunately did not cure the problem of facilitators creating shell companies to purchase and “rent” certificates of insurance to uninsured contractors. This Working Group, comprised of the stakeholders below, has focused its attention on this distinct problem to evaluate current tools for enforcement and make recommendations for improvement.
STAKEHOLDERS

Money service business-facilitated workers’ compensation fraud affects various governmental agencies, businesses, and other organizations. Below is a representative list of entities participating in the working group:

- Department of Financial Services’ Division of Insurance Fraud, Division of Workers’ Compensation, and Division of Insurance Agents and Agency Services
- Office of the Florida Insurance Consumer Advocate
- Office of Financial Regulation
- Attorney General’s Office of the Statewide Prosecutor
- Office of Insurance Regulation
- Department of State’s Division of Corporations
- Broward County Sheriff’s Office
- Florida Carpenters Council
- Florida Home Builders Association
- Associated Builders & Contractors
- Florida Roofing & Sheet Metal Association
- United Brotherhood of Carpenters and Joiners of America
- Financial Service Centers of America
- AmScot
- Dollar Financial
- Florida Chamber of Commerce
- Associated Industries of Florida
- Florida United Businesses Association
- National Federation of Independent Businesses
- National Council on Compensation Insurance
- Bridgefield Employers Insurance Company
- FCCI Insurance Company
- Zenith Insurance Company
- FFVA Mutual Insurance Company
- Twin City Fire Insurance Company
- Contego Group
- Florida Association of Insurance Agents
- Florida Retail Federation
- Publix Supermarkets
- Wal-Mart
RECOMMENDATIONS

- **Improve the flow of information regarding third-party checks between check cashers, the Office of Financial Regulation, and the Division of Insurance Fraud.**

Corporate payment instruments are defined by R. 69V-0560.704, F.A.C., as “payment instrument[s] on which the payee named on the face of the payment instrument is not a natural person.” Similarly, the rule defines third party payment instruments as “…instrument[s] being negotiated by a party other than the payee named on the face of the payment instrument.”

Check casher licensees are statutorily required to keep customer files for those who cash corporate or third-party instruments exceeding $1,000. These files must contain a copy of the customer’s personal identification and a thumbprint taken by the licensee. Licensees must also keep payment logs, and maintain all books, account, documents, files, and other information for at least 5 years.

By rule, licensees are also required to affix customer thumbprints to the original of each payment instrument exceeding $1,000, as well as secure and maintain a copy of the original payment instrument, a copy of the customer’s personal identification presented at the time of acceptance, and maintain customer files for those cashing corporate and third party payment instrument, which includes documentation from the Secretary of State verifying the corporate registration, Articles of Incorporation, information from DFS’ Compliance Proof of Coverage Query Page, and documentation of those authorized to negotiate payment instruments on the corporation of fictitious entity’s behalf. Customer files must be updated annually.

Further, Florida rule requires that for payment instruments of $1,000 or more, the check casher shall create and maintain an electronic log of payment instruments accepted, which includes, at a minimum, the following information:

- Transaction date,
- Payor name,
- Payee name,
- Conductor name, if other than the payee,
- Amount of payment instrument,
- Amount of currency provided,
- Type of payment instrument (personal, payroll, government, corporate, third-party, or other),
- Fee charged for the cashing of the payment instrument,
- Branch/location where instrument was accepted,
- Identification type presented by customer, and
- Identification number presented by customer.

This electronic information must be maintained in an electronic format that is “readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.” The maintenance of this information has been intended to be used in the audit process. While this can be useful, it does not utilize the
information in the most proactive manner. This information, if received and maintained in a “real time” format, could be used to actively identify the perpetrators of this crime.

Given that the information is in EXCEL, or another easily viewable format, the Legislature could statutorily require that information to be uploaded or exported to regulators daily or weekly. The Money Transmitter Regulatory Unit (MTRU) at OFR could share this information with Division of Insurance Fraud, which could then aggregate the information and build a program designed to detect similar names or other irregularities that could signal potential fraud.

It is important to note that members of the check cashing industry have also suggested allowing money service businesses to charge a small transaction fee to help cover the costs of collecting this information, if necessary.

- **DFS' Division of Workers’ Compensation should include payroll info on Proof of Coverage website, require contractors to check the website, and create a penalty for those who check the website yet still hire an uninsured subcontractor.**

Currently, the Division of Workers’ Compensation operates a Proof of Coverage website, which lists several data points including employer information, coverage history, officer/owner exemptions and elections, and the like (see below for a representative sample).

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<table>
<thead>
<tr>
<th>Coverage History</th>
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<td>Governing Class Code</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>05537</td>
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</tbody>
</table>

*View Locations* 05537 Jan 1 2008 Jan 1 2009 XYZ INSURANCE COMPANY 000AA00A00000 NO

*Represents the Governing Class Code as reported by the insurance carrier
**Carriers were not required to report the Governing Class Code for policies issued prior to October 1, 2009

*No Officer Exemption of Coverage Listings*

*No Owner Election of Coverage Listings*
While payroll information is not presently included, the Division of Workers’ Compensation is in the process of developing this functionality. This will allow contractors and others checking the website to determine whether policy is in force for an entity’s entire payroll. In other words, it would show a discrepancy if a 25-person roofing subcontractor appeared as a 2-person drywall company in the database. That would alert a general contractor looking to hire an uninsured subcontractor that real and appropriate coverage is not in effect for that subcontractor.

Requiring contractors to check the database before making a hire could be done; however, it could be difficult in the sense that there are multiple steps to a bidding process. Many times a general contractor will ask for a certificate of insurance for a subcontractor in the pre-bidding process, and that coverage may change before work has actually begun.

*Questions for workgroup:*  
- What is the efficacy of requiring contractors to check the website?  
- If any, at what point in time should contractors be required to check it?  
- Is the Division of Workers’ Compensation confident that the information contained therein will be helpful for contractors to confirm that real coverage is in place for subcontractors?  
- One suggestion received was to require that subcontractors produce some kind of certificate in good standing/final clearance in order to receive payment from the general contractor? Could this suggestion be incorporated into any related recommendation?

➢ *Modify statutes to simply audit trails.*

When money service businesses do not properly negotiate, endorse, or deposit checks, it is often difficult for OFR to detect such issues. Sometimes, check cashers who negotiate suspect checks cannot get their financial institution to honor the checks and in turn, credit their account. This incentivizes some check cashing facilities to sell checks that their financial institution will not honor. However, if check cashing facilities were unable to sell checks and had to keep a bank account at a traditional financial institution, this would dissuade them from negotiating checks that banks refuse to cash.

As such, legislative changes could be made to:

- Require licensees to maintain a depository account for the purpose of negotiating all cashed checks.  
- Require the immediate cessation of check cashing activity in the absence of such account.  
- Provide for the immediate suspension of licensees for failure to deposit cashed checks.
Allow the Office of Financial Regulation to focus their efforts more efficiently.

Section 560.109, F.S., requires the Office to examine each money service business at least once every 5 years. New licensees must be examined within 6 months of the issuance of the license.

Questions for workgroup:
- Does the 5 year examination schedule still make sense? Does it need revision?
- Would more discretion, perhaps outside of the schedule, allow the Office to be more risk-based, or can the goal of target, risk-based examinations still be accomplished within the current statutory framework?

A related suggestion from the check cashing industry was to “request that the Legislature allocate additional dollars from [the] licensing trust fund to conduct audits on commercial check cashing transactions and unlicensed activity.”

Allow the Office of Financial Regulation to make unannounced visits.

Currently, section 560.109, F.S., prohibits the Office of Financial Regulation from making unannounced visits to money service businesses, and requires the Office to provide the licensee with at least 15 days notice that an exam will be conducted. There is a very limited exception for conducting unannounced exams or investigations if the Office “suspects that the money services business, authorized vendor, or affiliated party has violated or is about to violate any provisions of [Chapter 560] or any criminal laws of [the state of Florida] or of the United States.”

The announcement of an exam or investigation allows unscrupulous licensees to hide, destroy, or otherwise tamper with the evidence that the Office may collect in the course of their visit. Other regulated industries, such as insurance agents, are subject to unannounced examinations or investigations. It is reasonable to assume that law-abiding money service businesses would not hide, destroy, or tamper with evidence upon notice that the Office has scheduled an upcoming exam. If that assumption is reasonable, then such money service businesses should not be significantly prejudiced upon an unannounced examination or investigation. Rather, it would be the unscrupulous money service businesses that endeavor to cheat the system that would now face detection in the absence of advance notice.

Implement threshold of business-to-business checks.

Questions for the workgroup:
- Some members of the workgroup have suggested imposing a threshold on the value of business-to-business checks that can be cashed at MSB's. Further, some others have suggested outlawing the practice altogether. Does the workgroup still feel this would be necessary?
- If so, what is the expected outcome of such a ban or threshold? Will this really prevent the fraud, or will the facilitators perhaps find another way to access these funds?
- If this recommendation would be effective, what is the best option? A ban, or a threshold? If a threshold, what is the right level at which to cap the amount of the check?
Have the Division of Insurance Fraud run reports from the Department of State’s Division of Corporations’ website to generate lists of common officers/addresses in order to detect shell corporations.

The Department of State provided some valuable insight to recommendations proposed by workgroup members. In addition to discussing the potential downsides of limiting corporations to bricks and mortar establishments, workgroup members also learned about the functionality of their computer systems.

The Department of State’s Division of Corporations reports that it can generate information to detect similarities in officers, directors, addresses/P.O. Boxes, and other corporate identifying information. The Division of Insurance Fraud and the Office of Insurance Regulation are encouraged to work with the Department of State to see how that information may be helpful to detect potentially unlawful behavior.

Create an endorsement to the money service business’ license for commercial check cashing.

Some members of the workgroup suggested creating an endorsement to the MSB license for commercial check cashing transactions, which would allow for enhanced scrutiny of the companies engaging in this type of business.

Questions for the workgroup:
- Would allowing OFR to conduct more risk-based assessments, by giving them more discretion in their examination cycles, take care of the objective underlying this recommendation without having to create a new licensure process?
- Another suggestion was to create a tiered licensing system for MSB’s, which establishes specific levels of transactions which would justify the level of oversight, etc. What could that look like, and would this be effective?

Change how certificates of insurance are issued.

Questions for the workgroup:
- Many members suggested modifying the way in which COI’s are issued, but the recommendations varied. While some suggested the state take it over, others suggested that COI’s should be issued by insurers or third parties, and others suggested creating a database in which insurance agents should load COI information.
- What is the efficacy of modifying COI issuance procedures, and what entity/entities are the appropriate ones to coordinate issuance?

CONCLUSION: TBD