

A.

Finance Commission

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FINANCE COMMISSION OF TEXAS

MEETING DATES.....April 17, 2015

MEETING LOCATIONState Finance Commission Bldg
William F. Aldridge Hearing Room
2601 North Lamar Boulevard
Austin, Texas 78705

CONTACT INFORMATION.....Phone: (512) 936-6222
Email: Finance.Commission@fc.texas.gov
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FUTURE MEETING DATESJune 19, 2015
August 21, 2015
October 16, 2015
December 18, 2015

*** The State of Texas fiscal year begins September 1 and ends August 31. The dates noted meet the minimum statutory requirement of six meetings per calendar year. Fin. Code §11.106*

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FINANCE COMMISSION AGENDA

Friday, April 17, 2015
9:00 a.m. or Upon Adjournment of the
Audit Committee Meeting
Whichever is Later

Finance Commission Building
William F. Aldridge Hearing Room
2601 N. Lamar Blvd.
Austin, Texas 78705

Section A.3 will take up the following agenda items with NO DISCUSSION as notated in bold and italicized A1, C2, C3, and C4.

Public comment on any agenda item or issue under the jurisdiction of the Finance Commission agencies is allowed unless the comment is in reference to a rule proposal for which the public comment period has ended. However, upon majority vote of the Commission, public comment may be allowed related to final rule adoption.

A. FINANCE COMMISSION MATTERS

1. ***Review and Approval of the Minutes of the February 20, 2015, Finance Commission Meeting***
2. General Public Comment
3. Consent Agenda
4. Finance Commission Operations
5. Audit Committee Report
 - A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' February 28, 2015, Investment Officer Reports
 - B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2015 Second Quarter Financial Statements
 - C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Banking 2015 Audit of the Perpetual Care Cemetery Area as Prepared and Presented by Garza/Gonzalez and Associates
6. Discussion of and Possible Vote to Take Action on the Finance Commission Agency Heads' Fiscal Year 2015 Mid-Term Accomplishment Reports
7. Discussion of the Report of the Financial Condition of the State Banking System (bound separately from packet)

8. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties of Persons Holding the Position of Agency Commissioner Positions, and Other Staff
9. Discussion of and Possible Vote to Take Action Regarding Facility Planning and Real Property Matters Pursuant to §551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property
10. Discussion and Consultation with Attorney and Possible Vote to Take Action Pursuant to §551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys, including matters of pending and contemplated litigation

B. OFFICE OF CONSUMER CREDIT COMMISSIONER

1. Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities
2. The Finance Commission Will Enter into Executive Session Pursuant to §552.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from its attorneys, with respect to:

Ovation Lending LLC, Alamo Home Finance Inc., USPTL LLC, and Tax Advances LLC v. Finance Commission of Texas, Office of Consumer Credit Commissioner, and Leslie Pettijohn in her Official Capacity as Commissioner of the Office of Consumer Credit Commission; Cause No. D-1-GN-15-000886, now pending in the District Court of Travis County, Texas, 353rd Judicial District

3. Discussion and Possible Vote to Take Action with Respect to Agenda Item B2
4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §§89.207, 89.601 and 89.802, Concerning Property Tax Lenders
5. Discussion of and Possible Vote to Take Action Regarding Anticipated and Pending Litigation

Lynn Rowell d/b/a Beaumont Greenery, MPC Data and Communications, Inc., Micah Cooksey, NXT Properties, Inc., Mark Harken, Montgomery Chandler, Inc., Paula Cook, Townsley Designs, LLC, and Shonda Townsley v. Leslie L. Pettijohn, in her official capacity as Commissioner of the Office of Consumer Credit Commissioner of the State of Texas; Cause No. 1:14-cv-00190-LY, in the United States District Court, Western District of Texas, Austin Division

C. DEPARTMENT OF BANKING

1. Industry Status and Departmental Operations: a) Items of Interest from the Commissioner's Office; b) Bank and Trust Division Activities; c) Corporate Division

Activities; d) Special Audits Division Activities; e) Administrative and Fiscal Division Activities; f) Strategic Support Division Activities; g) Legal Division Activities; h) Legislative Activities; and i) General Items of Interest

2. ***Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §3.91 Concerning Loan Production Offices***
3. ***Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §3.23 Concerning Exercise of Trust Powers***
4. ***Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §33.52 Concerning How to Provide Information to Customers about Filing a Complaint***
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Antioch St. Johns Cemetery Co. v. The Texas Department of Banking Commissioner, Cause No. D-1-GN-14-000367, In the 261st District Court of Travis County, Texas.

Department of Banking v. Greg Abbott, Attorney General of Texas; Cause No. D-1-GV-11-001906, In the 53rd District Court of Travis County, Texas.

State of Texas v. Myrtlewood Memorial Services d/b/a Harlingen-Combes Memorial Cemetery, Cause No. 2013-DCL-2248-B, in the 138th Judicial District Court of Cameron County, Texas.

D. TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

1. Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; b) State Savings Bank Charter and Application Activity; c) Recap of Problem Institutions/Enforcement Issues; and d) Other Items
2. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; c) Consumer Complaints/Legal Activity; d) Mortgage Industry Advisory Committee Minutes; and e) Other Items
3. Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; c) Other Items; and d) Legislative Activity
4. Discussion of and Possible Action Regarding Anticipated and Pending Litigation

Note: The Finance Commission Committee may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, TEXAS GOVERNMENT CODE, Chapter 551.

Meeting Accessibility: Under the Americans with Disabilities Act, the Finance Commission of Texas will accommodate special needs. Those requesting auxiliary aids or services should notify Judy Schooling, Finance Commission of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 936-6222, as far in advance of the meeting as possible.

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**MINUTES OF THE
FINANCE COMMISSION MEETING**
Friday, February 20, 2015
9:00am

The Finance Commission of Texas met Friday, February 20, 2015, in the Finance Commission Building, William F. Aldridge Hearing Room, 2601 North Lamar Boulevard, Austin, Texas.

Finance Commission Members in attendance:

Bill White, Chairman
Paul Plunket, Vice Chair
Susan Burton
Victor Leal
Stacy London
Lori McCool
Will Lucas
Cindy Lyons
Jonathan Newton
Larry Patton
Jay Shands

Others in attendance:

Charles G. Cooper, Executive Director of the Texas Finance Commission, and
Commissioner, Texas Department of Banking (TXDOB)
Caroline C. Jones, Commissioner, Texas Department of Savings and Mortgage Lending (TDSML)
Leslie Pettijohn, Commissioner, Office of Consumer Credit Commissioner (OCCC)
Jim Crowson, Assistant Attorney General, Office of the Attorney General

Finance Commission Chairman Bill White announced a quorum with eleven members present and called the meeting to order at 9:02 a.m.

FINANCE COMMISSION MATTERS

General Public Comment

Consent Agenda

Jay Shands made a motion to approve the consent agenda. Susan Burton seconded and the motion passed.

Finance Commission Operations

Charles Cooper, Executive Director, gave an overview of the first hearing of the House Investments and Finance Committee. The hearing was a briefing from each agency and general questions were asked.

Each agency will be reviewing their policy regarding contracts due to Governor Abbott's letter and numerous bill proposals. The Agencies will report back to the members at the next meeting on this review. Commissioner Cooper reminded Finance Commission members to take the statutorily required contract training stating it is now available 24/7 online.

Commissioner Cooper asked Catherine Reyer, General Counsel, to discuss future Finance Commission minutes. Ms. Reyer stated that in the future we would like to post an audio file of the meetings on the website and the typed minutes would only consist of the agenda item and the vote taken on that item. Paul Plunket asked about indexing the audio files. Stephanie Newberg, Deputy Commissioner, explained that the typed minutes will have the time next to each item that corresponds to the location on the audio file. There were no objections.

Audit Committee Report

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' November 30, 2014, Investment Officer Reports

Coming upon recommendation from the Audit Committee, no second was needed and the motion passed.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2015 First Quarter Financial Statements

Coming upon recommendation from the Audit Committee, no second was needed and the motion passed.

Discussion of and Possible Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties of Persons Holding the Position of Agency Commissioner Positions, and Other Staff

There was no discussion or vote on this agenda item.

Discussion of and Possible Action Regarding Facility Planning and Real Property Matters Pursuant to §551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property

There was no discussion or vote on this agenda item.

Discussion and Consultation with Attorney and Possible Action Pursuant to §551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys, including matters of pending and contemplated litigation

There was no discussion or vote on this agenda item.

DEPARTMENT OF BANKING

Industry Status and Departmental Operations: a) Items of Interest from the Commissioner's Office; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Special Audits Division Activities; e) Administrative and Fiscal Division Activities; f) Strategic Support Division Activities; g) Legal Division Activities; h) Legislative Activities; and i) General Items of Interest

Charles Cooper, Commissioner of Banking, gave an update on the Department of Banking operations beginning with legislative activity. He stated that Senator Eltife is sponsoring five bills that affect the Department's operations and on the House side, Representative Parker is evaluating these bills. At the federal level, we are watching a bill that will allow states to use the NMLS System created by the SAFE Act to perform criminal background checks. This bill would update the Government Code to the satisfaction of the FBI.

The Agency is down to 267 banks through consolidation. Of these banks, 3.7% are rated 3, 4 or 5. We are monitoring the effects of oil and gas prices on the banking industry. We are not as concerned with production loans as we are with service company related credits.

Commissioner Cooper mentioned his participation on an outreach panel for the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA). These outreach meetings are held to receive feedback from the industry regarding regulations under this Act.

Commissioner Cooper continued his update stating that corporate activities are normal, charter and merger activities are down due to some protests, and special audits is slightly behind in examinations due to coordinating with MTRA and CFPB. These late exams will be done jointly.

Catherine Reyer, General Counsel, gave the legal update. She stated a cease and desist order was issued to Escrow Hill Limited of New Zealand and a prohibition and removal order was issued against James R. Parker, Chairman of the Board and former president and CEO of The Elkhart State Bank. He was also a director of the holding company of that bank. He is prohibited from any further banking activity.

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §3.92, Concerning User Safety at Unmanned Teller Machines

Catherine Reyer, General Counsel, stated that we received a comment from a trade group and have made non-substantive changes to the rule based on the comment.

Jay Shands made a motion to approve the amendments to the rule. Jonathan Newton seconded and the motion passed.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §3.91 Concerning Loan Production Offices

Brenna McGee, Assistant General Counsel, provided explanation of the amendment to this rule stating that a foreign bank must comply with the Texas Finance Code Chapters 201 and 204. The one exception to this rule is if a federal branch is regulated by the OCC, then the branch will not be subject to DOB examination or fees.

Cindy Lyons made a motion to publish this amendment for comment. Susan Burton seconded and the motion passed.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §3.23 Concerning Exercise of Trust Powers

Catherine Reyer, General Counsel, explained that this rule requires financial institutions to notify the DOB of their intent to exercise trust powers.

Lori McCool made a motion to publish this rule for comment. Larry Patton seconded and the motion passed.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §33.52 Concerning How to Provide Information to Customers about Filing a Complaint

Catherine Reyer, General Counsel, explained that this rule requires an authorized delegate of a money service business to notify each of its customers how to file a complaint.

Stacy London made a motion to publish this rule for comment. Cindy Lyons seconded and the motion passed.

Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Antioch St. Johns Cemetery Co. v. The Texas Department of Banking Commissioner, Cause No. D-1-GN-14-000367, In the 261st District Court of Travis County, Texas.

Department of Banking v. Greg Abbott, Attorney General of Texas; Cause No. D-1-GV-11-001906, In the 53rd District Court of Travis County, Texas.

State of Texas v. Myrtlewood Memorial Services d/b/a Harlingen-Combes Memorial Cemetery, Cause No. 2013-DCL-2248-B, in the 138th Judicial District Court of Cameron County, Texas.

Chairman Bill White called for a recess at 10:05 a.m.

Chairman White reconvened the meeting at 10:27 a.m.

TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; b) State Savings Bank Charter and Application Activity; c) Recap of Problem Institutions/Enforcement Issues; and d) Other Items

Caroline Jones, Commissioner, Texas Department of Savings and Mortgage Lending, reported that they are monitoring the oil and gas effect on thrifts and iterated the same concerns of Commissioner Cooper regarding peripheral loans.

Commissioner Jones continued with her update and stated that the new assessment schedules become effective March 1. A bank that has not paid assessments for six quarters pays 75% of the OCC annual assessment; beyond the sixth quarter, they pay 50%.

Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; c) Consumer Complaints/Legal Activity; d) Mortgage Industry Advisory Committee Minutes; and e) Other Items

Commissioner Jones reported that licensing reinstatements run from January 1 through February 28. There have been over 12,000 amended filings and over 1,100 new license requests. TDSML has completed 103 exams covering 1,387 licensees. As for complaints, 61% of complaints relate to loan servicing. Complaints regarding reverse mortgages are very low. Fifty-five hearing notices have been issued on mortgage call reports.

Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; c) Other Items; and d) Legislative Activity

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §67.17, Concerning User Safety at Unmanned Teller Machines

Ernest Garcia, General Counsel, stated that this rule and the below rule are essentially identical to the DOB rule.

Victor Leal made a motion to adopt amendments to this rule. Susan Burton seconded and the motion passed.

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §77.115, Concerning User Safety at Unmanned Teller Machines

Jay Shands made a motion to adopt amendments to this rule. Lori McCool seconded and the motion passed.

Discussion of and Possible Action Regarding Anticipated and Pending Litigation

Khosrow Khani v. Texas SML; Cause No. D-1-GN-13-000207, 200th Judicial District Court of Travis County, Texas

Sammy Trantham v. Texas Department of Savings and Mortgage Lending and Caroline C. Jones; Cause No. D-1-GN-14-004497, 419th Judicial District Court of Travis County, Texas

Commissioner Jones stated that as of January 1, 2015, these two lawsuits have been dismissed.

The Mortgage Industry Advisory Committee minutes are included in the Finance Commission packet. No rules were proposed at that meeting. Most of the discussion surrounded how to disseminate CFPB's disclosures under the TILA/RESPA.

Thrift examinations are down; most have moved from a 12-month cycle to 18 months due to the stabilization of the industry. Mortgage examinations are up due to examinations of two large mortgage companies in the first quarter.

OFFICE OF CONSUMER CREDIT COMMISSIONER

Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities

Leslie Pettijohn, Commissioner, reported that FY15 as compared to FY14 examination activity is stable with normal seasonal variations. Motor Vehicle Sales Finance are 80% compliant, the pawn area is 100% compliant and Credit Access Businesses are at 85% compliant.

Complaints are up 16% over FY14. The increase is attributed to the areas of motor vehicle sales finance, regulated lenders, and credit card surcharge.

The licensing renewal cycle ended on December 31. A 5% discount was given to businesses to encourage the use of the online portal and about 70% took advantage of this discount. Effective February 1, motor vehicle applications were required to be submitted online.

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §§89.102, 89.207, 89.504, 89.601, and 89.802, Concerning Property Tax Lenders

Matt Nance, Assistant General Counsel, reviewed the proposed rule as published in December 2014 and the stakeholder comments related to the rule proposal. The Finance Commission discussed the rule proposal and various possible amendments to the proposal. After a lengthy and thoughtful discussion, a majority of the members agreed that discount points should be prohibited for property tax loans.

Victor Leal made a motion to amend the proposed rule to prohibit discount points in connection with a property tax loan. Will Lucas seconded, Jonathan Newton opposed and the motion passed (10-1).

Chairman Bill White called for an Executive session at 11:43 a.m.

Chairman White called the meeting back to order at 12:26 p.m.

Bill White introduced Ed Robertson, the Finance Commission's policy analyst, from the Governor's office.

There being no further business, Chairman Bill White adjourned the meeting of the Finance Commission at 12:27 p.m.

William J. White, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Brenda Medina, Executive Assistant
Finance Commission of Texas

Finance Commission of Texas

Consent Agenda

April 17, 2015

A. Finance Commission Matters

1. Review and Approval of the Minutes of the February 20, 2014, Finance Commission Meeting

C. Department of Banking

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §3.91 Concerning Loan Production Offices
3. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §3.23 Concerning Exercise of Trust Powers
4. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §33.52 Concerning How to Provide Information to Customers about Filing a Complaint

Future Rule Schedule

Rules	Short Title/Purpose	Projected Proposal Date for Presentation to Finance Commission	Agency
1. 7 TAC, Part 1, Chapter 3	Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §3.111 Concerning Confidential Information	6/19/2015 proposal	DOB
2. 7 TAC, Part 1, Chapter 3	Concerning Registration Requirement for Representative Offices of Foreign Banks	6/19/2015 proposal	DOB
3. 7 TAC, Part 2, Chapter 15	Concerning Requirements of branch locations	10/16/2015 proposal	DOB
4. 7 TAC, Chapters 84 and 90	Plain Language Contracts <i>Proposed Amendments</i> To update plain language non-standard contract submission procedures relating to readability levels, typefaces, and font sizes	TBD 2015 proposal	OCCC
5. 7 TAC, Chapters 83, 84, 85, 88, & 89	Licensing Streamlining Provisions <i>Proposed Amendments</i> To streamline licensing procedures and provide regulatory burden reduction	TBD 2015 proposal	OCCC

Office of Consumer Credit Commissioner

Agency Priorities – Mid-Year Report

FY 2015

1. LEGISLATIVE

1.1. 84th Legislative Session.

1.1.1. Objective: Respond timely to new legislative issues and requests for information or testimony. Anticipate issues and work to develop strong beneficial relationships with legislators and legislative staff. As appropriate, review or draft legislative proposals or amendments. Monitor all legislation and associated hearings affecting the regulated industries or respective underlying statutes of the OCCC.

Measure: To the extent legally permissible, respond to requested resource information. Regular weekly legislative reports communicated to the Finance Commission.

Status: *The OCCC legislative recommendations were filed as four separate bill proposals (SB 1075 [Criminal history access bill], SB 1650 [CAB bill], SB 957 / HB 3505 [Crafted precious metal dealers], SB 1282 / HB 3094 [Technical corrections & regulatory flexibility bill]). Weekly status reports have been provided to the Finance Commission members since the beginning of the legislative session. Members from the 84th legislative session have filed a total of 6,160 bills or 4.7% more bills than the 83rd Legislative Session (5,868). The OCCC high priority legislation report reflects 56 bills that the agency is very closely monitoring. The OCCC staff have served or will likely be called to serve as resource witnesses on many, if not most of the bills on this list. The agency staff has also provided a substantial amount of resource support related to legislation, particularly on the technical corrections & regulatory flexibility bill and several short term lending reform bills.*

2. REGULATORY ACTIVITIES

2.1. Regulated Entities.

2.1.1. Objective: Supervise and monitor the jurisdictionally appropriate industry segments for compliance with state and federal law. Investigate illegal activity. Initiate appropriate regulatory enforcement to ensure compliance with federal and state guidelines to protect the rights of consumers.

Measure: Reporting on compliance by regulated industry segment and enforcement actions.

Status: *Acceptable levels of compliance at midyear are as follows: Regulated Loans - 97.39 %; MVSF - 80.85%; CAB - 86.89%; Pawn - 100.0% and Property Tax Loans - 100.0%. Two property tax examinations were completed in February 2015. Examinations previously planned in this area are currently on hold due to other pending compliance and legal issues.*

Consistent efforts to close older investigations have resulted in 49 investigations being completed at the end of the second quarter. At mid-year, the legal department has closed 137 enforcement actions.

- 2.1.2. Objective: MVSF.** Achieve acceptable level of compliance of 76% through examinations and industry education efforts. Complete 1,540 MVSF examinations. Monitor follow-up and restitution orders for licensees with outstanding examination issues.

Measure: Number of motor vehicle exams completed. Report the rate of satisfactory compliance. Report the amount of restitution returned to consumers as a result of MVSF examinations.

Status: *637 MVSF examinations have been completed, which is 82.7% of the prorated goal for mid-year. The acceptable level of compliance is currently 80.85%. Thus far in FY '15, \$4,743,142.14 in restitution has been returned to consumers as a result of MVSF examinations.*

- 2.1.3. Objective: CAB Examination.** Continue in the implementation and assimilation of the CAB exam process. Complete 803 CAB exams. Supplement examination manual with additional CAB-specific policies and procedures.

Measure: Reporting on examination activities including the number of examinations of credit access businesses performed.

Status: *At mid-year, 183 CAB examinations have been completed. The number of completed examinations is 45.58% of the prorated goal for mid-year. Examination completion has been affected by the experience level and training requirements of new exam staff. Currently, three master license examinations are being completed. There are approximately 200 licenses involved in these centralized examinations, which are projected to be completed by May 1, 2015. The Examiner training manual was updated November 2014 to include CAB-specific policies and procedures.*

2.2. Licensing.

2.2.1. Objective: Reduce application processing time received to finish, with the goal to process 95% of applications in under 90 days. Continue to process business and individual applications with specific targets. Scan all newly submitted and existing application files. Implement and encourage use of the new online licensing and registration system, with a goal of 40% of licensees using the online system by end of fiscal year.

Measure: Reporting on license activities including the number of business and individual applications, the associated processing time, and the online adoption rate of the new online system.

Status: *The licensing department is making progress in reducing the application processing time and continues to explore strategies to streamline processes. As of Feb. 1, 2015 all new Motor Vehicle Sales Finance applications must be submitted in the online system. This new requirement has resulted in a substantial increase of application submissions in the online system from 30% to 80%.*

3. POLICY AND RULE DEVELOPMENT

3.1. Agency Rules.

3.1.1. Objective: Rule Review. Complete rule reviews of 7 TAC, Part 1, Chapter 2, RMLOs Applying for Licensure with the OCCC under the SAFE Act (originally adopted 2010) ; 7 TAC Chapter 86, Retail Creditors (reviewed 2010); 7 TAC, Chapter 85, Subchapter B, Rules for Crafted Precious Metal Dealers.

Measure: Adoption of rules according to schedule and proposal of modifications to existing rules.

Status: *The commission adopted the completed rule reviews of Part 1, Chapter 2, RMLOs Applying for Licensure with the OCCC under the SAFE Act, and of Chapter 86, Retail Creditors, in December 2014, with the proposal of associated amendments being approved for publication at that time. The amendments for both Chapter 2 and Chapter 86 were approved by the commission in February 2015 and became effective on March 12, 2015. These two rule reviews involved clarifications related to the licensing process and minor technical corrections. The rule review for Chapter 85, Subchapter B, Rules for Crafted Precious Metal Dealers is currently scheduled for August 2015.*

3.1.2. Objective: Rule Development. Work with interested stakeholders regarding development of updated guidelines for property tax loan reasonable closing costs and other associated issues. Draft rule amendments as appropriate.

Measure: Reporting on stakeholder engagement and rule development. Adoption of rules according to schedule.

Status: *The OCCC held a stakeholders meeting on September 5, 2014, regarding development of updated guidelines for property tax loan reasonable closing costs and other associated issues. Rule amendments were developed as a result of that meeting and a pre-comment draft was distributed on September 19, 2014. Amendments to 7 TAC §§89.102, 89.207, 89.504, 89.601, and 89.802 were originally proposed at the October 2014 meeting, with a re-proposal at the December 2014 meeting due to additional stakeholder comments received. The amendments to §§89.102, 89.207, 89.504, and 89.601 were adopted by the commission at the February 2015 meeting and became effective on March 15, 2015.*

4. CONSUMER ISSUES / COMMUNICATION & OUTREACH STRATEGIES

4.1 Texas Financial Education Endowment Fund (TFEE).

4.1.1. Objective: Manage grant reporting and funding for the FY2014 grant cycle. Plan improvements and begin preparation for the FY 2016 grant award cycle.

Measure: Reporting on fund activities, investment earnings, grant request submissions, grants awarded and grantee reporting highlights. Also, identify and implement ways in which to improve grant program based on report findings and program needs.

Status: *Staff continues to report on: fund activities, investment earnings, grant request submissions, grants awarded and grantee reporting program highlights to the Finance Commission, Audit Committee, and Grant Advisory Committee. In addition, staff will recommend changes to the application and grant reporting process to better streamline operations for the 2016-2017 grant cycle.*

4.2 Financial Literacy

4.2.1. Objective: Maintain active participation in financial literacy efforts through participation at community events, presentations, and via online resources.

Measure: Provide financial literacy education to consumers. Assist regulated entities with financial literacy efforts.

Status: *Staff continues to provide financial literacy and education to consumers throughout the state via online and face-to-face presentations. In addition, staff has taken on a leadership role with a local coalition of organizations to reach more individuals in need of financial literacy.*

4.3. Industry Education.

4.3.1. Objective: Develop on-demand compliance learning modules for regulated entities needing assistance including on-demand or instructional resources.

Measure: Publish learning modules on-demand or an instructional resource for OCCC's regulated entities. Quarterly reporting on industry education activities and training module metrics based on feedback and available web-based analytics.

Status: *The status of this measure is applicable to 4.3.1; 4.3.2; 4.3.3. Over the last six months, staff had redirected all its efforts to improving and redesigning its website. The site's homepage welcomes users with bold colors, a clean uncluttered design, and content focused on the agency's mission to create a fair, lawful, and healthy credit environment that grows prosperity for all Texans.*

By doing so, staff has revised content and pages so that they are clear and strategically-focused. In addition, staff has also created a content rich website that enables users to find most industry related information on one page. The new site is divided into three main sections: CONSUMERS, REGULATED INDUSTRIES, & PUBLICATIONS. By moving to a more user-centric layout, the agency has allowed users to access information based on their own choice rather than sift through everything to decide what is of interest to them.

The website will also be updated on a regular basis with news of events, different types of publications and other industry relevant material. Staff is hopeful that with this new site, the industry will be more motivated to register, update and renew their licenses via ALECS.

In addition, the agency will now be using google analytics to generate detailed statistics and reports about visits to the agency's website. By having this, the agency hopes to determine which segments are most valuable, which pages retain visitors the longest, what types of content and topics should be written about more and ultimately make intelligent decisions backed by hard data, about strategic initiatives and focus its industry education efforts for maximum impact and effectiveness.

Before the end of the year, staff will make an assessment and revisit these specific objectives to decide how the agency should best refocus its efforts for industry education and outreach.

4.3.2. Objective: Host at least two compliance webinars and at least one webinar focused on the use of ALECS.

Measure: Reporting on effectiveness and quality of webinars based on participant feedback and webinar-based Q&A.

Status: *Refer to 4.3.1 status*

4.3.3. Objective: Develop published communication and stakeholder outreach pieces.

Measure: Quarterly reporting on frequency and reach of communication programs.

Status: *Refer to 4.3.1 status*

5. AGENCY MANAGEMENT

5.1. Performance Measures.

5.1.1. Objective: Performance Targets. Meet or exceed 80% of key performance targets within $\pm 5\%$ of the projected target.

Measure: Continue to meet or exceed the strategic planning goals for key performance measures, attainment of 7 out of 9 key performance targets. Report results to Finance Commission when the performance equals or exceeds 95% of the projection.

Status: *At mid-year, the agency is on track to attain 8 of the 9 key performance targets. Plans are in place to streamline processes and procedures to improve production in licensing, and it is anticipated this measure may also be met by the end of the fiscal year.*

5.2. Human Resources.

5.2.1. Objective: Personnel. Recruit and retain qualified personnel with the appropriate skill set necessary to meet short and long term needs; develop and maintain retention strategies; administer compensation system for staff to improve retention and maintain competitiveness.

Measure: Reporting on actions to improve staff retention. Report turnover ratio for FY15; quarterly reporting on activities related to staff focus groups (frequency, feedback, actions taken); reporting on actions taken to improve internal communications and employee awareness of agency activities and staff opportunities.

Status: *HR is currently working on a competitive salary study for the Financial Examiner series to ensure that staff salaries are aligned and competitive within the industry. Review of the agency's compensation levels for staff members will be conducted following the legislative session to ensure appropriate alignment with agency goals and market competitiveness.*

The agency turnover ratio is currently 10.88%; however, efforts continue to be made to increase staff retention and maintain acceptable levels of turnover. Those efforts include conducting in-person exit meetings to determine the factors that could aid the agency in employee retention. In addition, HR has taken some additional steps to improve internal communications and employee awareness. It has developed an internal monthly newsletter with a wide variety of topics including employee related

news, benefits, pensions, and health & wellness. Other related information includes legislative updates and overall agency-wide news.

- 5.2.2. Objective:** Promote opportunities for staff professional development; ensure that examiners receive adequate and proper training to perform their duties and progress within the financial examiner series to the next level.

Measure: Reporting on training opportunities and attainment of minimum exam staff training and administrative staff training opportunities.

Status: *Financial examiners have taken part in many professional development opportunities. All examiners attended the examiners' conference, hosted by the agency, where an in-depth curriculum is presented, including legislative and rule changes from the state and federal government. Other training opportunities include: National Association of Consumer Credit Administrators (NACCA) Examiner's School, American Association of Residential Mortgage Regulators (AARMR) Training School, Governor's Management Training, as well as OCCC led classroom trainings. All newly hired Financial Examiners received eight weeks of introductory classroom training before moving into the field. Additional staff development opportunities are communicated through the monthly agency newsletter.*

5.3. Financial and Self-Directed, Semi-Independent Status.

- 5.3.1. Objective:** Ensure that the agency's revenues and expenditures are appropriate and balanced and maintain a cash reserve or fund balance in compliance with Finance Commission policies. Provide greater data reliability, more efficient transactional processing, and enhanced reporting. Integrate accounting system with new agency enterprise system (ALECS).

Measure: Review internal financial statements and variances on a monthly basis. Submit quarterly financial data relating to the agency's financial position and fund balance for review by the Finance Commission.

Status: *The agency monitors and timely reviews the financial status through monthly Operating Statements and Budget Analysis reports. These reports are also reviewed on a quarterly basis by the Finance Commission. Financial performance in the year was within the budgeted levels as established by the Finance Commission. The agency continues to fine tune its use of the internal accounting system to improve transparency and improve the granularity of data for reporting and decision making.*

5.4. Information Technology.

5.4.1. Objective: Legacy Modernization. Commence work on the examination IT project (ALECS), the OCCC's data management and regulatory information system. Improve business operations. Engage in conceptual design of the project which will modernize data management for the examination function. Complete contract negotiation and Statement of Work specifications for the project with a qualified vendor. Begin data requirement gathering and development.

Measure: Reporting on project development and milestones.

Status: *The agency has commenced work on the examination, complaint and open records legacy modernization project. Four vendors were invited to bid on the second project (October 2014) of which only three submitted bids. Staff reviewed these bids and narrowed it to two. However, due to the fact that the 84th Legislature is currently reviewing contract procedures with intent to reform this issue through legislation and the agency's desire to conform to the legislature's latest expectations for contracting, OCCC has decided to place the project on hold pending the outcome of this bill. The Agency anticipates the selection of the new vendor before the end of calendar year 2015.*



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

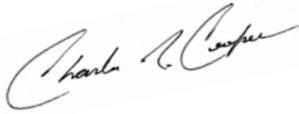
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MEMORANDUM

TO: The Finance Commission

FROM: Charles G. Cooper, Commissioner 

DATE: April 1, 2015

RE: Mid-Year Updates to the Department of Banking Priorities for Fiscal Year 2015

I. LEGISLATIVE – *State and National Legislative Issues*

I.1 **Objective:** Respond positively and actively, providing appropriate and comprehensive resource material as requested.

Measure: To the extent legally permissible, respond accurately and timely to all requests for resource information. Maintain contact with legislative committee chairs and staff. Testify at hearings as requested.

Update:

- Provided written and oral testimony to Legislative committees upon request.

I.2 **Objective:** Monitor state legislation that may affect the agency or its regulated entities. Make recommendations for state legislative changes to address areas that the law does not adequately address, correct technical errors and modernize out-dated statutes.

Measure: Monitor interim charges and meet with industry and citizen groups to determine if legislative changes are needed. Prepare draft bill proposals as necessary for legislative staff consideration. Monitor legislation and provide technical assistance and comprehensive resource materials when requested.

Update:

- Met with members of both the House Investments and Financial Services and Senate Business and Commerce committees to discuss the agency's 2015 legislative initiatives.
- Currently monitoring and tracking 81 bills and have served as a resource witness at numerous bill hearings.
- Have completed 39 fiscal notes.

I.3 **Objective:** Maintain accurate, timely, and complete communication with Finance Commission members about significant legislative issues and events (testimony and committee meetings) as well as conditions, trends and significant events in the industries the agency supervises.

Measure: Timely notify Finance Commission members of committee meetings, hearings and other items of interest when known. Keep members informed of significant federal laws and policy statements and how supervised entities are affected. Provide sufficient information and materials to give Commission members an overall assessment of our regulated industries.

Update:

- Provided updates to Finance Commission members every Monday regarding bills tracked by the agency considered a high priority and upcoming Legislative hearings the Commission may find of interest.

II. REGULATORY ACTIVITIES – *Examination Activity and Enforcement Actions*

II.1 Objective: Meet key performance measures.

Measure: Continue to meet or exceed the strategic planning goals for key performance measures. Quarterly, report results to the Finance Commission. Ensure that every problem institution has an effective administrative or enforcement action to address adverse examination findings.

Update:

- The Bank & Trust and Corporate Divisions met or exceeded the three key performance measures.
- Special Audits met or exceeded the two key performance measures.

II.2 Objective: Remain active and involved at the national level in supervisory issues affecting banking, money services business activities, trust services and other areas of direct supervisory oversight in Texas.

Measure: Maintain active contact with other states individually and through regulatory associations (CSBS and MTRA), trade associations (IBAT and TBA) and frequent contact with federal regulators so as to be aware of events, decisions, other state and federal policies and other areas of actual or potential impact on the Department's regulatory functions or the industry. Remain active in the non-bank financial institution subcommittee of FinCEN's Bank Secrecy Act Advisory Group. Take proactive steps to respond as issues arise affecting the industries or our supervisory duties.

Update:

- Deputy Commissioner Newberg still serves as President of the MTRA.
- Agency is an active member of MMET.
- Notified MSB industry that Department implemented voluntary use of NMLS.
- Agency continues to work closely with other state MSB regulators.
- Participated in CSBS Government Relations Fly-in held in Washington, D.C.
- Participated in Commissioners' Conference sponsored by the FDIC.
- Met with representatives of the Federal Reserve Bank of Dallas to discuss common supervisory concerns.

- II.3 Objective: Maintain an ongoing awareness of our bank and trust entities' risk profiles and the condition of the economies in which they operate. Continue ongoing monitoring of individual or systemic conditions, including cyber-security threats and high risk activities, which present risks to their financial stability. Monitor and take necessary actions against institutions exhibiting unacceptable risk profiles.

Measure: Perform research, maintain ongoing dialogue with other regulators, and attend training to maintain an understanding of conditions in which our entities operate. Maintain a leading role in the effort to combat cyber-security threats. Maintain an off-site monitoring program of bank and trust industries while initiating appropriate regulatory responses and actions when applicable. Research and take required actions against institutions with unacceptable risk profiles to minimize the adverse impact on depositors, shareholders and the banking system in general.

Update:

Conducted a special risk assessment of the impact that declining oil prices may have on the Texas banking system. In January, several banks were contacted and then a questionnaire was sent to 22 banks to obtain more detailed information. A second tier of 37 banks was sent a similar questionnaire with responses due back by mid-April. In December, the Department, in partnership with TBA and IBAT, held a cybersecurity summit in Austin for bank executive officers. The summit, which was facilitated by CSBS, was the first of many planned events to be held across the U.S. The event brought together more than 300 CEOs, senior executives and board members to learn about the growing cybersecurity threats facing their institutions.

- II.4 Objective: Monitor emerging issues in our areas of regulation and determine and communicate the impact to the regulated entities.

Measure: Report on emerging issues to the Finance Commission and regulated entities. Provide publications that address topics of interest. Participate in industry meetings and seminars. Continue to be involved in speaking opportunities with these regulated industries to provide updates related to ongoing regulatory issues.

Update:

- MSB staff continues with its participation with the MTRA Emerging Issues and Licensing Committee.
- Staff participated in the IBAT Regional Meetings and TBA's Bankers' Blitz at the Texas Capitol.
- Notified industry of Departmental guidance related to an authorized delegate conducting money transmission on behalf of a license holder
- Emerging issue updates provided at Finance Commission meetings.

- II.5 Objective: Monitor areas/industries we regulate for illegal activity.

Measure: Monitor for and investigate illegal activity, and when necessary, initiate appropriate regulatory enforcement actions against licensed and/or unlicensed entities to ensure compliance with applicable rules and regulation to protect the rights and interests of consumers.

Update:

- Issued three orders prohibiting former bank officers from engaging in any future banking activity.
- Issued six orders against four money service businesses.
- Issued three orders against prepaid funeral contract sellers.
- Notified 10 MSB entities that may be engaged in money transmission without a license and as a result:
 - Five companies responded with arguments and documentation that they do not need a license – currently being reviewed by legal;
 - Two companies presented evidence that licensing was not required and the Department concurred;
 - One company responded they do not offer MSB services to Texas consumers; and,
 - Two companies requested and were granted additional time to respond.
- Notified five PFC entities that may be engaged in prepaid funeral contract activity without a license and as a result:
 - Two companies paid restitution;
 - One funeral home is closed and the Department was unable to obtain restitution;
 - One insurance company issued a Cease and Desist notice against an unauthorized seller; and,
 - One illegal PFC is still under investigation.

II.6 Objective: Continue to process consumer complaints/inquiries professionally, appropriately and timely. This includes communicating with the CFPB with regard to the complaint process, and redevelopment of the government portal.

Measure: Periodically report to the Finance Commission on the complaints/inquiries received and processed. Attend meetings with the CFPB to enhance processes between both agencies.

Update:

- Consumer complaint data provided at each Finance Commission meeting.
- Complaints processed timely and accurately.
- Several conference calls held with CFPB to discuss complaint information sharing portal.

II.7 Objective: Continue to build relationships with the CFPB to ensure cooperation and efficiencies in joint examination activities. Notify the CFPB of non-compliance with their MSB consumer receipt disclosure requirements. Comment on CFPB rule activity that affects the agency or the industries we regulate.

Measure: Attend meetings with the CFPB. Periodically report to the Finance Commission the interactions with the CFPB.

Update:

- Staff attended the CFPB/CSBS Coordinated Examination Planning Event in Washington, DC.

- Staff continues to participate in the CFBP complaint sharing system initiative.
- MSB staff is participating in the first CFBP MSB examination.
- Meeting highlights are included in each Finance Commission package.

II.8 Objective: Continue to develop and refine examination procedures and reference materials to enhance the examination process.

Measure: Monitor regulatory changes and update examination materials in a timely manner. Perform internal reviews of work procedures to ensure proper intent and applicability. Timely and regularly communicate updates/changes to examiners.

Update:

Provided two revised Commercial examination procedures and three Trust Examination procedures to staff. Added numerous reference materials (or access to materials via a web link) related to Cybersecurity, Regulatory Capital, Oil and Gas Lending, Capital Markets, BSA, Earnings, Investments, and Liquidity. Also revised four internal Examiner Bulletins related to procedures and work paper documentation and IT Examinations.

The Department's Law and Guidance Manual for the web, which contains statutes, rules, regulatory guidance, supervisory memorandum, and legal opinions, is updated every calendar quarter. A desktop version of the Law and Guidance Manual is updated at the same time and allows all examiners access to the same information as the web version, without requiring an internet connection. Updates were completed as of September 30, 2014 and December 31, 2014.

III. POLICY AND RULE DEVELOPMENT – *Internal and External Policies, Activities, and Rules*

III.1 Objective: Issue formal communications to regulated entities to clarify and/or promote best practices to assist in complying with laws and policy statements.

Measure: Issue Supervisory Memorandums, Regulatory Guidance and Legal Opinions in a timely manner as needed.

Update:

- Revised one Supervisory Memorandum applicable to trust companies: SM 1004 Examination Frequency for Trust Companies – October 2014.
- Issued Supervisory Memorandum 1038 applicable to authorized delegates of money transmission license holders – October 2014.

III.2 Objective: Monitor and modify Texas Administrative Code rules as necessary to reflect changes in state and federal laws and address the dynamics of the changing industries. Perform periodic reviews of fee rules to ensure each regulated area covers its cost of regulation.

Measure: Amend rules and adopt new rules as necessary to timely effect necessary changes. Conduct rule reviews every four years to evaluate their necessity and applicability.

Update:

- Rule amendments and new rules were adopted to:
 - Establish conditions and eligibility requirements for an agency employee tuition assistance program;
 - Clarify the form of documents that may be submitted in support of an application for a private child support enforcement agency license, and set the annual fee payment deadline for such license holders;
 - Clarify recordkeeping requirements for perpetual care cemetery license holders; and,
 - Streamline the notices concerning safety at ATMs that banks must provide to their customers.

III.3 Objective: Maintain active participation in financial literacy efforts.

Measure: Provide financial literacy education to consumers. Assist our regulated entities with financial literacy efforts. Continue active participation in financial literacy groups and events.

Update:

- The Department hosted financial education webinars on the following:
 - October 20, 2014 – The topic was Healthy Communities: A Framework for Meeting CRA Obligations which was presented by the Federal Reserve Bank of Dallas. There were a total of 225 registered participants.
 - February 19, 2015 – The topic was the Texas Financial Education Endowment (TFEE) and featured two organizations that were recipient of these funds. There were a total of 173 registered participants.
- The Department's Financial Education Coordinator was contacted as a resource to assist a university with their new financial literacy program and potential career track.

IV. AGENCY MANAGEMENT – *Staffing, Recruiting, Fiscal Responsibility, and Technology*

IV.1 Objective: Remain active in recruiting qualified personnel while strengthening the diversity of the workforce whenever possible. Maintain compliance with all state and federal employment laws.

Measure: Actively recruit entry level positions at state universities and colleges by attending no less than six job fair events. Promptly post vacancies. Update personnel policy and procedures to comply with changes due to legislation and judicial decisions.

Update:

- Eight jobs were posted from September 1, 2014 through February 28, 2015.
- Interviewed 15 applicants and filled three FE I positions (one FE I position filled by a previous intern), one FE VII position and two Headquarters Administrative staff positions.

IV.2 Objective: Continue efforts to attain full staffing, with an emphasis on employee retention and staff diversity. Promote junior staff involvement in new responsibilities to better enable seamless transition into senior staff positions as vacancies occur. Continue efforts to be proactive in competitive salary administration.

Measure: Continue to improve examination staff retention by addressing major issues that contribute to non-retirement resignations, with a goal to have non-retirement turnover not exceed 8% for fiscal year 2015. Be proactive with succession planning development. Maintain competitive examiner salary program compared to the FDIC by maintaining a minimum 90% level of equivalency.

Update:

- Fiscal Year 2015 turnover rate through February 28, 2015 is 4.20%. Turnover excluding Retirement/Termination/Death is 3.15%.
- Financial Examiner turnover rate through February 28, 2015 is 4.69%. Turnover excluding Retirement/Termination/Death is 3.91%.
- Financial Examiner salary structure remains competitive with limited adjustments necessary in September 2014 DOB salary levels.

IV.3 Objective: Have up-to-date computer hardware and software to enhance the effectiveness, speed and quality of the work products that are compatible with our federal counterparts. Provide timely technical support to staff.

Measure: Provide technology tools necessary for staff to efficiently and effectively perform their job functions. Ensure network and website function without prolonged downtimes. Maintain technology help desk and timely train staff on any new software applications.

Update:

- Moved several physical servers to virtual systems. Virtual systems will provide automated recovery of servers in the event of hardware failure, disaster recovery and business continuity.
- Installed help desk ticketing system, Track-It, to give employees another tool to contact the help desk, self-manage service requests and provide user self-help resources. This also satisfies certain recommendations of the Gartner security audit.
- Installed desktop management system, Desktop Authority, to secure, manage and update computers and to satisfy certain recommendations of the Gartner security audit.

IV.4 Objective: Safeguard the integrity of data and information technology networks and systems from unauthorized access or use and ensure they are available during an emergency.

Measure: Perform an annual information security risk assessment (external every three years) and initiate corrective actions to maintain data integrity and minimize the risk of unauthorized access or use. Conduct annual test of the Department's disaster recovery plan to ensure operations will function appropriately and continue periodic intrusion testing by the Department of Information Resources.

Update:

- Rewrote Chapter 14 of the personnel manual, IT Policy and Procedures. The manual emphasizes computer security.

- Wrote DIR security plan which complies with Senate Bills 1597 and 1134 from the 83rd Legislative Session, which required DIR to develop a cyber-security strategy and framework for state agencies.

IV.5 Objective: Ensure financial examiners receive adequate and proper training to perform their duties and progress within the financial examiner series to become commissioned.

Measure: Provide core required training courses to financial examiners in the FE I – FE III series so they can progress in the financial examiner series. Prepare examiners adequately to pass the commissioning test.

Update:

- Examiners continue to attend core training courses designed to provide sufficient knowledge to complete the commissioning process.
- Regional Directors provided a detailed summary of the in-house and external training that each assistant examiner has been given.
- Commissioned two examiners in first half of fiscal year 2015.

IV.6 Objective: Ensure agency expenditures are necessary and prudent and within budgetary constraints; revenues collected are adequate to cover expenditures; and provide a cash reserve or fund balance that complies with Finance Commission policies.

Measure: Review expenditure and revenue patterns monthly. Prepare quarterly financial statements to substantiate the agency's financial position and cash reserve.

Update:

- Financial statements presented to the Finance Commission quarterly.
- For the first six months of 2015, revenues were 100.9% of budget and expenditures were 99.8% of budget.
- Cash reserves were within policy guidelines.

IV.7 Objective: Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency.

Measure: Report on improvements identified and implemented.

Update:

- Divisional reviews during the first two quarters of the year required minimal tweaking to internal controls and processes of the agency.

IV.8 Objective: Continue to explore options for physical relocation of the Finance Commission agencies that meets the needs of all three agencies.

Measure: Report on activities related to relocation of the Finance Commission agencies.

Update:

- Agency Commissioners continue to explore options for the Finance Commission agencies relocation.

IV.9 Objective: Comply with the directives of the State Office of Risk Management and the Department of Public Safety regarding the Business Continuity Plan.

Measure: Ensure our Continuity Coordinator receives the required training, a Continuity Plan is developed and an exercise of the Plan is conducted.

Update:

The agency's continuity coordinator completed all required training. Our Continuity Plan was submitted to the State Office of Risk Management (SORM) and after it was reviewed by SORM no major findings or deficiencies were reported. An exercise of the plan will be conducted by the end of fiscal year 2015 as required by SORM and outlined in the Continuity Plan. Our continuity coordinator was selected by SORM to participate in their training for state agencies on the proper completion and execution of a continuity Plan.

As Commissioner, my overriding objective continues to be for the Banking Department to be considered the top financial regulator by the industries we regulate, as well as our regulatory peers and counterparts, and the top employer by our personnel. The culmination and achievement of the aforementioned goals will help achieve this objective.



Caroline C. Jones
Commissioner

TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

MEMORANDUM

To: The Texas Finance Commission
From: Caroline C. Jones, Commissioner
Date: March 1, 2015
Re: Department Priorities for Fiscal Year 2015 – Mid-Year Updates

I. Legislative Items

- I.1 **Objective:** Monitor legislation that may affect the Department or its regulated industries throughout the session. Seek changes to Texas law to grant examination authority over mortgage bankers to the Department.

Measure: Keep open lines of communication and maintain contact with legislative staff, committee chairs and members. Provide information to Finance Commission members on significant legislation. Passage of a bill granting the Department examination authority over mortgage bankers. Outreach to industry affected by the bill.

Status: *The Department did not recommend any legislative changes this session. The Department is actively monitoring and tracking legislation that could impact the Department and the industries and is responding to requests for resource information.*

- I.2 **Objective:** Respond promptly and accurately, providing appropriate and comprehensive resource material, as legally permissible, to the Governor's Office, committee chairs and other members of the Texas Legislature on subjects of interest.

Measure: Notify Finance Commission members about any testimony or proposed legislation affecting the Department or the industries it regulates; retain written contact with committee chairs, members, and staff; responses to requests for resource information.

Status: *The Department is actively monitoring and tracking legislation that could impact the Department and the industries and is responding to requests for resource information. As requested, the Department provided a written and verbal Department update to its House oversight committee. The Department has met with several members relating to bills they have filed.*

- I.3 **Objective:** Monitor federal legislation and regulations that may affect the Department or its regulated entities.

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2015**

Measure: Communicate relevant information with Finance Commission and industries, as necessary.

Status: The Department is monitoring legislation and regulations at the federal level and as appropriate is reporting this information to the Finance Commission as well as to its regulated industries.

II. Regulatory Items

- II.1 *Objective:* Continue to closely monitor the Department's savings banks' risk profiles and the economic conditions in which they operate. Continue ongoing monitoring of both individual and systemic conditions that present risks to their financial security through the Department's off-site financial information software and onsite presence.

Measure: Maintain off-site monitoring program of savings banks while initiating appropriate regulatory responses and enforcement actions when applicable.

Status: The Department is actively engaged in determining and taking appropriate supervisory action during on-site examinations and off-site reviews. In Finance Commission reports, the Department has reported a trend towards upgrades in bank ratings. Compliance with existing enforcement actions is monitored through quarterly reports from the banks and on-site visitations and examinations.

- II.2 *Objective:* Continue to coordinate, promote, participate in, and utilize the enhanced communication among applicable federal, state, and local agency investigation staffs, including the Attorney General's Mortgage Fraud Task Force, TREC, and TDI, to expedite final resolution of regulatory concerns.

Measure: Department representatives to continue attending the Mortgage Fraud Task Force meetings. Quantify the number of cases referred to and from the various agencies and the Mortgage Fraud Task Force.

Status: The Mortgage Fraud Task Force, which is coordinated by the Attorney General's Office, has not met so far this fiscal year.

- II.3 *Objective:* Retain the prompt resolution time on consumer complaints.

Measure: Compare current fiscal year case aging data to prior fiscal years. Regularly review all complaints over 120 days to identify issues preventing the timely closing of investigations.

Status: As of February 28, 2015, 97% of the open consumer complaints were less than 90 days old; with 85% of them being aged less than 60 days.

- II.4 *Objective:* Continue to participate in the development and implementation of home equity interpretations.

Measure: Continued participation in meetings of the Home Equity Lending Working Group, comprised of representatives from the Department of Savings and Mortgage Lending, the Office

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2015**

of Consumer Credit Commissioner, the Department of Banking, and the Credit Union Department.

Status: The Department participated in the Home Equity Lending Working Group meetings and discussions on the recent amendments to the home equity rules that were adopted by the Finance Commission in December, 2014.

- II.5 **Objective:** Continue to remain active and involved at the national level on supervisory issues affecting savings banks and residential mortgage loan originators.

Measure: Maintain active contact with other states, regulatory associations (e.g., ACSSS, CSBS, SRR, AARMR, and NACCA), trade associations, (e.g., DFWAMB, IBAT, TAR, TBA, and TMBA) and federal regulators in order to be aware of events, decisions, other state and federal policies and other areas of actual or potential impact on the Department's regulatory functions or the industry. Take proactive steps to respond as issues arise affecting the industries or supervisory duties.

Status: The Department has three staff members currently serving on national regulator trade association boards. Serving on these boards provides the Department with a voice at the national level. Several staff members serve on CSBS committees and working groups. The Department is consistently in contact with TBA, IBAT, and TMBA.

- II.6 **Objective:** Continue to cooperate and build relationships with the CFPB on examinations, supervision, and consumer complaint resolution issues. Also monitor CFPB rule writing activity and interpretations of existing statutes such as RESPA, TILA and SAFE Act.

Measure: Report to the Finance Commission on the frequency of interaction with CFPB in all of the above listed activities as well as conferences meetings.

Status: The Department continues to keep open communications with the CFPB, particularly in relation to upcoming origination/servicing examinations and enforcement actions. The Department works in conjunction with the Multi-State Mortgage Committee and has a representative on the State Steering Committee.

- II.7 **Objective:** Continue compliance examinations of Mortgage Companies licensed under Finance Code Chapter 156 and Residential Mortgage Loan Originators licensed under Finance Code Chapter 157 to ensure that all loan originators are properly licensed with the Department when conducting business with Texas consumers. Analyze recurring examination findings and take steps to communicate best practices.

Measure: Engagement with the industry through speaking engagements, e-mail blasts, post examination follow up or post examination enforcement actions.

Status: The Department has continued to reach out to the various mortgage trade associations to provide information and participate in speaking engagements. In addition to those speaking engagements, the Department held its Mortgage Industry Seminar in November, 2014. The Department issues enforcement actions as appropriate and has post-examination communication as deemed necessary.

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2015**

III. Policy and Rule Development

- III.1 **Objective:** Develop any rules necessary to implement statutory changes passed by the 84th Legislative Session.

Measure: Obtain Finance Commission adoption of implementing rules. Reach out to industry to prepare for changes and to assist in implementation.

Status: *The Department will propose any rules necessary to implement statutory changes enacted by the 84th Legislative Session.*

IV. Agency Administration

- IV.1 **Objective:** Recruit personnel with the appropriate skill set necessary to meet the Department's short and long term needs. Maintain adequate staffing and retention of qualified personnel. Train and cross-train employees as needed to minimize knowledge loss due to employees' retirements or separations and to prepare for workload shifts due to changes in regulated industries and/or technology.

Measure: Reporting on staffing activity, actions to retain staff, and turnover ratios.

Status: *The Department had three employees leave in the first half of FY2015. One of those positions has been filled and steps have been taken to try and fill the other two positions.*

Significant efforts are made to provide training and cross-training for job skills and personal development and enrichment. The Department's structure and business needs are monitored on an ongoing basis in an effort to anticipate needed skills and qualifications and to be prepared for succession planning upon retirements.

- IV.2 **Objective:** Meet or exceed 90% of the outcome performance measures within the Department's control - three out of six, and meet or exceed 90% of the output performance measures within the Department's control – four out of eight. Strive to reduce deficiency, if any, in the remaining measures outside the Department's control.

Measure: Performance measure results at fiscal year-end.

Status: *The Department has four key output performance measures, two of which are within the Department's control. The performance is measured and reported quarterly to the Finance Commission. As of the second quarter of FY15, the Department has met or exceeded two of the four output measures. The Department expects to meet all the output measures by the end of the fiscal year.*

- IV.3 **Objective:** Implement improvements in business processes and internal controls in response to evolving business needs, audit recommendations, and/or internal reviews.

Measure: Report on implementation progress and outcome of audits to Finance Commission Audit Committee.

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2015**

Status: The Department has not undergone an audit as of yet this fiscal year.

- IV.4 **Objective:** Monitor the Department's budget and reserve balances as approved by the Finance Commission to maximize the responsiveness and flexibility allowed by the Self-Directed/Semi-Independent status.

Measure: Report to Finance Commission Audit Committee at least quarterly on both revenue and expenditure variances to the budget.

Status: *Reports have been submitted quarterly to the Finance Commission as required, with detailed explanations of variance and cash reserves. Internally, the budget is monitored and analyzed on an ongoing basis.*

B.

**Office of Consumer
Credit Commissioner**

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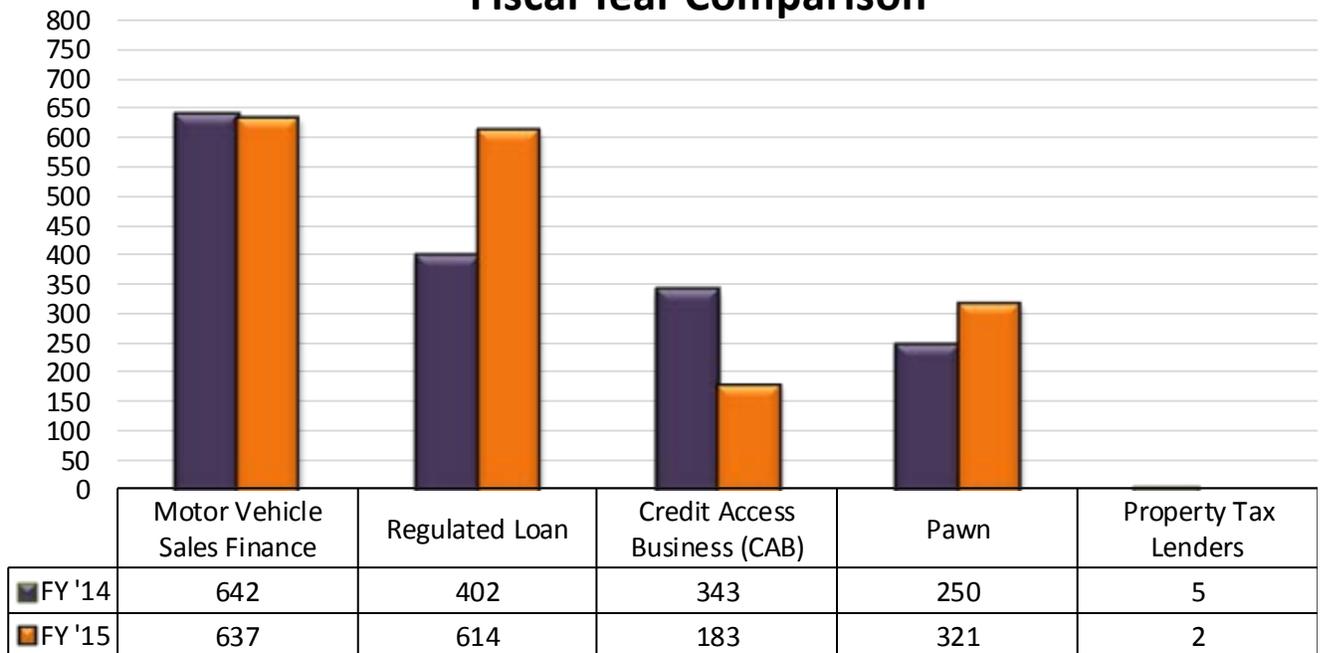


Consumer Protection and Assistance Report

Rudy Aguilar, Director of Consumer Protection

The number of Motor Vehicle Sales Finance (MVSF) and Regulated Loan examinations conducted for Fiscal Year 2015 (FY '15) continues to be slightly above those conducted over the same time period in Fiscal Year 2014 (FY '14). Pawn examinations are now slightly ahead of examinations conducted for the same time period in FY '14 while Credit Access Business (CAB) examinations for FY'15 are slightly behind for the same time period in FY '14. Comparison of examinations conducted from September – February for FY '14 and FY '15 are noted the chart that follows.

Examinations Conducted: Sept - Feb Fiscal Year Comparison



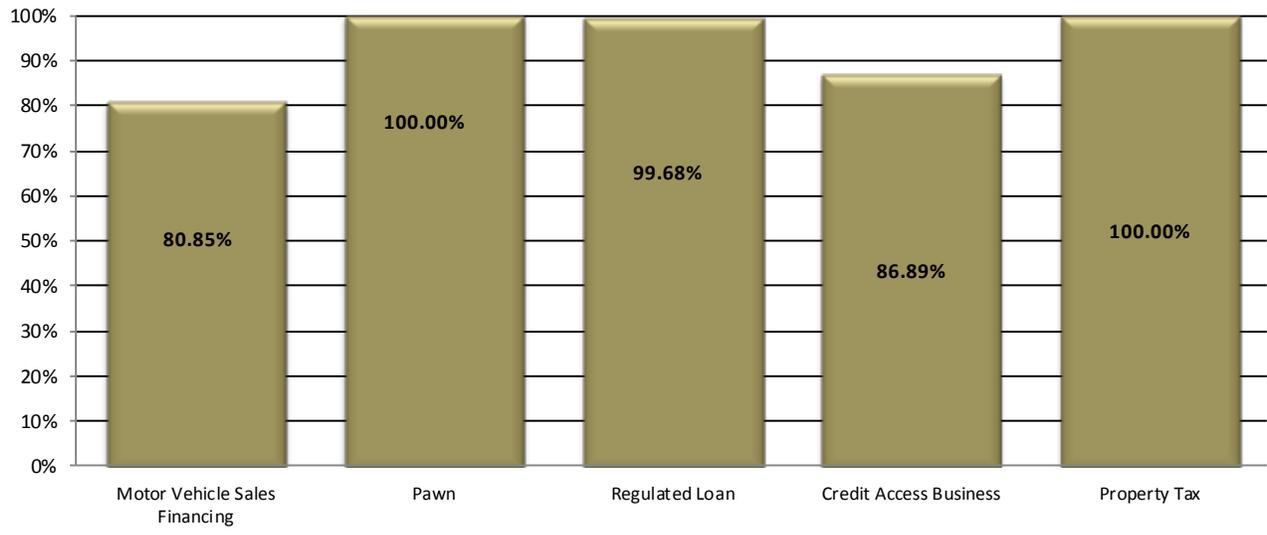
Michael Elizalde was selected to fill the Investigator I position in Consumer Assistance. Mr. Elizalde began employment on February 18, 2015. Linda Salazar, Investigator I in Consumer Assistance, has submitted her resignation. Ms. Salazar is transferring to another state agency effective April 1, 2015. Consumer Protection currently has one field examiner position in Houston and one administrative assistant position vacant. Vacant positions are in the process of being posted.

Eric Fancher, Dallas Financial Examiner, made a presentation at the Texas Department of Motor Vehicles (TxDMV) dealer training seminar on February 19, 2015, in Waco. Huffman Lewis, Coordinator

for out-of-state examinations, made a similar presentation at the TxDMV seminars held on March 19, 2015, in Midland.

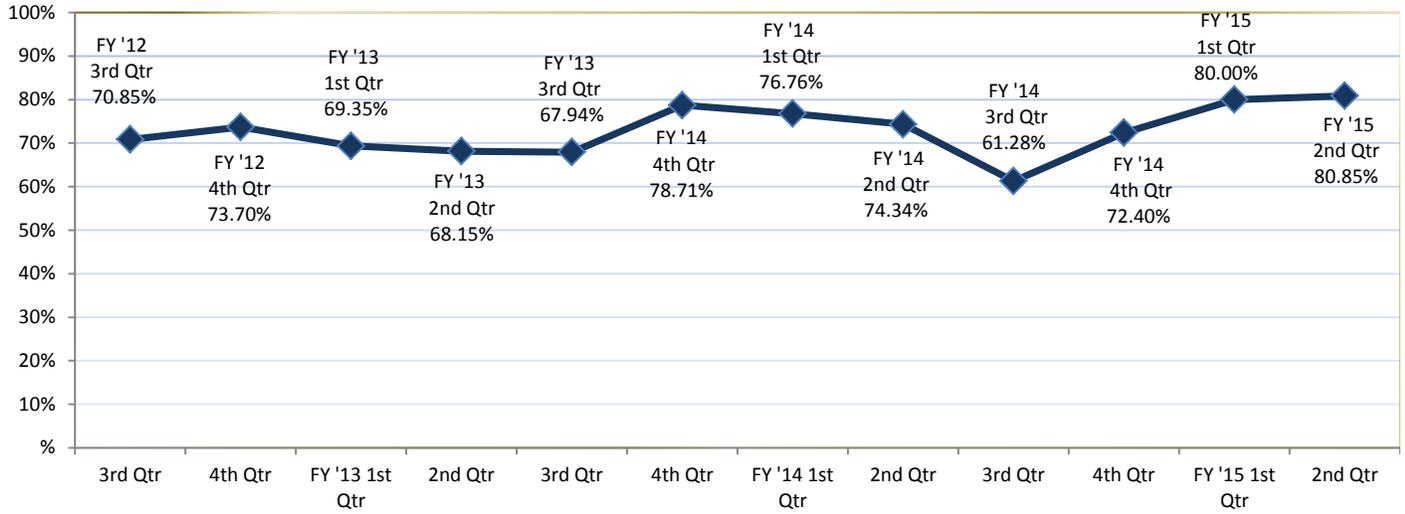
The chart below notes the current acceptable level of compliance in the five examination areas. Acceptable level of compliance of Credit Access Business (CAB) examinations for FY '15 is below the acceptable level of compliance for the same time period in FY '14. The FY '15 acceptable level of compliance for the other four examination areas is at or above that for FY '14 for the same time period.

Acceptable Level of Compliance FY '15 (Sept 2014 - Feb 2015)



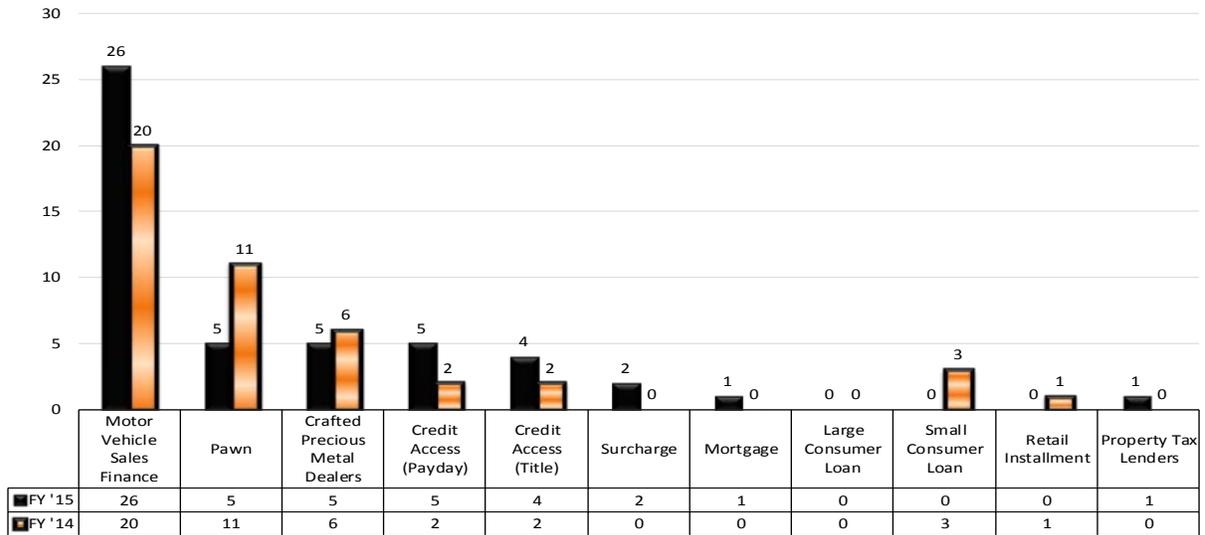
A rolling three year comparison of MVSF compliance rates by quarter is noted on the chart that follows.

MVSF: Acceptable Level of Compliance Fiscal Year Comparison by Quarter



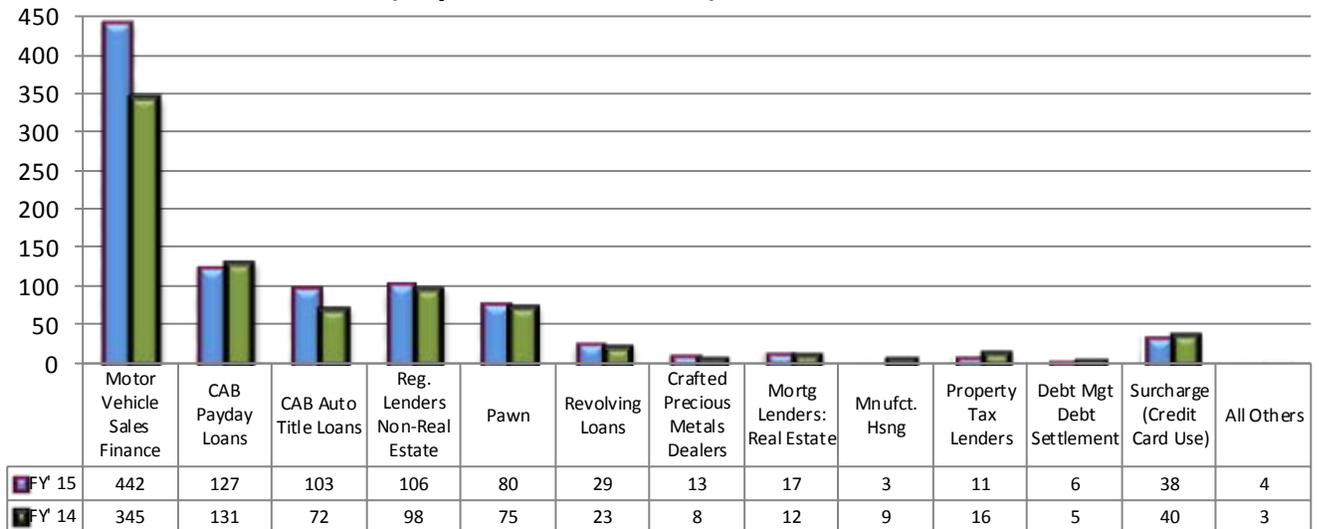
Investigations

Investigations Completed
FY '15 (Sept 2014 - Feb 2015) Total: 49
FY '14 (Sept 2013 - Feb 2014) Total: 45



Consumer Assistance

Complaints Processed
FY '15 (Sept 2014-Feb 2015) Total: 979
FY '14 (Sept 2013-Feb 2014) Total: 837



For this reporting period in FY '15, the top four areas of complaints remained constant with MVSF being first, CAB complaints second, Regulated Lenders Non-Real Estate third, and Pawn complaints fourth.

MVSF complaints are the largest complaint category (45.15%). The complaint issues by type can be categorized as: repossessions (18%), unlicensed activity (14%), financing conditioned on subsequent assignments (11%), payment postings/dispute of account balances (11%), issues related to ancillary products and insurance (10%), dispute of contracted price and other fees (6%), title issues (5%), consumer right of rescission (5%), and mechanical issues (5%).

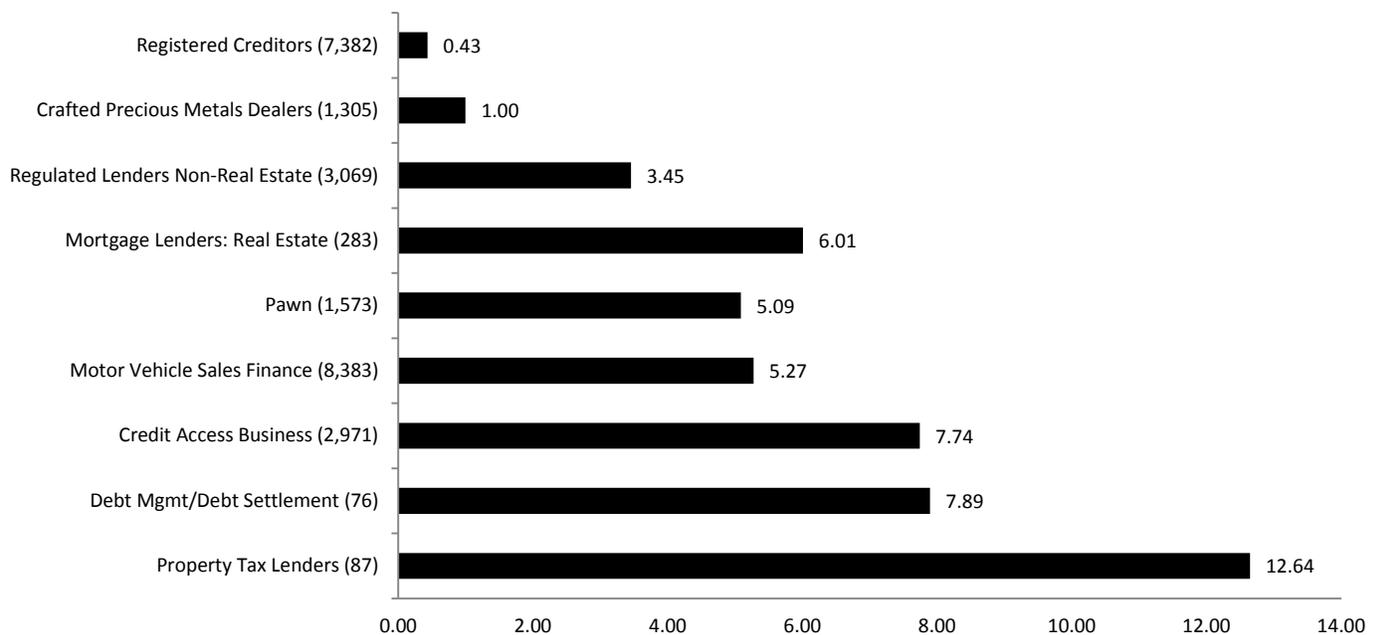
The second largest category of complaints was CAB complaints (payday 12.97% and title loans 10.52%). CAB payday complaints were predominately: allegations of improper posting of payments-ACH and dispute of account balances (25%), allegations of not applying for loans (20%), fee amounts being charged (13%), consumers alleging financial hardship and seeking assistance (10%), and, collection practices (6%). CAB title loan complaints by type for this reporting period were primarily: allegations of improper posting of payments and balance owed not decreasing (19%), charges and fees (18%), repossessions (17%), and release of titles upon payoff (14%).

The third largest category of complaints for the reporting period was Regulated Lenders Non-Real Estate (10.83%). Regulated Lenders Non-Real Estate issues were predominately related to allegations of abusive collection practices (37%). Other issues included high interest rates (16%), allegations of improper posting of payments (15%), customer service (13%), and complaints about fees (8%).

Pawn was the fourth largest complaint category (8.17%). Issues mainly involved replacement of lost/damaged goods (28%), redeeming of pawned items (16%), pawn service charge (11%), forfeiture of goods (10%), victim assistance in stolen items (8%), monitoring the acceptance of goods (6%), and, issues related to purchased goods (6%).

Comparison of complaints processed to the number of active license or registrant population is noted on the chart below. For this comparison, the highest ratio involved Property Tax Lender complaints with Debt Management/Debt Settlement being second highest ratio. CAB complaints ratio and Mortgage Lenders: Real Estate ratio of complaints to active licensees or registrants were third and fourth, respectively.

**Ratio of Complaints Processed to Total Active Licenses or Registrants*
FY '15 (Sept 2014-Feb 2015)**



CAB REPORTING

Selected annual reporting statistics from the prior two calendar years are presented in the following tables. Overall, new loans made decreased approximately 10%, showing the largest decreases in the single payment products. However, compared to 2013, total refinance volume increased indicating more transactions (especially single payment title) were carried over from the previous year.

Loan Statistics	Year	Single Payday	Multi Payday	Single Title	Multi Title
Average Loan Amount	2014	\$483	\$543	\$1,227	\$1,043
	2013	\$474	\$505	\$1,258	\$1,137
	Change	2%	8%	(2%)	(8%)
Average Fee per \$100 Loaned ¹	2014	\$23.25	\$151.26	\$19.11	\$100.50
	2013	\$22.92	\$136.24	\$21.22	\$81.32
	Change	1%	11%	(10%)	24%
Average Term (in days) ¹	2014	19	152	30	192
	2013	19	145	30	184
	Change	0%	5%	0%	4%
Number of yearly transactions per consumer receiving a new loan ²	2014	4.69	1.68	3.70	1.64
	2013	4.51	1.65	3.53	1.83
	Change	4%	2%	5%	(10%)

Volume Number	Year	Single Payday	Multi Payday	Single Title	Multi Title	Total
Number of consumers obtaining credit (unique to each location)	2014	842,714	543,377	250,283	56,469	1,692,843
	2013	1,034,992	488,740	322,073	57,822	1,903,627
	Change	(19%)	11%	(22%)	(2%)	(11%)
Number of new extensions (new loans)	2014	1,584,629	779,941	297,957	63,601	2,726,128
	2013	1,865,694	678,161	404,156	69,038	3,017,049
	Change	(15%)	15%	(26%)	(8%)	(10%)
Number of refinances on those extensions ³	2014	2,370,869	133,612	627,095	29,055	3,160,631
	2013	2,799,516	128,225	732,895	36,822	3,697,458
	Change	(15%)	4%	(14%)	(21%)	(15%)
Total Number of Repossessions	2014			40,790	3,253	44,043
	2013			31,990	4,928	36,918
	Change			28%	(34%)	19%

Volume Amount	Year	Single Payday	Multi Payday	Single Title	Multi Title	Total
Total dollar amount of new extensions	2014	\$765,781,935	\$423,719,298	\$365,618,146	\$66,348,805	\$1,621,468,183
	2013	\$883,789,118	\$342,166,812	\$508,226,771	\$78,468,946	\$1,812,651,647
	Change	(13%)	24%	(28%)	(15%)	(11%)
Total dollar amount of refinances ⁴	2014	\$1,348,492,095	\$227,471,733	\$1,028,547,443	\$61,877,899	\$2,666,389,170
	2013	\$1,480,557,877	\$223,057,585	\$678,588,078	\$65,520,988	\$2,447,724,528
	Change	(9%)	2%	52%	(6%)	9%
Total dollar amount of CAB fees charged	2014	\$486,189,667	\$614,702,693	\$238,835,170	\$85,951,743	\$1,425,679,272
	2013	\$588,397,311	\$537,741,472	\$288,384,511	\$71,577,485	\$1,486,100,779
	Change	(17%)	14%	(17%)	20%	(4%)
Total Volume Per Category	2014	\$2,600,463,697	\$1,265,893,723	\$1,633,000,758	\$214,178,446	\$5,713,536,625
	2013	\$2,952,744,306	\$1,102,965,869	\$1,475,199,360	\$215,567,419	\$5,746,476,955
	Change	(12%)	15%	11%	(1%)	(1%)

1 Average Data from Quarterly Reports

2 Number takes into account the new loan and refinances between Jan 1 - Dec 31

3 Number does not include refinances on new loans made prior to Jan 1

4 Number includes all refinancing activity (including the refinances on loans made in previous years)



Licensing Report

Renewals

The renewal period for Pawnshops and Pawnshop Employees begins May 15, 2015 and Motor Vehicle Sales Finance begins June 15, 2015. We are currently working to improve the online renewal system to improve accessibility and ease of use. Approximately 40% of pawnshop business licensees and 10% of Motor Vehicle Sales Finance licenses renewed online through ALECS for the 2014-2015 renewal period. Because of the requirement to submit all new Motor Vehicle Sales Finance applications online, we anticipate a marked increase in online renewals. The agency has seen a reduction in time and cost in processing renewals due to the online submission. Pawnshop annual report forms for 2014 will be mailed by May 15, 2015.

Applications Processing

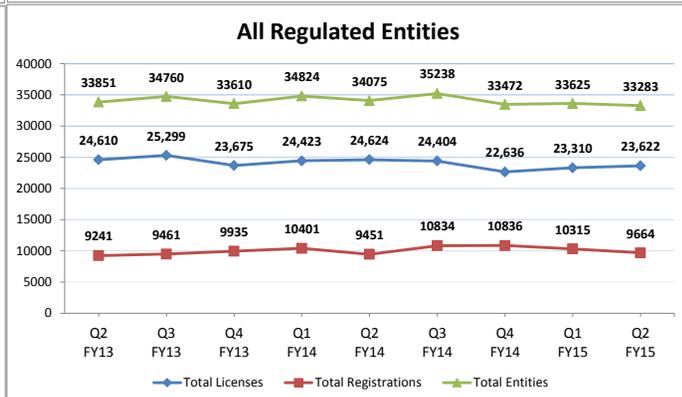
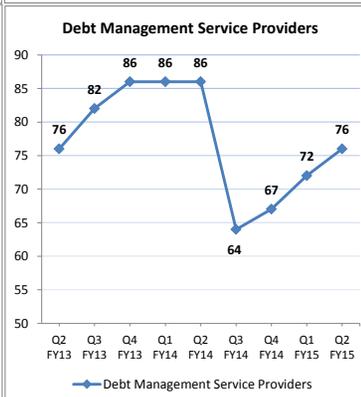
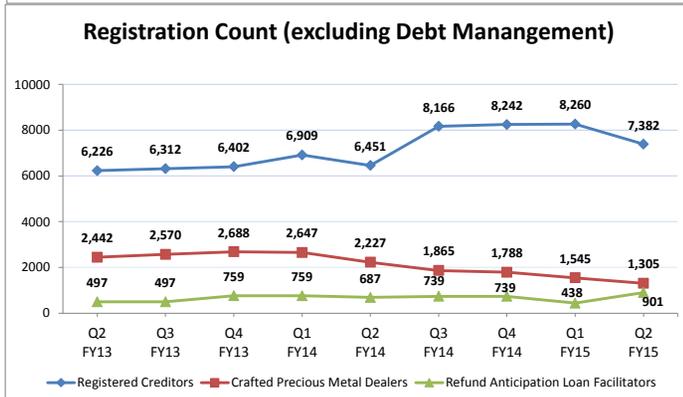
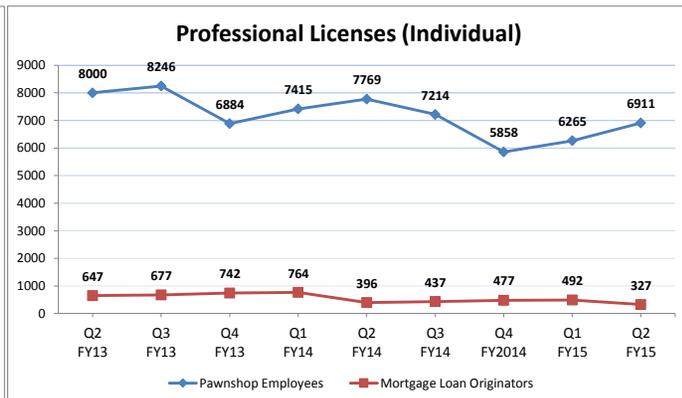
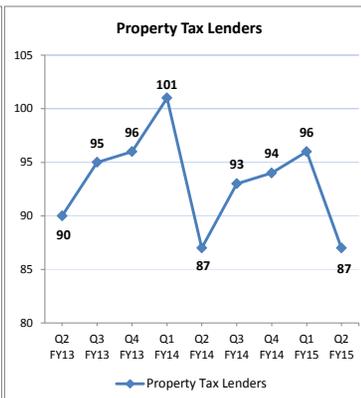
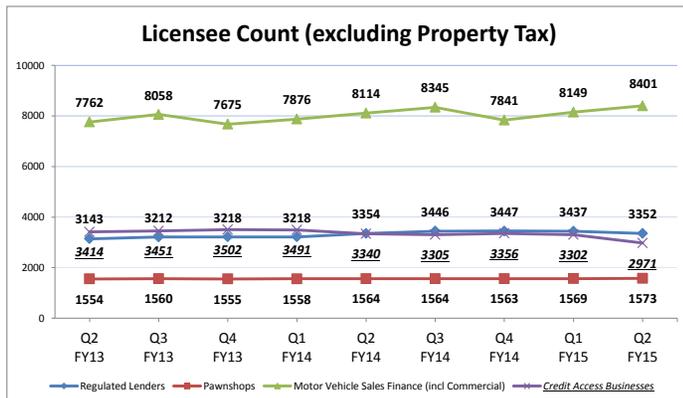
The licensing department currently has a high number of pending applications. The department continues evaluating current processing procedures in an effort to decrease processing time and increase efficiency. At last report 31% of business license applications are being submitted in ALECS. We began requiring online submission of applications for new Motor Vehicle Sales Finance licenses February 1, 2015 which increased the online submission rate to 80%. Other license and registration types will be phased in with the online submission requirements.

Regulated Entity Population Trends

The following charts reflect the number of OCCC regulated entities at the end of each quarter in fiscal years 2013 and 2014, and the most recent data, as of February 28, 2015.

Number of OCCC Regulated Entities

Quarterly Comparison FY 13 & FY 14 with Current Data





Communications, Human Resources & Administration Report

Juan V. Garcia, Director of Strategic Communications, Administration and Planning

Stakeholder Engagement and Communication

The agency continues to focus on stakeholder outreach and communication through various channels. Outreach and communication is achieved through live presentations, placement of articles in industry publications, participation in webinars, and the publication of advisory bulletins.

On February 16th, Christine Graham and Juan V. Garcia spoke at the 2015 Lutheran Legislative Event. The faith-based group is just getting started and was very interested in legislative advocacy. Staff provided an overview of the state of consumer finance in Texas including a fair, balanced and realistic overview of the issue of short term lending and an overview of the legislative process.

Commissioner Pettijohn traveled to Waco on February 26th to participate on a panel regarding Financial Security, and community initiatives relating to access to credit, sponsored by Texas Impact as part of their Better Neighbors program.

Commissioner Pettijohn and staff continue to meet with advocacy groups and interested stakeholders during the 84th Legislative session to discuss and recommend changes to bills being authored by House and Senate members.

During the third quarter, the agency will further identify opportunities to engage stakeholders through other various communication methods.

Human Resources

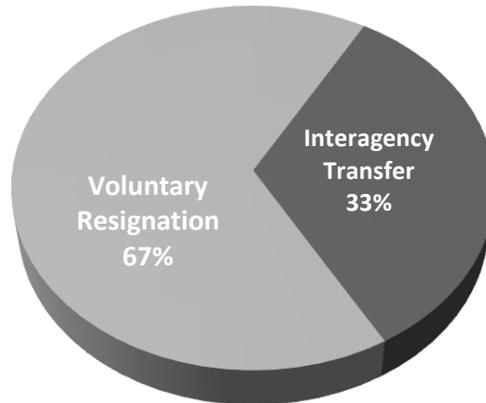
Since the start of FY15, the agency has filled several positions.

- 1 Human Resources Specialist V hired to fill position created by employee transfer.
- 1 Accounting Technician II (part-time) hired to fill new position for FY15.
- 8 Financial Examiners were hired to fill vacancies created by employee departures and new positions created for FY15.
- 1 Financial Examiner I (License Analyst) filled by internal promotion.
- 1 License and Permit Specialist position was filled by internal promotion.
- 3 Financial Examiners were promoted to fill newly created Assistant Regional Supervisor positions.
- 1 new Investigator I was hired to fill vacancy in Consumer Assistance created by internal promotion.
- 1 new Manager II has been hired to fill the Licensing Manager position and is slated to start with the OCCC on April 14, 2015.

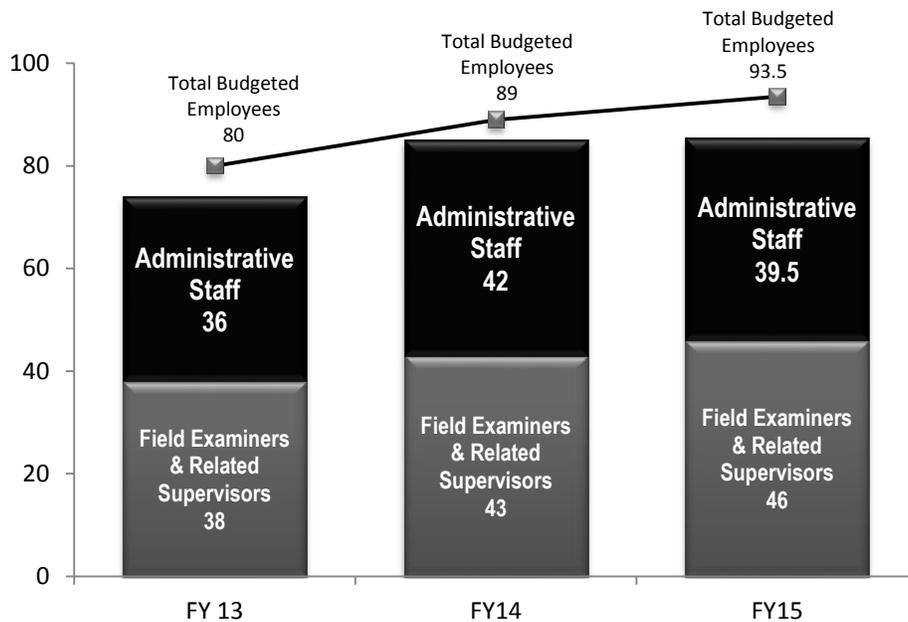
The Agency has filled the 4.5 new FTE's for FY 15: 4 Financial Examiner positions and 1 part-time Accounting Technician position.

In FY 15, the agency had nine employees depart: 5 interagency transfers, 3 resignations and 1 dismissal. The current turnover ratio for the agency is 10.88%. Of the nine departures, three were in the Financial Examiner series, leaving the turnover ratio for the series at 5.7%.

**Turnover Categories FY 15 - Fin Examiners
Sep 1, 2014 - March 31, 2015
(2 Resignations, 1 Interagency Transfer)**



**OCCC Employee Data FY 13 - FY 15
March 31, 2015**



Financial Literacy

Dana Edgerton, Education Specialist, continues to interface regularly with Financial Fitness Greater Austin (FFGA) leadership committee members to coordinate events for Financial Fitness week, April 19-26, 2015. She is also coordinating the details for the annual awards and check presentation ceremony on April 22 for the Youth and Adult Essay Contest winners. As the co-chair of FFGA, she drafts agendas for both the general and leadership committee meetings; ensures information is organized and updated; participates in committee meetings; assists committee members and leaders with different requests, ensures processes are functioning effectively and all committees are fully “staffed” and on track for Financial Fitness Greater Austin week.

In addition, she has also collaborated with the Volunteer Legal Services of Central Texas to conduct a presentation regarding consumer rights, responsibilities and wealth building for Spanish speaking residents in southeast Austin. Through this collaboration, this organization is a new education partner to the OCCC and the FFGA.

Consumer Education staff continues to seek opportunities for speaking engagements in the community.



Accounting & IT Reports

Accounting

The accounting department has been analyzing and completing requested Fiscal Notes for the Legislative Session. The department has begun gathering data for preparation of the FY 16 Budget. The department has also been preparing to process the second batch of Grant reimbursements from the Texas Financial Education Endowment Fund.

Information Technology-Legacy Modernization

The online licensing portal, ALECS is in maintenance mode. Work continues on data cleanup, low priority fixes and enhancements. Staff is reviewing business process changes that will streamline the online application process.

The IT department's contracted consultant is nearing the end of the initial 6-month position, and the contract will be extended for several weeks. Interviews are underway to hire a full-time Programmer as soon as possible. Ideally the contractor will overlap with the new programmer for 2 weeks for knowledge transfer.

In light of pending legislation that affects contracting for technology projects, the agency has rescinded the SOW for the examination and complaint project. At the end of the legislative session, the SOW will be reopened, and any new procedural procurement requirements will be incorporated.

OFFICE OF CONSUMER CREDIT COMMISSIONER
EXECUTIVE SUMMARY

As of February 28, 2015

	FY 2013	FY 2014	FISCAL YEAR 2015				
			1st QTR	2nd QTR	3rd QTR	4th QTR	FYTD
CONSUMER PROTECTION							
Monies Returned to Consumers (000)	7,369	22,977	2,244	2,599			4,843
Regulated Lenders Examinations	1,098	1,106	258	356			614
Property Tax Lender Examinations	28	34	0	2			2
Pawnshop Examinations	697	593	110	211			321
Motor Vehicle Examinations	1,380	1,247	271	366			637
Credit Access Businesses Examinations	916	1,031	140	43			183
CONSUMER ASSISTANCE							
Telephone Complaints Received	1,151	1,067	226	280			506
Written Complaints Received	967	976	227	249			476
Total Complaints Processed	2,089	1,915	470	509			979
% of Written Complaints Closed within 90 Calendar Days	95.52%	90.60%	86.69%	84.59%			86.63%
ADMINISTRATIVE ENFORCEMENT ACTIONS							
Originated	366	321	107	41			148
Finalized	333	335	71	64			135
LICENSING AND REGISTRATION							
Licenses							
Regulated Loan Licenses	3,218	3,447	3,437	3,352			3,352
Pawnshop Licenses	1,555	1,563	1,569	1,573			1,573
Pawnshop Employee Licenses	6,884	5,858	6,265	6,911			6,911
Commercial MV Sales Fin. Licenses	14	16	17	18			18
Motor Vehicle Sales Finance Licenses	7,661	7,825	8,132	8,384			8,384
Property Tax Loan Licenses	96	94	96	87			87
NMLS-Mortgage Loan Originators	742	477	492	327			327
Credit Access Business Licenses	3,502	3,356	3,302	2,971			2,971
Registrations							
Registered Creditors	6,402	8,242	8,260	7,802			7,802
Crafted Precious Metal Dealers	2,688	1,788	1,545	1,305			1,305
Debt Management Service Providers	86	67	72	76			76
Refund Anticipation Loan Facilitators	759	739	438	901			901
Applications							
Business -- New	1,398	1,427	452	361			813
Business -- Change of Ownership	712	473	109	127			236
Pawnshop Employees -- New	2,576	2,011	669	487			1,156
HUMAN RESOURCES DATA							
Field Examiners Staffing	38	42	47	46			47
Total Staffing	74	83	89	89			89

Office of Consumer Credit Commissioner
Actual Performance for Output/Efficiency Measures

Type/Strategy/Measure	2015 Target	2015 Actual	2015 YTD	Percent of Annual Target
Output Measures-Key				
1-1-1	COMPLAINT RESOLUTION			
	1. # COMPLAINTS CLOSED			
Quarter 1	2,100	470	470	22.38%
Quarter 2	2,100	509	979	46.62%
	2. # INVESTIGATIONS CLOSED			
Quarter 1	84	16	16	19.05% *
	The number of completed investigations in the first quarter was one examination short of being in the goal range, due to investigative staff assuming additional duties in response to a senior examiner's medical leave of absence.			
Quarter 2	84	33	49	58.33% *
	Solid, consistent efforts to close old investigations has been made. Several investigations came to a conclusion during this reporting period.			
2-1-1	EXAMINATION AND ENFORCEMENT			
	1. # COMPLIANCE EXAMINATIONS PERFORMED			
Quarter 1	3,864	779	779	20.16%
Quarter 2	3,864	978	1,757	45.47%
2-2-1	LICENSING			
	1. # BUSINESS APPLICATIONS PROCESSED			
Quarter 1	2,200	381	381	17.32% *
	The number of business applications processed is under target due to staffing changes and training. Numbers are expected to be on target in the next quarter.			
Quarter 2	2,200	542	923	41.95% *
	Significant gains are being made in application processing times, but due to staff changes and ongoing training, numbers are below the targeted 50% level.			
	2. # INDIVIDUAL LICENSES PROCESSED			
Quarter 1	2,750	715	715	26.00%
Quarter 2	2,750	796	1,511	54.95%

3-1-1	<p># CONSUMERS RECEIVING FINANCIAL EDUCATION</p> <p>Quarter 1</p> <p>Staff conducted one face-to-face presentation to the Hispanic Real Estate Brokers Association in Arlington, Texas in the first quarter. There will be more presentation opportunities as the year progresses.</p>	300	32	32	10.67% *
	<p>Quarter 2</p> <p>To date, staff has conducted three presentations: one webinar and two face-to-face presentations. The Texas Financial Education Endowment (TFEE) webinar garnered 173 national and international participants. The face-to-face presentation this quarter was for Coastal Bend College's TRIO Day, for high school students. Staff anticipates additional presentation opportunities will be scheduled to reach the year's target.</p>	300	201	233	77.67% *

* Varies by 5% or more from quarterly or year-end targets.



Legal Department Report

Michael Rigby, General Counsel

April 2, 2015

Enforcement Report

Regulated Loan – License Revocation

On December 8, 2014, the OCCC issued a notice of hearing for revocation against the following four licensees: (1) *Valerio, Maria d/b/a La Rosita Finance Company* (Cause No. C3561-L15-024), (2) North Texas Auto Services Inc. d/b/a EBUYMOTORZ (Cause No. C3569-L15-032), (3) *M L K Financial Inc.* (Cause No. C3578-L15-041), and (4) *El Valle Finance LLC* (Cause No. C3582-L15-045). These four licensees did not file their report, pay the penalty, or seek permission to surrender their license. The hearings were held on January 27, 2015, before Holly Compton-Noelke, Administrative Law Judge. On February 6, 2015, the ALJ issued a proposal for decision recommending the revocation of all four licenses. The proposals for decision are currently under review by Juan V. Garcia, pursuant to OCCC Delegation Order of March 4, 2015.

Pawnshop Employee – License Revocation

In Jose Luis Olvera, Jr., Cause No. C3549-L15-015, Jose Luis Olvera, Jr. holds a pawnshop employee license issued by the OCCC. The OCCC alleges that on February 2, 2014, Mr. Olvera disclosed a pawnshop customer's nonpublic personal information on a social media website. The OCCC contends that Mr. Olvera's unauthorized disclosure violated federal consumer privacy laws which are incorporated into the Texas Finance Code. The OCCC moved for revocation of Mr. Olvera's pawnshop employee license under Chapter 371 of the Texas Finance Code and Title 7, Chapter 85, of the Texas Administrative Code. On September 10, 2014, the OCCC issued a notice of hearing for revocation of Mr. Olvera's pawnshop employee license. The hearing was held on October 14, 2014, before Holly Compton-Noelke, Administrative Law Judge. On February 3, 2015, the ALJ issued a proposal for decision recommending the revocation of Mr. Olvera's pawnshop employee license. On March 17, 2015, Juan V. Garcia, pursuant to OCCC Delegation Order of March 4, 2015, adopted the recommendation of the proposal for decision and issued a final order to revoke Mr. Olvera's license. Mr. Olvera has 20 days from the date of being notified of the final order to file a motion for rehearing with the OCCC.

Motor Vehicle Sales Finance – License Revocation

Masoud Shaygan and Zahra Shaygan d/b/a Dynamic Imports holds a motor vehicle sales finance license. Dynamic Imports allegedly violated Chapter 348 of the Texas Finance Code by charging excessive public official fees and unauthorized documentary fees. On April 8, 2014, the OCCC issued a notice of hearing for revocation of Dynamic Imports’ motor vehicle sales finance license. On June 27, 2014, the OCCC issued an Agreed Order allowing Dynamic Imports to request a continuance of the hearing, to have time to demonstrate that it has complied with all examination instructions. Dynamic Imports failed to show compliance with the terms of the Agreed Order. A hearing was held on August 6, 2014, before Holly Compton-Noelke, Administrative Law Judge. Mr. Shaygan appeared at the hearing and represented himself. On December 8, 2014, the ALJ issued a proposal for decision recommending the suspension of Dynamic Import’s license until it could show compliance with the Agreed Order of June 27, 2014. Following exceptions from both parties, on February 17, 2015, the ALJ issued an amended PFD recommending that Dynamic Imports license be revoked if it could not show compliance with the Agreed Order by May 31, 2015. The proposal for decision is currently under review by Juan V. Garcia, pursuant to OCCC Delegation Order of March 4, 2015.

Administrative Rule Report

At the April meeting, the agency is presenting proposed rule amendments providing updated guidelines on the use of discount points for property tax loans.

At upcoming meetings later this year, the agency plans to present rule actions regarding the following issues:

- Amendments to update the procedures for plain language non-standard contract submission, and
- Amendments to streamline the licensing process and provide regulatory burden reduction.

Performance Report

The following table is an overview of enforcement actions completed by the OCCC for the last three fiscal years and the current fiscal year-to-date as of March 31, 2015. Since February 1, 2015, the OCCC has completed the second quarter and the first month of the third quarter of fiscal year 2015. These figures only reflect actions that have been fully resolved with a final order; actions that are still pending are not included in the table. This data also does not account for actions to deny applications of those who fail to show eligibility for a license or assistance provided to license applicants requiring additional documentation to complete their applications. The OCCC completed 35 application denial actions in fiscal year 2013 and 2 denial actions in fiscal year 2014. As of March 31, 2015, the OCCC has completed 7 denial actions in fiscal year 2015. It is difficult to predict the types of cases the legal department will pursue, as many factors impact how each enforcement matter will evolve. The following table provides a snapshot of completed enforcement actions during the listed time period.

Enforcement Actions Completed as of March 31, 2015				
	FYTD 2015	FY 2014	FY 2013	FY 2012
Revocation / Suspension Actions				
Regulated Loan License	22	10	3	5
Pawnshop License	0	1	1	1
Pawnshop Employee License	2	1	2	1
Credit Access Business	0	4	0	1
Motor Vehicle Sales Finance License	0	4	3	1
Property Tax Lender License	0	4	0	0
Crafted Precious Metal Dealer Registration	2	0	0	0
Total Revocation / Suspension Actions	26	24	9	9
Other Actions				
Cease & Desist Regulated	0	0	1	0
Cease & Desist Pawn	0	0	0	0
Cease & Desist Pawn Employee	0	0	0	0
Cease & Desist Motor Vehicle	6	8	13	0
Cease & Desist 345	0	0	1	0
Cease & Desist 394	4	1	1	0
Cease & Desist Property Tax	0	2	1	0
Cease & Desist Credit Access Business	1	4	1	0
Cease & Desist Crafted Precious Metal Dealer	3	0	0	0
Cease & Desist Unlicensed	0	2	10	18
Administrative Penalty Regulated	1	121	144	103
Administrative Penalty Pawn	1	6	9	6
Administrative Penalty Pawn Employee	1	8	8	6
Administrative Penalty Motor Vehicle	40	88	112	85
Administrative Penalty Property Tax	0	18	12	12
Administrative Penalty Credit Access Business	64	56	52	0
Administrative Penalty Crafted Precious Metal Dealer	0	1	0	0
Total Other Actions	121	315	365	230
Total Enforcement Actions Closed	147	339	374	239

From February 1, 2015, to March 31, 2015, the agency:

- issued 22 final orders,
- opened 62 cases in order to issue preliminary reports,
- opened 6 cases in order to issue an administrative injunction,
- held 3 administrative hearings, and
- dismissed 5 administrative hearings.

The agency has 4 administrative hearings scheduled between April 1, 2015, and May 31, 2015.

Litigation

Ovation Lending LLC v. Finance Commission of Texas:

A group of property tax lenders has sued the Finance Commission and the OCCC, seeking to prevent enforcement of the commission's recently adopted rule at 7 Texas Administrative Code Section 89.601(d), which prohibits discount points for property tax loans. The plaintiffs argue that the commission exceeded its statutory authority, failed to give adequate notice of the rule amendment, and did not perform the required analysis of the impact on small businesses. The plaintiffs filed their petition on March 6, 2015, and the OCCC was served with it on March 11.

The commission and the OCCC have agreed to enter a temporary restraining order that restrains the commission and the OCCC from enforcing Section 89.601(d). The parties have also agreed that this order will be extended through April 30, 2015, that all discovery is abated through April 17, and that a temporary injunction hearing will be set for April 30.

The full style of the case is *Ovation Lending LLC, Alamo Home Finance Inc., USPTL LLC, and Tax Advances LLC v. Finance Commission of Texas, Office of Consumer Credit Commissioner, and Leslie Pettijohn, in her Official Capacity as Commissioner of the Office of Consumer Credit Commission*. The case number is D-1-GN-15-000886, in the 353rd district court in Travis County, Texas.

Rowell v. Pettijohn:

In March 2014, a group of merchants filed a complaint in federal district court against Leslie Pettijohn in her official capacity, to enjoin enforcement of the credit card surcharge prohibition in Section 339.001 of the Texas Finance Code. The merchants argue that the prohibition is an unconstitutional violation of free speech and that it is void for vagueness, in violation of the First and Fourteenth Amendments to the U.S. Constitution.

In July 2014, the OCCC filed a motion to dismiss the lawsuit. The motion argues that Section 339.001 is a regulation of pricing and economic conduct, rather than a speech regulation subject to First Amendment protections, and that the section is not void for vagueness.

On February 4, 2015, the court granted the OCCC's motion and dismissed the lawsuit. The court's opinion agreed that Section 339.001 is a regulation of pricing and economic conduct rather than speech, and that it is not void for vagueness. The court issued a final judgment on the same day. The plaintiffs filed a notice of appeal on February 26, stating that they are appealing the case to the Fifth Circuit Court of Appeals. The case has been assigned to the Office of the Solicitor General, within the Office of the Attorney General.

The full style of the case is *Lynn Rowell d/b/a Beaumont Greenery, MPC Data and Communications, Inc., Micah Cooksey, NXT Properties, Inc., Mark Harken, Montgomery Chandler, Inc., Paula Cook, Townsley Designs, LLC, and Shonda Townsley v. Leslie L. Pettijohn, in her official capacity as Commissioner of the Office of Consumer Credit Commissioner of the State of Texas*. The Fifth Circuit's case number is 15-50168, and the district court's case number is 1:14-cv-00190-LY.

Similar cases have been filed in New York, Florida, and California. The federal district courts in California and New York have struck down the credit card surcharge statutes in those states. *Italian Colors Rest. v. Harris*, No. 2:14-cv-00604-MCE-DAD, 2015 WL 1405507, 2015 U.S. Dist. LEXIS 39030 (E.D. Cal. Mar. 26, 2015); *Expressions Hair Design v. Schneiderman*, 975 F. Supp. 2d 430 (S.D.N.Y. 2013). The federal district court in Florida upheld Florida's credit card surcharge statute. *Dana's R.R. Supply v. Bondi*, No. 4:14-cv-00134-RH-CAS (N.D. Fla. Sept. 2, 2014). The New York case has been appealed to the Second Circuit, which heard oral arguments on March 5. The Florida case has been appealed to the Eleventh Circuit, which is scheduled to hear oral arguments in June.

Property Tax Lender TILA Litigation:

Two federal district judges in San Antonio have recently issued conflicting decisions about whether the federal Truth in Lending Act (TILA) applies to Texas property tax lenders. In one case, the court held that TILA does not apply to property tax lenders, and granted the property tax lender's motion to dismiss the borrower's TILA claims. *Billings v. Propel Financial Services, LLC*, No. 5:14-cv-00764-OLG, 2014 WL 7448248, 2014 U.S. Dist. LEXIS 179738 (W.D. Tex. Nov. 28, 2014). However, in two other cases, the court held that TILA does apply to property tax lenders and denied the lenders' motions to dismiss. *Thiery v. Texas Tax Solutions, LLC*, No. 5:14-cv-00940-HLH, 2014 WL 7447976, 2014 U.S. Dist. LEXIS 179763 (W.D. Tex. Dec. 19, 2014); *Torres v. Propel Financial Services, LLC*, No. 5:14-cv-01040-HLH (W.D. Tex. Jan. 22, 2015). These three decisions have been appealed to the Fifth Circuit Court of Appeals.

There are three other pending cases involving the same issue: *Ramos v. FGMS Holdings, LLC*, No. 5:14-cv-00860-FB (filed Oct. 1, 2014); *Orosco v. Ovation Lending, LLC*, No. 5:14-cv-00897-XR (filed Oct. 14, 2014); and *Castano v. FGMS Holdings, LLC*, No. 5:14-cv-00949-OLG (filed Oct. 28, 2014).

Credit Access Business Municipal Ordinance Litigation:

Several CABs have sued cities, arguing that CAB ordinances are preempted under state law. The Dallas court of appeals rejected a challenge to Dallas's CAB ordinance, finding that the CABs had not demonstrated a sufficient harm to their property interests. *Consumer Serv. Alliance of Tex., Inc. v. City of Dallas*, 433 S.W.3d 796 (Tex. App.—Dallas 2014, no pet.). There are several other cases pending in state district court, including *First Capital Money Center Ltd. d/b/a Power Finance Texas v. City of Houston*, No. 2014-67722 (133d Dist. Ct., Harris Co.) (filed Nov. 19, 2014); *Ace Cash Express, Inc. v. City of Denton*, No. 2013-10564-16 (16th Dist. Ct., Denton Co.) (filed July 19, 2013); and *Cash Station, Ltd. d/b/a Power Finance v. City of San Antonio*, No. 2012-CI-20678 (285th Dist. Ct., Bexar Co.) (filed Dec. 2012).

Advisory Bulletins

From February 1, 2015, to March 31, 2015, the agency issued two advisory bulletins:

- Bulletin No. B15-1 describes how property tax lenders should respond to a payoff request from a borrower or from a person authorized to pay off a property tax loan.
- Bulletin No. B15-2 describes alternatives to prohibited credit card surcharges.

Interpretation Requests

From February 1, 2015, to March 31, 2015, the agency did not receive any requests for official interpretations. There were no pending interpretation requests as of March 31, 2015.

Open Records Requests

From February 1, 2015, to March 31, 2015, the OCCC has processed and responded to 52 requests for information under the Texas Public Information Act, with two referrals to the Office of the Attorney General.

Rule Item/Purpose	Proposal Date	Adoption Date/Status
<p>Property Tax Lenders - Proposed Amendments 7 TAC, Part 5, Chapter 89, §§89.207, 89.601 and 89.802</p> <p>To provide updated guidelines on the use of discount points</p>	<p>04/17/15</p>	
<p>Plain Language Contracts - Proposed Amendments 7 TAC, Part 5, Chapter 84, §§84.802 and §84.806 7 TAC, Part 5, Chapter 90, §90.103 and §90.104</p> <p>To update plain language non-standard contract submission procedures relating to readability levels, typefaces, and font sizes</p>	<p>TBD 2015</p>	
<p>Licensing Streamlining Provisions - Proposed Amendments 7 TAC, Part 5, Chapters 83, 84, 85, 88, and 89</p> <p>To streamline licensing procedures and provide regulatory burden reduction</p>	<p>TBD 2015</p>	

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B. Office of Consumer Credit Commissioner

4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §§89.207, 89.601 and 89.802, Concerning Property Tax Lenders

PURPOSE: In general, the purpose of the proposal is to provide updated guidelines on the use of discount points.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve the proposed amendments to 7 TAC §§89.207, 89.601 and 89.802 for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve for publication and comment the proposed amendments to 7 TAC §§89.207, 89.601 and 89.802.

Title 7. Banking and Securities
Part 5. Office of Consumer Credit Commissioner
Chapter 89. Property Tax Lenders
§§89.207, 89.601, & 89.802

The Finance Commission of Texas (commission) proposes amendments to §§89.207, 89.601 and 89.802, concerning Property Tax Lenders.

In general, the purpose of the proposal is to provide guidelines for charging legitimate discount points in connection with property tax loans. The proposed amendments replace a portion of a previously adopted rule that prohibited discount points in §89.601(d), which appeared in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1068).

The agency originally received informal pre-comments on property tax loan discount points at a stakeholder meeting held in September 2014. Stakeholders also provided official comments regarding property tax loan discount points in response to proposed rule amendments that appeared in the October 31, 2014, issue of the *Texas Register* (39 TexReg 8484) and the December 26, 2014, issue of the *Texas Register* (39 TexReg 10122). The commission has considered these official comments and informal pre-comments in developing the current proposal. During the official comment period, stakeholders are welcome to resubmit any comments on issues not incorporated into the proposal.

I. Requirements for charging legitimate discount points

The proposed amendments to §89.207, concerning Files and Records Required, add clause (x) to paragraph (3)(A) concerning the property tax loan transaction file. The

proposed amendments specify that a property tax lender must maintain written documentation of discount points offered to the property owner, including a written proposal that includes a contract rate without discount points and a lower contract rate based on discount points.

The proposed amendments to §89.601, concerning Fees for Closings Costs, are contained in subsection (d). The proposed amendments to §89.601(d) address the charging of legitimate discount points in connection with a property tax loan. Subsection (d) states that legitimate discount points are not subject to the general maximum fee limit for property tax loan closing costs. Paragraph (1) explains that in order for discount points to be legitimate, they must truly correspond to a reduced interest rate, they cannot be necessary to originate the loan, and the borrower must be provided with a written proposal that includes a contract rate without discount points and a lower contract rate based on discount points.

New §89.601(d)(2) states that any discount point or other origination fee that does not meet the definition in paragraph (1) will be subject to the general maximum fee limit. New §89.601(d)(3) specifies that legitimate discount points must be included in the calculation of the effective rate and upon prepayment in full, must be spread as per Texas Finance Code, §302.101. New §89.601(d)(4) specifies that discount points must be paid by the borrower at or before closing of the loan, and that discount points may not be included in the funds advanced

or principal balance. New §89.601(d)(5) specifies that a lender may not finance discount points through a promissory note or contract payable to the property tax lender or an affiliated business.

The proposed amendments to §89.802, concerning Payoff Statements, add subparagraph (C) to paragraph (9) concerning the itemization of the total payoff amount. The amendments to §89.802 further clarify that any refunds resulting from unearned legitimate discount points must be itemized on the payoff statement.

The primary purpose of the amendments is to describe the requirements for charging legitimate discount points. These provisions are intended to ensure transparency in connection with discount points and to enable the borrower to make an informed decision before closing. Texas courts have generally held discount points to be a form of prepaid interest. *See, e.g., Fin. Comm'n of Tex. v. Norwood*, 418 S.W.3d 566, 596 (Tex. 2013) (holding that legitimate discount points are interest and are not subject to the Texas Constitution's 3% cap on fees necessary to originate a home equity loan); *Tarver v. Sebring Capital Credit Corp.*, 69 S.W.3d 708, 713 (Tex. App.--Waco 2002, no pet.) (holding the same). Like other forms of prepaid interest, discount points must be spread over the term of the loan in order to determine whether the loan is usurious. *See* Tex. Fin. Code §302.101; *Tanner Dev. Co. v. Ferguson*, 561 S.W.2d 777, 786-87 (Tex. 1977). However, in order to be legitimate, discount points must be an option available to the borrower, rather than a fee necessary to originate the loan. *See Norwood*, 418 S.W.3d at 596 (explaining that "true discount points are not fees 'necessary to originate, evaluate, maintain, record, insure,

or service' but are an option available to the borrower").

In addition, paragraphs (4) and (5) help ensure that property tax lenders comply with the limitation on funds advanced in Texas Tax Code, §32.06(e), which provides: "A transferee holding a tax lien transferred as provided by this section may not charge a greater rate of interest than 18 percent a year on the funds advanced. Funds advanced are limited to the taxes, penalties, interest, and collection costs paid as shown on the tax receipt, expenses paid to record the lien, plus reasonable closing costs." This provision distinguishes between interest that the property tax lender may charge and funds that the property tax lender may advance to the borrower. Funds advanced are expressly limited to the six items listed in the second sentence of §32.06(e). The interest that the property tax lender can charge is described in the first sentence of §32.06(e), and is not part of the funds advanced. There is no indication in §32.06(e) that a property tax lender may charge interest on its own interest. *See William C. Dear & Assocs., Inc. v. Plastronics, Inc.*, 913 S.W.2d 251, 254 (Tex. App.--Amarillo 1996, writ denied) (interpreting a usury statute to prohibit compounding of interest where it was not expressly authorized). For this reason, discount points (as a form of prepaid interest) are not part of the funds advanced under Texas Tax Code, §32.06(e), and should not be included in the principal balance of the loan, as specified in paragraph (4). In addition, paragraph (5) specifies that a lender may not circumvent this requirement by entering into a promissory note or contract for the payment of discount points.

II. Benefits, costs, and impact on small businesses

Leslie L. Pettijohn, Consumer Credit Commissioner, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of administering the amendments.

Commissioner Pettijohn has determined that for each year of the first five years the amended rules are in effect the public benefit anticipated will be that the commission's rules will provide updated guidelines regarding the costs allowed for property tax loans, and will provide more consistency in the transfer of tax liens. Additional benefits of the proposal include enhanced transparency regarding the use of discount points and reduced confusion on the part of property owners.

Certain property tax lenders may incur economic costs in order to comply with the prohibition on financing discount points. However, the commission estimates that these costs will be minimal. Many property tax lenders will be unaffected by the proposed amendments, because they do not currently charge discount points. However, the comments on the December 2014 re-proposal of discount point provisions indicated that a segment of small property tax lenders relies exclusively on closing costs and discount points to compensate the lenders for all origination costs, and that these lenders include discount points in the funds advanced. These lenders will have to adjust their pricing practices in order to comply with the proposed amendments and Tax Code, §32.06(e). Ultimately, the commission estimates that the impact on these lenders will be minimal, because they should be able to recoup these costs through

other methods, such as charging a higher interest rate and ensuring that they are able to retain a portion of that interest rate. Because many lenders currently operate without charging discount points, the commission believes that the segment of property tax lenders referenced earlier will be able to adjust their practices to comply with the amendments and the Tax Code. The costs on these lenders are imposed primarily by the statutory limitations on interest and funds advanced in Tax Code, §32.06(e), rather than the proposed rule changes. The commission is unaware of any property tax lenders that charge discount points in a manner that complies with Tax Code, §32.06(e), but if these lenders exist, the costs on them will be limited to printing brief disclosures on discount points and providing them to property owners.

The proposed amendments may have an impact on some small and micro-businesses. However, the commission estimates that this impact will be minimal. Many small property tax lenders will be unaffected by the proposed amendments, because they do not currently charge discount points. However, the comments on the December 2014 re-proposal of discount point provisions indicated that a segment of small property tax lenders relies exclusively on closing costs and discount points to compensate the lenders for all origination costs, and that these lenders include discount points in the funds advanced. These lenders will have to adjust their pricing practices in order to comply with the amendments and Tax Code, §32.06(e). Ultimately, the commission estimates that the impact on these lenders will be minimal, because they should be able to recoup these costs through other methods, such as charging a higher interest rate and ensuring that they are able to retain a portion of that interest rate.

Because many lenders currently operate without charging discount points, the commission believes that the segment of small property tax lenders referenced earlier will be able to adjust their practices to comply with the amendments and the Tax Code. The impact on these lenders is imposed primarily by the statutory limitation on interest and funds advanced in Tax Code, §32.06(e), rather than the proposed rule changes. The commission is unaware of any small property tax lenders that charge discount points in a manner that complies with Tax Code, §32.06(e), but if these small lenders exist, the impact on them will be limited to printing brief disclosures on legitimate discount points and providing them to property owners.

After the December re-proposal, five commenters argued that the amendments would disproportionately affect small businesses. One commenter stated: "As a small originator in an extremely competitive market, it is necessary for [the commenter], and many other small originators, to utilize investment capital from larger firms to offer flexible property tax loans to homeowners so they will not lose their homes. Without our own funding capabilities, we rely on the origination fees and discount points to be able to meet our financial obligations in running our businesses." Another commenter stated: "As a small business that depends on origination profits we are unable to originate loans at a loss unlike large players in the marketplace . . . which in some cases are publicly held companies that are happy to originate loans at a loss and then make up for it in profits from the interest rate spread they enjoy from those assets." Another commenter stated: "Evidence shows that competition has lowered the average closing costs to a level that is below the true cost of origination. It is

one thing for a business to *choose* to take a loss on origination (at least for a time) for a competitive advantage. It is quite another to *force* all originators to operate at a loss in originations. To do so will drive most originators out of business who do not meet a certain business profile, i.e. large, established originators with access to institutional or extremely cheap financing who originate and own their own loans. Such an originator is able to capitalize their losses in their origination arm and make it up in the interest rate spread over the life of the loan. A small originator without access to cheap investment capital or who sells their loans must make a profit at origination or they will be forced to close their doors."

These commenters have stated that they rely on closing costs and discount points to compensate them for the costs of origination. But closing costs and discount points are not intended to cover *all* costs of origination. Closing costs are intended to cover costs that arise between the loan application and closing, and discount points, in transactions where they are permitted, should be an optional offset that enables a borrower to obtain a lower interest rate than the standard par rate offered by the lender. Therefore, in order to comply with the proposed amendments, these lenders may have to adjust their pricing practices. These lenders may have to recoup their origination costs by charging a higher interest rate and ensuring that they are able to retain a portion of that higher interest rate. It appears that there is room for them to do so; two of the commenters stated that they charge fixed interest rates between 9.90% and 10%, well below the 18% maximum. After making this adjustment, these small lenders will still be able to recover their costs and effectively receive the same stream of payments, but the amounts they charge for closing costs will

more accurately reflect costs actually related to closing. The commission disagrees with the contention that the amendments will force lenders to operate at a loss.

Some commenters emphasized that the combination of a \$900 closing cost cap in §89.601(c) (adopted by the commission in February 2015) and a prohibition on financing discount points would put certain small property tax lenders out of business. For example, one commenter stated: "Lowering origination fees to \$900 and in effect eliminating discount points would put us out of business." Another commenter stated that "to further reduce origination fees beyond the current well thought out guidelines and to, in effect, eliminate discount points, will create an injustice to the property owners by putting them more at risk in the long run with fewer options to assist them with their property taxes which will increase their cost and risk of losing their property." Again, the commission disagrees with the contention that the amendments will force lenders to operate at a loss, because of the alternative pricing structures available to lenders.

The commission believes that small-business-related exceptions to the amendments would be legally infeasible and would not accomplish the objectives of the amendments. First, exempting small businesses from the prohibition on financing discount points would fail to ensure that these small businesses charge legitimate discount points in compliance with the limitations on interest and funds advanced in Tax Code, §32.06(e). Second, along the same lines, simply omitting the discount point provisions in §89.601(d) would fail to ensure that property tax lenders charge legitimate discount points in compliance with the limitations on interest and funds

advanced. Third, the commission also considered including the requirements in paragraphs (1), (2), and (3), and omitting the prohibition on financing discount points in paragraphs (4) and (5). However, this approach would fail to ensure that property tax lenders comply with the limitation on funds advanced in Tax Code, §32.06(e).

The agency estimates that 75 small businesses or micro-businesses will be subject to the proposed rule amendments. This estimate is based on the number of property tax lenders that filed an annual report in 2014 stating that they had total annual income less than \$6 million. However, most of these companies do not charge discount points and will therefore be unaffected by the amendments. The agency estimates that five property tax loan companies will be affected by the proposed amendments because they engage in the practice described earlier (i.e., relying on closing costs and discount points to compensate the lender for all origination costs, and assigning the loan to another party). This estimate is based on the number of property tax lenders that filed an annual report in 2014 stating that they made loans but did not have any loan receivables. The agency estimates that all five of these affected companies are small or micro-businesses, based on the total income they provided in the annual reports that they filed in 2014. If these lenders are including discount points in the funds advanced, then they will have to amend their pricing practices in order to comply with the proposed amendments and Tax Code, §32.06(e).

The precise amount of the amendments' economic cost depends partly on information that the agency does not have. For example, the agency does not know how

many secondary-market participants will be willing to purchase loans from small originators on terms that comply with the proposed amendments. Nonetheless, the commission believes that the economic costs and the impact on small businesses will be minimal. As outlined in the previous discussion, the property tax lenders that currently rely exclusively on closing costs and discount points should be able to recover their costs and effectively receive the same stream of payments by charging higher interest rates. So it is unclear why secondary-market participants would refuse to purchase the loans on terms that allow the lenders to recover substantially the same costs that they recover today.

The commission invites additional comments on the proposed amendments' economic costs in general and their impact on small businesses in particular.

III. Conclusion

Comments on the proposal may be submitted in writing to Laurie Hobbs, Assistant General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207 or by email to laurie.hobbs@occc.texas.gov. To be considered, a written comment must be received on or before the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The amendments are proposed under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance

Code, Chapter 351 and Texas Tax Code, §32.06. Additionally, the amendments are proposed under Texas Finance Code, §11.304, which authorizes the Finance Commission to adopt rules to enforce Title 4 of the Texas Finance Code.

The amendments are also proposed under §32.06(a-4)(2) of the Tax Code, which authorizes the commission to adopt rules relating to the reasonableness of closing costs, fees, and other charges permitted under §32.06.

The statutory provisions affected by the proposed amendments are contained in Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06.

§89.207. Files and Records Required.

Each licensee must maintain records with respect to each property tax loan made under Texas Finance Code, Chapter 351 and Texas Tax Code, §32.06 and §32.065, and make those records available for examination under Texas Finance Code, §351.008. The records required by this section may be maintained by using either a paper or manual recordkeeping system, electronic recordkeeping system, optically imaged recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section.

(1) - (2) (No change.)

(3) Property tax loan transaction file. A licensee must maintain a paper or

imaged copy of a property tax loan transaction file for each individual property tax loan or be able to produce the same information within a reasonable amount of time. The property tax loan transaction file must contain documents that show the licensee's compliance with applicable law, including Texas Finance Code, Chapter 351; Texas Tax Code, §32.06 and §32.065, and any applicable state and federal statutes and regulations. If a substantially equivalent electronic record for any of the following documents exists, a paper copy of the record does not have to be included in the property tax loan transaction file if the electronic record can be accessed upon request. The property tax loan transaction file must include copies of the following records or documents, unless otherwise specified:

(A) For all property tax loan transactions:

(i) - (ix) (No change.)

(x) written documentation of any legitimate discount points offered to the property owner, as described by §89.601(d) of this title, including the written proposal described by §89.601(d)(1)(C);

(B) - (M) (No change.)

(4) - (9) (No change.)

§89.601. Fees for Closing Costs.

(a) - (c) (No change.)

(d) Discount points. Legitimate discount points are prepaid interest and are not subject to the general maximum fee limit described by subsection (c) of this section.

(1) Discount points are legitimate if:

(A) the discount points truly correspond to a reduced interest rate;

(B) the discount points are not necessary to originate the loan; and

(C) before closing, the property tax lender provides the property owner with a written proposal describing the options offered to the property owner, including all of the following:

(i) an offer of a property tax loan that includes a contract rate without discount points and a corresponding annual percentage rate;

(ii) an offer of a property tax loan that includes a lower contract rate based on discount points and a corresponding annual percentage rate;

(iii) the difference between the contract rate without discount points and the lower contract rate, expressed as a percentage or as a number of points;

(iv) the cost of the discount points expressed as a dollar amount; and

(v) the percentage amount equal to the cost of the discount points divided by the principal balance of the loan; and

(vi) a statement that discount points are voluntary and not required to be paid in order to obtain the loan.

(2) If a property tax lender directly or indirectly charges, contracts for, or receives a discount point or other origination fee at closing that is not a legitimate discount point under paragraph (1) of this subsection, then the point or fee is subject to the maximum fee limit described by subsection (c) of this section. A property tax lender may not use the term "discount point" to describe a fee other than a legitimate discount point.

(3) To determine whether a property tax loan exceeds the 18% maximum effective rate of interest described in Texas Tax Code, §32.06(e), legitimate discount points must be included in the calculation of the effective rate. Upon prepayment in full, a property tax lender must spread legitimate discount points in accordance with Texas Finance Code, §302.101.

(4) All legitimate discount points must be paid by the property owner by cash, check, or electronic funds transfer before or at closing of a property tax loan. Discount points may not be included in the funds advanced described by Texas Tax Code, §32.06(e), or in the principal balance upon which interest is calculated.

(5) A property tax lender may not finance any discount points through a separate promissory note or contract, if the note or contract is payable to the property tax lender or to an affiliated business of the property tax lender.

~~[(d) Discount points. A property tax lender may not charge any discount points in connection with a property tax loan. A property tax lender may not use the term "discount point" to describe any fee or charge in connection with a property tax loan. This prohibition applies to all property tax loans, notwithstanding subsection (a).]~~

§89.802. Payoff Statements.

(a) - (b) (No change.)

(c) Required elements. A payoff statement under this section must include:

(1) - (8) (No change.)

(9) an itemization of the total payoff amount, which must include:

(A) the unpaid principal balance on the property tax loan;

(B) the accrued interest as of the balance date; ~~and~~

(C) any refundable amount resulting from unearned legitimate discount points described by §89.601(d) of this title (relating to Fees for Closing Costs); and

~~(D) [E] any other fees that are part of the total amount due under the property tax loan, with a specific description for each fee;~~

(10) - (13) (No change.)

(d) - (l) (No change.)

Certification

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on April 17, 2015.

Laurie B. Hobbs
Assistant General Counsel
Office of Consumer Credit Commissioner

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C.

Texas Department of Banking

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Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 /877-276-5554
www.dob.texas.gov

To: Finance Commission Members
From: Kurt Purdom, Director of Bank & Trust Supervision
Date: April 1, 2015
Subject: Summary of the Bank & Trust Supervision Division Activities

Bank and Trust Supervision					FY 2015							
					8/31/2013		8/31/2014		11/30/2014		2/28/2015	
Industry Profile (# / Assets in billions)												
# Banks	283	\$202.6	273	\$225.2	266	\$228.4	265	\$237.0				
# Trust Co. (1)	21	\$27.0	21	\$40.5	21	\$41.3	21	\$96.9				
# FBA/FBB	10	\$82.1	10	\$93.6	10	\$92.0	10	\$87.1				
Examinations Performed												
Banks	145		125		24		27					
Trust Co.	35		32		9		7					
FBA/FBB	6		2		0		1					
Bank CAMELS (# / %)												
1	125	44.2%	128	46.9%	126	47.4%	127	47.9%				
2	136	48.1%	132	48.3%	130	48.9%	128	48.3%				
3, 4, & 5	22	7.8%	13	4.8%	10	3.7%	10	3.8%				
Non-Rated	0	-	0	-	0	-	0	-				

(1) Fiduciary assets for non-exempt trust companies only.

The Department considers any bank with a Uniform Financial Institutions Composite Rating of 3, 4, or 5, to be a problem institution. As illustrated in the table above, the number of problem banks continues to contract. As of March 31, 2015, problem banks totaled 9. Aided by improved economic conditions, problem bank numbers have returned to pre-recession levels, which we consider to be a range between 3% and 5% of the total number of institutions. Entities with significant oil and gas exposure will be closely monitored in the coming months as a protracted period of low oil prices could result in additional asset quality problems for some institutions and lead to an increase in the number of problem banks.

Administrative/Enforcement Actions <i>(Number outstanding as of the date indicated)</i>		FY 2015				
		8/31/2013	8/31/2014	11/30/2014	2/28/2015	5/31/2015
Banks - Safety and Soundness						
Formal	12	5	3	3		
Informal	26	21	21	19		
Banks - Bank Secrecy Act (BSA)						
Formal	0	0	1	1		
Informal	3	1	0	0		
Banks - Information Technology (IT)						
Formal	0	0	0	0		
Informal	2	4	3	2		
Trust Departments of Banks and Trust Companies						
Formal	0	0	0	0		
Informal	1	1	1	1		
Total Administrative/Enforcement Actions						
Formal	12	5	4	4		
Informal	32	27	25	22		
Total	44	32	29	26		

Formal actions include Orders to Cease and Desist, Consent Orders and Written Agreements.
 Informal actions include Determination Letters, Memoranda of Understanding, Commitment Letters and Board Resolutions.
 Orders of Supervision, Orders of Conservatorship and Compliance actions are not included.

Compliance with Examination Priorities (Past Due Examinations) Percent of Examinations Conducted within Department Guidelines		
Entity Type	FY 2014	FY 2015 <i>(YTD through 02/28/2015)</i>
Commercial Banks <i>(All / DOB Only)</i>	80% / 72%	96% / 95%
IT	89% / 87%	97% / 97%
Trust	94% / 94%	100% / 100%
Foreign Banks (FRB)	100%	100%
Trust Companies (DOB)	97%	90%
IT	93%	100%

The Department has changed its method of tracking and reporting past due examinations. Beginning September 1, 2014, a cumulative percentage of examinations conducted within the Department's policy guidelines, during the fiscal period indicated, are reported. In the past, only the entities that were past due for an on-site examination at the end of each month were reported as past due. We believe that this new reporting method will provide a better representation of the number of examinations that were conducted within our policy guidelines during the reporting period.

Division Highlights

- Oil and Gas Risk Analysis: Division staff conducted a special risk assessment of Texas banks that are active in oil and gas lending. This assessment was performed to better gauge the impact that declining oil and gas commodity prices will have on the Texas banking system. In January, several banks were contacted to discuss issues relating to their oil and gas exposure. As a follow-up, a questionnaire was sent to 22 institutions to obtain more detailed information. Responses to the questionnaire have been received and are being evaluated. A second tier of 37 banks was sent a similar questionnaire with responses due back in mid-April. These second tier banks were located in oil and gas production areas but were not known for having significant direct exposure to the oil and gas industry. Responses to both questionnaires will be used to determine if on-site examinations or additional follow-up is necessary.
- Regional Office Facilities: The Department was notified that the leased building where the Arlington Regional Office is located does not meet all applicable state fire codes. Available sites are being evaluated and a new location will be obtained as soon as possible. In addition, the Houston Regional Office lease has been renewed 12 months. The process of securing a new facility for the Houston Regional Office is beginning.
- Special Operations and Conferences:
 - Review Examiner Whitson participated in a bank regulatory panel at the Texas Bankers Association (TBA) Lending School held in San Antonio on February 12, 2015.
 - Regional Directors from the four regional offices met at the Austin Headquarters Office from February 24 – 25, 2015, primarily to discuss staffing, budgeting and policy issues.
 - Commissioner Cooper, Deputy Commissioner Bacon and Director Purdom participated in a Commissioners' Conference sponsored by the FDIC in Dallas on February 26-27, 2015. Discussion topics centered on the general state of the economy, particularly the impact the declining oil prices could have on regulated entities, supervisory policy, and examination staffing.
 - Commissioner Cooper and various other staff members attended the Independent Bankers Association of Texas Regional meetings held in Galveston, Schulenburg, Corpus Christi, Houston, Kilgore, Mount Pleasant and Dallas from February 24-26, 2015.
 - Deputy Commissioner Newberg and Director Purdom gave a presentation to the Texas A&M Banking Program students on March 3, 2015.
 - Several staff members attended the TBA's Bankers Blitz held in Austin on March 4, 2015.
 - Director Purdom and Review Examiner Miller participated in the CSBS Government Relations Fly-in, CSBS Board Meeting and Education Foundation Meeting held in Washington, D.C. from March 9-12, 2015.
 - Director Purdom participated in a CSBS Performance Standards Committee meeting in Orlando, Florida from March 22-24, 2015.
 - Deputy Commissioner Bacon and Director Purdom met with Senior Vice President Robert Triplett, Assistant Vice President Rob Jolly and Examining Officer Bob Coberly from the Federal

Reserve Bank of Dallas in Austin on March 25, 2015. Topics discussed included examination scheduling, staffing, large bank supervisory issues, and agency policy.

- Federal Capital Programs: The table below provides a snapshot of the two federal capital programs outstanding.

Federal Programs	Troubled Asset Relief Program (TARP) as of 03/06/2015	Small Business Lending Fund (SBLF) as of 02/28/2015
Number of Applicants	80	23
Number of Banks that Received Funds	21	12
Total Amount Distributed <i>(\$ in millions)</i>	\$2,837.7	\$255.7
Number of Banks with Outstanding Funds	1	11
Total Amount Outstanding <i>(\$ in millions)</i>	\$11	\$253.8



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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To: Finance Commission Members

From: Daniel Frasier, Director of Corporate Activities *DBF*

Date: April 1, 2015

Subject: Summary of the Corporate Division Activities

Corporate Activities		Applications and Notices Processed						
Entities	FY2012	FY2013	FY2014	2Q14	3Q14	4Q14	1Q15	2Q15
*Banks and Bank-related (holding companies, etc.)	205	197	271	59	59	78	45	57
Foreign Banks	7	1	0	0	0	0	0	1
Trust Companies	7	11	13	2	8	2	3	2
MSBs	18	21	23	7	5	3	7	4
PCSEAs	7	3	11	5	1	3	0	1
CVEs	5	4	3	3	0	0	0	3
Cemetery Brokers	-	-	4	3	1	0	0	2
Other (Use of Name)	44	67	41	10	13	12	10	12
Totals	293	304	366	89	87	98	65	82
		Background Checks Completed						
Entities	FY2012	FY2013	FY2014	2Q14	3Q14	4Q14	1Q15	2Q15
#Banks and Bank-related (holding companies, etc.)	76	71	111	51	17	6	4	16
Foreign Banks	0	0	0	0	0	0	0	0
Trust Companies	14	8	10	2	8	0	8	0
MSBs	199	130	108	27	22	14	43	29
Other	1	1	0	0	0	0	0	0
Totals	290	210	229	80	47	20	55	45

- Includes all types of applications and notices for each entity.

Entities/Activities	Application and Notices Under Review (as of April 1, 2015)
*Banks and bank-related (holding companies, etc.)	15
Foreign Banks	1
Trust Companies	2
MSBs	12
PCSEAs	1
CVEs	0
Cemetery Broker	0
Other (Use of Name)	0
Totals	31

Division Highlights

- The volume of filings received thus far in 2015 is considered moderate and in line with aggregate 2014 volumes. Bank merger activity continues unabated at an elevated pace. Additionally, we continue to see heightened numbers of protests and comments on applications, especially on merger and branch applications.
- Chartering, Conversion, and Merger Activity – The following transactions consummated in the second quarter of the 2015 fiscal year:
 - *Banks*
 - Southside Bank, Tyler, completed its merger acquisition of OmniAmerican Bank, FSA, Fort Worth
 - Farmers State Bank of Newcastle, Newcastle, completed its conversion to a Texas state bank
 - PlainsCapital Bank, Dallas, completed its merger acquisition of Southwest Securities, FSB, Dallas
 - LegacyTexas Bank, Plano, completed its merger with ViewPoint Bank, N.A., Plano
 - Allegiance Bank Texas, Houston, completed its merger acquisition of Enterprise Bank, Houston
 - Pilgrim Bank, Pittsburg, completed its merger acquisition of State National Bank of Texas, Iowa Park
 - First State Bank, Gainesville, completed its merger acquisition of North Texas Bank, N.A., Decatur
 - HBank Texas, Grapevine, merged with and into InterBank, Oklahoma City, Oklahoma
 - *Trust Companies*
 - Vaughan Nelson Trust Company, Houston, voluntarily closed

Finance Commission Memorandum
Corporate Activities

- Conferences and Committee Meetings – Corporate participation included the following conferences and external committee meetings:
 - Director Frasier attended the Nationwide Mortgage Licensing System (NMLS) conference in San Diego, California from February 16-18, 2015. The conference included information about processing Money Services Business Licenses using NMLS;
 - Director Frasier attended the TBA’s Bankers Blitz held in Austin on March 4, 2015; and,
 - Corporate Analyst Xazel Garcia participated in monthly Money Transmitter Regulators Association (MTRA) Licensing Committee call on March 25, 2015.



Charles G. Cooper
Commissioner

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To: Finance Commission Members

From: Russell Reese, Director of Special Audits *Russell Reese*

Date: April 1, 2015

Subject: Summary of the Special Audits Division Activities

Special Audits				FY 2015								
Entity	FY2013		FY2014		1 st		2 nd		3 rd		4 th	
Industry Profile (# / Assets (billions))												
MSB	135	\$96.2	136	\$96.0	141	\$96.4	142	\$96.4				
PFC	389	\$3.3	381	\$3.4	386	\$3.4	386	\$3.6				
PCC	244	\$275.8	242	\$286.6	242	\$291.4	242	293.5				
CB	-	-	4	n/a	4	n/a	6	n/a				
PCSEA	11	n/a	11	n/a	11	n/a	11	n/a				
CVE	3	n/a	3	n/a	3	n/a	2	n/a				
Examinations Performed												
MSB	94		93		28		23					
MSB Limited Scope	1		0		0		0					
MSB Accepted other State	14		6		0		3					
PFC	254		295		59		59					
PFC Limited Scope	8		10		1		1					
PCC	177		179		44		60					
PCC Limited Scope	6		6		0		0					
Ratings (# / %) Assigned to All Regulated Entities												
1	278	37%	319	43%	316	43%	335	46%				
2	362	48%	355	48%	367	50%	348	48%				
3,4, & 5	114	15%	66	9%	54	7%	46	6%				
Noncompliance with Examination Priorities (Past Due)												
MSB	9		15		9		5					
PFC	41		1		3		3					
PCC	31		4		5		2					
Enforcement Actions												
MSB	2		3		1		4					
PFC	7		1		2		2					
PCC	6		0		0		0					
PCSEA	0		0		0		0					

NOTES:

PCC \$ amounts reflected in the millions.

Limited scope examinations do not receive a rating.

Division Activities:

Below is a breakdown on all past due examinations:

- All 10 past due Special Audit examinations are on average approximately 60 days past due.
- Our current examination schedule reflects that three of the past due MSB examinations were completed in March 2015. The remaining two examinations have been delayed until June and August 2015 due to coordination with other MTRA state agencies and the CFPB.
- Our current examination schedule reflects that two of the past due PFC examinations were completed in March 2015. The remaining PFC examination has been delayed until April 2015 due to a pending insurance conversion.
- The two past due PCC examinations are in legal proceedings, which prohibited the completion of these examinations.
- Special Audits met all performance measures for the second quarter of FY 15.

Director Reese participated in the recent CFPB Compliance Management Systems (CMS) review of Money Gram and the March 4th board meeting in Frisco, Texas, with the CFPB and MoneyGram personnel to discuss the preliminary findings of the review. The CMS review is the first of a two part examination process of MoneyGram by the CFPB. The second part of the CFPB examination (Target Exam) will take place in coordination with other state examiners in July 2015 with Texas acting as the lead state. The goal of the coordinated examination is to communicate and share examination information with the CFPB. MoneyGram represents the first MSB examination performed by the CFPB.

During the week of March 30th, Review Examiner Saucillo attended the CSBS IT Examiner School in Raleigh, North Carolina. The training program is intended to give examiners a basic overview of information technology, including emerging technologies, and risk assessments to operations and management.

We continue to utilize staff resources to monitor for and investigate illegal activity, and when necessary, initiate appropriate regulatory enforcement actions against licensed and/or unlicensed entities to ensure compliance with applicable rules and regulation to protect the rights and interests of Texas consumers. In the past six months, these investigations have resulted in enforcement actions against four companies and the assessment of over \$400,000 in fines and penalties.

Since the Department issued Supervisory Memorandum (SM) 1038 that sets out the Department's interpretation of what it means for a money transmission license holder to conduct business through an authorized delegate (AD) in October 2014, we have contacted 21 companies that were determined to be conducting their own business and not the business of the license holder. This has resulted in several companies contacting the Department and beginning the process of filing the required documentation to obtain their own MSB license.

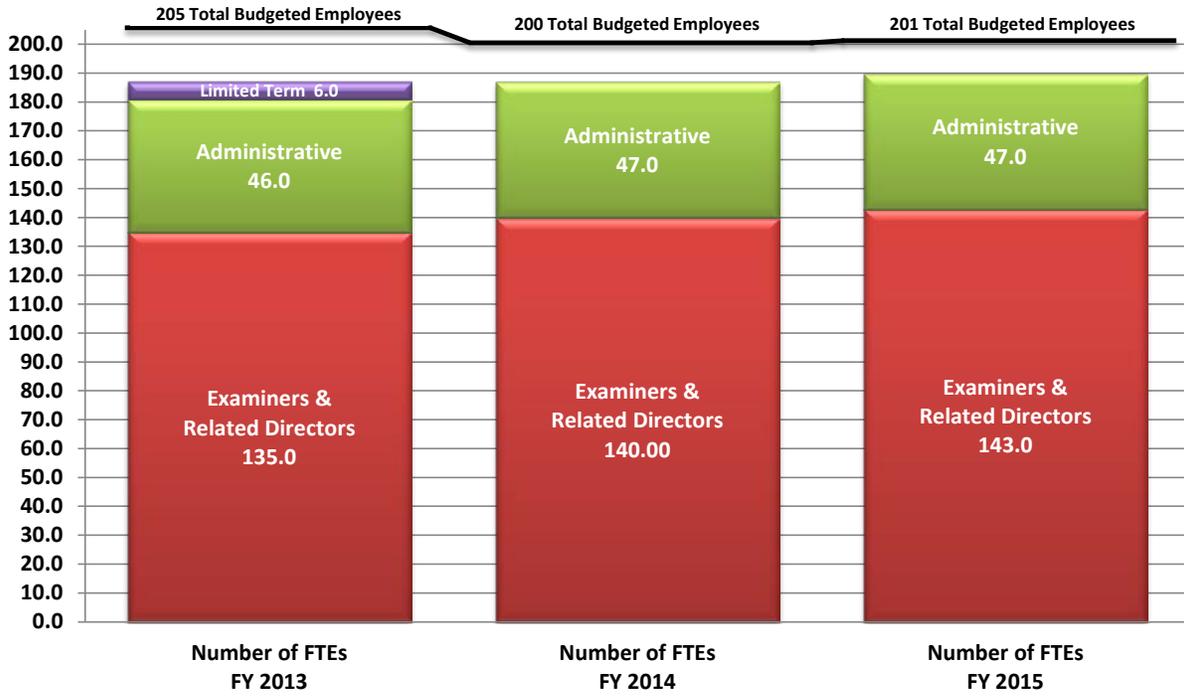
Actual Performance for Output/Efficiency Measures
Fiscal Year 2015
For Period Ending February 2015

Type/Strategy/Measure	2015 Target	2015 Quarter	2015 YTD	Percent of Annual Target
Output Measures-Key				
1-1-1	BANK EXAMINATION			
	1. # BANK EXAMINATIONS PERFORMED			
Quarter 1	107	24	24	22.43%
Quarter 2	107	28	52	48.60%
	2. # TRUST/IT EXAMINATIONS PERFORMED			
Quarter 1	235	54	54	22.98%
Quarter 2	235	53	107	45.53%
1-2-1	NON-BANK EXAMINATION			
	1. # SPECIAL AUDIT LICENSEES EXAMINED			
Quarter 1	560	132	132	23.57%
Quarter 2	560	146	278	49.64%
1-3-1	APPLICATION PROCESSING			
	1. # LICENSE APPLICATIONS COMPLETED			
Quarter 1	322	64	64	19.88%
Quarter 2	322	83	147	45.65%

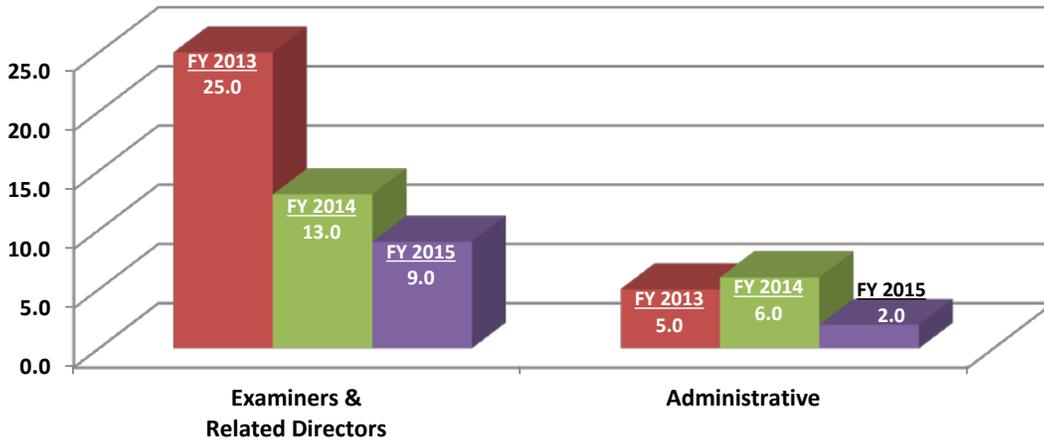
* Varies by 5% or more from target.

Texas Department of Banking

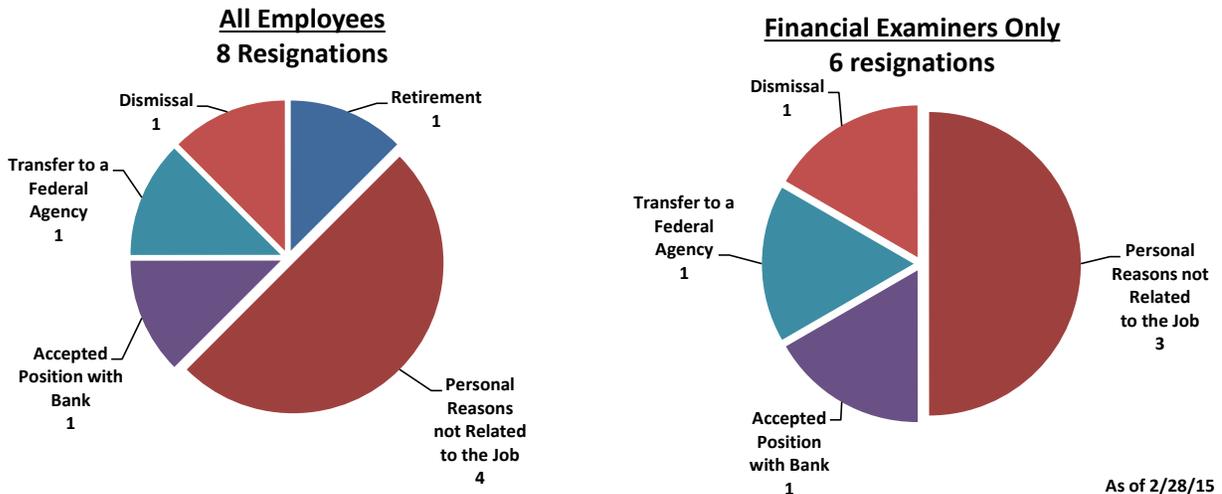
Employee Data for Fiscal Years 2013, 2014 and 2015 as of 2/28/15



New Hire Data for Fiscal Years 2013, 2014 and 2015



FY 2015 Employee Turnover Reasons



As of 2/28/15



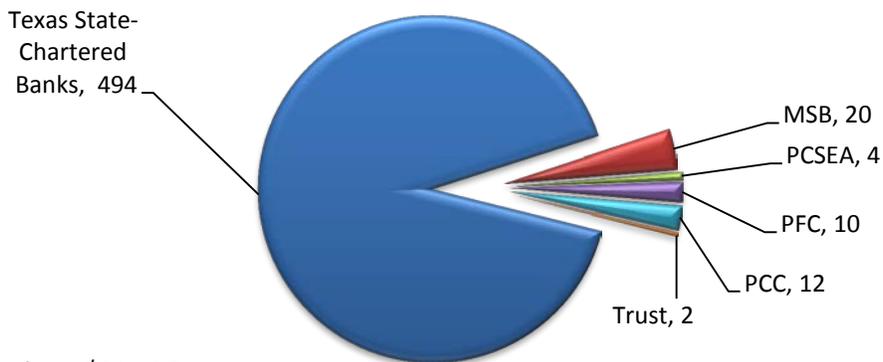
Charles G. Cooper
Commissioner

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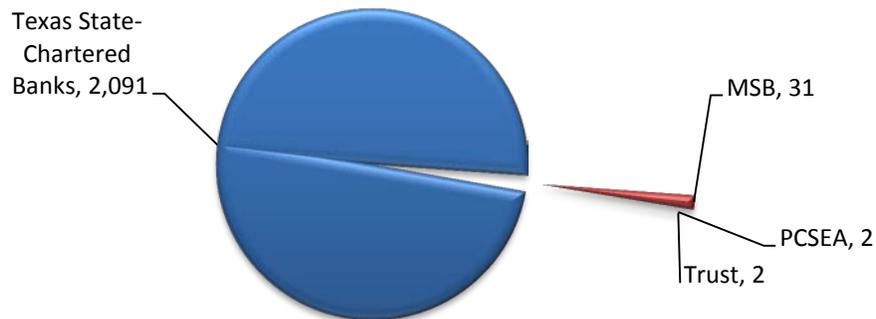
To: Finance Commission Members
From: Wendy Rodriguez, Director of Strategic Support *WR*
Date: April 1, 2015
Subject: Summary of the Strategic Support Division Activities

Complaints on Regulated Entities September 2014 - February 2015



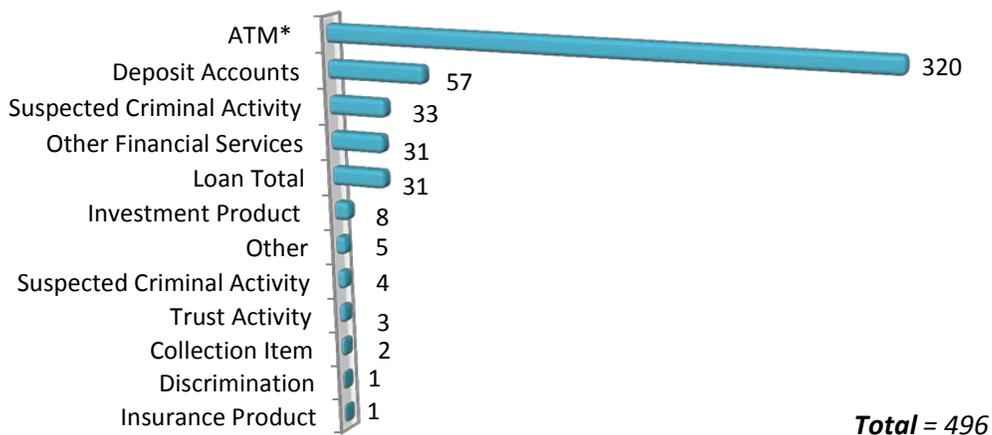
Recoveries = \$11,468.44
Total = 542

Inquiries on Regulated Entities September 2014 - February 2015



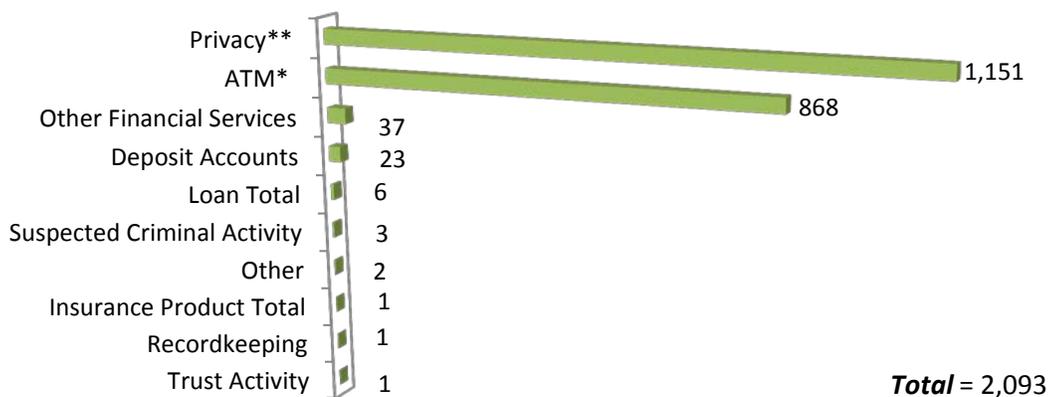
Total = 2,126

State-Chartered Banks and Trust Companies Complaints by Type September 2014 - February 2015



* Activity related outages in ATM network for one institution. Consumers contacted Department because the institution was experiencing a high call volume and they were unable to get through to a representative.

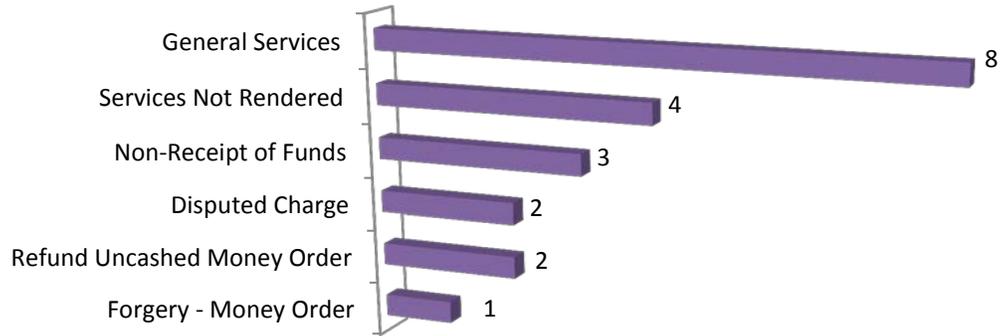
State-Chartered Banks and Trust Companies Inquiries by Type September 2014 - February 2015



**High activity related to annual privacy notice containing the Department's contact information.

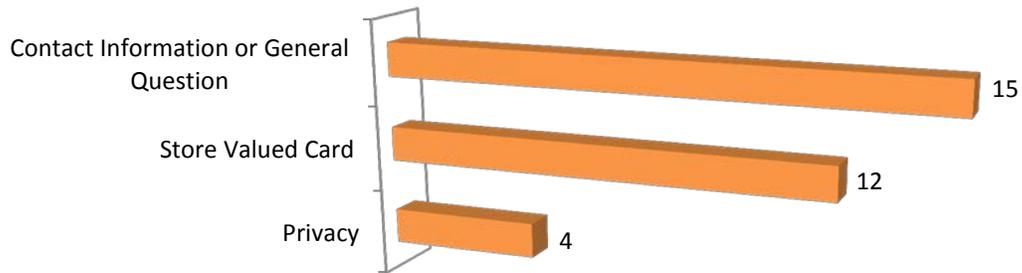
* Activity related to consumers inquiring about their personal accounts and outages in ATM network for one institution. Consumers contacted Department because the institution was experiencing a high call volume and they could not get through to entity.

Money Services Businesses Complaints by Type September 2014 - February 2015



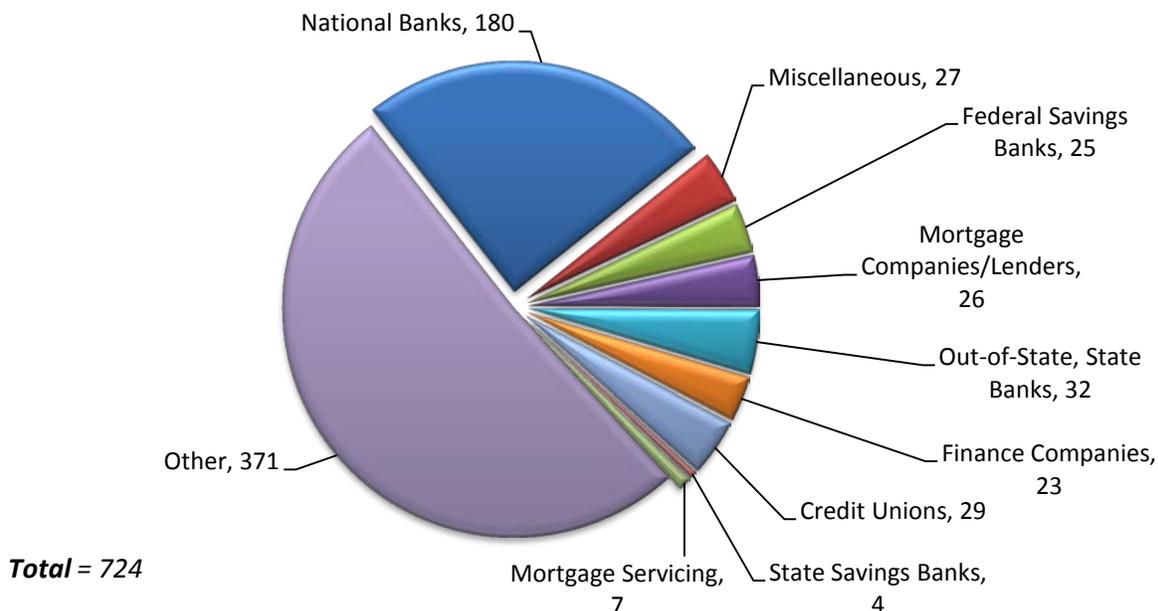
Total: 20

Money Services Businesses Inquiries by Type September 2014 - February 2015



Total: 31

Complaints and Inquiries Against Nonregulated Entities September 2014 - February 2015



Average Number of Days to Close a Complaint

Type	Sept. 2014 – Feb. 2015
State-Chartered Banks	13
Trust	5
PCSEA	4
PFC/PCC	31
MSB	45

CANS Activity

January 1, 2011 – March 31, 2015

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	243	1,636
Texas State-Chartered Savings Banks	30	50
Federal Savings Banks	10	283
State Credit Unions	161	1,143
Federal Credit Unions	229	1,207
National Banks	165	609
Out-of-State State-Chartered Banks	11	0
Out-of-State National Banks	4	66
Total	853	4,994

Bank Examination Testing System (BETS) Activity

	FY 2012	FY 2013	FY 2014	FY 2015 Sept. Mar.
Beginning Balance of FE3's	27	20	16	14
Number of Candidates Passing Each Phase				
I. General Knowledge	6	3	5	4
II. Loan Analysis	5	8	1	2
III. Panel	4	10	2	3
IV. Test Bank	3	11	1	2
Ending Balance of FE 3's	20	16	14	21

Promotions				
From FE3A to FE3B	6	3	5	4
From FE3B to FE4 (Commissioned Examiner)	3	9	2	2

Other Divisional Items:

- The March 2014 edition of the Condition of the Texas State Banking System Report is available. The report contains financial data as of December 31, 2014.
- The Financial Education Coordinator (FEC) conducted two bank visits in February. Each state-chartered bank received financial education material and related resources.
- April is Financial Literacy month. The FEC will be participating in several events including Financial Fitness Greater Austin.
- Two Supervisory Memorandums (SM) were updated in February.
 - SM 1020 regarding IT Examination Frequency
 - Revision included the addition of exceptions to the IT Examination Frequency, the inclusion of a definition in the Scope of Examinations section; the expansion the IT Examination Scope and Frequency schedule for banks to include bank asset size; and the updated contact information for the Chief IT Security Examiner.
 - SM 1003 Examination Frequency
 - Revision included the clarification that examinations started within 30 days from the date they are due are considered to meet the Department's performance measures; the addition of exceptions to Bank Examination Frequency Schedule, and specifications indicating that de novo banks will have a Level I exam annually for the first five years of operation.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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Memorandum

TO: Finance Commission Members
FROM: Catherine Reyer, General Counsel
DATE: April 1, 2015
RE: Legal Division Update

Litigation

Antioch St. Johns Cemetery Co. v. The Texas Department of Banking Commissioner, Cause No. D-1-GN-14-000367, In the 261st District Court of Travis County, Texas. Plaintiffs filed this case on February 6, 2014, appealing the Banking Commissioner's order requiring them to pay \$56,000 in administrative penalties for numerous violations of Health and Safety Code provisions governing cemeteries. The case will be heard by Judge Scott Jenkins on April 30, 2015. Plaintiffs filed their brief in support of their amended petition for judicial review of the order on February 2. The Attorney General's Office filed our brief on March 3, 2015.

State of Texas v. Myrtlewood Memorial Services d/b/a Harlingen-Combes Memorial Cemetery, Cause No. 2013-DCL-2248-B, In the 138th Judicial District Court of Cameron County, Texas. This is a case initially filed to seek the appointment of a receiver. A suitable buyer for the cemetery has not been located. We have drafted a potential legislative change that would assist the Department in resolving this situation and others similar.

State of Texas v. House Savings Investment, LLC, et al, Cause No. D-1-GV-13-000763, In the 353rd District Court of Travis County, Texas. On July 26, 2013, the district court issued a temporary restraining order and appointed a temporary receiver under the authority of Chapter 151, Texas Finance Code, to take control of two companies performing money services business activities (bi-monthly mortgage payments). An agreed permanent injunction and appointment of permanent receiver order was entered by the court on August 13, 2013. The receiver closed the company offices in Houston and is continuing to administer the estate, investigate misappropriation of customer funds, prosecute litigation against third parties, and pursue and recover estate assets. Following review and approval by the Department and the OAG, the receiver entered into an agreed settlement on March 13 with two of the defendants that will bring an estimated \$732,000 into the estate for distribution to harmed consumers.

Contested Case Hearings

In re EscrowHill Limited, et al., Docket No. BM-1503-14-277(HN). EscrowHill allegedly violated Texas Finance Code, Chapter 151, by conducting money transmission without a license. The Commissioner issued an Order to Cease and Desist Activity against EscrowHill on November 26, 2014. The order required EscrowHill to immediately cease offering money transmission services to Texas residents and to reconfigure their website to prevent Texas residents from using their services. EscrowHill did not request a hearing and the order became effective on December 22, 2014. Within a few days of the order becoming effective, Department staff reviewed EscrowHill's website and verified that it included statements indicating that money transmission services were not available to Texas

residents. However, in early January 2015, Department staff became aware that the company's website had been modified again. The current version of EscrowHill's website allows Texas residents to register for their services, and contains no statements that the services are not available to Texas residents. The hearing has been continued to allow the parties an opportunity to discuss possible settlement.

In re Juba Express Group, LLC, Docket No. BM-1501-14-267(HN). Juba holds a license issued by DOB to operate a money transmission business. In May 2014, the Department issued a report of examination citing numerous violations and deficiencies. Juba allegedly provided an insufficient response to the report in September 2014. On October 3, 2014, the Department issued an Order to Cease and Desist Activity and to Revoke License. Juba timely requested a hearing to contest the order. Juba has since submitted documentation to the Department allegedly curing the deficiencies noted in the ROE. The hearing is set for June 15, 2015, but Juba has recently indicated its intent to surrender its license.

Orders

Since the last Legal Division memo was prepared, the Commissioner issued nine orders, including the following final public orders:

- Order No. 2015-001a, dated 2/27/2015; Consent Order, Otti Money Exchange, Inc., Brownsville, TX
- Order No. 2015-003, dated 2/11/2015; James Parker Consent Removal Order and Stipulation to Consent, The Elkhart State Bank, Elkhart, TX
- Order 2015-004, dated 2/27/2015; Consent Order, U.S. Equity Advantage Holdings, Inc., Orlando, FL
- Order 2015-006, dated 3/5/2015; Consent Order, SWCS, Inc., dba LaMesa Memorial Park, LaMesa, TX
- Order 2014-015c, dated 3/25/2015; Third Consent Order, Smart Payment Plan, LLC, Naples, FL
- Order 2015-005, dated 3/5/2015; Cease and Desist Order, Brickstone Trust Bank, Pflugerville, TX (*unlicensed and unchartered but purporting to be a bank*)

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §3.91, Concerning Loan Production Offices.

PURPOSE: Amendments to §3.91 are proposed for adoption to clarify the requirements necessary for a foreign bank to establish a loan production office in this state.

RECOMMENDED ACTION: No comments were received on 7 TAC §3.91. The Department recommends that the Commission approve adoption of the amended rule in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt amendments to 7 TAC §3.91 without changes to the proposal as previously published in the *Texas Register*.

Title 7. Banking and Securities
Part 1. Finance Commission of Texas
Chapter 3. State Bank Regulation
Subchapter E. Banking House and Other Facilities
7 TAC §3.91

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts amendments to §3.91, concerning Loan Production Offices without changes to the proposed text as published in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1004) and will not be republished.

The amended rule clarifies the requirements necessary for a foreign bank to establish a loan production office in this state.

The amendments to §3.91 clarify and provide the requirements foreign banks must fulfill to establish and maintain loan production offices in Texas. Under revised §3.91(g), a foreign bank must comply with Finance Code Chapters 201 and 204 in order to establish a loan production office (LPO) in this state, unless the LPO is being established as an office of a Federal branch regulated by the Office of the Comptroller of the Currency. In that case, then under §3.91(h), the Federal branch must instead comply with the provisions of the Finance Code, Chapter 201, Subchapter B and notify the Banking Commissioner (the commissioner) of the proposed establishment of the office and provide the information as required by §3.91(h)(1).

An LPO of a Federal branch that seeks to relocate or close an established LPO in

this state, must notify the commissioner in writing of the planned relocation or closure of the LPO per §3.91(h)(2). Under §3.91(h)(3), no examinations or fees will be required under Finance Code, Chapter 204, for an LPO of a Federal branch.

The Department received no comments regarding the proposed amendments.

The amendment is adopted pursuant to Finance Code, §201.003, which provides that the commission may adopt rules to accomplish the purposes of Title 3, Subtitle G, of the Texas Finance Code, including rules to implement and clarify this subtitle, which includes Chapter 204 governing Foreign Banks.

§3.91. Loan Production Offices.

(a) Loan production activities. A Texas state bank may, to the extent authorized by its board of directors, engage in loan production activities at a site other than the home office or a branch of the bank, and may use the services of, and compensate, persons not employed by the bank in its loan production activities. Subject to the requirements of subsection (b) of this section, the bank or its operating subsidiary may establish a loan production office (LPO) at which an employee or agent of the bank or of its operating subsidiary accepts loan applications, provided that the loan is made at the home office or a branch of the bank or at an office of the operating subsidiary located on the premises of, or contiguous to, the home office or branch of the bank. A LPO is not a branch within the meaning of Finance Code, §31.002(a)(8), so long as it does not engage the public in the

business of banking as defined by Finance Code, §31.002(a)(4), including making loans, receiving deposits, and paying withdrawals, drafts, or checks. All such deposit or withdrawal activity must be performed by the state bank customer in person at the home office or a branch, or by mail, electronic transfer, or similar transfer method.

(b) Required information. Pursuant to Finance Code, §32.204(b), a Texas state bank shall notify the banking commissioner of its intent to establish a new LPO. The banking commissioner must be notified in writing before the 31st day preceding the date of establishment of the LPO, except that the banking commissioner in the exercise of discretion may waive or shorten the period. The written notification must include the physical address of the planned LPO, a list of the specific activities to be performed at the planned LPO, the anticipated date for the establishment of the LPO, and other information which the banking commissioner may reasonably request.

(c) Relocation or closure of a LPO. A Texas state bank which seeks to relocate or close an established LPO, shall notify the banking commissioner in writing before the fifth day preceding the date of the planned relocation or closure of the LPO. The written notification must include the physical address of the relocated or closed LPO, the anticipated date for the closure or relocation of the LPO, and other information which the banking commissioner may reasonably request.

(d) Exemption: temporary LPO. Subsections (b) and (c) of this section do not

apply to a LPO which operates for less than a total of 21 days in any one 12-month period. Instead, state banks shall register the location of a temporary LPO with the banking commissioner no later than the tenth day after such office is opened. As a part of such notice, the bank may indicate the anticipated repeated use of such office through the year. For example, a temporary LPO in a convention or exposition hall used in connection with trade shows may be registered once each year with an estimate of usage throughout the year.

(e) Transactions with management and affiliates. A state bank establishing a LPO involving the purchase or lease of personal or real property from an officer, director, manager, managing participant, or principal shareholder or participant of the bank or an affiliate of the bank, must comply with the provisions of the Finance Code, §33.109, and §3.22 of this title (relating to Sale or Lease Agreements With an Officer, Director, or Principal Shareholder of the Bank or of an Affiliate of the Bank).

(f) Out-of-state banks. A bank not domiciled or primarily located in this state must comply with the provisions of the Finance Code, Chapter 201, Subchapter B (§§201.101 *et seq.*), to establish a LPO in this state.

(g) Foreign bank LPOs. A banking corporation or association incorporated or organized under the laws of a jurisdiction other than the United States or a state, territory, commonwealth, or other political subdivision of the United States, must comply with the provisions of the Finance Code, Chapter 201, Subchapter B (§§201.101 *et seq.*), and Finance Code,

Chapter 204, to establish an LPO, unless the LPO will be an office of a Federal branch regulated by the Office of the Comptroller of the Currency (OCC). In the latter case, the Federal branch must comply with subsection (h) of this section.

(h) Federal branch LPO. A Federal branch may establish an LPO in this state by complying with the provisions of Finance Code, Chapter 201, Subchapter B (§§201.101 *et seq.*), and by notifying the banking commissioner of its intent to establish the LPO.

(1) The Federal branch shall notify the banking commissioner in writing on or before the 31st day preceding the date of establishment of the LPO, except that the banking commissioner may waive or shorten the period if the banking commissioner does not have a significant supervisory or regulatory concern regarding the Federal branch or its planned LPO. The written notification must include the physical address of the planned LPO, a list of the specific activities to be performed at the planned LPO, the anticipated date for the establishment of the LPO, documentation evidencing the approval of the OCC, and such other information as the banking commissioner may reasonably request.

(2) To relocate or close an existing LPO in this state, a Federal branch shall notify the banking commissioner in writing on or before the tenth day following the date of the relocation or closure of the LPO. The written notification must include the physical address of the LPO, the date for its closure or relocation, documentation evidencing the approval or acquiescence of the OCC, and such other information as the

banking commissioner may reasonably request.

(3) An LPO of a Federal branch established in compliance with this section is not subject to examination by the banking commissioner under, or subject to any fee imposed by, Finance Code, Chapter 204.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

3. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §3.23, Concerning Exercise of Trust Powers.

PURPOSE: New §3.23 is designed to ensure that a state bank seeking to offer trust services can provide those services reliably and consistently without undue risk to its customers or to the safety and soundness of the institution. Only a bank that does not currently provide trust services and has not provided trust services over a year would be required to file a notice with the commissioner. In general, a bank filing notice could begin providing trust services on the 31st day after the notice is received by the banking commissioner unless the commissioner specifies an earlier or later date, subject to any conditions imposed by the banking commissioner and any required approval of the bank's primary federal regulator. The banking commissioner may extend the decision period if the bank's notice raises issues that require additional information or additional time for analysis but, if the period is extended, the bank must wait for the commissioner's written approval to begin providing trust services.

RECOMMENDED ACTION: One comment in support of new 7 TAC §3.23 was received from the Independent Bankers Association of Texas (IBAT). The Department recommends that the Commission approve adoption of the new rule.

RECOMMENDED MOTION: I move that we adopt new 7 TAC §3.23 without changes to the proposal as previously published in the *Texas Register*.

Title 7. Banking and Securities
Part 1. Finance Commission of Texas
Chapter 3. State Bank Regulation
Subchapter B. General
7 TAC §3.23

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts new §3.23, concerning exercise of trust powers without changes to the proposed text as published in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1002) and will not be republished.

The new rule is adopted to ensure that a state bank seeking to offer trust services can provide those services reliably and consistently without undue risk to its customers or to the safety and soundness of the institution.

Section 3.23(a) defines "trust services" to mean service as a fiduciary to hold or administer accounts established through a customer relationship involving the transfer of title to funds or property to the bank, including a relationship in which the bank acts as a trustee, executor, administrator, guardian, custodian, conservator, receiver, registrar of stocks and bonds, mortgage or indenture trustee, escrow agent, transfer agent, or investment advisor.

However, excluded from the term are relationships in which the bank as trustee or custodian acts in an essentially custodial or ministerial capacity, and can only invest the funds in its own time or savings deposits or in other assets at the explicit direction of the customer, provided the bank does not exercise any investment discretion or

provide any investment advice with respect to such other assets. This exception permits serving as the fiduciary under accounts like Individual Retirement Accounts established pursuant to the Employee Retirement Income Security Act of 1974 (26 U.S.C. 408), Self-Employed Retirement Plans established pursuant to the Self-Employed Individuals Retirement Act of 1962 (26 U.S.C. 401), Roth Individual Retirement Accounts and Coverdell Education Savings Accounts established pursuant to the Taxpayer Relief Act of 1997 (26 U.S.C. 408A and 530 respectively), Health Savings Accounts established pursuant to the Medicare Prescription Drug Improvement, and Modernization Act of 2003 (26 U.S.C. 223), and other similar accounts without having to obtain prior approval to provide trust services.

Only a bank that does not currently provide trust services and has not provided trust services over a year is required to file a notice with the commissioner, as specified by §3.23(b). Section 3.23(c) itemizes the information required to be included in a notice submission for approval to provide trust services.

Finally, §3.23(d) permits a bank that already has trust powers specified in its certificate of formation to begin providing trust services on the 31st day after the notice is received by the banking commissioner unless the commissioner specifies an earlier or later date, subject to any conditions imposed by the banking commissioner and any required approval of the bank's primary federal regulator. The banking commissioner may extend the decision period if the bank's notice raises issues that

require additional information or additional time for analysis but, if the period is extended, the bank must wait for the commissioner's written approval to begin providing trust services. A bank that is amending its certificate of formation to authorize trust powers must also wait for the commissioner's written approval.

The Department received one comment in support of the proposed new rule from the Independent Bankers Association of Texas.

The new rule is adopted pursuant to Finance Code §31.003(a)(2), which authorizes the commission to adopt rules necessary or reasonable to preserve or protect the safety and soundness of state banks. As required by Finance Code §31.003(b), the commission has considered the need to (1) promote a stable banking environment; (2) provide the public with convenient, safe, and competitive banking services; (3) preserve and promote the competitive position of state banks with regard to national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system; and (4) allow for economic development in this state.

§3.23. Exercise of Trust Powers.

(a) As used in this section, "trust services" mean services provided to the public as a fiduciary for hire or compensation, to hold or administer accounts established through a customer relationship involving the transfer of title to funds or property to the bank, including a fiduciary relationship in which the bank acts as trustee, executor, administrator, guardian, custodian, conservator, receiver, registrar of

stocks and bonds, mortgage or indenture trustee, escrow agent, transfer agent, or investment advisor, except that "trust services" do not include customer services in which:

(1) the bank's duties as trustee or custodian are essentially custodial or ministerial in nature; and

(2) the bank may only invest customer funds:

(A) in its own time or savings deposits; or

(B) in other assets at the explicit direction of the customer, provided the bank does not exercise any investment discretion or provide any investment advice with respect to such other assets.

(b) A state bank that does not currently provide trust services and has not provided trust services for a period in excess of one year may not begin offering or providing trust services except upon compliance with this section and with any requirements imposed by the bank's primary federal regulator.

(c) A state bank described in subsection (b) of this section that intends to offer and provide trust services shall submit a notice to the banking commissioner describing the proposed trust services and the anticipated date for initiation of such services. In addition, the bank must submit:

(1) the bank's proposed business plan for providing trust services, including the

policies and procedures the bank will employ to manage its fiduciary risk;

(2) sufficient biographical information on proposed trust management personnel to enable the banking commissioner to assess their qualifications;

(3) a description of the locations where the bank proposes to offer trust services and the manner in which such services will be provided at each location, including the extent to which fiduciary authority is proposed to be delegated to personnel at such location;

(4) if the bank's certificate of formation does not authorize the bank to exercise the trust powers necessary to provide the proposed trust services, an application for amendment of its certificate of formation pursuant to Finance Code, §32.101, accompanied by the filing fee required by §15.2 of this title (relating to Filing Fees and Cost Deposits); and

(5) a copy of any filings made with the bank's primary federal regulator providing notice or seeking approval to offer trust services.

(d) Provided the bank's certificate of formation authorizes the bank to exercise trust powers sufficient to provide the proposed trust services, and subject to any conditions imposed by the banking commissioner and any required approval of the bank's primary federal regulator, the bank may begin offering and providing trust services on the 31st day after the date the banking commissioner receives the bank's notice under subsection (c) of this section unless the banking commissioner specifies

an earlier or later date. The banking commissioner may extend the 30-day period on a determination that the bank's notice raises issues that require additional information or additional time for analysis. If the period is extended, or if the bank is amending its certificate of formation to authorize trust powers, the bank may not offer or provide trust services until it has received written approval of the banking commissioner.

Certification

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

March 19, 2015

General Counsel
Texas Department of Banking
Legal Division
2601 N. Lamar Blvd., Suite 300
Austin, TX 78705-4294

RECEIVED
MAR 23 2015
DEPARTMENT OF BANKING
AUSTIN, TEXAS

Karen M. Neeley

kneeley@coxsmith.com
512.703.512 703 6315

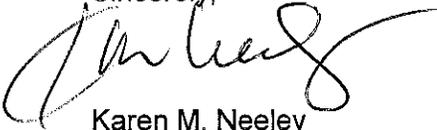
Re: Proposed Regulation 7 TAC § 3.23

Dear Ms. Reyer:

The following comments are submitted on behalf of the Independent Bankers Association of Texas (IBAT), a trade association representing approximately 400 independent, community banks domiciled in Texas. About half of the members have a state charter and would be affected by the proposed regulation at 7 TAC § 3.23. Although most of these state chartered banks do not currently exercise trust powers, virtually all of them offer deposit accounts for IRAs. Accordingly, the exception from "trust services" which is spelled out in (a) is extremely important.

IBAT members have long relied on informal interpretations from the Department of Banking relating to trust powers and have offered custodial IRAs and SEPs as traditional time deposits. This clarification that such a custodial time deposit is not a trust service is very helpful. It is consistent with Opinion No. 01-09 but will carry greater weight. Thank you for this clarification as to the definition of trust powers.

Sincerely,



Karen M. Neeley

KMN:egw

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4. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §33.52, Concerning How to Provide Information to Customers about Filing a Complaint.

PURPOSE: New §33.52 is proposed for adoption to implement Texas Finance Code §151.403(a)(6), which requires the authorized delegate of a money transmission license holder to display a notice indicating that the person is an authorized delegate.

RECOMMENDED ACTION: No comments were received on 7 TAC §33.52. The Department recommends that the Commission approve adoption of the new rule in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt new 7 TAC §33.52 without changes to the proposal as previously published in the *Texas Register*.

Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 33. Money Services Businesses
7 TAC §33.52

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts new §33.52, concerning how to provide information to customers about authorized delegates, without changes to the proposed text as published in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1005) and will not be republished.

The new rule is adopted to implement Texas Finance Code §151.403(a)(6), which requires the authorized delegate of a money transmission license holder to display a notice indicating that the person is an authorized delegate.

Texas Finance Code §151.403 circumscribes the conduct to which an authorized delegate of a money transmission license holder must conform. Under §151.403(a)(6), an authorized delegate "must prominently display on the form prescribed by the commissioner a notice that indicates that the person is an authorized delegate of the license holder." The department has generally allowed authorized delegates to include this notice as part of the consumer complaint notice required by 7 TAC §33.51, without mandating a specific form. This approach has proved successful. In order to satisfy the requirement of Finance Code §151.403(a)(6) that the commissioner prescribe a form for this notice, and to clarify for regulated entities that the delegate notice may be provided

with the complaint notice, new §33.52 is adopted.

The Department received no comments regarding the proposed amendments.

The new rule is adopted pursuant to Finance Code, §151.102, which authorizes the commission to adopt rules to administer and enforce Chapter 151, and under Finance Code §151.403(a)(6) which requires the commissioner to specify the form of the required notice.

§33.52. Authorized Delegate Notice.

(a) In addition to the complaint notice required by §33.51(f) of this title, an authorized delegate of a money transmission license holder appointed in accordance with Texas Finance Code §151.402 must provide each of its Texas customers with notice that:

- (1) is written in the language in which the transaction is conducted;
- (2) states the name of the license holder; and
- (3) indicates that the person is an authorized delegate conducting money transmission on behalf of the license holder.

(b) The notice must be provided by one or more of the methods described in §33.51(e)(3) of this title. If the authorized delegate maintains a website that advertises the money transmission services it provides on behalf of the license holder, the notice must also be prominently displayed on this website.

(c) The authorized delegate notice may be provided on a single form with the complaint notice required under §33.51 of this title.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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D.

**Texas Department of Savings
and
Mortgage Lending**

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D. Texas Department of Savings and Mortgage Lending

1. Industry Status and Departmental Operations – State Savings Bank Activity:

a. Industry Status

State-chartered thrift assets under the Department’s jurisdiction totaled \$11.0 billion as of December 31, 2014, which is 7% greater than the asset size of the industry one year prior. The total number of savings banks remained 29 at the end of the calendar year. On January 1, 2015, three affiliated state savings banks completed a merger; therefore, the total number of state savings banks is currently 27.

The annualized return on average assets for thrifts slightly improved in the fourth quarter of calendar year 2014. Increased profitability occurred in 55% of savings banks in this period. The percentage of unprofitable thrifts remains approximately 10%. The median net interest margin remains narrow at 4.03% as a result of relatively low loan yields. Nonperforming assets in state-chartered thrifts continue to remain a low percentage of total assets.

State thrift capital levels remain strong and stable as represented by a median 10.3% Tier 1 Leverage Ratio. Quarterly growth in equity came through \$44.4 million in net income, \$7.3 million in parent company injections, \$2.0 million in other comprehensive income (generally unrealized gains on securities), and \$1.0 million in stock sales, offset by \$16.0 million in dividends.

The total number of 1 or 2 rated state savings banks was 28 as of December 31, 2014, or 97% of the industry.

b. Savings Bank Charter and Merger Activity

There has been no charter or merger activity in the state savings bank community since the last meeting of the Finance Commission.

c. Recap of Problem Institutions/Enforcement Issues

As of December 31, 2014, there were no “problem” state savings banks, which are those with composite ratings of 4 or 5.

d. Other Items

Commissioner Jones was appointed to the State Liaison Committee of the Federal Financial Institutions Examination Council (FFIEC) as the American Council of State Savings Supervisors’ representative. She will serve a two year term through March 31, 2017. A copy of the press release issued by the FFIEC follows.



Press Release

For Immediate Release

April 1, 2015

Caroline Jones Appointed to FFIEC State Liaison Committee

The Federal Financial Institutions Examination Council (FFIEC) announced today the appointment of a new member of the Council's State Liaison Committee (SLC). Caroline Jones serves as the Commissioner of the Texas Department of Savings and Mortgage Lending. Commissioner Jones serves as the American Council of State Savings Supervisors (ACSSS) representative on the SLC for a two-year term commencing today through March 31, 2017.

Jones joined the Texas Department of Savings and Mortgage Lending in March 2008, and was appointed Commissioner June 1, 2014. Her previous experience includes serving as in-house counsel at Temple-Inland Mortgage Company - Guaranty Bank, and in-house counsel at the Farm Credit Bank of Texas. Her main area of practice has been residential mortgage lending. Commissioner Jones received her undergraduate degree from Sophie Newcomb College of Tulane University and her law degree from St. Mary's University School of Law. She is a graduate of the Governor's Executive Development Program through the Lyndon B. Johnson School of Public Affairs and a graduate of Leadership Austin. Jones currently serves as the Board Chair of ACSSS.

Jones joins the current four members of the SLC who are:

- SLC Chairman David Cotney, Commissioner of Banks for the Commonwealth of Massachusetts.
- Mary Hughes, Financial Institutions Bureau Chief of the Idaho Department of Finance.
- Lauren Kingry, Superintendent of the Arizona Department of Financial Institutions.
- Karen Lawson, Director of the Office of Banking within the Michigan Department of Insurance and Financial Services.

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2. Industry Status and Departmental Operations – Mortgage Lending Activity:

a. Residential Mortgage Loan Originators

Current Licensing Population:

License Type As of 03/31/2015	Approved		
	Company (MU1)	Branch (MU3)	MLO (MU4)
<i>Auxiliary</i>	7	n/a	
<i>CUSO</i>	4	2	
<i>FSC</i>	1	n/a	
<i>Independent Contractor</i>	68	n/a	
<i>Mortgage Company</i>	1,000	367	
<i>Mortgage Banker</i>	371	1,910	
<i>Mortgage Servicer</i>	144	n/a	
Totals	1,595	2,279	

The license renewal and reinstatement period ended February 28, 2015; any license that had not requested renewal or reinstatement expired. There were 92 company, 80 branch, and 2,903 individual licenses that expired. As of the second quarter 2,882 applications had been approved. For the first half of FY15, the Department has received 3,489 applications and 34,367 other related filings – record amendments, sponsorship changes, etc. The Department has begun the review for compliance with filing the calendar year 2014 mortgage call reports and the annual financial condition report.

b. Mortgage Examinations

During first half of FY15 a total of 192 examinations were conducted covering 5,210 licensees.

The number of examinations is higher when compared to the same period in FY14 and the number of licensees examined increased by 200%. The increase in the number of licensees examined is a direct result of seven larger mortgage banker examinations conducted during the first six months of FY15. The current examination cycle is approximately 30 months.

Below is a breakdown of mortgage examination results by compliance rating for the first half of FY15. As shown in the chart below, the stratification of examination ratings during the past six months reflects a slight declining trend in the 1 & 2 rating categories when compared to FY14. The decline can be attributed to new licensees being examined for the first time during FY15.

Mortgage Examination Compliance Ratings											
<i>Percentages exclude exams of "Not Rated" entities which have not originated loans in the prior 24 months.</i>											
	# Mortgage Exams	Rated "1"	%	Rated "2"	%	Rated "3"	%	Rated "4"	%	Rated "5"	%
Fiscal Year 2013											
9/1/12 - 8/31/13	526	122	23%	221	42%	140	27%	42	8%	0	0%
Fiscal Year 2014											
9/1/13 - 8/31/14	366	74	20%	160	44%	113	31%	19	5%	0	0%
Fiscal Year 2015											
9/1/14 - 2/28/15	192	19	10%	88	46%	63	33%	21	11%	1	<1%

c. Consumer Complaints/Legal Issues

During the first half of FY15, a total of 411 consumer complaints were received. This represents a 3.5% decrease when compared to the same period in FY14 with loan servicing complaints continuing to account for approximately 62% of the total number of complaints received. As of February 28, 2015, there were a total of 96 open consumer complaints with 97% of the complaints being aged less than 90 days.

Enforcement Activity: During the period of February 01, 2015 through March 31, 2015, the Department reports the following Enforcement Activity:

Disciplinary Cases

- Notices of Hearings Issued: 4
- Hearings Held: 5
- Final Orders as a Result of a Hearing: 4
- Orders to Cease and Desist: 11
- Orders to Take Affirmative Action: 21
- Agreed Orders to Cease and Desist: 1
- Agreed Orders to Take Affirmative Action: 2
- Orders of Suspension: 0
- Agreed Orders of Suspension: 0
- Orders Lifting Suspension: 0
- Final Orders Revoking License: 0
- Formal Advisory Letters: 9

Other Orders

- Amended Orders to Cease and Desist: 0
- Amended Orders to Take Affirmative Action: 0
- Orders Rescinding Prior Order: 1
- Orders of Dismissal: 10

Appeals of License Denials

- Notices of Hearings Issued: 3
- Appeals Received: 3

Hearings Held: 0
Final Orders as a Result of a Hearing: 1
Dismissal Orders: 0
Agreed Orders: 0

Non-Sufficient Funds (NSF)

Letters Issued: 1

Recovery Fund

Notices of Hearings Issued: 0
Hearings Held: 0
Final Orders as a Result of a Hearing: 0

Collection Cases Referred to the Attorney General

Collection Cases Referred to the Attorney General: 0

Legal Issues: There were no Recovery Fund claims paid during the period 2/01/2015 – 03/31/2015.

d. Other Items

Mortgage Industry Advisory Committee – March 18, 2015 Meeting

On March 18, 2015, MIAC held a regularly scheduled meeting. At this meeting the Department provided updates on the Department's activities and answered questions from the committee members. The agenda for the meeting was as follows:

AGENDA

1. Welcome – Commissioner
2. Review of and vote to approve minutes from previous meeting.
3. Review of Department's General Status of Originator Licensing and Registration Activities:
 - Licensing – Director of Licensing
 - Examinations & Complaints – Chief Examiner
 - Enforcement – General Counsel
4. 84th Legislature
5. Next Meeting Dates for FY2015
 - July 15, 2015
6. Adjourn - Commissioner

Actual Performance for Output/Efficiency Measures

Type/Strategy/Measure	2015 Target	2015 Actual	2015 YTD	Percent of Annual Target
Output Measures-Key				
1-1-1 BANK EXAMINATION				
1. THRIFT EXAMINATION AND SUPERVISION				
Quarter 1	38	6	6	15.79% *
The Department examines state chartered savings banks jointly with the FDIC, based on a priority schedule. Examination cycles range from 12 to 18 months with frequency based on multiple factors, including institution size, CAMELS rating, and length of time in operation. The results for this measure may fluctuate between quarters due to the timing of individual examinations.				
Quarter 2	38	5	11	28.95% *
The Department examines state chartered savings banks jointly with the FDIC and FRBD, based on a priority schedule. Examination cycles range from 12 to 18 months with frequency based on multiple factors, including institution size, CAMELS rating, and length of time in operation. The results for this measure may fluctuate between quarters due to the timing of individual examinations.				
2-1-1 1. # NEW LIC/ORIGINATORS APPROVED				
Quarter 1	6,500	1,452	1,452	22.34%
Quarter 2	6,500	1,452	2,882	44.34% *
The number of applications submitted is outside of the Department's control; therefore, the number of applications processed is ultimately affected in the same manner. The Department anticipates meeting and exceeding this goal for the year.				
2-1-2 MORTGAGE EXAMINATION				
1. NUMBER OF LICENSEES INSPECTED				
Quarter 1	3,600	1,387	1387	38.53% *
Two large mortgage examinations were completed in the first quarter of FY15 which accounted for 49% of the total number of licensees examined for the period. This type of concentration should not continue over the remaining quarters of FY 2015.				
Quarter 2	3,600	3,823	5210	144.72% *
One large mortgage banker examination was completed in the second quarter of FY15 which accounted for 70% of the total number of licensees examined for the period. This type of concentration should not continue over the remaining quarters of FY15.				
3-1-1 COMPLAINT AND INQUIRY PROCESS				
1. # COMPLAINTS PROCESSED				
Quarter 1	900	197	197	21.89%
Quarter 2	900	214	411	45.67%

*Varies by 5% or more from target.

3. Fiscal/Operations Activity:

a. Funding Status/Audits/Financial Reporting

Funding Status/Budget – Second quarter of FY15 has been closed out. The financials are attached elsewhere in the package. As of the end of second quarter, the revenues are at 110% of budget, due to higher volume of penalties and license fees, and the expenditures at 91% of budget, due to lower personnel and travel expenses.

b. Staffing

As of April 1, 2015, the agency was staffed at 55 regular full time employees and one regular part-time employee with 64 FTEs available.

An experienced Financial Examiner joined the Department's Mortgage Examination section on April 1, 2015.

The Department's vacant positions are in different stages of the hiring process.

c. Other Items

Commissioner Jones was sworn into office by Speaker Straus on March 4, 2015.