

A.

Finance Commission

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FINANCE COMMISSION OF TEXAS

MEETING DATE**June 15, 2018**

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 DATESAugust 17, 2018
October 19, 2018
December 14, 2018

*** 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, June 15, 2018

8:45 a.m. or upon adjournment of the Strategic Planning Committee (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 and C3

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 April 20, 2018 and May 2, 2018 Finance Commission Meetings***
2. General Public Comment
3. Consent Agenda
4. Finance Commission Operations
5. Discussion of the Review by the Texas Sunset Advisory Commission
6. Audit Committee Report
 - A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's Audit Report on the Prepaid Funeral Guaranty Funds as Prepared by Garza/Gonzalez and Associates
7. Strategic Planning Committee Report
 - A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the 2019-2023 Strategic Plans
 1. Office of Consumer Credit Commissioner
 2. Texas Department of Banking
 3. Department of Savings and Mortgage Lending
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 and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation 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 related to the potential financial exposure of the Finance Commission Agencies and their officers and the Finance Commission and its officers and 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. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Lynn Rowell d/b/a Beaumont Greenery, Montgomery Chandler, Inc., Paula Cook, Townsley Designs, LLC, and Shonda Townsley v. Ken Paxton, in his official capacity as Attorney General of the State of Texas; Cause No. 1:14-cv-00190-LY, in the United States District Court, Western District of Texas, Austin Division

Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 2018-04375, in the 281st Judicial District Court of Harris County, Texas

State of Texas v. Cash Auto Sales, Inc. f/k/a Larry Lake d/b/a Cash Auto Sales and VIP Finance of Texas, Inc. f/k/a Travis Lake d/b/a VIP Finance; Cause No. 05-18-00198-CV, in the Court of Appeals for the Fifth Judicial District, Dallas, Texas

C. TEXAS 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, Part 1, Chapter 3, §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52, 3.55, and 3.92 Concerning State Bank Regulation*
3. *Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 2, Chapter 33, §§33.23, 33.31, 33.35, and 33.51 Concerning Money Services Businesses*
4. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

D. 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) Other Items
2. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; c) Consumer Complaints; and d) Other Items
3. Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; and c) Other Items
4. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

NOTE: The Finance Commission 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 will accommodate special needs. Those requesting auxiliary aids or services should notify the Texas Department of Banking, 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, April 20, 2018**

The Finance Commission of Texas convened at 8:47 a.m. on April 20, 2018 with the following members present:

Finance Commission Members in Attendance:

Stacy G. London, Chairman
Jay Shands, Vice Chairman
Bob Borochoff
Hector Cerna
Molly Curl
Phillip Holt
Will Lucas
Lori McCool
Matt Moore
Vince Puente

Finance Commission Chairman Stacy G. London announced a quorum with ten members present.

Stacy G. London made a motion to excuse Paul Plunkett from the Finance Commission meeting held on April 20, 2018. There were no objections and the motion passed unanimously. (00:15)

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. FINANCE COMMISSION MATTERS		
1. Review and Approval of the Minutes of the February 16, 2018 Finance Commission Meeting	On Consent Agenda – Item A1 This item Approved on the Consent Agenda.	2:55 start of discussion
2. General Public Comment	No Action Required.	3:05 start of discussion
3. Consent Agenda – Items A1, B2 and D2	Will Lucas made a motion to Approve Consent Agenda items A1, B2, and D2. Molly Curl seconded, and the motion passed.	3:23 start of discussion 4:59 vote
4. Finance Commission Operations	No Action Required.	3:41 start of discussion
5. Discussion of and Possible Vote to Take Action on the Texas Sunset Advisory Commission Staff Report	Phillip Holt made a motion to Approve the Study Committee (composed of Phillip Holt, Paul Plunkett, and Hector Cerna with the addition of Chairman Stacy G. London and Vice Chairman Jay Shands) to review to the Sunset Report and provide its	6:11 start of discussion 44:00 vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
	recommendations to the Finance Commission at a special Finance Commission meeting to be held on May 2 nd at 1:00 p.m. Jay Shands seconded and the motion passed.	
6. Audit Committee Report		56:61 start of discussion
<p>A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' February 28, 2018 Investment Officer Reports</p> <ol style="list-style-type: none"> 1. Texas Department of Banking 2. Department of Savings and Mortgage Lending 3. Office of Consumer Credit Commissioner 	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' February 28, 2018 Investment Officer Reports passed.	57:01 start of discussion 57:06 vote
<p>B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2018 Second Quarter Financial Statements</p> <ol style="list-style-type: none"> 1. Texas Department of Banking 2. Department of Savings and Mortgage Lending 3. Office of Consumer Credit Commissioner 	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' 2018 Second Quarter Financial Statements passed.	57:17 start of discussion 57:28 vote
<p>C. Discussion of and Possible Vote to Recommend that the Finance Commission Approve the Reserve and Expenditure of Funds for Building Deferred Maintenance</p>	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Reserve and Expenditure of Funds not to exceed \$950,000 for Building Deferred Maintenance passed.	57:30 start of discussion 57:40 vote
7. Discussion of and Possible Vote to Take Action on the Finance Commission Agencies' Fiscal Year 2018 Mid-Term Accomplishment Reports	Vince Puente made a motion to Approve the Finance Commission Agencies' Fiscal Year 2018 Mid-Term Accomplishment Reports.	57:52 start of discussion 1:02:35 vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
	Bob Borochoff seconded and the motion passed.	
8. Discussion of the Report of the Financial Condition of the State Banking System	No Action Required	1:02:51 start of discussion
9. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff	Deferred to Executive Session – no vote taken.	n/a
10. 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	Deferred to Executive Session – no vote taken.	n/a
11. 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 related to the potential financial exposure of the Finance Commission Agencies and their officers and the Finance Commission and its officers and including matters of pending and contemplated litigation	Deferred to Executive Session – no vote taken.	n/a
B. TEXAS 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)	No Action Required.	1:19:56 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
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, Part 2, §33.27 Concerning Fees for Money Service Business Licenses	On Consent Agenda – Item B2. This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 2, Chapter 33, §§33.23, 33.31, 33.35, and 33.51 Concerning Money Services Businesses	Jay Shands made a motion to Approve the Proposal and Publication for Comment of Amendments to 7 TAC, Part 2, Chapter 33, §§33.23, 33.31, 33.35, and 33.51 Concerning Money Services Businesses. Will Lucas seconded and the motion passed.	1:50:24 start of discussion 1:57:29 vote
4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 1, Chapter 3, §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52, 3.55, and 3.92 Concerning State Bank Regulation	Vince Puente made a motion to Approve the Proposal and Publication for Comment of Amendments to 7 TAC, Part 1, Chapter 3, §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52, 3.55, and 3.92 Concerning State Bank Regulation. Will Lucas seconded and the motion passed.	1:58:07 start of discussion 1:58:56 Vote
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	n/a	
C. 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) Other Items	No Action Required.	2:00:24 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
2. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; c) Consumer Complaints; and d) Other Items	No Action Required.	2:02:19 start of discussion
3. Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; and c) Other Items	No Action Required.	2:05:47 start of discussion
4. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities	No Action Required.	2:10:16 start of discussion
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a
D. 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	No Action Required.	2:20:17 start of discussion
2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments, New Rules, and a Repeal in 7 TAC, Part 5, Chapter 85, Subchapter B Concerning Rules for Crafted Precious Metal Dealers	On Consent Agenda – Item D2 This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales	Lori McCool made a motion to Approve the Adoption of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales. Molly Curl seconded, and the motion passed.	2:39:41 start of discussion 2:47:16 vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>4. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation</p> <p><i>Lynn Rowell d/b/a Beaumont Greenery, Montgomery Chandler, Inc., Paula Cook, Townsley Designs, LLC, and Shonda Townsley v. Ken Paxton, in his official capacity as Attorney General of the State of Texas; Cause No. 1:14-cv-00190-LY, in the United States District Court, Western District of Texas, Austin Division</i></p> <p><i>Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 2018-04375, in the 281st Judicial District Court of Harris County, Texas</i></p> <p><i>State of Texas v. Cash Auto Sales, Inc. f/k/a Larry Lake d/b/a Cash Auto Sales and VIP Finance of Texas, Inc. f/k/a Travis Lake d/b/a VIP Finance; Cause No. 05-18-00198-CV, in the Court of Appeals for the Fifth Judicial District, Dallas, Texas</i></p>	n/a	n/a

Chairman Stacy G. London called for an Executive Session at 11:47 a.m. (2:47:54) on the audio file). The open meeting resumed at 11:55 a.m. (2:07:51) on the audio file).

There being no further business, Chairman Stacy G. London adjourned the meeting of the Finance Commission at 12:07 p.m. (2:47:54) on the audio file).

Stacy G. London, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Anne Benites, Executive Assistant
Finance Commission of Texas

**MINUTES OF THE
FINANCE COMMISSION MEETING
Wednesday, May 2, 2018**

The Finance Commission of Texas convened at 1:00 p.m. on May 2, 2018 with the following members present:

Finance Commission Members in Attendance:

Stacy G. London, Chairman
Jay Shands, Vice Chairman
Hector Cerna
Molly Curl
Phillip Holt
Will Lucas
Lori McCool
Paul Plunket
Vince Puente

Finance Commission Chairman Stacy G. London announced a quorum with nine members present.

Stacy G. London made a motion to excuse Bob Borochoff and Matt Moore from the Finance Commission meeting held on May 2, 2018. There were no objections and the motion passed unanimously. (00:32)

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. FINANCE COMMISSION MATTERS		
1. General Public Comment		00:43 start of discussion
2. Discussion of and Possible Vote to Take Action on the Study Committee's Recommendations to the Finance Commission Regarding the Texas Sunset Advisory Commission Staff Report		01:08 start of discussion
Sunset Staff Report Recommendation 1.1 Abolish the Department of Savings and Mortgage Lending as a separate state agency and transfer regulation of state savings banks and the mortgage industry to the Texas Department of Banking.	Will Lucas made a motion to adopt the Study Committee's recommendation to disagree with Sunset Staff Report Recommendation 1.1. Phillip Holt seconded, and the motion passed with eight ayes and one nay.	11:39 start of discussion 49:52 vote
Sunset Staff Report Recommendation 1.2 Continue the Texas Department of Banking for 12 years.	Paul Plunket made a motion to adopt the Study Committee's recommendation to agree with Sunset Staff Report Recommendation 1.2. Vince Puente seconded, and the motion	50:25 start of discussion 50:51 vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
	passed unanimously.	
<p>Sunset Staff Report Recommendation 1.3 Continue the Office of Consumer Credit Commissioner for 12 years.</p>	Molly Curl made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 1.3. Phillip Holt seconded, and the motion passed unanimously.	51.48 start of discussion 52:00 vote
<p>Sunset Staff Report Recommendation 2.1 Require the finance agencies to remit all administrative penalties to the General Revenue Fund.</p>	Paul Plunket made a motion to adopt the Study Committee’s recommendation to disagree with Sunset Staff Report Recommendation 2.1. Lori McCool seconded, and the motion passed unanimously.	52.36 start of discussion 59:31 vote
<p>Sunset Staff Report Recommendation 2.2 Direct the Finance Commission to evaluate and update the agencies’ key performance measures.</p>	Jay Shands made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 2.2. Will Lucas seconded, and the motion passed unanimously.	59:50 start of discussion 01:05:27 vote
<p>Sunset Staff Report Recommendation 2.3 Direct the Finance Commission to develop a budget policy that fosters more straightforward budgeting and fee setting.</p>	Phillip Holt made a motion to adopt the Study Committee’s recommendation to disagree with Sunset Staff Report Recommendation 2.3. Will Lucas seconded, and the motion passed unanimously.	01:05:43 start of discussion 1:20:17 vote
<p>Sunset Staff Report Recommendation 2.4 Direct the Finance Commission to update its fund balance policy to limit growth.</p>	Vince Puente made a motion to adopt the Study Committee’s recommendation to disagree with Sunset Staff Report Recommendation 2.4. Molly Curl seconded, and the motion passed unanimously.	1:20:23 start of discussion 1:21:10 vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>Sunset Staff Recommendation 2.5 Direct the Finance Commission to develop standard policies regarding tracking and reporting travel expenditures.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 2.5. Will Lucas seconded and the motion passed unanimously.</p>	<p>1:20:19 start of discussion 1:22:55 vote</p>
<p>Sunset Staff Report Recommendation 2.6 Direct the Finance Commission to minimize duplication of agency functions and promote more cost-efficient administration of the finance agencies.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to conduct a formal study to further investigate this recommendation. Molly Curl seconded, and the motion passed unanimously.</p>	<p>1:23:09 start of discussion 1:29:15 vote</p>
<p>Sunset Staff Report Recommendation 3.1 Discontinue licensure of pawnshop employees.</p>	<p>Will Lucas made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 3.1. Phillip Holt seconded, and the motion passed.</p> <p>Will Lucas made a second motion to supersede the above motion and adopt a modified recommendation for Sunset Staff Report Recommendation 3.1 to neither agree or disagree with the recommendation. Paul Plunket seconded, and the motion passed with six ayes and three nays.</p> <p>Molly Curl made a third motion to supersede the above motion and adopt a modified recommendation to disagree with the Sunset Staff Report Recommendation. Vince Puente seconded. The motion did not pass.</p>	<p>1:29:24 start of discussion 1:43:49 vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>Sunset Staff Recommendation 3.2 Discontinue registration of cemetery brokers.</p>	<p>Paul Plunket made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 3.2. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>1:47:55 start of discussion 1:48:07 vote</p>
<p>Sunset Staff Recommendation 3.3 Discontinue registration of private child support enforcement agencies.</p>	<p>Paul Plunket made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 3.3. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>1:48:31 start of discussion 1:48:49 vote</p>
<p>Sunset Staff Recommendation 4.1 Authorize the agency to establish license terms in rule for death care service licensees.</p>	<p>Molly Curl made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 4.1. Jay Shands seconded, and the motion passed unanimously.</p>	<p>1:50:07 start of discussion 1:50:22 vote</p>
<p>Sunset Staff Recommendation 4.2 Update the agency’s complaint processing provisions to meet the Sunset Commission’s standard across-the-board requirements.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 4.2. Lori McCool seconded, and the motion passed unanimously.</p>	<p>1:50:37 start of discussion 1:50:52 vote</p>
<p>Sunset Staff Recommendation 4.3 Update outdated appeals provisions to align with the Administrative Procedure Act.</p>	<p>Will Lucas made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 4.3 Phillip Holt seconded and the motion passed unanimously.</p>	<p>1:51:05 start of discussion 1:51:16 vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>Sunset Staff Recommendation 4.4 Direct DOB and the Finance Commission to develop an updated complaint process in rule.</p>	<p>Molly Curl made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 4.4. Lori McCool seconded, and the motion passed unanimously.</p>	<p>1:51:48 start of discussion 1:52:03 vote</p>
<p>Sunset Staff Recommendation 5.1 Remove subjective licensure provisions for pawnshops and pawnshop employees.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.1. Jay Shands seconded, and the motion passed unanimously.</p>	<p>1:52:21 start of discussion 1:52:35 vote</p>
<p>Sunset Staff Report Recommendation 5.2 Authorize the agency to provide biennial license renewals for its licensees and registrants.</p>	<p>Will Lucas made a motion to adopt the Study Committee’s recommendation to agree with the Sunset Staff Report Recommendation 5.2. Molly Curl seconded, and the motion passed unanimously.</p>	<p>1:53:02 start of discussion 1:53:11 vote</p>
<p>Sunset Staff Report Recommendation 5.3 Update the agency’s complaint processing provisions to meet the Sunset Commission’s standard across-the-board requirements.</p>	<p>Will Lucas made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.3. Lori McCool seconded, and the motion passed unanimously.</p>	<p>1:53:35 start of discussion 1:53:50 vote</p>
<p>Sunset Staff Report Recommendation 5.4 Authorize OCCC to disclose summary complaint resolution information to a complainant.</p>	<p>Molly Curl made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.4. Lori McCool seconded, and the motion passed unanimously.</p>	<p>1:54:08 start of discussion 1:54:37 vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>Sunset Staff Report Recommendation 5.5 Authorize OCCC to open an investigation immediately upon reasonable suspicion of a violation.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.5. Molly Curl seconded, and the motion passed unanimously.</p>	<p>1:54:38 start of discussion 1:54:49 vote</p>
<p>Sunset Staff Report Recommendation 5.6 Remove an outdated, overly restrictive burden of proof for proving regulatory violations.</p>	<p>Molly Curl made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.6. Lori McCool seconded, and the motion passed unanimously.</p>	<p>1:55:05 1:55:19 vote</p>
<p>Sunset Staff Report Recommendation 5.7 Give OCCC standard authority to take action against crafted precious metal dealers violating state regulations.</p>	<p>Lori McCool made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.7. Jay Shands seconded, and the motion passed unanimously.</p>	<p>1:55:34 start of discussion 1:55:46 vote</p>
<p>Sunset Staff Report Recommendation 5.8 Authorize OCCC to deny renewal applications for noncompliant licensees and registrants when appropriate.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.8. Will Lucas seconded, and the motion passed unanimously.</p>	<p>1:56:04 start of discussion 1:56:15 vote</p>
<p>Sunset Staff Report Recommendation 5.9 Standardize OCCC’s burden of proof for ordering restitution in all regulatory programs.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.9. Hector Cerna seconded, and the motion passed unanimously.</p>	<p>1:56:30 start of discussion 1:56:40 vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>Sunset Staff Report Recommendation 5.10 Authorize OCCC to order crafted precious metal dealers to pay consumer restitution.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.10. Molly Curl seconded, and the motion passed unanimously.</p>	<p>1:57:00 start of discussion 1:57:11 vote</p>
<p>Sunset Staff Report Recommendation 5.11 Update outdated appeals provisions to align with the Administrative Procedure Act.</p>	<p>Will Lucas made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.11. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>1:57:26 start of discussion 1:57:40 vote</p>
<p>Sunset Staff Report Recommendation 5.12 Direct OCCC and the Finance Commission to develop an updated complaint process in rule.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.12. Lori McCool seconded, and the motion passed unanimously.</p>	<p>1:57:55 start of 1:58:07 vote</p>
<p>Sunset Staff Report Recommendation 5.13 Direct the agency to make enforcement orders available online.</p>	<p>Hector Cerna made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 5.13. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>1:58:25 start of discussion 2:04:55 vote</p>
<p>Sunset Staff Report Recommendation 6.1 Remove unnecessary, subjective licensure provisions for residential mortgage loan originators.</p>	<p>Will Lucas made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 6.1. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>2:05:03 start of discussion 2:06:50 vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>Sunset Staff Report Recommendation 6.2 Update the agency’s complaint processing provisions to meet the Sunset Commission’s standard across-the-board requirements.</p>	<p>Lori McCool made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 6.2. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>2:06:52 start of discussion 2:07:05 vote</p>
<p>Sunset Staff Report Recommendation 6.3 Direct SML and the Finance Commission to develop an updated complaint process in rule.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 6.3. Jay Shands seconded, and the motion passed unanimously.</p>	<p>2:07:22 start of discussion 2:07:34 vote</p>
<p>Sunset Staff Report Recommendation 6.4 Direct the agency to modify its penalty matrix to ensure consistent application of administrative penalties.</p>	<p>Molly Curl made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 6.4. Lori McCool seconded, and the motion passed unanimously.</p>	<p>2:07:51 start of discussion 2:08:04 vote</p>
<p>Sunset Staff Report Recommendation 7.1 Update the standard across-the-board requirement related to Finance Commission member training.</p>	<p>Jay Shands made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 7.1. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>2:08:19 start of discussion 2:08:32 vote</p>
<p>Sunset Staff Report Recommendation 7.2 Apply the Sunset across-the-board recommendation regarding alternative dispute resolution to the finance agencies.</p>	<p>Hector Cerna made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 7.2. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>2:08:50 start of discussion 2:09:04 vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>Sunset Staff Report Recommendation 7.3 Authorize the finance agencies to establish advisory committees in rule as needed.</p>	<p>Phillip Holt made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 7.3. Molly Curl seconded, and the motion passed unanimously.</p>	<p>2:09:24 start of discussion 2:09:38 vote</p>
<p>Sunset Staff Report Recommendation 7.4 Continue the finance agencies’ required reports.</p>	<p>Lori McCool made a motion to adopt the Study Committee’s recommendation to agree with Sunset Staff Report Recommendation 7.4. Phillip Holt seconded, and the motion passed unanimously.</p>	<p>2:09:57 start of discussion 2:10:05 vote</p>

There being no further business, Chairman Stacy G. London adjourned the meeting of the Finance Commission at 3:22 p.m. (2:11:27) on the audio file).

Stacy G. London, Chairman
 Finance Commission of Texas

Charles G. Cooper, Executive Director
 Finance Commission of Texas

Anne Benites, Executive Assistant
 Finance Commission of Texas

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Finance Commission of Texas

Consent Agenda

June 15, 2018

A. Finance Commission Matters

1. Review and Approval of the Minutes of the April 20, 2018 and May 2, 2018 Finance Commission Meetings

C. Texas Department of Banking

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 1, Chapter 3, §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52, 3.55, and 3.92 Concerning State Bank Regulation
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 2, Chapter 33, §§33.23, 33.31, 33.35, and 33.51 Concerning Money Services Businesses

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B.

**Office of Consumer Credit
Commissioner**

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Consumer Protection and Consumer Assistance Report

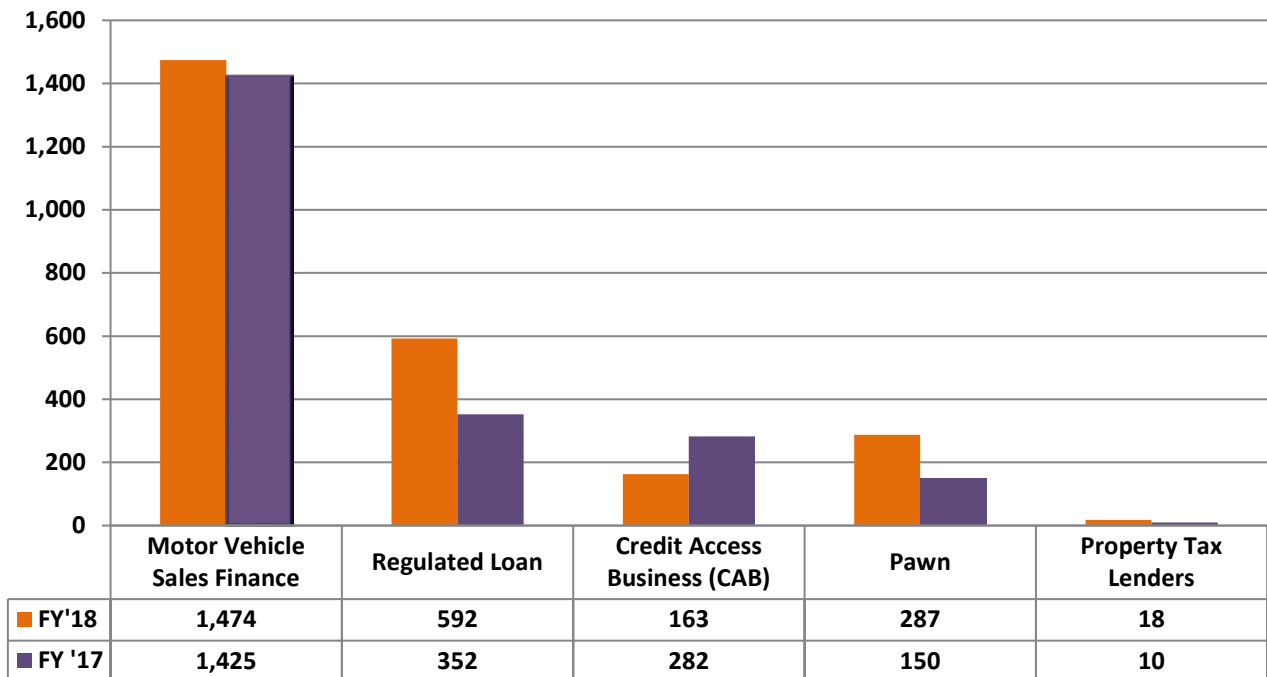
Rudy Aguilar, Director of Consumer Protection

A total of 2,534 examinations have been completed to the end of April. The over-all examination progress is slightly behind the pro rata goal of 2,800 examinations. Several enterprise examinations are in progress, which will help the agency reach the goal for those license types lagging in respect to pro rata progress. The expectation is to meet the examination fiscal year goal.

Plans to hire and conduct initial training for a new class of financial examiners (4 to 5 examiners) are being completed. These examiners should be in place by fiscal year end and will be assigned to the Dallas and San Antonio regions.

The Financial Examiner III certification process resulted in one of the three candidates being promoted to Financial Examiner III.

Examinations Conducted: Sept - Apr Fiscal Year Comparison

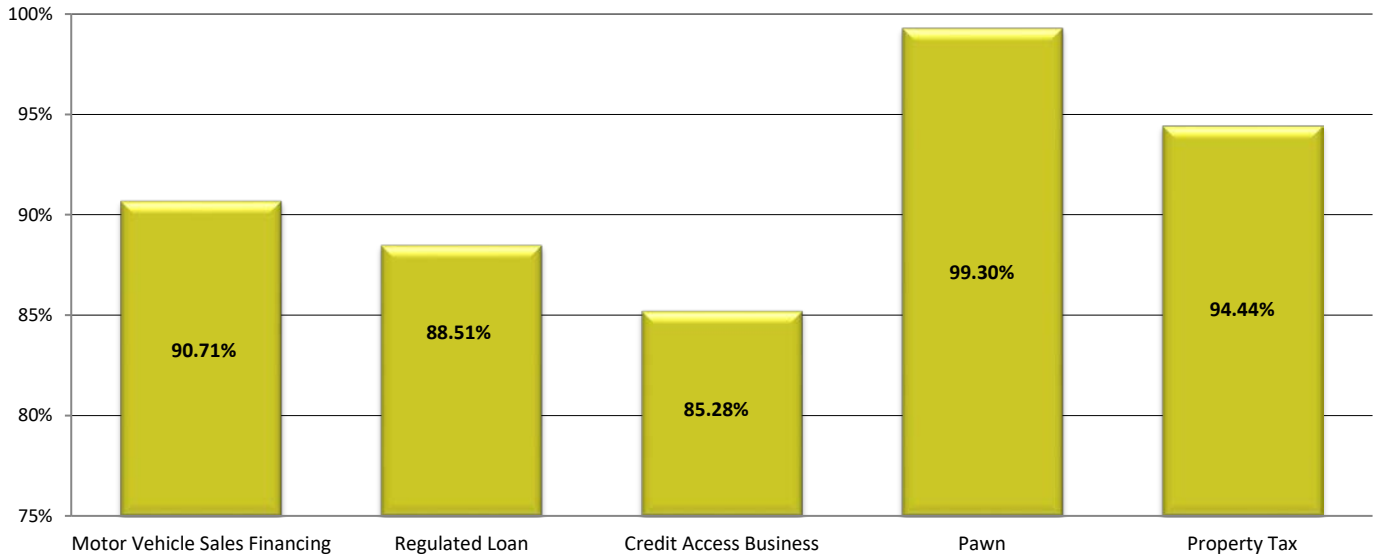


■ FY'18 ■ FY '17

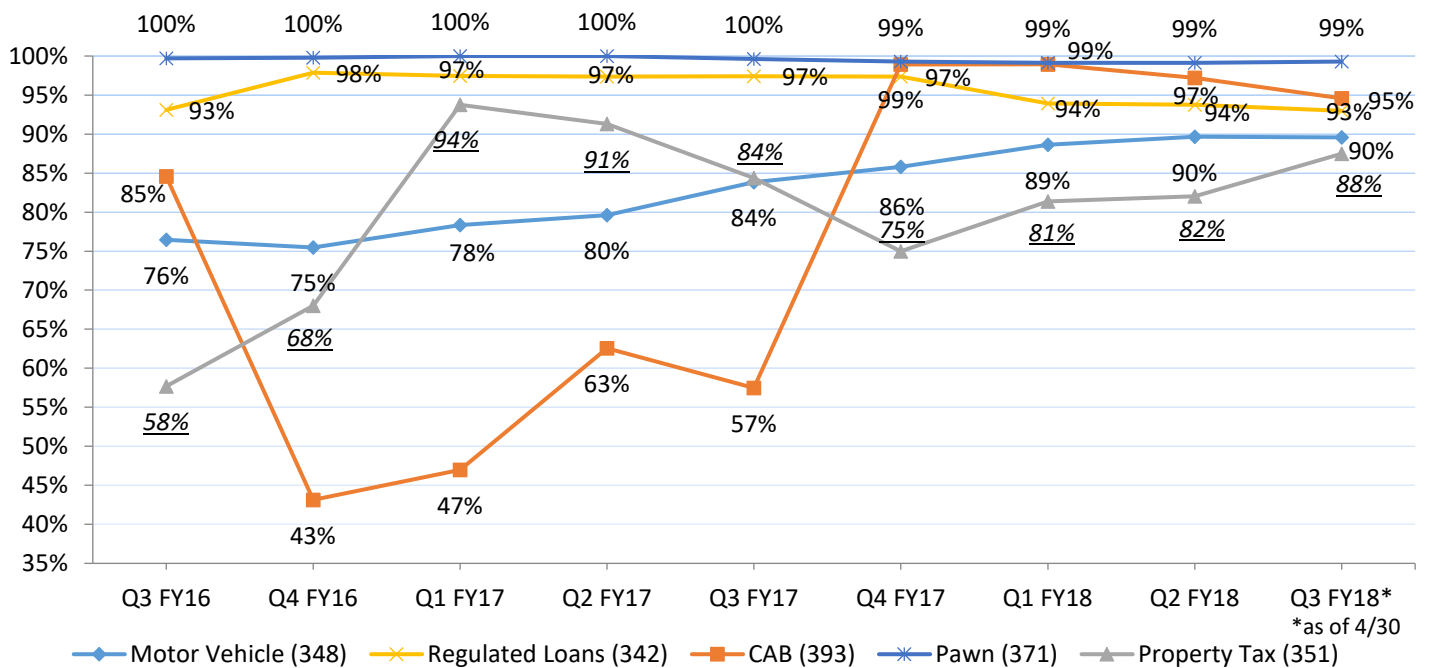
Director Aguilar participated in the Auto Finance Performance and Compliance Summit held in Dallas May 9 -10, 2018. This event was organized by the Auto Finance News publication. Several national acceptance companies, other state regulatory representatives, and law firms were in attendance.

The level of compliance appears in good condition at this point in time.

Acceptable Level of Compliance FY '18 (Sept 2017 - Apr 2018)



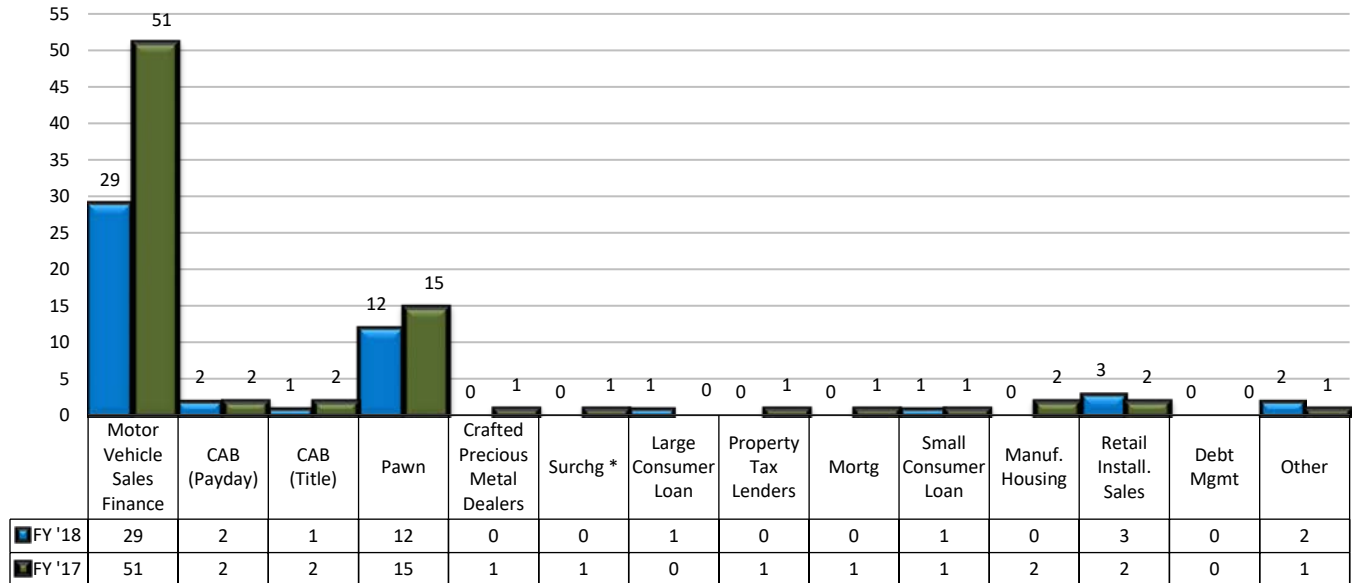
Acceptable Compliance Levels - Trailing 12 Months (at quarter end)



Completed investigations are on track to achieve the FY2018 Investigations goal.

Investigations

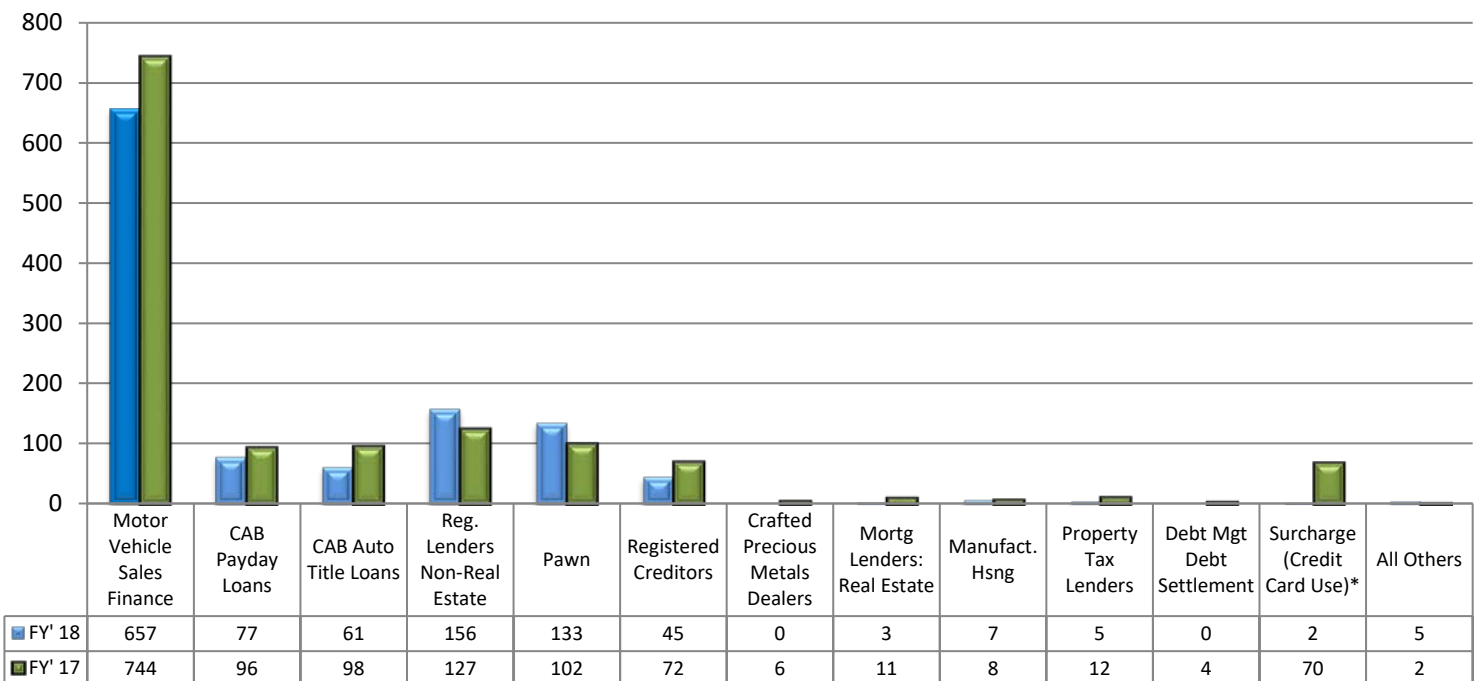
Investigations Completed
FY '18 (Sept 2017 - Apr 2018) Total: 51
FY '17 (Sept 2016 - Apr 2017) Total: 80



*Surcharge no longer regulated by OCC

Consumer Assistance

Complaints Processed
FY '18 (Sept 2017 - Apr 2018) Total: 1,151
FY '17 (Sept 2016 - Apr 2017) Total: 1,352

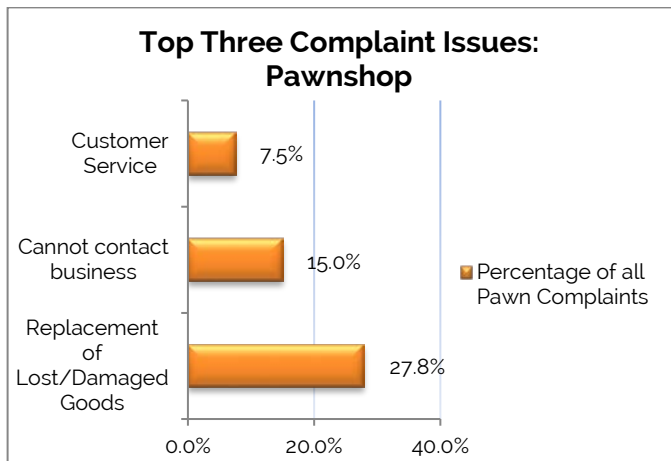
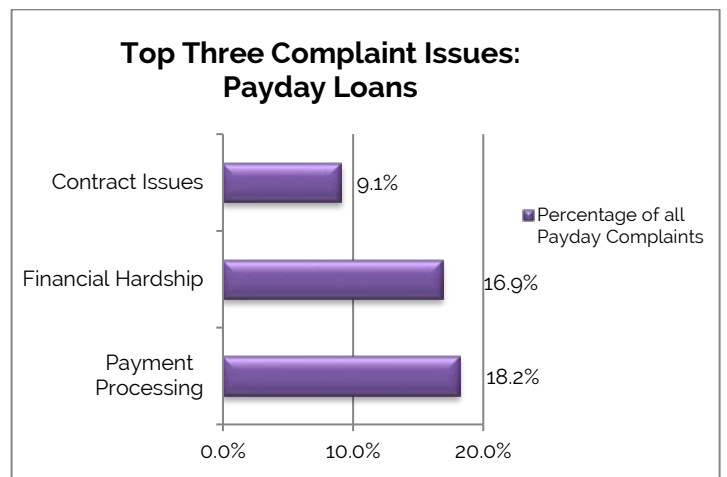
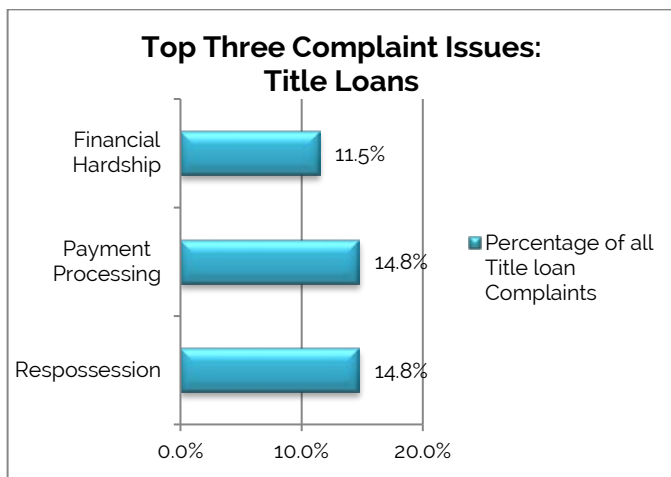
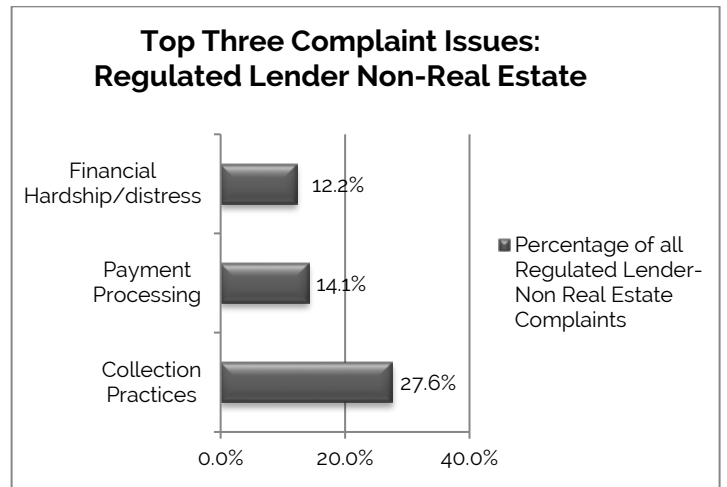
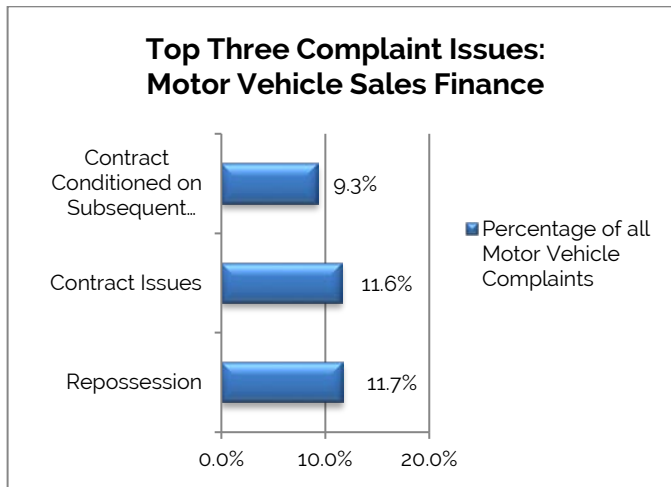


*Surcharge no longer regulated by OCC

The top four areas of complaints are (1) Motor Vehicle Sales Finance (MVSF), (2) Regulated Lenders Non-Real Estate, (3) Credit Access Business (CAB) and (4) Pawn.

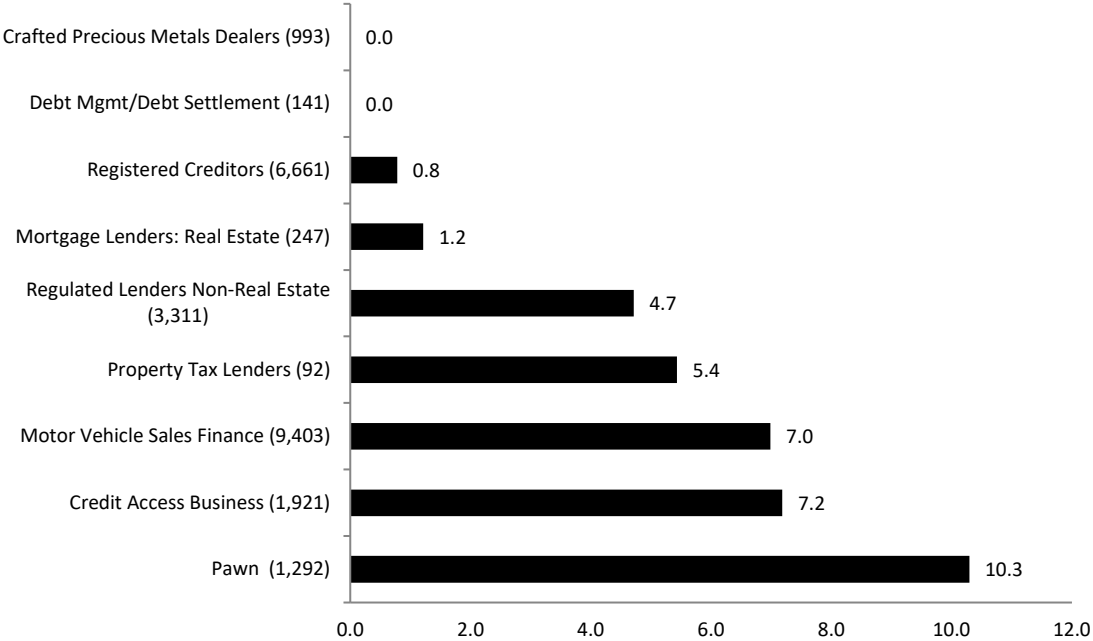
MVSF complaints were the largest complaint category at 57.1%. The second largest number of complaints came from Regulated Lenders Non-Real Estate at 13.6%. The third largest category of complaints came from CAB complaints at 12% collectively; separately, these are 6.7% for payday loans and 5.3% for title loans. The fourth largest category was Pawn at 11.6% complaints.

Each of the following charts represents the three top complaint areas per license type:



Comparison of complaints processed to the number of active license or registrant population is noted on the chart below. The highest ratio involved Pawn followed by Credit Access Business as the second highest, MVSF as the third and Property Tax Lending as the fourth highest.

**Ratio of Complaints Processed to Total Active License or Registrants*
FY '18 (Sept 2017-April 2018)**



*License-Registrant levels as of 5-01-2018

■ Complaints per Hundred Licenses

CAB Reporting Update

Summaries of reports through the first quarter of 2018 are available on the OCCC website. Presented are selected statistics of January – March (Q1) reports through the years. The number of locations with activity increased slightly year-over-year for the Q1 period. For the five years prior, the number of storefronts with loan activity decreased each year. Consolidation in the industry appears to be stabilizing.

Data Highlights (All Loan Types) Q1 Comparison	2018	2017	2016	2015	2014	2013
Number of new payday loans	453,457	495,132	489,990	493,761	514,981	572,101
Number of new auto title loans	65,167	56,503	58,492	68,531	89,707	112,060
Percentage of payday loans due in multiple installments	45%	42%	39%	35%	32%	18%
Percentage of auto title loans due in multiple installments	55%	43%	41%	13%	17%	12%
Number of vehicles repossessed under all auto title loans	8,256	7,623	8,315	9,722	10,693	9,615
Total number of locations reporting activity	1,841	1,837	2,502	2,613	2,957	3,028

Payday Loans Q1	Single Installment			Multiple Installment		
	2018	2017	2016	2018	2017	2016
Number of consumers obtaining loans	176,333	203,505	214,618	180,724	183,786	170,467
Number of new loans	247,719	287,217	296,674	205,738	207,915	193,316
Number of refinances on new loans in the quarter ¹	158,824	181,259	198,551	15,471	20,717	14,460
Number of total refinances ²	444,954	494,597	537,581	53,428	63,274	65,919
Average loan amount	\$486	\$468	\$464	\$608	\$553	\$565
Average fee per \$100 borrowed	\$24.41	\$23.97	\$23.70	\$145.24	\$149.67	\$166.30
Average original term (in days)	22	19	17	149	143	159

Title Loans Q1	Single Installment			Multiple Installment		
	2018	2017	2016	2018	2017	2016
Number of consumers obtaining loans	25,795	28,567	31,297	33,587	22,378	22,171
Number of new loans	29,557	32,407	34,703	35,610	24,096	23,789
Number of refinances on new loans in the quarter ¹	20,218	21,190	21,854	3,397	3,403	3,022
Number of total refinances ²	154,782	181,009	230,355	29,251	22,247	7,868
Average loan amount	\$1,323	\$1,444	\$1,254	\$1,139	\$1,056	\$1,113
Average fee per \$100 borrowed	\$16.04	\$16.48	\$16.34	\$117.00	\$130.88	\$92.99
Average original term (in days)	30	30	29	154	155	169

¹ Refinance activity represents only the renewals occurring in the quarter the loan was originated.

² Refinance activity represents all renewals, including the renewals of loans that originated in prior quarters.



Licensing Report- June 2018

Mirand Zepeda, Manager

Renewals

Renewal for both pawn shops and pawn employees is currently open online through ALECS. Licensees of this industry group have until June 30th to renew. The department will mail and email many renewal reminders in May and June, and anticipates more than 85% of pawn renewals will be completed online.

The department is also currently working to establish assessment rates and associated discounts and open renewal in June for all motor vehicle sales finance licensees, to give licensees ample time to renew. Motor vehicle and commercial motor sales finance licenses must be renewed by July 31.

Applications Processing

The department has focused on pawn employee application processing in May. Pending volume has increased due to staffing changes, the timing of the renewal cycle, and other factors, however an internal processing deadline has been set for June 30th to reduce pending applications by 50%.

Business license application processing continues to remain above the goal through April. The volume of pending business license applications is likely to increase incrementally over the next 4-6 weeks due to the timing of motor vehicle renewal and some applications being held to avoid the renewal fee at the applicant's request. However the department has two new staff members joining the team in mid-June and will work to complete training and quickly get them up to speed on processing.

Other Updates

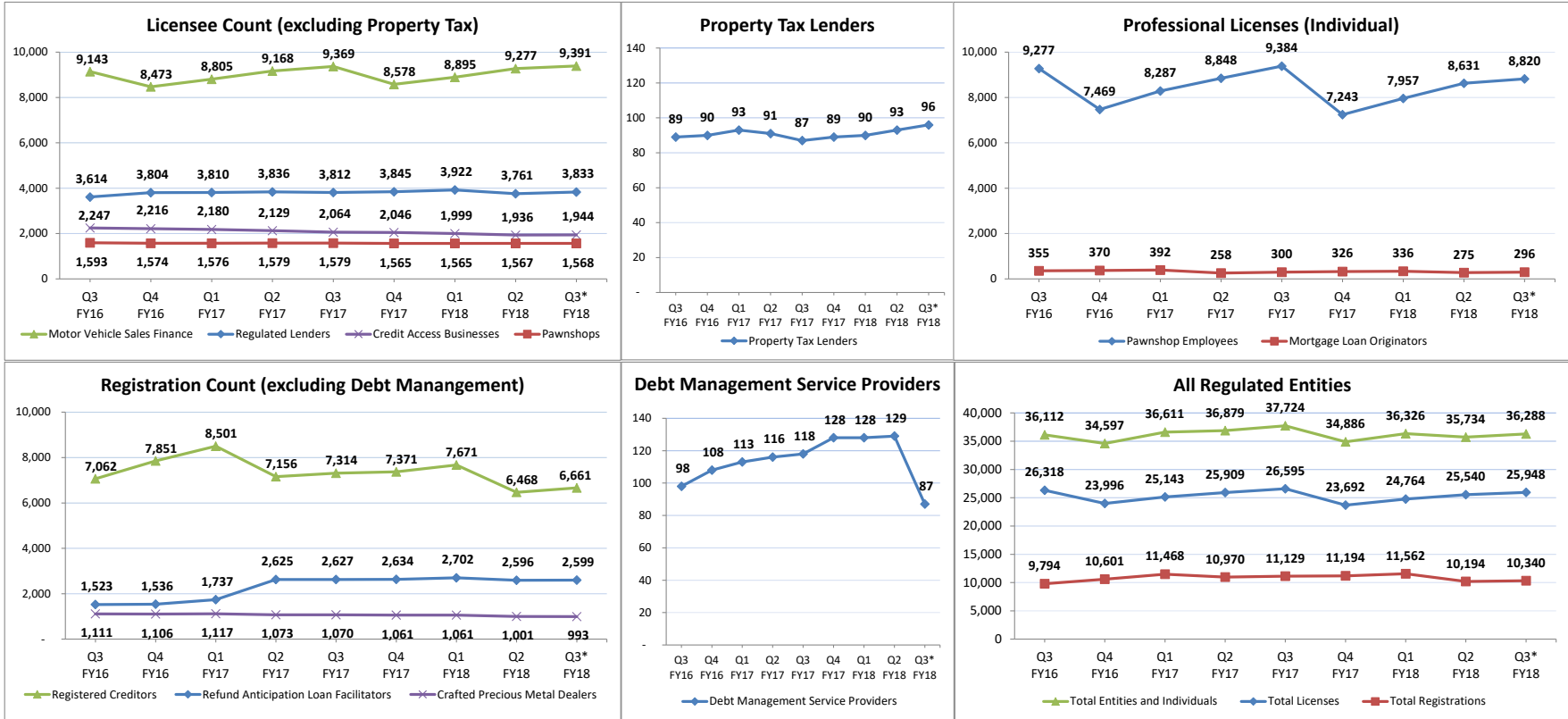
The licensing manager will attend the National Association of Consumer Credit Administrators annual meeting and regulators training symposium in June.

The department has continued to work with IT and the contracted outside vendor to bring crafted precious metal dealer registrants into ALECS. Testing is currently ongoing and the functionality to ALECS will launch this summer.

Regulated Entity Population Trends

The following charts reflect the number of OCCC regulated entities at the end of each quarter in fiscal years 2016 and 2017 to current data.

Number of OCCC Regulated Entities Quarterly Comparison of FY 16-18



* Data as of 5/1/2018



COMMUNICATIONS, HUMAN RESOURCES & ADMINISTRATION REPORT

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

COMMUNICATIONS

The Investment and Financial Services (IFS) Committee met on April 24 to review the impact and risks that a large-scale security breach of a credit bureau would have on Texans, and policy challenges in the area of financial technology. Although no testimony was required from the OCCC, staff monitored the hearing, with the expectation that if there are any developments, the OCCC will provide resource information as requested.

In continuation of the strategic planning process, the agency submitted its 2019-2023 Strategic Plan draft to the Finance Commission Strategic Planning Committee on May 21st. Staff will prepare a final draft for consideration at the upcoming June meeting and for submission by the required June 8 deadline.

On April 19, Sunset staff published the Sunset Advisory Commission Staff Report for the [Finance Commission of Texas, Office of Consumer Credit Commissioner \(OCCC\), Department of Savings and Mortgage Lending \(SML\) and the Texas Department of Banking \(DOB\)](#). Overall, Sunset staff found *“the agencies have adapted well to the increased flexibility the Legislature granted in 2009 by removing them from the appropriations process through self-directed semi-independent status...both regulated industries and consumers have few complaints about the agencies’ operations, and the agencies take their stewardship of state funds seriously. However, Sunset staff also took its work seriously to identify duplication and inefficiency in the overall regulatory structure.”* Ultimately, Sunset staff recommended the continuance of the OCCC for 12 years.

On May 24, the Sunset Advisory Commission met at the Capitol to review the Finance Commission agencies report (OCCC, SML, & DOB), along with other agencies scheduled that same day. Commissioner Pettijohn provided testimony on behalf of the OCCC. The next hearing will be held August 29 and 30, when the Commission will vote on Sunset staff’s recommendations.

Agency staff continues to provide a combination of live presentations and communication through various channels to regulated entities. For this reporting period (April-May), 448 industry participants attended OCCC staff presentations regarding compliance matters and the regulatory role and responsibilities of the agency, at training seminars hosted by other organizations.

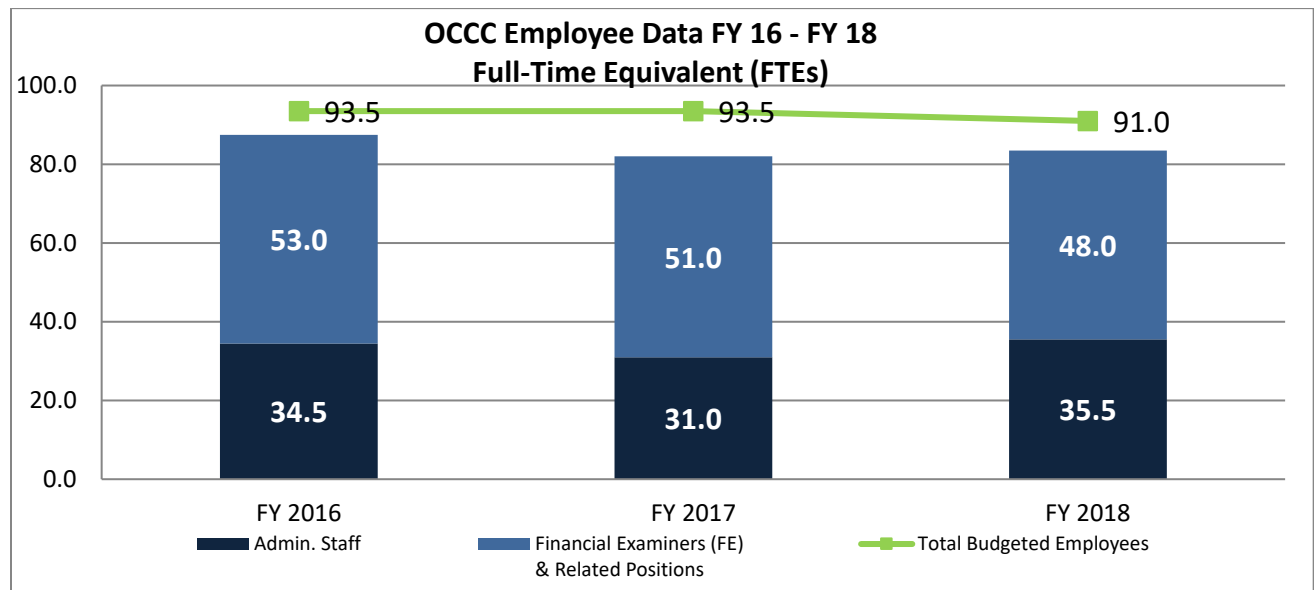
Specifically, on April 18 & 19 and May 16, Review Examiner Huffman Lewis presented Motor Vehicle Sales Finance training at the Texas Department of Motor Vehicles (TxDMV) Dealer Training in Houston (April) and El Paso (May). William Purce, Senior Review Examiner, presented topics of interest to the Texas Department of Housing & Community Affairs (TDHCA) Manufactured Housing Division on May 8 in Austin.

HUMAN RESOURCES

At the end of this reporting period (April–May), the OCCC had one vacant position at Austin Headquarters: Legal Assistant III. Efforts are being made to fill this position before the end of the fiscal year.

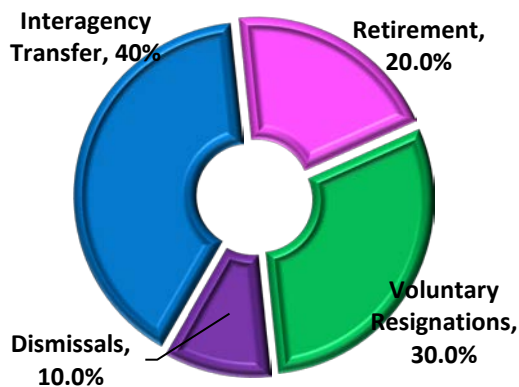
During this same period, the Agency had two separations within the Financial Examiner series: (1) retirement and (1) voluntary, interagency transfer.

Recruiting efforts are focused on filling the current open positions within the Agency using different job posting websites to expand outreach.

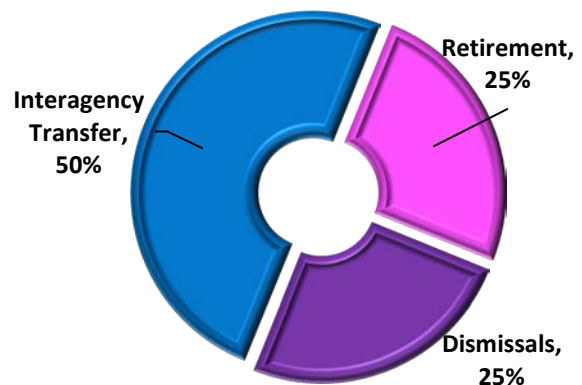


At the end of this period, the OCCC had 83.5 FTEs and experienced an overall turnover of 12.05%, with the goal being under 15%.

FY'18 Turnover Categories – All Employees
 (9/01/17 – 5/31/18)
 10 Total



FY'18 Turnover Categories – FE Series
 (9/01/17 – 5/31/18)
 4 Total



ADMINISTRATION

FINANCIAL LITERACY

Since the last Finance Commission update, the Financial Literacy Specialist trained an additional 104 Texas consumers on various topics including banking basics and services, making savvy decisions while grocery shopping and financial recovery. In addition, the Financial Literacy Specialist presented “JA in a Day!” (Junior Achievement) to a class of first graders in Austin, Texas. The curriculum, while focused on financial education, also correlates to state social studies, English, and math standards.

With these additional participants, the agency has provided instruction to 307 financial education participants to date for FY 2018. By the end of May, the Financial Literacy Specialist met 94.5% of the yearly participation goal. In addition, 11 new contacts were made with organizations across Texas to promote financial education and resources. A total of 28 contacts (93% of the yearly goal) have been made to date.

Also, the Financial Literacy Specialist created a “[4 Steps to Financial Recovery](#)” brochure with additional financial education resources for 200 inmates nearing reentry at the Travis County Correctional Complex in Austin, Texas. This brochure has been published and is available for continued use moving forward. Additional presentations have been coordinated.



Accounting & IT Reports

Accounting

Throughout the summer, the Accounting department will be attending the AFR training courses offered by the Comptroller's office. In preparation for the upcoming months, the department has already held meetings to discuss budget preparations and deadlines. Also, Governmental Accounting Standards Board (GASB) questionnaires have begun arriving, and are being answered and returned to the Comptroller of Public Accounts per their request.

Information Technology

Modernization

ALECS full time maintenance contracted as part of the Statement of Work ended April 30, 2018. The agency has executed a new ITSAC (Information Technology Staff Augmentation Contract) contract for continuing ALECS support with reduced hours and a corresponding reduced cost.

The project to add Crafted Precious Metals Dealers registration to ALECS was initiated in mid-April. All project milestones have been completed on-time, and completion of the project is expected prior to the end of fiscal year 2018.

The agency's in-house programmer continues development for the new Human Resources database. This project is 85% complete; delays imposed by other priorities have been mitigated.

OCCC is transitioning to Microsoft Windows 10 operating system and compatible computers. Approximately 80% of deployed agency computers are now running Windows 10. Remaining computers are on schedule to be upgraded or replaced.

OCCC has completed migration of all user email archives to a unified central data archive.

VoIP

OCCC has completed the deployment of VoIP (Voice over Internet Protocol) for all agency landline telephones and the conversion to the new online Finesse platform for the ACD (Automatic Call Distribution) groups in licensing and consumer assistance.

Security

The OCCC Security Committee (SPCC) continued making progress on the security roadmap, including newly drafted and revised policies and procedures, training requirements, and software and hardware policies.

SPCC has completed 37 items (59% of all short-term, medium-term, and long-term) recommended by the outside consultant's review in November 2016.

General

The department has implemented a new, on-line IT service ticketing system to address end user support more efficiently and traceably.



Legal Department Report

Michael Rigby, General Counsel

June 2018

Enforcement Report

Credit Access Business – Quarterly and Annual Report

In February 2018, the OCCC opened five enforcement actions against credit access businesses that did not timely and accurately file their 2017 4th quarter and annual report by January 31, 2018. In May 2018, the OCCC closed four of the enforcement actions, and anticipates closing the fifth enforcement action in early June.

Of the five credit access businesses that did not timely file a 2017 4th quarter or annual report, two credit access businesses were previously issued an injunctive order by the OCCC for failing to timely file a quarterly or annual report. For these two credit access businesses, the OCCC issued orders assessing an administrative penalty for violating a prior injunctive order. For the remaining three credit access businesses, the OCCC issued orders to file timely and accurate quarterly and annual reports. The injunction orders directed the credit access businesses to file their 2017 further quarter and annual report within 30 days of receiving the order and to file future quarterly and annual reports in a timely manner.

Credit access businesses reporting violations have decreased over the last two years. The five enforcement actions opened this year for late 4th quarter and annual report violations is a reduction from the 21 enforcement actions in 2017 and the 26 enforcement actions in 2016.

Performance Report

The following table summarizes enforcement actions closed by the OCCC during the last three fiscal years, and the current fiscal year-to-date as of May 31, 2018. These figures reflect enforcement actions that have been fully resolved by formal order, informal resolution, or dismissal. Actions that are still pending are not included in the table.

Enforcement Actions Closed as of May 31, 2018				
	FYTD 2018	FY 2017	FY 2016	FY 2015
Revocation / Suspension Actions				
Regulated Loan License	0	1	1	27
Pawnshop License	0	1	3	2
Pawnshop Employee License	0	1	2	2

Credit Access Business	0	3	2	1
Motor Vehicle Sales Finance License	1	2	9	4
Property Tax Loan License	0	0	0	0
Crafted Precious Metal Dealer	0	0	0	2
Total Revocation / Suspension Actions	1	8	17	38
Injunction Actions				
Regulated Loan License	3	37	88	1
Pawnshop License	29	37	1	0
Pawnshop Employee License	35	69	0	0
Credit Access Business License	24	47	25	1
Motor Vehicle Sales Finance License	13	31	18	12
Property Tax Loan License	1	2	16	1
Crafted Precious Metal Dealer	0	0	0	3
Registered Creditor (Ch. 345)	1	1	1	0
Manufactured Housing (Ch.347)	0	1	0	0
Debt Management Services (Ch.394)	4	2	1	6
Credit Card Surcharge (Ch. 339)	0	2	7	1
Residential Mortgage Loan Originator	1	1	0	0
Total Injunction Actions	111	230	157	25
Administrative Penalty Actions				
Regulated Loan License	0	13	0	73
Pawnshop License	3	3	40	4
Pawnshop Employee License	0	0	1	4
Credit Access Business License	5	23	97	136
Motor Vehicle Sales Finance License	21	106	129	76
Property Tax Loan License	2	2	3	8
Crafted Precious Metal Dealer	0	0	2	0
Debt Management Services (Ch.394)	1	0	1	0
Residential Mortgage Loan Originator	0	0	1	0
Total Administrative Penalty Actions	32	147	273	301
Application Denial and Protest Actions				
Regulated Loan License	0	0	0	0
Pawnshop License	0	1	1	0
Pawnshop Employee License	0	0	7	13
Credit Access Business License	0	0	0	2
Motor Vehicle Sales Finance License	0	1	3	8
Property Tax Loan License	0	0	0	0
Residential Mortgage Loan Originator	0	1	0	1
Total App. Denial and Protest Actions	0	3	11	24
Total Enforcement Actions Closed	144	388	458	388

From April 1, 2018, to May 31, 2018, the OCCC:

- issued 20 final orders,
- opened 10 cases in order to assess administrative penalties,
- opened five cases in order to issue injunctions,
- issued no assurances of voluntary compliance,

- participated in no contested case hearings, and
- dismissed no contested case hearings.

The OCCC has one hearing scheduled between May 1, 2018 and June 30, 2018.

Administrative Rule Report

At upcoming meetings, the OCCC plans to present rule actions regarding the following issues:

- Amendments regarding regulated lenders, resulting from rule review.
- Amendments regarding pawnbrokers, resulting from rule review.

Litigation

State of Texas v. Cash Auto Sales, Inc. and VIP Finance of Texas, Inc.

In 2017, the OCCC issued an Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution against VIP Finance of Texas, Inc. The OCCC alleges that VIP violated the Texas Finance Code by engaging in unlicensed regulated lending, engaging in unlicensed motor vehicle sales finance, requiring the purchase of automobile clubs in credit transactions, and charging unreasonable automobile club fees.

VIP argues that the OCCC's enforcement action is barred because of a 1998 judgment, in which a Dallas district court held that VIP was not violating the Texas Credit Code and dismissed the State's claims against VIP. On February 8, 2018, VIP filed an application with the Dallas district court for a temporary restraining order, temporary injunction, and permanent injunction against the OCCC. The district court granted the temporary restraining order. The State filed a plea to the jurisdiction in the district court, arguing that the court does not have jurisdiction over the case.

On February 22, the Dallas district court denied the State's plea to the jurisdiction and issued a temporary injunction. The State has appealed both the denial of the plea to the jurisdiction and the temporary injunction to the Fifth Court of Appeals in Dallas. The State's appellate brief is due June 7.

The temporary injunction remains in effect during the pendency of the State's appeal to the court of appeals. The hearing that was originally scheduled before the State Office of Administrative Hearings (SOAH) has been abated.

The OCCC is represented in the district court and court of appeals by the Financial Litigation and Charitable Trusts division of the Office of the Attorney General. The SOAH case number is 466-18-1803. The district court case number is DC-96-11528. The court of appeals case number is 05-18-00198-CV.

CAB Municipal Ordinance Litigation

Two pending cases involve challenges to the City of Austin's credit access business (CAB) ordinance. In each case, the City of Austin alleges that the CAB violated the ordinance's limit on the number of installment payments under a payday or title loan. The CABs allege that the Austin ordinance is preempted by Section 393.602(b) of the Texas Finance Code.

The first case is *State of Texas v. ACSO of Texas, LP d/b/a Advance America*. In this case, a Travis County Court at Law held that the ordinance is not preempted and can be harmonized with state law. ACSO initially appealed this decision to the Third Court of Appeals in Austin, but this appeal was dismissed. In May 2018, the City's municipal-court case against ACSO was dismissed for lack of evidence (municipal court case no. 8530627), but the City has initiated a new case against ACSO (municipal court case no. 8685132).

The second case is *State of Texas v. The Money Store, LP d/b/a Speedy Cash*. In this case, a Travis County Court at Law held that the ordinance is not preempted and can be harmonized with state law. The Money Store appealed the case to the Austin court of appeals. The court of appeals dismissed the appeal on February 22, 2018, holding that it does not have jurisdiction to hear the appeal because the municipal court has not imposed a fine or conviction (case number 03-17-00675-CR). The court of appeals also dismissed The Money Store's petition for a writ of mandamus against the Travis County Court at Law on March 30, 2018 (case number 03-18-00176-CV). The municipal court case number is 8548312.

Henry v. Cash Biz, LP

This is a civil case in which the plaintiffs alleged that a CAB wrongfully filed criminal charges against consumers to collect payday loans. The Texas Supreme Court held that the case should be remanded for arbitration, finding that the plaintiffs' claims are subject to the arbitration agreement and class action waiver contained in the loan documents. *Henry v. Cash Biz, LP*, 2018 Tex. LEXIS 164 (Tex. 2018). The court held that the CAB did not invoke the judicial process or waive the arbitration agreements by filing information that resulted in criminal charges against consumers for issuance of bad checks.

PHH Corporation v. Consumer Financial Protection Bureau

This case is an appeal of a penalty that the federal Consumer Financial Protection Bureau (CFPB) assessed against PHH Corporation for violating the Real Estate Settlement Procedures Act (RESPA). PHH argued that the structure of the CFPB is unconstitutional because the CFPB's enabling legislation unconstitutionally deprives the president of removal authority. The D.C. Circuit Court of Appeals rejected this argument in an *en banc* decision, holding that the CFPB's enabling legislation is consistent with the U.S. Constitution. *PHH Corp. v. Consumer Fin. Prot. Bureau*, 881 F.3d 75, 80 (D.C. Cir. 2018). However, the court upheld a previous panel decision that invalidated the CFPB's order because PHH's alleged violations took place outside the applicable statute of limitations. The court remanded the case back to the CFPB for further proceedings. Neither PHH nor the CFPB appealed the D.C. Circuit's decision to the U.S. Supreme Court, and the deadline for appealing the decision has passed.

State of Texas v. Student Loan Relief, LLC, et al.

In October 2017, the Consumer Protection Division of the Office of the Attorney General filed a lawsuit in Travis County district court against Student Loan Relief, LLC, Student Loan Relief of Texas, Inc., Your Student Loan Relief Organization, and Jason Spencer alleging violations of the Deceptive Trade Practice Act (DTPA) and Chapter 394 of the Texas Finance Code. The attorney general represents the OCCC in seeking relief as to the violations of Chapter 394.

The lawsuit alleges that Student Loan Relief and its Chairman and CEO Jason Spencer, in his individual capacity, violated the DTPA and Chapter 393 by: (1) providing debt management services to Texas consumers without registering with the OCC, (2) engaging in false and deceptive advertising, (3) charging premature or unauthorized fees, (4) misappropriating or misapplying loan payments, (5) requesting loan deferments or forbearances without permission, and (6) failing to provide refunds or cease withdrawals.

On May 22, 2018, the Office of the Attorney General filed an amended petition and application for temporary injunction and permanent injunction. A trial date has not been set yet. The full style of the Texas case is *State of Texas v. Student Loan Relief, LLC, Student Loan Relief of Texas, Inc., Your Student Loan Relief Organization, and Jason Spencer*. The case number is D-1-GN-17-005516, filed in the 353rd District Court of Travis County, Texas.

Federal Legislation and Rulemaking

Economic Growth, Regulatory Relief, and Consumer Protection Act

On May 24, 2018, the president signed the federal Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155) into law. The Act exempts depository institutions with assets less than \$10 billion from certain requirements under the Dodd-Frank Act. The Act also includes the following provisions related to nondepository financial institutions:

- The Act amends the federal SAFE Act to provide a 120-day transitional license to a residential mortgage loan originator who moves from a depository institution to a nondepository institution, or who moves from a state-licensed lender in one state to a state-licensed lender in another state, if certain conditions are met.
- The Act amends the federal Truth in Lending Act (TILA) to exclude certain manufactured home retailers from TILA's definition of "mortgage originator," if the retailer does not receive compensation more than comparable cash transactions, makes appropriate disclosures to the consumer, and does not directly negotiate loan terms. The term "mortgage originator" is used in TILA's provisions regarding compensation to mortgage originators and prohibitions on steering incentives.
- The Act clarifies the waiting-period requirement under the TILA-RESPA Integrated Disclosures Rule, explaining that if a creditor extends a second offer of credit with a lower APR, no additional waiting period is necessary.
- The Act amends the Fair Credit Reporting Act to allow a consumer to place (or remove) a security freeze on a credit report at no cost.
- The Act amends the Servicemembers Civil Relief Act to make permanent a previous amendment that extended foreclosure protections for one year after a servicemember's period of military service.
- The Act requires the Financial Education and Literacy Commission to establish best practices for institutions of higher education to teach financial literacy skills and provide useful information related to student borrowing.

CFPB Payday Loan Rule

The CFPB adopted a rule on “Payday, Vehicle Title, and Certain High-Cost Installment Loans” (Payday Rule) in November 2017. The Payday Rule contains ability-to-repay requirements and payment-withdrawal requirements for certain short-term and long-term consumer loans. The Payday Rule became effective on January 16, 2018, although most provisions of the rule do not require compliance until August 19, 2019.

In January 2018, the CFPB announced that it intends to reconsider the Payday Rule. The CFPB’s unified agenda for rulemaking (most recently updated in spring 2018) reflects the agency’s intent to reconsider the rule.

On April 9, 2018, the Community Financial Services Association of America and the Consumer Services Alliance of Texas filed a lawsuit against the CFPB to invalidate the Payday Rule. The complaint argues that the Payday Rule is unconstitutional, exceeds the CFPB’s statutory authority, and violates the federal Administrative Procedure Act. On May 31, the plaintiffs and the CFPB filed a joint motion seeking a stay of the rule’s compliance date and the litigation while the CFPB reconsiders the rule. The case is pending in the federal district court for the Western District of Texas in Austin, with case number 1:19-cv-00295-LY.

The deadline has passed for the U.S. Congress to invalidate the Payday Rule under the Congressional Review Act. Although a resolution to invalidate the Payday Rule was filed in the U.S. House of Representatives in December 2017 (HJ Res. 122), this resolution did not pass within the 60 days required by the Congressional Review Act.

CFPB Bulletin on Indirect Auto Lending and the Equal Credit Opportunity Act

The U.S. Congress has invalidated a bulletin issued by the CFPB on indirect auto lending. The CFPB issued the bulletin in March 2013. The bulletin dealt with the Equal Credit Opportunity Act’s applicability to indirect auto lenders that permit dealers to increase rates and compensate dealers with a share of increased revenues. In the bulletin, the CFPB stated: “An indirect auto lender’s markup and compensation policies may alone be sufficient to trigger liability under the ECOA if the lender regularly participates in a credit decision and its policies result in discrimination.” The CFPB recommended that financial institutions limit their fair lending risk by imposing controls and developing a robust compliance program.

Congress passed a resolution invalidating the bulletin under the Congressional Review Act (SJ Res. 57), and the president signed the resolution into law on May 21, 2018.

Advisory Bulletins

From April 1, 2018 to May 31, 2018, the OCC did not issue any new advisory bulletins.

Official Interpretation Requests

From April 1, 2018 to May 31, 2018, the OCC did not receive any requests for official interpretations.

On June 1, 2018, the OCCC declined to issue an official interpretation in response to request 2017-03. The request asked whether a motor vehicle licensee is required to retain the federal privacy notice as part of the retail installment sales transaction file. The request was published in the *Texas Register*, 42 Tex. Reg. 6832 (Dec. 1, 2017). The OCCC did not receive any comments on the request during the 31-day public comment period. The OCCC declined to issue an official interpretation in response to the request for two reasons. First, the OCCC determined that an official interpretation was unnecessary, because this issue was addressed in the preamble to motor vehicle recordkeeping rules adopted by the Finance Commission in April 2018. Second, the OCCC determined that an official interpretation was not appropriate, because the request did not identify any provision of the Texas Finance Code to be interpreted.

Public Information Requests

From April 1, 2018 to May 31, 2018, the OCCC received 34 requests for information under the Texas Public Information Act, with no referrals to the Office of the Attorney General.

Gifts Received by the OCCC

From April 1, 2018 to May 31, 2018, the OCCC did not receive any gifts.

Rule Item/Purpose	Proposal Date	Adoption Date
<p>Rules for Regulated Lenders - Rule Review 7 TAC, Chapter 83, Subchapter A</p> <p>To conduct standard rule review under Tex. Gov't Code, §2001.039; to ensure consistency with agency procedures; and to make technical corrections</p>	<p>08/17/18</p>	
<p>Rules of Operation for Pawnshops - Rule Review 7 TAC, Chapter 85, Subchapter A</p> <p>To conduct standard rule review under Tex. Gov't Code, §2001.039; to ensure consistency with agency procedures; and to make technical corrections</p>	<p>10/19/18</p>	

C.

Texas Department of Banking

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Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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To: Finance Commission Members
From: Kurt Purdom, Director of Bank & Trust Supervision
Date: June 1, 2018
Subject: Summary of the Bank & Trust Supervision Division Activities

Bank and Trust Supervision					FY 2018							
					8/31/2016		8/31/2017		11/30/2017		2/28/2018	
Industry Profile (# / Assets in billions)												
# Banks	247	\$248.3	240	\$252.9	240	\$257.1	238	\$254.8				
# Trust Co. (1)	19	\$101.4	17	\$108.5	18	\$110.0	17	\$105.7				
# FBA/FBB	10	\$70.0	10	\$56.1	8	\$64.7	7	\$66.8				
Examinations Performed												
Banks	105		103		24		25					
Trust Co.	31		26		6		4					
FBA/FBB	2		3		0		0					
Bank Uniform Financial Institution Composite Ratings												
1	126	51.0%	123	51.3%	121	50.4%	117	49.2%				
2	109	44.1%	104	43.3%	105	43.8%	108	45.4%				
3, 4, & 5	12	4.9%	12	5.0%	13	5.4%	12	5.0%				
Non-Rated	0	-	1	0.4%	1	0.4%	1	0.4%				

* Third quarter performance measure numbers are not yet available.

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

The number of problem institutions remains stable, and the level of problem banks is in line with the normal range of between 3% and 5% of the total number of institutions. The Department considers any bank with a Uniform Financial Institutions Composite Rating of 3, 4, or 5, to be a problem bank. We expect the number of problem institutions will slowly reduce over the next few months.

Summary of the Bank & Trust Supervision Division Activities

Enforcement Actions Outstanding <i>(Number outstanding as of the date indicated)</i>			FY 2018			
	8/31/2016	8/31/2017	11/30/2017	2/28/2018	5/31/2018	8/31/2018
Banks - Safety and Soundness						
Formal	0	2	2	2		
Informal	19	23	23	21		
Banks - Bank Secrecy Act (BSA)						
Formal	0	0	0	0		
Informal	0	2	1	1		
Banks - Information Technology (IT)						
Formal	0	0	0	0		
Informal	0	2	2	2		
Trust Departments of Banks and Trust Companies						
Formal	0	0	0	0		
Informal	3	1	1	1		
Total Enforcement Actions Outstanding						
Formal	0	2	2	2		
Informal	22	28	27	25		
Total	22	30	29	27		

* Third quarter actions totals are not yet available.

Formal actions include Orders to Cease and Desist, Consent Orders, Written Agreements and Supervisor Actions.

Informal actions include Determination Letters, Memoranda of Understanding, Commitment Letters and Board Resolutions.

Compliance actions are not included.

Compliance with Examination Priorities Percent of Examinations Conducted within Department Guidelines		
Entity Type	FY 2017	FY 2018 <i>(YTD - Apr 2018)</i>
Commercial Banks <i>(All / DOB Only)</i>	91% / 98%	93% / 98%
IT	92% / 100%	94% / 100%
Trust	91% / 100%	100% / 100%
Foreign Banks (FRB)	100%	100%
Trust Companies (DOB)	100%	100%
IT	100%	100%

Compliance with examination priorities for commercial banks is in line with the agency’s goal of completing 90% of examinations within policy guidelines. Through the first eight months of fiscal year 2018, six bank examinations were started outside of policy guidelines, averaging 15 days late. One late examination was the responsibility of the Department (1 day late) and five were the responsibility of the FDIC (averaging 17 days

late). Delays in FDIC examinations were caused by a staffing imbalance that the FDIC reports will be alleviated by planned staff additions. The same five banks were also late for FDIC information technology examinations.

Division Highlights

- Bank Regulatory Relief Bill – On May 24, 2018, President Trump signed legislation to provide regulatory relief from certain provisions of the Dodd-Frank Act enacted into law in 2010. The U.S. House of Representatives passed U.S. Senate Bill 2155 without amendment by a vote of 258 to 159. Though the relief bill did not provide as much relief as far as many community banks had hoped, passage of 2155 was nevertheless well received. Some of the significant provisions affecting community banks are summarized below:
 - *Capital Simplification*: Requires federal banking regulators to establish a “community bank leverage ratio,” defined as a tangible leverage ratio between 8 percent and 10 percent. Qualifying community banks – those with less than \$10 billion in total consolidated assets that have not been disqualified based on their risk profile – will meet the “community bank leverage ratio” in lieu of the current minimum leverage and risk-based capital requirements. **The federal banking agencies shall consult with the applicable state bank supervisors in carrying out this section.**
 - *Mortgage Lending*: Provides qualified mortgage (QM) status for loans held in portfolio by banks with assets of \$10 billion or less. QM status is afforded to mortgage loans that meet certain underwriting standards, which in turn offers banks significant legal protections. Many community banks were reluctant to originate loans that did not meet the QM standards.
 - *Appraisal Relief*: Exempts mortgages of \$400,000 or less in rural areas from appraisal requirements if the originator is unable to find a state certified or state licensed appraiser to perform an appraisal after a good faith effort to do so.
 - *Reciprocal Deposits*: Recognizes reciprocal bank deposits as a stable source of deposit funding instead of considering them brokered deposits. Reciprocal deposits allow local financial institutions to maintain relationships with large depositors in their markets by passing along a portion of the deposit to other financial institutions.
 - *Exam Cycle*: Raises the eligibility of banks for an 18-month examination cycle from \$1 billion in total assets to \$3 billion in total assets.
 - *Volcker Relief*: Exempts banks with assets of \$10 billion or less from the Volcker Rule, which prohibits banks from proprietary trading. Even though most community banks do not engage in proprietary trading, the Volcker Rule may limit their ability to legitimately hedge against risk.
- CSBS Accreditation – The Department has been accredited by the Conference of State Bank Supervisors (CSBS) since 1993 and must pass a re-accreditation process every five years. Accreditation involves an in-depth review of an agency’s policies, procedures, and operations to determine if it meets the standards set forth by the Performance Standards Committee, which is a sub-committee of the CSBS Education Foundation. The agency is currently completing an electronic self-evaluation questionnaire, or SEQ, in preparation for an on-site evaluation by a CSBS Review Team in October of 2018. The CSBS Review Team

Summary of the Bank & Trust Supervision Division Activities

Page 4

will evaluate the agency's submitted responses to the SEQ, conduct interviews with staff, and determine if the agency's operations meet the standards for re-accreditation.

- **Special Operations and Conferences:**

- Commissioner Cooper participated in the Independent Bankers Association of Texas Congressional Visit the week of April 9, 2018.
- Review Examiner Whitson participated in a regulatory panel held during the Texas Bankers Association (TBA) Compliance School on April 13, 2018.
- Review Examiner Hodge participated in judging school submissions for the CSBS Case Study Competition the week of April 23, 2018. Winning submissions were announced at the State – Federal Supervisory Forum described below.
- Director Purdom participated in the Texas A&M University Banking Program Advisory Board Meeting held in College Station on April 27, 2018.
- Commissioner Cooper participated in the Sam Houston State University Bankers Hall of Fame event and Annual Bank Executives and Directors Seminar held in Huntsville on April 26-27, 2018.
- Commissioner Cooper and other staff members participated in the TBA Convention held in Houston on May 2-4, 2018.
- Commissioner Cooper and other staff members participated in the CSBS Board Meeting and State – Federal Supervisory Forum held in Jacksonville, Florida the week of May 7, 2018. During the Forum, Commissioner Cooper served on a regulatory panel relating to cyber-security and Director Purdom served on a regulatory panel relating to bank off-site monitoring tools.



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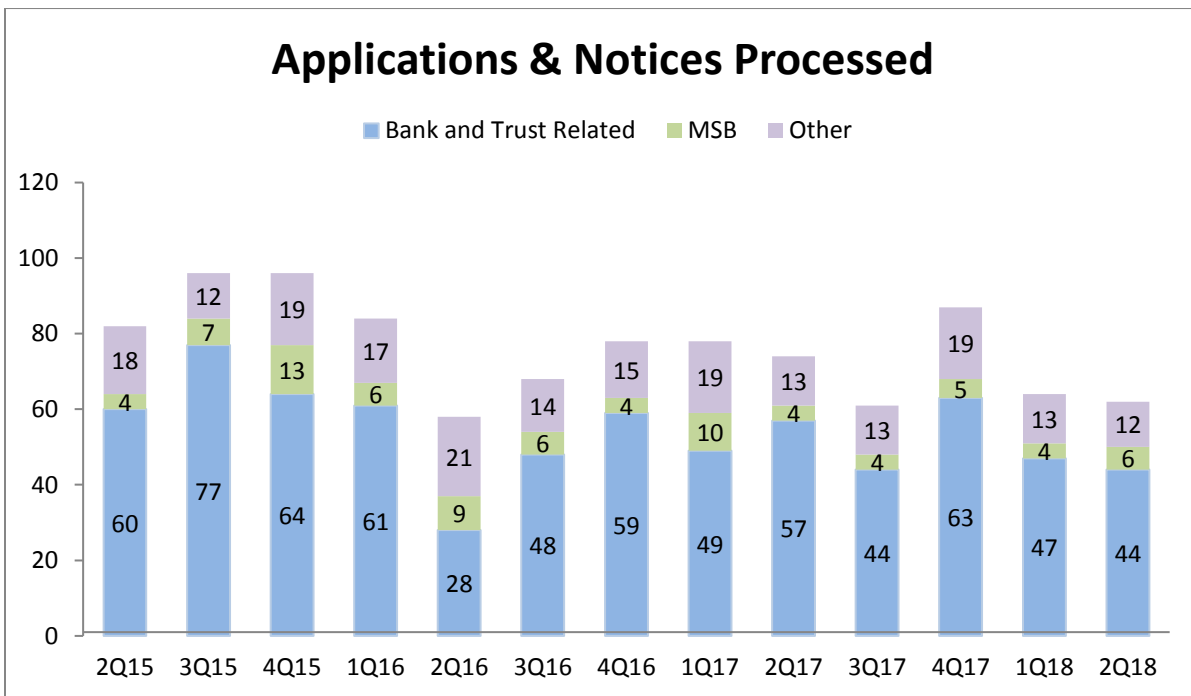
Charles G. Cooper
Commissioner

To: Finance Commission Members

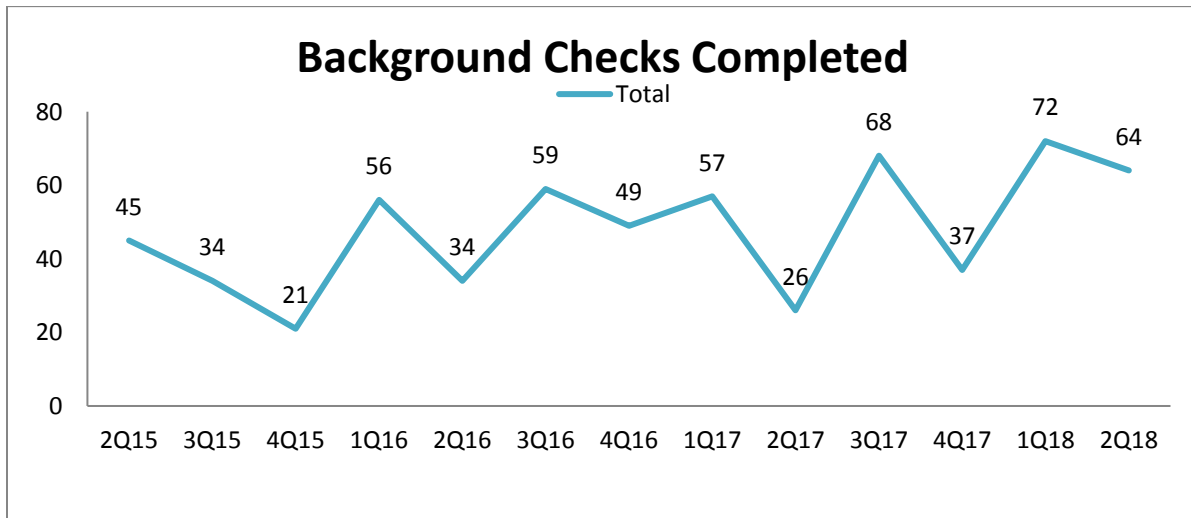
From: Daniel Frasier, Director of Corporate Activities *DF*

Date: May 30, 2018

Subject: Summary of the Corporate Division Activities



Fiscal 3Q18 information is not available and will be presented at the next Finance Commission meeting.



Fiscal 3Q18 information is not available and will be presented at the next Finance Commission meeting.

Entities/Activities	Applications and Notices Under Review (as of May 29, 2018)
Bank Related	14
Trust Companies	4
Money Services Business (MSB)	12
Others	1
Totals	31

Division Highlights

- The volume of substantive bank filings received remained significant in large part due to merger related applications being received and processed by Corporate. The number of MSB applications received also remains significant primarily from new MSB license application entrants and control changes in existing MSB entities.
- Charter, Conversion, and Merger Activity – The following transaction has consummated since Corporate’s last report to the Finance Commission:
 - *Banks*
 - Platinum Bank, Lubbock, Texas, merged into AimBank, Littlefield, Texas
 - *Trust Companies*
 - Ponte Trust Company LTA, Dallas, Texas, a de novo trust company, opened for business
- Conferences, Conventions, and Committee Meetings – Corporate participated in the following meetings since the last report to the Finance Commission:
 - Director of Corporate Activities Dan Frasier attended the CSBS State-Federal Supervisory Forum in Jacksonville, Florida, in May 2018.



Charles G. Cooper
Commissioner

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To: Finance Commission Members

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

Date: June 1, 2018

Subject: Summary of the Special Audits Division Activities

Special Audits			FY 2018							
Entity	FY 2017		1 st		2 nd		3 rd		4 th	
Industry Profile (# / Assets (billions))										
Money Services Businesses (MSB)	156	\$113.8	156	\$113.8	159	\$113.8	*	*		
Prepaid Funeral Contract (PFC)	375	\$3.9	373	\$4.0	374	\$4.0	*	*		
Perpetual Care Cemeteries (PCC)	242	\$332.9	242	\$338.0	242	\$341.6	*	*		
Cemetery Brokers (CB)	14	n/a	14	n/a	14	n/a	*	*		
Private Child Support Enforcement Agencies (PCSEA)	10	n/a	10	n/a	10	n/a	*	*		
Check Verification Entities (CVE)	2	n/a	2	n/a	2	n/a	*	*		
Bullion Depository Agent (BDA)	**	**	0	n/a	0	n/a	*	*		
Examinations Performed										
MSB	104		24		31		*			
MSB Limited Scope	3		0		0		*			
MSB Accepted other State	7		4		2		*			
PFC	284		64		46		*			
PFC Limited Scope	2		0		4		*			
PCC	172		43		59		*			
PCC Limited Scope	4		1		2		*			
Ratings (# / %) Assigned to All Regulated Entities										
1	303	40%	292	38.7%	289	38.2%	*	*		
2	384	51%	391	51.8%	386	51.1%	*	*		
3,4, & 5	70	9%	72	9.5%	81	10.7%	*	*		
Noncompliance with Examination Priorities (Past Due)										
MSB	5		12		9		*			
PFC	4		2		3		*			
PCC	5		3		2		*			

NOTES:

PCC \$ amounts reflected in the millions.

Limited scope examinations do not receive a rating.

*Third quarter fiscal year 2018 data has not been finalized and will be provided in the next summary.

**BDA – Bullion Depository Agent (new registration requirement)

Division Activities

On April 12th, Director Reese and Assistant General Counsel Chris Bell met with representatives from the U.S. Department of Homeland Security in Laredo, Texas to discuss an ongoing criminal investigation against a licensed MSB.

On April 16th, Director Reese and Assistant General Counsel Ryan McCarthy met with representatives from the U.S. Department of Homeland Security and the U.S. Department of Justice in Dallas, Texas to discuss an ongoing criminal investigation against a licensed MSB.

On May 17th, a Prepaid Funeral Guaranty Fund Advisory Council (Council) meeting was held in Austin, Texas. The Council ratified five Trust Guaranty Fund claims totaling \$24,671.60 related to the Tom G. Walker Funeral Home, Coleman, Texas.

PFC/PCC Financial Examiners met in Round Rock, Texas, the week of May 28th to discuss current events in the industry and to receive additional training on performing examinations and submitting compliant examination reports.

On June 18-19th, Review Examiner Jesse Saucillo will attend the Annual Money Laundering & Financial Crimes Conference hosted by the Office of the Attorney General in Austin, Texas. The conference is designed to support the efforts of state and local law enforcement officials and analysts engaged in financial crime and money laundering investigations.

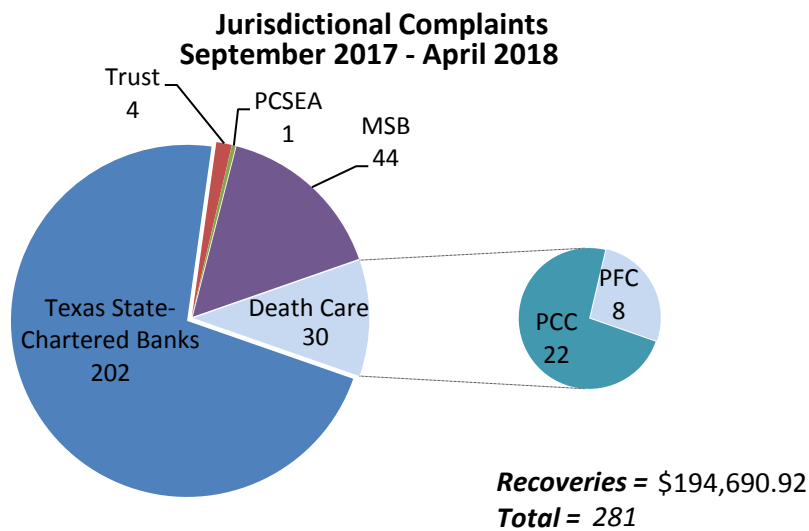


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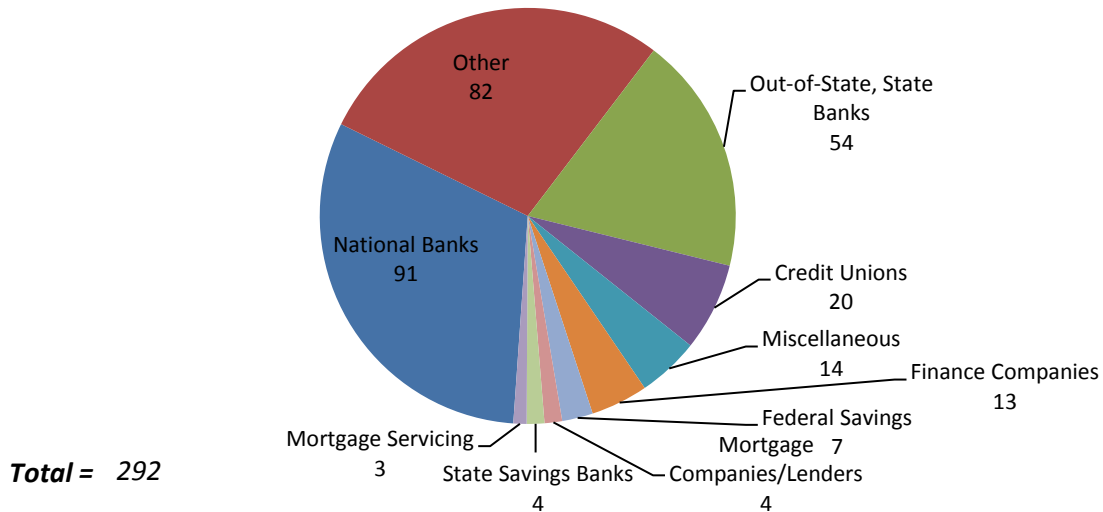
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To: Finance Commission Members
From: Wendy Rodriguez, Director of Strategic Support *WR*
Date: June 1, 2018
Subject: Summary of the Strategic Support Division Activities

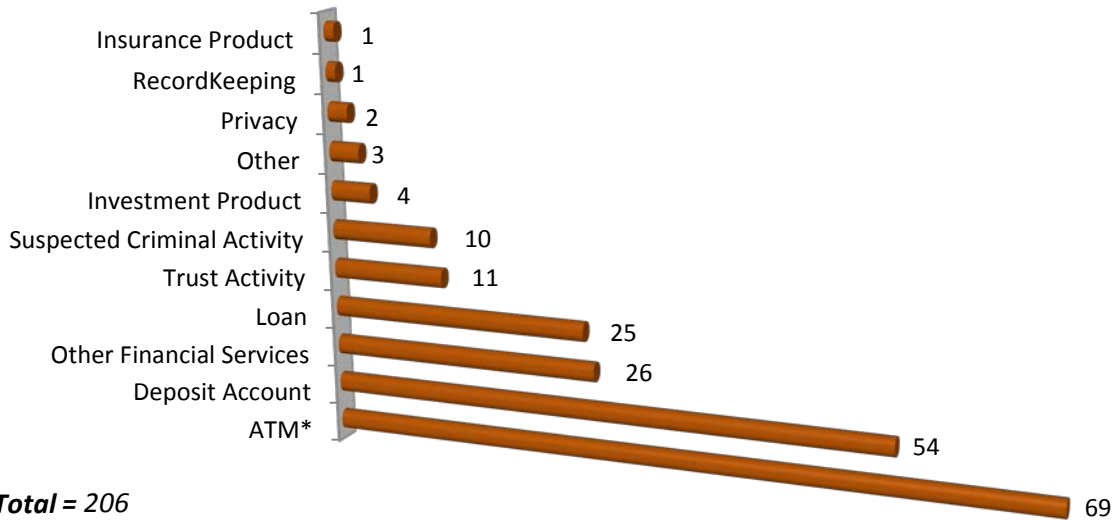


Complaints Against Non-Jurisdictional Entities September 2017 - April 2018



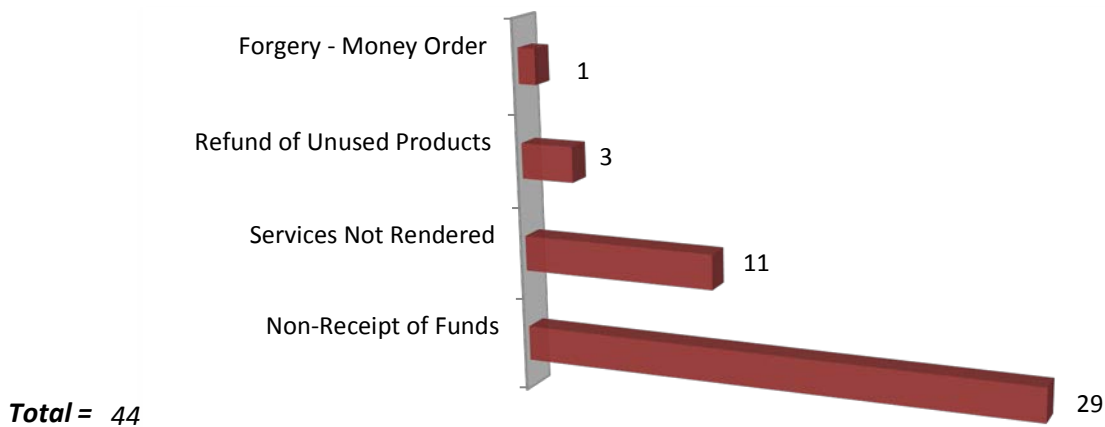
On occasion, consumers do not provide the name of the entity they need assistance with. In these situations, the communication is categorized in the "Other" category.

**State-Chartered Banks and Trust Companies
 Complaints by Type
 September 2017 - April 2018**

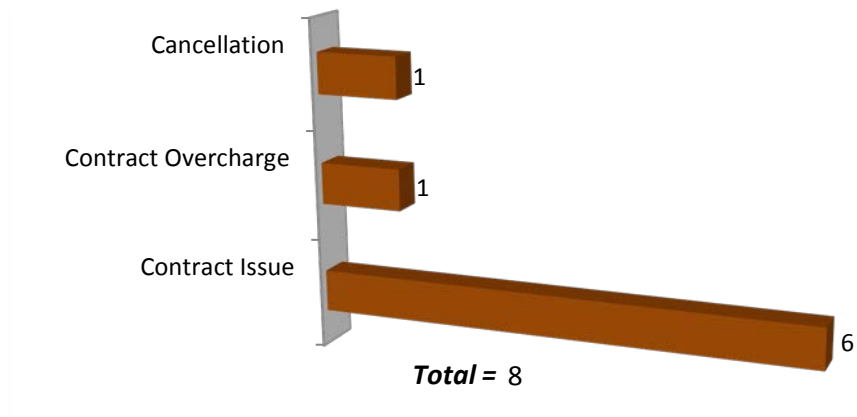


*Activity related to annual privacy notice containing the Department's contact information. Consumer complaints range from needing clarification of the notice to account balance issues and card related problems.

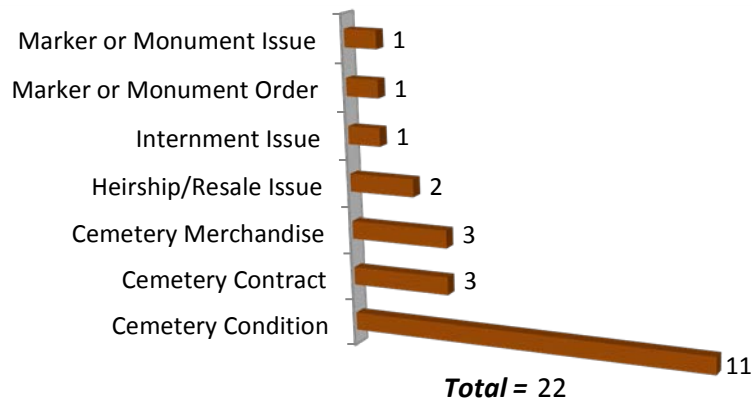
**Money Services Businesses
 Complaints by Type
 September 2017 - April 2018**



**Prepaid Funeral Contract Sellers
Complaints by Type
September 2017 - April 2018**



**Perpetual Care Cemeteries
Complaints by Type
September 2017 - April 2018**



Average Number of Days to Close a Written Complaint

Type	Sept. 2017 – April 2018
State-Chartered Banks	13
Trust	5
PCSEA	61
PFC/PCC	31
MSB	41

CANS ACTIVITY

January 1, 2014 – May 24, 2018

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	213	1,086
Texas State-Chartered Savings Banks	23	62
Federal Savings Banks	10	81
State Credit Unions	132	1,081
Federal Credit Unions	229	737
National Banks	170	300
Out-of-State State-Chartered Banks	12	95
Out-of-State National Banks	6	15
Total	795	3,457

Bank Examination Testing System (BETS) Activity

Number of Candidates Passing Each Phase

	FY 2015	FY 2016	FY 2017	FY 2018 <i>(As of 05/31/18)</i>
I. General Knowledge	8	9	8	6
II. Loan Analysis	2	4	3	3
III. Panel	4	3	2	1
IV. Test Bank	4	2	3	1
Total FE3	19	18	24	29

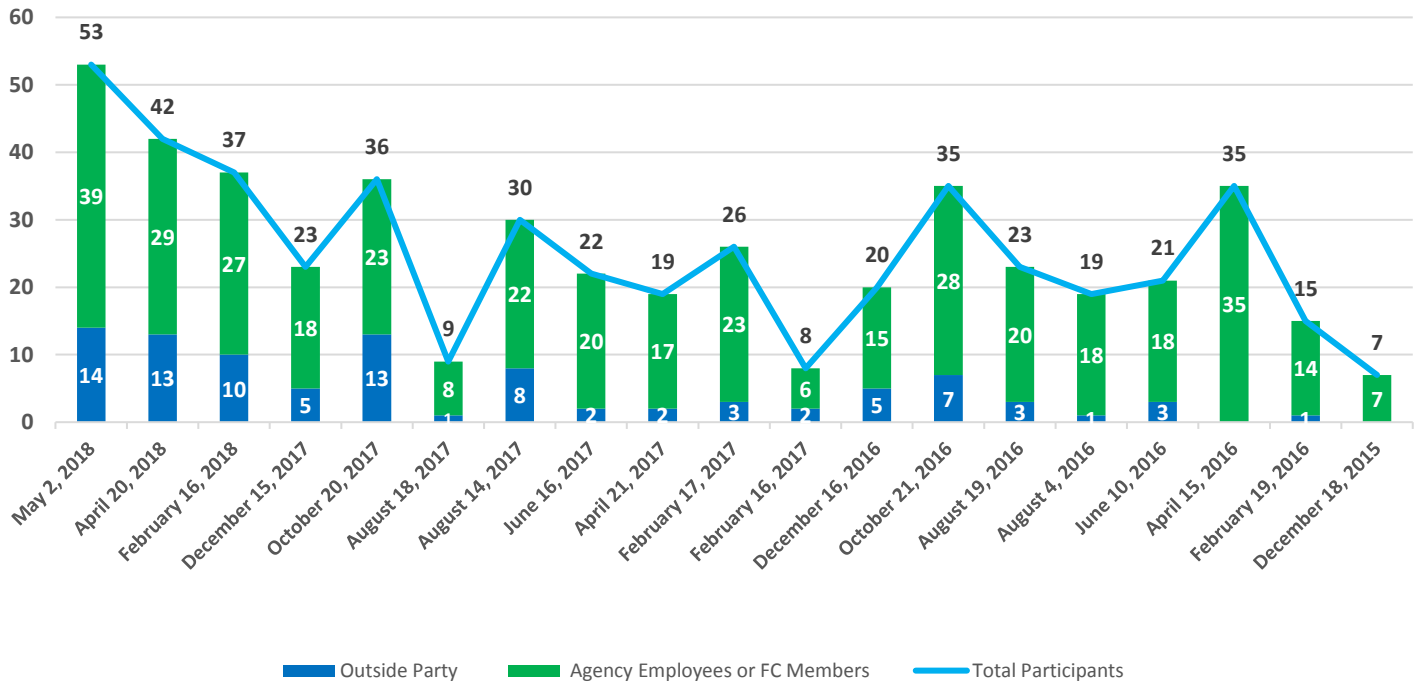
Promotions

From FE3 to FE4 <i>(Commissioned Examiner)</i>	4	2	3	1
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Other Divisional Items:

- *Publications or Reports*
 - Strategic Plan for Fiscal Years 2019-2023
 - The Strategic Plan for Fiscal Year 2019-2023 was completed and submitted to the required governmental agencies. This includes the Workforce Plan and Customer Service Report.
- *Financial Education*
 - The Financial Fitness Greater Austin (FFGA) \$mart Kid Essay Contest, presented by Capital One Bank, encourages middle school and high school students in the Greater Austin area to submit an essay on a specific topic selected by the FFGA. This year, Ms. Wendy Rodriguez participated as a judge on the \$mart Kid Essay scholarship contest in April. Interviews of the finalist will be conducted on June 2, 2018. The top three essays in the high and middle school categories receive a scholarship.
- *Sunset*
 - The Department submitted a [formal response](#) to the Sunset Staff Report on May 10, 2018. On May 24, 2018, Finance Commission Chair Stacy G. London and the three Finance Commission agency Commissioners testified before the Sunset Advisory Commission. The next scheduled hearing will be August 29-30, 2018.
- *Policy Updates*
 - Regulatory Guidance 3008 regarding residential mortgage loan fraud was revised to reflect the abolishment of the Residential Mortgage Task Force by the 85th Legislature (SB 526).
- *Website*
 - The Finance Commission website redesign is in the final stages. Several staff members are reviewing the content and functionality of the site. Once this phase is complete, Commission members will be given an opportunity to review the site before it is revealed in August 2018.

Historical Finance Commission Meeting Webcast Statistics





Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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Memorandum

TO: Finance Commission Members
FROM: Catherine Reyer, General Counsel
DATE: June 1, 2018
RE: Legal Division Update

Pending Contested Cases

In re Bellwood Memorial Park, Temple, Texas; Docket No. BF-1803-18-049. Respondent holds a permit to issue prepaid funeral contracts and a certificate of authority to operate a perpetual care cemetery. Following multiple examinations by Department staff, Respondent was alleged to have repeatedly failed to timely deposit perpetual care funds as required by statute. On April 19, 2018, a contested case hearing was held before administrative law judge Donald Walker to consider imposition of a penalty for the repeated violations. Respondent did not appear at the hearing. On May 7, 2018, ALJ Walker issued a proposal for decision recommending that the Banking Commissioner issue an order imposing a \$35,000 penalty, which was the full amount recommended by staff. Respondent failed to file exceptions to the proposal for decision by the May 30, 2018 deadline. A final order is expected this summer.

In re JetPay Corporation and JetPay HR & Payroll Services, Inc.; Docket No. BM-1805-17-048. Respondent is alleged to have conducted money transmission without a license. On April 2, 2018, the Department issued an order requiring Respondent to cease and desist from further conducting further money transmission business for Texas customers. Respondent timely requested a hearing on the Cease and Desist Order. A hearing on the Order and a potential monetary penalty is set for June 28, 2018.

The Department has a confidential prohibition matter pending before an administrative law judge. It is set for hearing in February, 2019.

Gifts

No gifts have been received by the Department since the last Legal Division Update was prepared.

Orders Issued 4/1/18 – 5/31/18

Since the last Legal Division memo was submitted, the Commissioner issued one order, a Cease and Desist Order. Respondent has requested a hearing, so the Order is not yet effective (see Contested Case entry on JetPay Corporation above).

Quarterly Order Activity

BANK				
Type of Action	1st	2nd	3rd	4th
Consent Order	0	0	0	
Cease & Desist	0	1	0	
Supervision	0	0	0	
Prohibition	1*	1	0	
Total	1	2	0	
TRUST COMPANY				
Consent Order	0	0	0	
Cease & Desist	0	0	0	
Supervision	0	0	0	
Prohibition	0	0	0	
Total	0	0	0	
MONEY SERVICE BUSINESS				
Consent Order	1	2	0	
Cease & Desist	0	4	1*	
Total	1	6	1	
PERPETUAL CARE CEMETERY				
Consent Order	0	0	0	
Cease & Desist	0	0	0	
Refusal to Renew Cert/Auth	0	1	0	
Total	0	1	0	
PREPAID FUNERAL CONTRACT				
Consent Order	2	0	0	
Cease & Desist	0	0	0	
Conversion	0	0	0	
Total	2	0	0	

*Order is the subject of a contested case hearing, and therefore is not yet effective.

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 2, Chapter 3, §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52, 3.55, and 3.92 Concerning State Bank Regulation

PURPOSE: Amendments to Chapter 3 remove transitional provisions no longer necessary and correct statutory references and certain scrivener's errors. As amended, §3.4 corrects the reference to 12 U.S.C. §1831o; §3.23 and §3.44 correct the references to §15.2 regarding the filing fee required by Title 7 of the Texas Administrative Code to include the correct title of the section; §3.36 removes the transitional provision regarding annual assessments established for the fiscal year beginning September 1, 2015; §3.43 corrects the reference to 204.104(b) of the Texas Finance Code to control the authorized sources of deposits for foreign bank branches or agencies; §3.52 and §3.55 correct the abbreviation of the Federal Financial Examination Council, as referenced; and §3.92 corrects the misspelling of the unit of measurement for compliance with the standards for lighting at unmanned teller machines.

RECOMMENDED ACTION: No comments were received regarding the proposed amendments to 7 TAC §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52, 3.55, and 3.92. The Department recommends that the Commission approve adoption of the amendments without changes to the proposal as previously published in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt the amendments to 7 TAC, Chapter 3, §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52, 3.55, and 3.92 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
7 TAC, §§3.4, 3.23, 3.36, 3.43, 3.44, 3.52,
3.55, 3.92***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts amendments to 7 TAC §3.4, concerning foreign banking; §3.23, concerning exercise of trust powers; §3.36, concerning annual assessments and specialty examination fees; §3.43, concerning credit balance of funds; §3.44, concerning statements of registration, notices and filings related to foreign bank representative offices; §3.52, concerning general definitions; §3.55, concerning calculation of liabilities; and §3.92, concerning user safety at unmanned teller machines. The amendments are adopted without changes to the proposed text as published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2683). The amended rules will not be republished.

The amended rules remove transitional provisions that are no longer necessary and correct statutory references and certain scrivener errors.

Section 3.4 cites to 12 U.S.C. §1831 to incorporate the federal definition of “well capitalized.” Section 3.4 as amended corrects the statutory reference for the federal definition to 12 U.S.C. §1831o.

Section 3.23 references the filing fee required by §15.2 of this title. Section 3.23 as amended corrects the reference to include the correct title of the section.

Section 3.36 includes a transitional provision regarding annual assessments established for the fiscal year beginning September 1, 2015. Section 3.36 as amended removes the transitional provision.

Section 3.43 references §204.104(b), of the Texas Finance Code to control the authorized sources of deposits for foreign bank branches or agencies. Section 3.43 as amended corrects the reference to include the correct section of the Texas Finance Code.

Section 3.44 references the filing fee required by §15.2 of this title. Section 3.44 as amended corrects the reference to include the correct title of the section.

Section 3.52 references the Federal Financial Examination Council. Section 3.52 as amended corrects the reference to include the correct abbreviation of the entity.

Section 3.55 references the Federal Financial Examination Council. Section 3.55 as amended corrects the reference to include the correct abbreviation of the entity.

Section 3.92 describes the conditions for measuring compliance with the standards for lighting at unmanned teller machines. Section 3.92 as amended corrects a misspelling of the unit of measurement.

The department received no comments regarding the proposed amendments.

The amendment to §3.4 is adopted under Finance Code, §31.003(a), which provides that the commission may adopt rules to accomplish the purposes of Title 3, Subtitle A and Chapters

11, 12, and 13 of the Texas Finance Code, including rules necessary or reasonable to:

- (1) Implement and clarify this subtitle and Chapters 11, 12, and 13;
- (2) Preserve or protect the safety and soundness of state banks;
- (3) Grant at least the same rights and privileges to state banks that are or may be granted to national banks domiciled in this state;
- (4) Recover the cost of maintaining and operating the department and the cost of enforcing this subtitle and other applicable law by imposing and collecting ratable and equitable fees for notices, applications, and examinations; and
- (5) Facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission.

§3.4. Foreign Banking.

(a) Any state-chartered bank that is well-capitalized as defined by Section 38, Federal Deposit Insurance Act, 12 United States Code (USC), §1831o may file an application with the banking commissioner for permission to exercise, upon such conditions as may be prescribed by the banking commissioner, the following powers:

(1) – (3) (No change.)

(b) – (c) (No change.)

The amendment to §3.23 is adopted under 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. The amendment to §3.36 is adopted under Finance Code, §31.003(a)(4) and §31.106, which authorize the commission to adopt rules necessary or reasonable to recover the cost of supervision and regulation by imposing and collecting ratable and equitable fees.

§3.23. Exercise of Trust Powers.

(a) – (b) (No change.)

(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) – (3) (No change.)

(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 and Investigation Fees); and

(5) (No change.)

(d) (No change.)

§3.36. Annual Assessments and Specialty Examination Fees.

(a) – (c) (No change.)

(d) Annual assessment. Effective September 1 of each year, the department will establish the annual assessment for each bank, foreign bank branch, and foreign bank agency under subsections (f) and (g) of this section.

(1) – (3) (No change.)

(4) (deleted)

(e) – (i) (No change.)

The amendments to §3.43 and §3.44 are adopted under Finance Code, §31.003(a), which provides that the commission may adopt rules to accomplish the purposes of Title 3, Subtitle A and Chapters 11, 12, and 13 of the Texas Finance Code, including rules necessary or reasonable to:

- (1) Implement and clarify this subtitle and Chapters 11, 12, and 13;
- (2) Preserve or protect the safety and soundness of state banks;
- (3) Grant at least the same rights and privileges to state banks that are or may be granted to national banks domiciled in this state;
- (4) Recover the cost of maintaining and operating the department and the cost of enforcing this subtitle and other applicable law by imposing and collecting ratable and equitable fees for notices, applications, and examinations; and
- (5) Facilitate the fair hearing and adjudication of matters before the banking commissioner and the finance commission.

§3.43. Credit Balance of Funds.

(a) A foreign bank branch or agency may not receive deposits except as specifically authorized under the Finance Code, §204.105(b). A foreign bank branch or agency may receive funds from a person and maintain a credit balance in accordance with the Finance Code, §204.105(b).

(b) – (c) (No change.)

§3.44. Statements of Registration, Notices and Filings Related to Foreign Bank Representative Offices.

(a) – (b) (No change.)

(c) Statement of registration. To establish a representative office in this state, a foreign bank shall file with the banking commissioner a statement of registration on the form prescribed by the department. The statement of registration must:

(1) – (2) (No change.)

(3) be accompanied by the registration fee established in §15.2(b) of this title (relating to Filing and Investigation Fees).

(d) (No change.)

(e) Separate statement of registration required. A statement of registration must be filed for each representative office a foreign bank establishes in this state. If a foreign bank has established an initial representative office in accordance with this section, the banking commissioner may waive one or more of the informational requirements of the statement of registration form with respect to any additional

Texas representative office the foreign bank seeks to establish. However, payment of the registration fee provided for in §15.2(b) of this title (relating to Filing and Investigation Fees) may not be waived.

(f) (No change.)

The amendments to §3.52 and §3.55 are adopted under Finance Code, §201.003, which authorizes the commission to adopt rules necessary or reasonable to implement and clarify Title 3, Subtitle G of the Finance Code and Finance Code, §204.113 and §204.114, which authorize the commission to adopt rules concerning asset pledge and maintenance requirements applicable to a foreign bank that maintains a Texas state branch or agency.

§3.52. General Definitions.

Unless defined otherwise in this section, words and terms used in this subchapter that are defined in Finance Code, §31.002, have the same meanings as defined in the Finance Code. The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

(1) (No change.)

(2) Call Report--The FFIEC quarterly, consolidated report of assets and liabilities of United States branches and agencies of foreign banks, currently reported on FFIEC 002.

(3) – (10) (No change.)

§3.55. Calculation of Liabilities.

(a) Calculation of liabilities in accordance with Call Report. For purposes of §3.53(b), and

except as otherwise provided in this subchapter, a foreign bank must:

(1) calculate the nonrelated deposit liabilities and nonrelated other liabilities of its Texas state branch or agency in accordance with the instructions in the FFIEC Call Report; and

(2) (No change.)

(b) (No change.)

The amendments to §3.92 are adopted under Finance Code, §59.310, which authorizes the commission to adopt rules to implement Subchapter D of the Finance Code, Chapter 59 (§§59.301 – 59.310).

§3.92. User Safety at Unmanned Teller Machines.

(a) (No change.)

(b) Measurement of candlefoot power. For purposes of measuring compliance with the Finance Code, §59.307, candlefoot power should be determined under normal, dry weather conditions, without complicating factors such as fog, rain, snow, sand or dust storm, or other similar condition.

(c) – (h) (No change.)

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3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 2, Chapter 33, §§33.23, 33.31, 33.35, and 33.51 Concerning Money Services Businesses

PURPOSE: Amendments to Chapter 33 provide clarity with respect to existing policies and mirror applicable federal regulation. Section 33.23 as amended clarifies the Department’s interpretation of an existing permissible investment under Section 151.309 of the Texas Finance Code to allow a money transmitter to include the appropriate assets in meeting its statutory requirement to maintain permissible investments. Section 33.31 as amended clarifies the documentation an alien may use to provide customer information. This change mirrors the federal requirements as clarified in FINCEN Ruling FIN-2014-R003. Section 33.35(d)(1) as amended includes a reference to digital wallets as a stored value product, which clarifies the Department’s interpretation of “stored value products.” §33.35(d)(3), which refers to to-be-adopted federal rules, is deleted because the Department of Treasury adopted specific recordkeeping requirements for stored value transactions subsequent to the adoption of §33.35 of Title 7 of the Texas Administrative Code. Section 33.51 as amended clarifies when a money services business license holder is required to include the consumer complaint notice on its website.

RECOMMENDED ACTION: No comments were received regarding the proposed amendments to 7 TAC §§33.23, 33.31, 33.35, and 33.51. The Department recommends that the Commission approve adoption of the amendments without changes to the proposal as previously published in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt the amendments to 7 TAC, Chapter 33, §§33.23, 33.31, 33.35, and 33.51 without changes to the proposal as previously published in the *Texas Register*.

***Title 7. Banking and Securities
Part 2. Finance Commission of Texas
Chapter 33. Money Services Businesses
7 TAC, §§33.23, 33.31, 33.35, 33.51***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts amendments to 7 TAC §33.23, concerning additional provisions that apply to permissible investments; §33.31, concerning record retention relating to currency exchange transactions; §33.35, concerning record retention relating to money transmission transactions; and §33.51, concerning providing information to customers on how to file a complaint. The amendments are adopted without changes to the proposed text as published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2686). The amended rule will not be republished.

Section 33.23 discusses the permissible investment requirement for a money transmitter under §151.309 of the Texas Finance Code. Section 33.23 as amended clarifies the department's interpretation of an existing permissible investment under the statute to allow a money transmitter to include the appropriate assets in meeting its statutory requirements.

Section 33.31 explains what records a currency exchanger must retain with respect to a currency exchange transaction. Section 33.31 as amended clarifies the documentation an alien may use to provide customer information. This change mirrors the federal requirements as clarified in FINCEN Ruling FIN-2014-R003.

Section 33.35 pertains to record retention requirements relating to money transmission transactions. Section 33.35 as amended includes a reference to digital wallets as a stored value product and removes a provision that refers to to-be-adopted federal rules that were subsequently adopted. The change in subsection (d)(1) does not expand the existing regulation, it merely clarifies the department's interpretation of digital wallets/e-wallets as "stored value products." Subsection (d)(3) is being deleted because the Department of Treasury adopted specific recordkeeping requirements for stored value transactions subsequent to the adoption of §33.35 of this title.

Section 33.51 addresses when and how a money services business must provide customers with the information necessary to file a complaint with the department. Section 33.51 as amended clarifies when a money services business license holder is required to include the consumer complaint notice on its website.

The department received no comments regarding the proposed amendments.

The amendments are adopted pursuant to Finance Code, §151.102, which authorizes the commission to adopt rules to administer and enforce Texas Finance Code, Chapter 151.

§33.23. What Additional Provisions Apply to Permissible Investments?

(a) – (e) (No change.)

**ADOPTION OF AMENDMENTS TO 7 TAC,
§§33.23, 33.31, 33.35, 33.51
Page 2 of 3**

(f) For the purpose of satisfying a license holder's permissible investments requirement under Tex. Fin. Code Ann. §151.309, the Department interprets "cash in demand or interest-bearing accounts with a federally insured depository institution" to include funds held by a license holder's depository institution after being withdrawn from the license holder's account for transmission to satisfy the license holder's outstanding money transmission obligation.

§33.31. What Records Must I Keep Related to Currency Exchange Transactions?

(a) – (b) (No change.)

(c) What specific records must I keep related to currency exchange?

(1) With respect to currency exchange transactions in an amount in excess of \$1,000, you must keep a record for each transaction that contains:

(A) the customer and transaction information required under 31 CFR §1022.410(b)(3), provided that, if your customer does not have a taxpayer identification number (e.g., social security, employee identification number) or passport number and is an alien, you may provide the number and description of an alternate valid entry document issued by a U.S. Federal or state government, such as a border crossing card; and

(B) – (H) (No change.)

(2) – (3) (No change.)

(d) (No change.)

§33.35. What Records Must I Keep Related to Money Transmission Transactions?

(a) – (c) (No change.)

(d) What specific records must I keep related to the issuance and sale of stored value products?

(1) This subsection applies to transactions in which you issue or sell, as a license holder or the authorized delegate of a license holder, as applicable, stored value products (e.g., cards, devices, services, digital wallets/e-wallets) in any amount for currency or an instrument payable in currency.

(2) You must maintain transaction records regarding each stored value transaction that are appropriate for your business activities and the type of stored value product you issue or sell. The records must be sufficient to enable the department to determine the volume of your stored value transactions and the amount of your outstanding stored value liability.

(3) (deleted)

(e) – (g) (No change.)

§33.51. How do I Provide Information to My Customers about How to File a Complaint?

(a) – (d) (No change.)

(e) How and where must I provide the required notice?

(1) (No change.)

(2) If you maintain a website by which a customer may remit money for transmission, complete a depository agent services transaction or obtain information about the customer's transaction or an existing account, you must include the required notice on your website. The notice must be prominently displayed on the initial page the customer uses to initiate the remittance, transaction or access the information, or on a page available no more than one link from the initial page. The link must clearly describe the information available by clicking the link, e.g., "Texas customers click here for information about filing complaints about our money transmission or currency exchange product or service" or "Customers click here for information about filing complaints about our depository agent services."

(3) – (4) (No change.)

(f) – (h) (No change.)

D.

**Department of Savings and
Mortgage Lending**

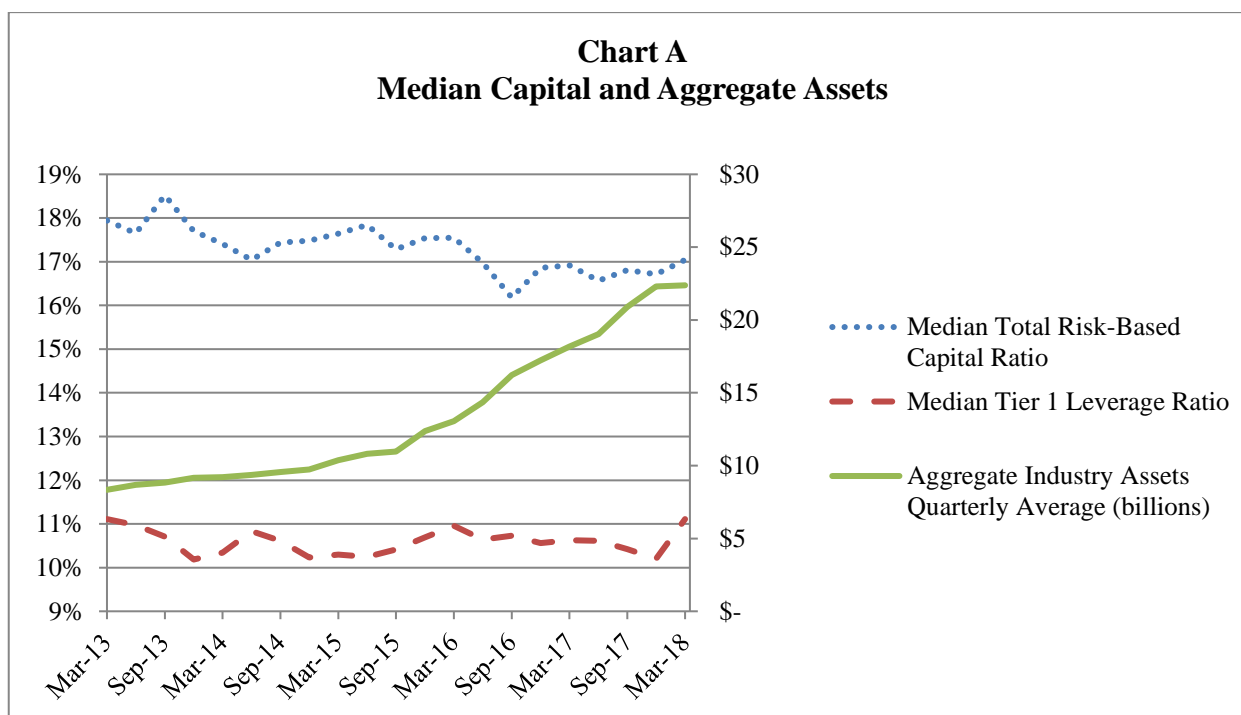
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D. Texas Department of Savings and Mortgage Lending

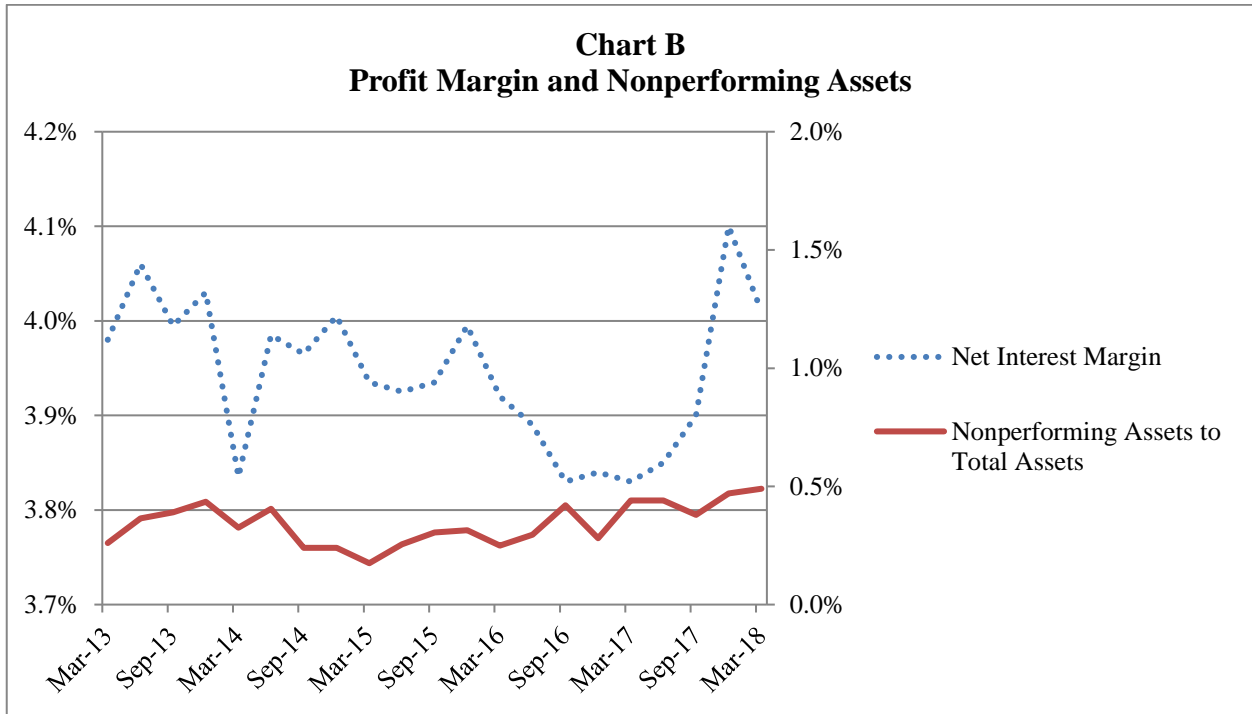
1. Industry Status and Departmental Operations – State Savings Bank Activity:

a. Industry Status

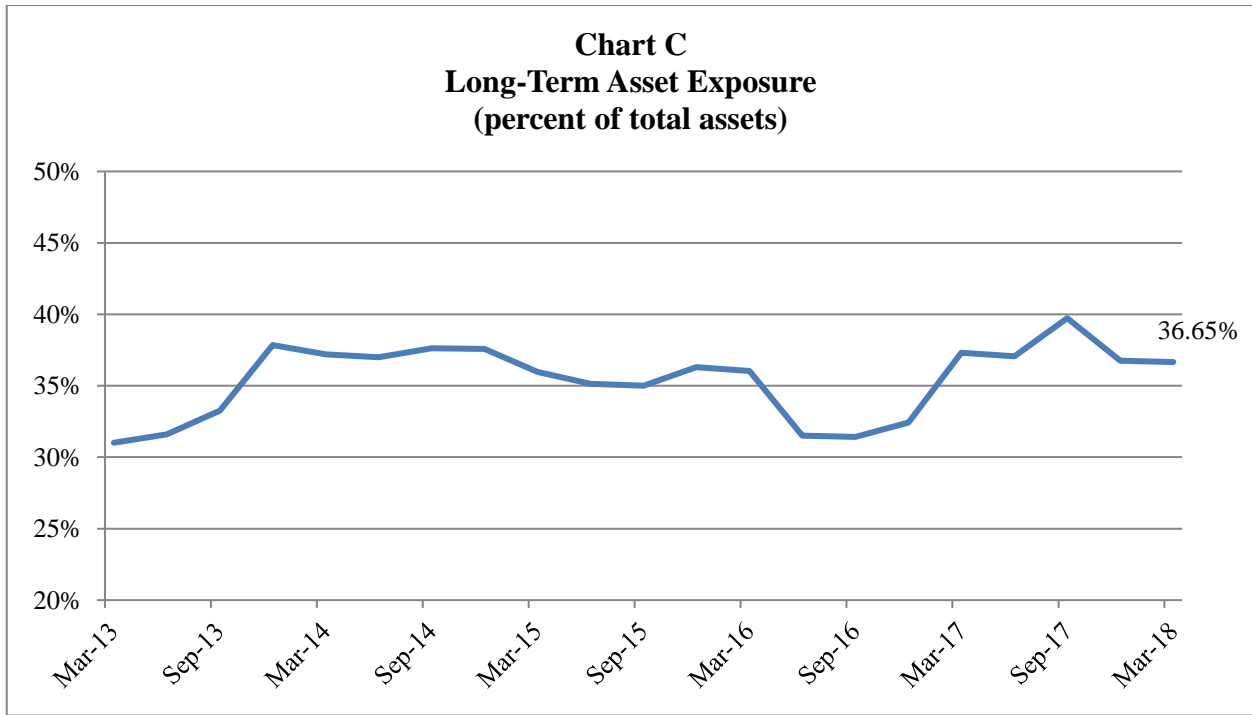
As of March 31, 2018, there are 25 state savings banks totaling \$23.3 billion in total assets. The average asset size of the median state savings bank (“SSB”) grew by 2.6% over the last four quarters to \$314 million. This trend continues extending more than five years in the industry. As a result of increased lending, the median total risk-based capital ratio (Chart A) has declined over the previous quarters but is up this quarter to 17.04%. Median leverage capital protection is also increased this quarter and is now 11.11%.



The median net interest margin reduced back down slightly in the first quarter of 2018 (Chart B) to 4.01%, which is up from one year before when it was 3.83%. Nonperforming asset levels were up slightly in the first quarter of 2018, but remain manageable at 0.49% of total assets.



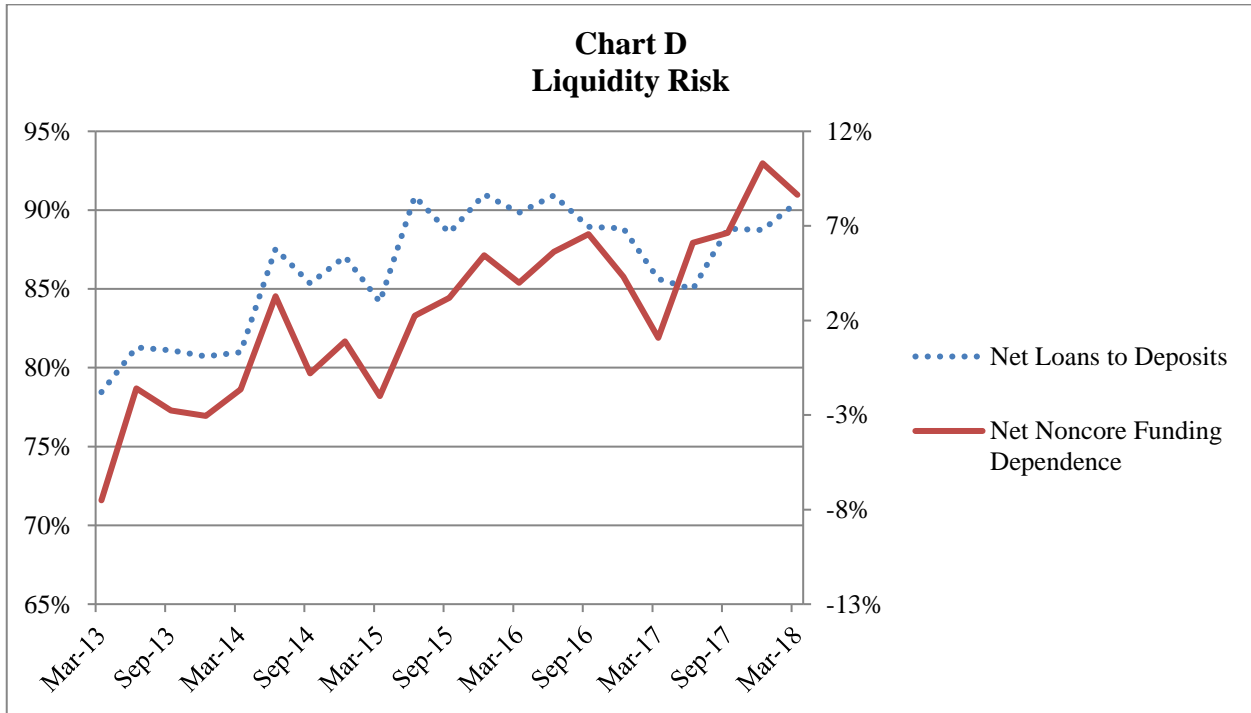
The Department continues to monitor various local, state, and national data sources to best understand the risks facing the industry and individual savings banks. Economic conditions, cybersecurity, market risk, lending concentrations, and liquidity risk all continue to be areas of focus. Market risk, as evidenced by long-term asset exposure (Chart C), has been elevated since early 2017. There remain a small number of outlier institutions with high long-term asset exposure.



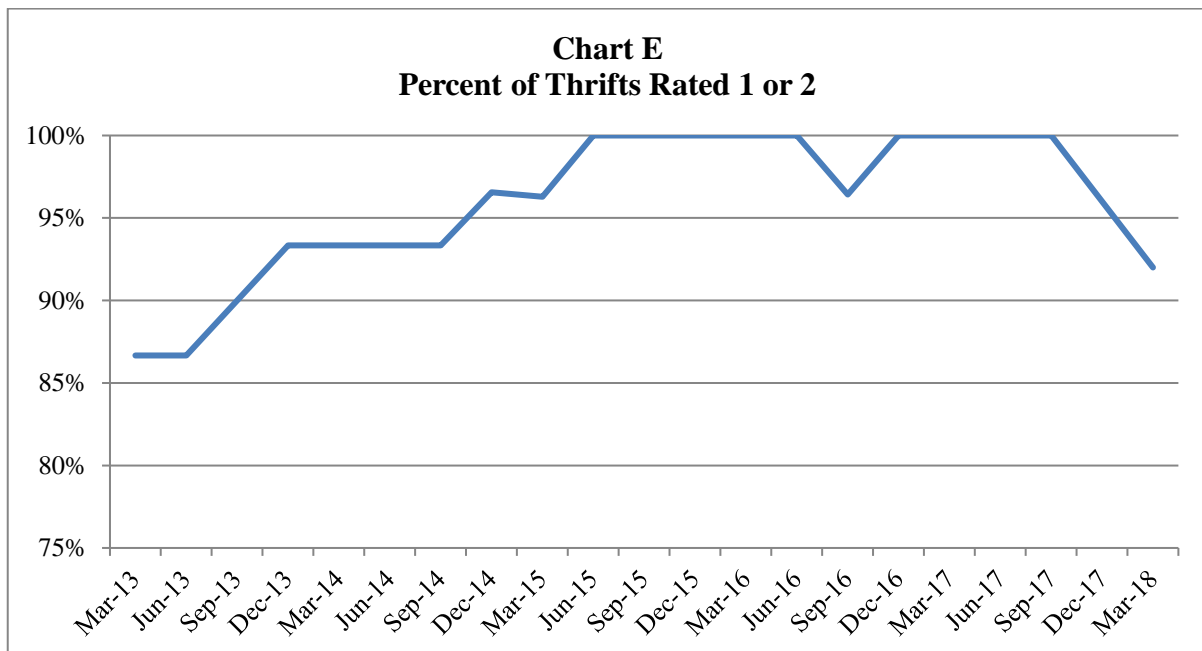
Liquidity risk remains modest in Texas thrifts (Chart D) as indicated by the Net Noncore Funding Dependence (NNCFD) Ratio, a measure of the funding of long-term assets using potentially volatile liabilities such as uninsured and brokered deposits, and borrowings, and the loan-to-deposit ratio; a measure of the use of deposits to fund lending activities. The median NNCFD Ratio has decreased

from the high point the previous quarter to the current level of 8.64% and is considered manageable. The loan-to-deposit ratio also remains elevated at 90.53% with 28% of the industry over 100%.

All SSBs are subject to quarterly offsite reviews inclusive of liquidity risk. Those with the highest risk profiles receive enhanced scrutiny at examinations and may receive more frequent examinations and/or corrective direction as needed.



As of March 31, 2018, 92% of SSBs were rated a Composite 1 or 2 (Chart E). There are two formal outstanding enforcement actions.



b. Savings Bank Charter and Merger Activity

On January 22, 2018, notice was received of the intent of Independent Bank, McKinney, Texas, to acquire Integrity Bank, SSB, Houston, Texas. The merger occurred on June 1, 2018.

On May 17, 2018, application was received from TBK Bank, SSB, Dallas, Texas, to acquire (1) The First National Bank of Durango, a National bank located in Durango, Colorado (2) Bank of New Mexico, a New Mexico state-chartered bank located in Grants, New Mexico; and (3) Citizens Bank of Pagosa Springs, a Colorado state bank located in Pagosa Springs Colorado. The merger is expected to occur in the third quarter of 2018.

c. Other Items

Commissioner Jones and Chief Thrift Examiner Stephany Trotti attended the Texas Bankers Association annual convention which was held May 2-4, 2018. Commissioner Jones participated in the regulatory panel.

On June 7, 2018, Commissioner Jones spoke at the Texas Bankers Association Board Meeting.

The 11th Annual Thrift Industry Day will be held September 13, 2018 at the J.J. Pickle Center in Austin.

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

a. Residential Mortgage Loan Originators

Current Licensing Population:

License Type As of 05/31/2018	Approved		
	Entity (MU1)	Branch (MU3)	MLO (MU4)
<i>Auxiliary</i>	6	n/a	
<i>CUSO</i>	4	2	
<i>FSC</i>	1	n/a	
<i>Independent Contractor</i>	104	n/a	
<i>Mortgage Company</i>	1,222	585	
<i>Mortgage Banker</i>	404	2,830	
<i>Mortgage Servicer</i>	181	n/a	
Totals	1,922	3,417	27,314

Through the 3rd quarter of FY18, the Department received 7,387 new license requests and 89,598 other filings (amendments, sponsorships, etc.). Additionally, for the fiscal year 7,323 applications have been processed.

b. Mortgage Examinations

During the first half of FY18 a total of 220 examinations were conducted covering 6,677 individual licensees.

The number of examinations is slightly lower when compared to the same period in FY17, while the number of individual licensees covered increased by 50%. The increase in the number of licensees covered is a direct result of one large entity operation being examined during the second quarter which accounted for 47% of the fiscal year total.

c. Consumer Complaints

During the first half of FY18, a total of 562 consumer complaints were received. This represents a 13% increase when compared to the same period in FY17 with loan servicing complaints accounting for approximately 68% of the total number of complaints received. As of February 28, 2018, there were a total of 72 open consumer complaints with 89% of the complaints being aged less than 90 days.

d. Other Items

In April, the Department sent ten mortgage examiners to a three day AARMR Training School in Jacksonville, Florida which focused on Mortgage & Licensing Fraud. In-house mortgage examiner training is schedule to be held in Austin on June 19-21, 2018.

On April 17, 2018, Commissioner Jones and Director Steven O'Shields spoke on topics of interest to the Greater Houston Association of Mortgage Professionals.

Commissioner Jones and Director Steven O'Shields attended and staffed a booth at the Texas Mortgage Bankers Association annual convention held May 30-31, 2018.

Commissioner Jones, Director Tony Florence, and Assistant General Counsel Roberto Ramirez spoke to the Austin Mortgage Banker Associations on mortgage fraud at their monthly meeting on June 6, 2018.

Bureau of Consumer Financial Protection Finalizes Amendment to "Know Before You Owe" Mortgage Disclosure Rule

Update Will Provide More Clarity Regarding Closing Cost Increases

APR 26, 2018

WASHINGTON, D.C. — Today the Bureau of Consumer Financial Protection (Bureau) finalized an amendment to its “Know Before You Owe” mortgage disclosure rule that addresses when mortgage lenders with a valid justification may pass on increased closing costs to consumers and disclose them on a Closing Disclosure. The update is intended to provide greater clarity and certainty to the mortgage industry.

The Know Before You Owe mortgage disclosure rule took effect Oct. 3, 2015. The Bureau’s rule created new Loan Estimate and Closing Disclosure forms that consumers receive when applying for and closing on a mortgage loan. The Bureau heard feedback from the industry that they needed clarification on when creditors may pass on increased costs to consumers and disclose them on a Closing Disclosure. Specifically, a timing restriction on when the creditor may use a Closing Disclosure to communicate closing cost increases to the consumer could prevent a creditor from charging the consumer for those cost increases despite a valid reason for doing so, such as a changed circumstance or borrower request. In response, in July 2017 the Bureau proposed an amendment removing that particular timing restriction. Today, after considering public comment on the proposal, the Bureau is finalizing that amendment.

The final rule will take effect 30 days after publication in the Federal Register.

The final rule is available at: https://files.consumerfinance.gov/f/documents/cfpb_tila-respa_final-rule_amendments-to-federal-mortgage-disclosure-requirements.pdf

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3. Fiscal/Operations Activity:

a. Funding Status/Audits/Financial Reporting

Funding Status/Budget – Staff is in the process of closing out the 3rd quarter of FY18 and beginning the budgeting process for FY19.

Audits:

– Fieldwork related to a Thrift Supervision and Compliance Audit has been conducted by the internal auditors Garza/Gonzales.

– Fieldwork related to a Post-Payment Audit has been conducted by the Comptroller of Public Accounts.

b. Staffing

As of June 4, 2018, the agency was staffed at 53 regular full time employees and 1 regular part-time employee with 61 FTEs available.

SML had one separation in the beginning of June with one staff member transferring to another state agency.

Turnover charts for the third quarter of FY18 will be included in the August meeting materials.

c. Other Items

Department staff members participated in the State’s 2018 Get Fit Texas Challenge. The Department competed in the 51-200 FTEs category and finished in 1st place, earning the designation “The fittest state agency in Texas” for this category.



The Commissioner and Managers attended a Managers' Training April 11-13, 2018.

Sunset:

- The Department submitted its response to the Sunset Report on May 10, 2018.
- On May 24, 2018, Sunset Commission held a public hearing at which it took public testimony. Commissioner Jones testified at the hearing.

The Department's Strategic Plan was submitted June 8, 2018.

4. Legal Activities:

SOAH Cases:

Case No. 450.17.5614 Department of Savings and Mortgage Lending v. Kederio Ainsworth

The Department denied the RMLLO license application of Kederio Ainsworth on the grounds that he had failed to establish that he was of good moral character. Mr. Ainsworth appealed the license denial. A contested SOAH hearing was held before an administrative law judge on March 15, 2018. A proposal for decision was issued by the SOAH ALJ on April 30, 2018, finding that Mr. Ainsworth's application for licensure be denied. On May 31, 2018, the commissioner adopted the findings of the proposal for decision and the license was denied.

Litigation:

Case No. D-1-GN-17-005803 Dept. of Savings and Mortgage Lending v. VPW & Associates LLC, et al. Two defendants were served in this matter and did not answer the lawsuit. The Attorney General's Office drafted a Final Motion for Default Judgement on May 14, 2018. The motion was filed on May 16, 2018. The Department is awaiting a copy of the signed default judgement.

Gift Reporting:

None