

A.

Finance Commission

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FINANCE COMMISSION OF TEXAS

MEETING DATEAugust 16-17, 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
Website: www.fc.texas.gov

FUTURE MEETING DATESOctober 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, August 17, 2018

8:30 a.m. or upon adjournment of the Audit 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 and C2

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 June 15, 2018 Strategic Planning Committee and Finance Commission Meetings***
2. General Public Comment
3. Consent Agenda
4. Finance Commission Operations
5. Discussion of and Possible Vote to Take Action on the Adoption of the 2019-2023 Finance Commission Strategic Plan
6. Audit Committee Report
 - A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Readoption of the Investment Policies for:
 1. Department of Savings and Mortgage Lending
 2. Office of Consumer Credit Commissioner
 3. Texas Department of Banking
 - B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Savings and Mortgage Lending's 2018 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzales and Associates
 - C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's 2018 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzales and Associates
 - D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's 2018 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzales and Associates

- E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Selection of an Internal Auditor for the Finance Commission Agencies for Fiscal Year 2019
- F. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies May 31, 2018 Investment Officer Reports
 - 1. Department of Savings and Mortgage Lending
 - 2. Office of Consumer Credit Commissioner
 - 3. Texas Department of Banking
- G. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2018 Third Quarter Financial Statements
 - 1. Department of Savings and Mortgage Lending
 - 2. Office of Consumer Credit Commissioner
 - 3. Texas Department of Banking
- H. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2019 Operating Budgets
 - 1. Department of Savings and Mortgage Lending
 - 2. Office of Consumer Credit Commissioner
 - 3. Texas Department of Banking
- 7. Discussion of and Possible Vote to Take Action on the Agency Priorities for Fiscal Year 2019 for the Commissioners of the Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and the Texas Department of Banking
- 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. 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

C. 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 the Adoption of the Completed Rule Review of 7 TAC, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders*
3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments and a Repeal in 7 TAC, Part 5, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders, Resulting from Rule Review
4. 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

D. 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 Petition to Initiate Rulemaking for Proposed New 7 TAC, Part 2, §33.5 Concerning Payroll Processors
3. 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.

**MINUTES OF THE
STRATEGIC PLANNING COMMITTEE MEETING
Friday, June 15, 2018**

The Strategic Planning Committee of the Finance Commission of Texas convened at 8:16 a.m. on June 15, 2018, with the following members present:

Strategic Planning Committee Members in Attendance:

Will Lucas, Chairman

Stacy G. London (in Bob Borochoff's absence)

Matt Moore

Additional Members in Attendance:

Hector Cerna

Molly Curl

Will Lucas

Matt Moore

Paul Plunket

Strategic Planning Committee Chairman Lucas announced there was a quorum of the Strategic Planning Committee of the Finance Commission of Texas with two members present (*00:26 on the audio file*).

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
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	Matt Moore made a motion to recommend that the Finance Commission Approve the Agencies 2019 – 2023 Strategic Plans. Stacy G. London seconded and the motion passed.	00:30 start of discussion 4:54 vote
B. Discussion of the 2019 – 2023 Strategic Plan for the Texas Finance Commission	No Action Required.	07:28 start of discussion

There being no further business of the Strategic Planning Committee of the Finance Commission of Texas, Will Lucas adjourned the meeting at 8:26 a.m. (*10:01 on the audio file*)

Will Lucas, Strategic Planning Committee Chair
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
Friday, June 15, 2018**

The Finance Commission of Texas convened at 8:45 a.m. on June 15, 2018 with the following members present:

Finance Commission Members in Attendance:

Stacy G. London, Chairman
Hector Cerna
Molly Curl
Will Lucas
Lori McCool
Matt Moore
Paul Plunket
Vince Puente

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

Stacy G. London made a motion to excuse Jay Shands, Bob Borochoff, and Phillip Holt from the Finance Commission meeting held on June 15, 2018. There were no objections and the motion passed unanimously. (00:40)

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. FINANCE COMMISSION MATTERS		
1. Review and Approval of the Minutes of the April 20, 2018 and May 2, 2018 Finance Commission Meetings	On Consent Agenda – Item A1 This item Approved on the Consent Agenda.	00:54 start of discussion
2. General Public Comment	No Action Required.	01:03 start of discussion
3. Consent Agenda – Items A1, C2, and C3	Molly Curl made a motion to Approve Consent Agenda items A1, C2, and C3. Matt Moore seconded, and the motion passed.	01:35 start of discussion 02:02 vote
4. Finance Commission Operations	No Action Required.	02:10 start of discussion
5. Discussion of the Review by the Texas Sunset Advisory Commission	No Action Required.	02:33 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
6. Audit Committee Report		06:13 start of discussion
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	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Texas Department of Banking's Audit Report on the Prepaid Funeral Guaranty Funds as Prepared by Garza/Gonzalez and Associates passed.	06:19 start of discussion 06:30 vote
7. Strategic Planning Committee Report		06:37 start of discussion
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	Coming upon Recommendation from the Strategic Planning Committee, no second is required and the motion to Approve the Agencies 2019-2023 Strategic Plans passed.	06:45 start of discussion 07:09 vote
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	Deferred to Executive Session – no vote taken.	n/a
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	Deferred to Executive Session – no vote taken.	n/a

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>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</p>	<p>Deferred to Executive Session – no vote taken.</p>	<p>n/a</p>
<p>B. OFFICE OF CONSUMER CREDIT COMMISSIONER</p>		
<p>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</p>	<p>No Action Required.</p>	<p>09:39 start of discussion</p>
<p>2. 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>	<p>No Action Required.</p>	<p>n/a start of discussion</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
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	No Action Required.	32:17 start of discussion
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	On Consent Agenda – Item C2 This item Approved on the Consent Agenda.	n/a
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	On Consent Agenda – Item C3 This item Approved on the Consent Agenda.	n/a
4. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a
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	No Action Required.	50:50 start of discussion
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.	55:53 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
3. Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; and c) Other Items	No Action Required.	1:06:53 start of discussion
4. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities	No Action Required.	1:09:01 start of discussion
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a

Chairman Stacy G. London called for an Executive Session at 9:55a.m. (1:11:45) *on the audio file*. The open meeting resumed at 10:23 a.m. (1:12:13) *on the audio file*.

There being no further business, Chairman Stacy G. London adjourned the meeting of the Finance Commission at 10:25 a.m. (1:14:09) *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

Finance Commission of Texas

Consent Agenda

August 17, 2018

A. Finance Commission Matters

1. Review and Approval of the Minutes of the June 15, 2018 Strategic Planning Committee and Finance Commission Meetings

C. Office of Consumer Credit Commissioner

2. Discussion of and Possible Vote to Take Action on the Adoption of the Completed Rule Review of 7 TAC, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders

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DEPARTMENT of SAVINGS & MORTGAGE LENDING

Caroline C. Jones, Commissioner

Memorandum

To: The Finance Commission

From: Caroline C. Jones

Date: August 17, 2018

Re: Agency Priorities for Fiscal Year 2019

I. Legislative Items

I.1 Objective: Monitor legislation, throughout the 86th Legislative Session, that may affect the Department or its regulated industries.

Measure: Provide regular updates to the Finance Commission on the status of such legislation.

I.2 Objective: Serve as a resource for the Texas Legislature and other members of leadership. Respond promptly and accurately to any requests for information, providing appropriate and comprehensive resource materials, as legally permissible.

Measure: Notify Finance Commission members about any testimony given by the Department.

I.3 Objective: Monitor and participate, as appropriate, in the Sunset process during Legislative Session.

Measure:

a. Coordinate with Finance Commission, Office of Consumer Credit Commissioner, and Department of Banking to implement any statutory changes and management recommendations impacting the agencies.

b. Enhance the Department's Mortgage Penalty Matrix by May 1, 2019.

I.4 Objective: Monitor federal legislation and regulations that may affect the Department or its regulated entities.

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

II. Regulatory Items

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

Measure: Maintain off-site monitoring program of savings banks while initiating appropriate regulatory responses and enforcement actions when applicable. Maintain state savings bank examination schedule as set by Department policy.

II.2 Objective: Transition from NMLS to NMLS2.0 and utilize expected new functionality, where feasible.

Measure: Report on status of implementation.

II.3 Objective: Continue compliance examinations of mortgage companies and Residential Mortgage Loan Originators, licensed under Finance Code, Chapters 156 and 157, respectively; to ensure that licensees are in compliance with applicable laws and regulations when conducting business with Texas consumers. Analyze recurring examination findings and take steps to communicate best practices to the mortgage industry.

Measure: Maintain mortgage examination schedule, as set by Department policy, and as needed initiate appropriate regulatory responses and enforcement actions for violations found.

II.4 Objective: Initiate appropriate regulatory enforcement to ensure compliance with federal and state laws and regulations.

Measure: Report on enforcement actions.

II.5 Objective: Retain prompt resolution times on consumer complaints.

Measure:

- a.** Provide updates to the Finance Commission on the aging of complaints.
- b.** Conduct management review of any complaints open over 120 days to identify issues preventing the timely closing of such complaints.

II.6 Objective: Participate in the development and implementation of home equity interpretations.

Measure:

- a.** Active involvement in meetings of the Home Equity Lending Working Group as it develops recommended home equity rules and interpretations.
- b.** Implement any rule and interpretations adopted by the Finance Commission and the Credit Union Commission.

II.7 Objective: Remain active and involved at the national level on supervisory issues affecting savings banks and the mortgage industry.

Measure:

- a.** Maintain contact with state regulators from other states, regulatory associations (e.g. ACSSS, CSBS, AARMR, and NACCA), trade associations, (e.g. TBA, IBAT, TMBA, ATMP, and TAR, and federal regulators (BCFP, FDIC, FRB, and other federal regulators), in order to be aware of events, decisions, other state and federal policies and other areas of actual and potential impact on the Department's regulatory functions or the industries. Take proactive steps to respond as issues arise affecting the industries or supervisory duties.
- b.** Continue working with the FDIC and FRB, and other federal agencies as appropriate, on examinations, supervision, and consumer complaint resolution issues. Monitor federal rule writing activity and interpretations of existing statutes.
- c.** Report to the Finance Commission on interaction with federal agencies in all of the above listed activities.

III. Policy and Rule Development

III.1 Objective: Develop any rules necessary to implement statutory changes passed by the Legislature during the 86th Legislative Session. Include stakeholders in process prior to recommending any rules to the Finance Commission.

Measure: Obtain Finance Commission adoption of implementing rules. Include stakeholders in rule development process.

IV. Industry Outreach and Communication

IV.1 Objective: Communicate with regulated industries on matters of supervisory and industry interest, including emerging issues, through a variety of means both electronic and face to face as deemed appropriate and efficient.

Measure: Provide regular updates to the Finance Commission regarding activities conducted in these areas by reporting the number of communications sent and events participated in.

V. Agency Management

V.1 Objective: Recruit and train personnel with the appropriate qualifications for a position, while seeking to broaden the Department's workforce diversity. Train and cross-train employees as needed to minimize knowledge loss due to employees' retirement or separation and to prepare for workload shifts due to changes in regulated industries and/or technology. Provide and promote opportunities for staff professional development.

Measure: Report on staffing activity, actions to retain staff, and turnover ratios to the Finance Commission.

V.2 Objective: Meet or exceed 90% of the key performance measures, within the Department's control. Strive to reduce deficiencies, if any, in the performance measures outside the Department's control. (See Attachment A for all Performance Measures)

Measure: Provide regular updates to the Finance Commission regarding performance measures.

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

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

V.4 Objective: Monitor the Department's budget and reserve balances as approved by the Finance Commission to maximize the responsiveness and flexibility allowed by the Self-Directed Semi-Independent status. Make decisions relating to finances in a fiscally prudent manner. Review expenditures and revenues monthly.

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

V.5 Objective: Ensure hardware and software is kept current to maintain effectiveness, and quality of work product of the Department. Safeguard the integrity of data and information technology networks and systems.

Measure: Report to the Finance Commission enhancement/improvement activities in this area.

V.6 Objective: Continue to work towards a long term solution to address headquarters space and parking needs.

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

Attachment A

FY19 Performance Measures

		FY19 Target	FY18 Target
01-01 Thrift Safety and Soundness			
	Outcome Measures (Annual)		
Key	01 Percent of State Chartered Savings Institutions Receiving Examination within the Required Timeframes	100%	100%
Key	02 Percent of Safe and Sound Institutions to Total Savings Institutions	90%	90%
Key	03 Percent of Assets in Safe and Sound Savings Institutions	90%	90%
Non-Key	04 Percentage of Applications Receiving Final Action within Statutory Timeframes	100%	100%
	Output Measures (Quarterly)		
Key	01 Number of Examinations Performed	22	22
Non-Key	02 Number of Detected Instances of Activity of Unauthorized or Prohibited Areas	1	3
Non-Key	03 Number of Formal and Informal Regulatory Actions	6	5
Non-Key	04 Number of Applications Processed.	12	10
	Efficiency Measures (Annual)		
Non-Key	01 Assets Examined Per Examiner Day (in Millions)	\$ 8.0	\$ 8.0
Non-Key	02 Average Time (Business Days) to Complete Analysis of Quarterly Financial Data	7	7
Non-Key	03 Average Time (Business Days) Between Identification of a Problem and Initiation of Regulatory Action	5	5
	Explanatory Measure (Annual)		
Key	01 Number of State-Chartered Savings Institutions	24	26
Key	02 Dollar Amount of Assets under Regulation (in Billions)	\$ 22.2	\$ 20.6
02-01 Mortgage Regulation			
	Outcome Measures (Annual)		
Non-Key	01 Percentage of Licensees Receiving Satisfactory Levels of Compliance Through Examination	90%	90%
	Output Measures (Quarterly)		
Key	01 Number of Applications Processed	8,000	7,500
Key	02 Number of Licensees Examined	6,000	4,500
	Efficiency Measures (Annual)		
Non-Key	01 Average Cost Per Application Processed	\$ 30	\$ 50
	Explanatory Measures (Annual)		
Non-Key	01 Total Number of Licensees in an Approved Status	38,000	35,000
03-01 Consumer Responsiveness			
	Outcome Measures (Annual)		
Key	01 Percent of Complaints Completed within Ten Business Days of Receipt of Complete Information	99%	99%
	Output Measures (Quarterly)		
Key	01 Number of Consumer Complaints Completed	1,000	975
	Efficiency Measures (Annual)		
Non-Key	01 Average Cost Per Consumer Complaint Completed	\$ 300	\$ 250

Office of Consumer Credit Commissioner

Agency Priorities

FY 2019

1. LEGISLATIVE

1.1. 86th Legislative Session.

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

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

1.2. Sunset Review

1.2.1. Objective: Provide Requested Information for Sunset Review Process. The agency's scheduled sunset date is September 1, 2019. The agency will be under review by the Sunset Commission in the 2018-2019 review cycle and will provide technical assistance to the Legislature during the upcoming Legislative Session (86th).

Measure: Maintain communication with Sunset Committee Members and staff to convey information about the agency and its mission. Regular reports communicated to the Finance Commission.

2. REGULATORY ACTIVITIES

2.1. Regulated Entities.

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

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

2.1.2. Objective: Achieve overall weighted average acceptable level of compliance of 80% through examinations and industry education efforts. Monitor follow-up and restitution orders for licensees with outstanding examination issues.

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

- 2.1.3. Objective:** Identify improvements and refinements for the Annual Report, Complaint, Examination (ACE) Tool to provide improved efficiency and consistency of licensee data reporting.

Measure: Reporting on improvements to the ACE Examination Tool.

2.2. Licensing.

- 2.2.1. Objective:** Process 85% of license applications within 60 days from received date to completion date. Provide professional development and training opportunities to licensing staff once per quarter.

Measure: Report on license activities, benchmarks, application processing status, and departmental professional development.

3. POLICY AND RULE DEVELOPMENT

3.1. Agency Rules.

- 3.1.1. Objective:** Rule Review. Complete rule reviews of 7 TAC, Part 1, Chapter 2, Residential Mortgage Loan Originators Applying for Licensure with the Office of Consumer Credit Commissioner under the Secure and Fair Enforcement for Mortgage Licensing Act (last reviewed FY 2015); 7 TAC Chapter 86, Retail Creditors (last reviewed FY 2015); and 7 TAC Chapter 90, Plain Language Contract Provisions (last review published FY 2015, adopted FY 2016).

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

- 3.1.2. Objective:** Rule Development. Work with interested stakeholders from all stakeholder groups to clarify and improve rules as issues arise during licensing, complaints, investigations, examinations, enforcement actions, or from other sources. Continue to hold and refine stakeholder webinars to increase stakeholder engagement in rule development process. Work with interested stakeholders regarding rule provisions necessary to implement 2019 legislation. Draft rule amendments as appropriate.

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

4. CONSUMER ISSUES / COMMUNICATION & OUTREACH STRATEGIES

4.1 Texas Financial Education Endowment Fund (TFEE).

4.1.1. Objective: Manage grant solicitation, application review, selection, reporting and funding for the FY 2018-2019 grant cycle.

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

4.2 Financial Literacy

4.2.1. Objective: Identify underserved populations in need of financial literacy and provide financial literacy education to new demographics of consumers by collaborating with local agencies.

Measure: Report on number of people and programs reached.

4.3. Industry and Stakeholder Outreach

4.3.1. Objective: Continue to build relationships with industry and interested stakeholders to ensure clear communications on education or regulatory compliance. Monitor emerging issues in agency's areas of regulation and communicate the impact to regulated and licensed entities. Develop publications that address topics of interest and share with regulated and licensed entities. Participate in or attend industry meetings or seminars.

Measure: Report to the Finance Commission on the content and frequency of communications.

5. AGENCY MANAGEMENT

5.1. Performance Measures.

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

Measure: Continue to meet or exceed the strategic planning goals for key performance measures, including attainment of at least 7 out of 9 key performance targets. Report results to Finance Commission on a quarterly basis.

5.2. Human Resources.

5.2.1. Objective: Recruit and retain qualified personnel with the appropriate skill set necessary to meet short and long-term needs. Continue efforts to right size staffing, based on performance requirements, with an emphasis on employee retention and diversity. Ensure staff receives adequate cross-training to minimize institutional knowledge loss due to work separation or retirement. Maintain competitive compensation schedules. Continue efforts to be proactive in competitive salary administration.

Measure: Thoroughly review exit interviews to identify improvements to support retention. Report on turnover ratio and cross-training initiatives. Maintain competitive financial examiners salaries compared to peers.

- 5.2.2. Objective:** Promote opportunities for staff professional development. Ensure that examiners and investigators receive a minimum of 40 hours of continuing education. Ensure that at least 40% of administrative staff receives additional professional or job-related training.

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

- 5.2.3. Objective:** Conduct review of Human Resources policies and update as appropriate. Enhance supervisory resources and training.

Measure: Report on completion of review and progress on supervisor resources.

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

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

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

- 5.3.2 Objective:** Continue to work towards a long term solution, in collaboration with the other Commission agencies, to address headquarter facilities space and parking needs.

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

5.4. Information Technology.

- 5.4.1. Objective: Legacy Modernization.** Continue enhancements to the Application, Licensing, Examination, Compliance System (ALECS), improving functionality and security.

Measure: Reporting on development and milestones.

- 5.4.2 Objective: Increase Agency Security Posture.** Using agency risk assessment and security plan, OCCC will move toward increasing agency maturity levels for objectives in the Texas Cybersecurity Framework.

Measure: Activity reporting on the security plan and roadmap with timelines for implementation of recommendations.

OSCC Annual Targets for Performance Measures

Fiscal Years 2018 and 2019

Key Output Measures		FY 2018 Target	FY 2019 Target
A.1.1	COMPLAINT RESOLUTION		
	# COMPLAINTS CLOSED	2,100	2,020
	# INVESTIGATIONS CLOSED	80	80
A.2.1	EXAMINATION		
	# COMPLIANCE EXAMINATIONS PERFORMED	4,200	4,200
B.1.1	LICENSING		
	# BUSINESS APPLICATIONS PROCESSED	1,600	1,445
	# PAWN EMPLOYEE LICENSES PROCESSED	2,800	2,700
C.1.1	FINANCIAL EDUCATION		
	CONSUMERS RECEIVING FINANCIAL EDUCATION	325	325
Key Outcome Measures			
A.1.1	CONSUMER COMPLAINTS		
	% COMPLAINTS RESOLVED WITHIN 90 DAYS	95%	92%
A.2.1	ENSURE COMPLIANCE		
	% EXAMINATIONS IN COMPLIANCE	85%	85%
	MONIES RETURNED FROM LICENSEES	\$5,000,000	\$5,000,000
Non-Key Measures			
A. CONSUMER PROTECTION			
A.1.1	MONIES OR CREDITS RETURNED TO CONSUMERS – complaints/non-licensees	\$15,000	\$20,000
A.2.1	% OF LICENSEES EXAMINED ANNUALLY	25%	25%
A.2.1	% OF RE-EXAMS RESULTING IN ACCEPTABLE COMPLIANCE RATING	80%	80%
A.2.1	NUMBER OF ENFORCEMENT ACTIONS TAKEN	300	275
A.2.1	NUMBER OF ADMINISTRATIVE HEARINGS CONDUCTED	5	6
A.2.1	NUMBER OF ADVISORY BULLETINS PUBLISHED	6	6
A.2.1	NUMBER OF ENFORCEMENT ACTION AND CORRECTIVE ACTION SUMMARIES PUBLISHED	7	7
A-03	NUMBER OF RE-EXAMINATIONS PERFORMED	400	N/A
B. EFFECTIVE LICENSING AND REGISTRATION			
B.1.1	AVERAGE PROCESSING TIME (DAYS) FOR LICENSE APPS	30	30
B.1.1	AVERAGE PROCESSING TIME (DAYS) FOR PAWNSHOP EMPLOYEE APPS	30	30
B.1.1	AVERAGE PROCESSING TIME (DAYS) FOR RMLO APPS	15	15
B.1.1	NUMBER OF REGISTRATIONS PROCESSED	10,500	10,500
B.1.1	NUMBER OF RMLO APPS PROCESSED	175	150
C. FINANCIAL EDUCATION			
C.1.1	NUMBER OF TX CONSUMERS REACHED THROUGH AGENCY PARTICIPATION AT COMMUNITY EVENTS, PRESENTATIONS AND ONLINE RESOURCES	1,500	1,500
C.2.2	TOTAL DOLLAR AMOUNT OF GRANT AWARDS DISTRIBUTED WITHIN THE GRANT CYCLE	\$150,000	\$125,000
C.1.1	NUMBER OF CONTACTS MADE WITH COMMUNITY ORGANIZATIONS AND MEDIA	30	35
C.2.2	NUMBER OF CONSUMERS SERVED/TRAINED (TFEE)	50,000	15,000
D. EFFECTIVE STAKEHOLDER COMMUNICATION			
D-01-01	% OF LICENSEES REACHED THROUGH AGENCY PARTICIPATION IN INDUSTRY WORKSHOPS, SEMINARS, CONFERENCES AND ONLINE COMPLIANCE ED PROGRAMS	10%	N/A
D-01	NUMBER OF PUBLIC AND INDUSTRY MEDIA SOURCES PUBLISHING COMPLIANCE ED MATERIAL DEVELOPED BY THE AGENCY	4	N/A
Schedule C HUB USAGE			
E-01-01	PERCENT OF TOTAL DOLLAR VALUE OF PURCHASING AND PUBLIC WORKS CONTRACT AND SUBCONTRACTS AWARDED TO HUBS	23.50%	N/A
1	NUMBER OF HUB CONTRACTORS AND SUBCONTRACTORS CONTACTED FOR BID PROPOSALS	10	10
2	NUMBER OF HUB CONTRACTS AND SUBCONTRACTS AWARDED	2	2
3	DOLLAR VALUE OF HUB CONTRACTS AND SUBCONTRACTS AWARDED	\$75,000	\$75,000



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705

512-475-1300 / 877-276-5554

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MEMORANDUM

TO: The Finance Commission

FROM: Charles G. Cooper, Commissioner

DATE: August 8, 2018

RE: Department of Banking Priorities for Fiscal Year 2019

I. LEGISLATIVE – *State and National Legislative Issues*

- I.1 Objective: Provide appropriate and comprehensive resource material as requested in a timely manner.

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

- I.2 Objective: Maintain accurate, timely, and complete communication with Finance Commission members about significant legislative issues as well as conditions, trends and significant events in the industries the agency supervises.

Measure: Keep members informed of significant federal laws and policy statements and how supervised entities are affected. Provide sufficient information and materials to give Commission members an overall assessment of our regulated industries.

- I.3 Objective: Monitor state legislation that may affect the Department or its regulated entities. Make recommendations for state legislative changes to address areas that the law does not adequately address, correct technical errors and modernize outdated statutes.

Measure: Monitor interim charges and aid legislative committees if requested. Provide proposals for legislative improvements if requested by legislative committees. Monitor legislation and provide technical assistance and comprehensive resource materials when requested. Begin implementation of any legislation that directly affects the Department or the industries we regulate.

- I.4 Objective: Monitor Sunset bill through the legislative process and begin implementation of "Management Actions" approved by the Sunset Commission.

Measure: Monitor Sunset legislation and provide technical assistance and comprehensive resource materials when requested. Begin implementation of any Sunset legislation that passes and directly affects the Department or the industries we regulate. Begin implementation of Sunset approved “Management Actions” through rules, policies and procedures manuals. Review actions taken by other state agencies. Coordinate these efforts with the Finance Commission and other Finance Commission agencies.

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

- II.1 Objective: Efficiently structure the agency to meet performance measures. Ensure performance goals are a true evaluation of major functions of the Department (See Attachment A for all performance measures)

Measure: Evaluate and update performance measures. Continue to meet or exceed the strategic planning goals for performance measures. Successfully obtain reaccreditation from CSBS for the Bank and Trust Division. Quarterly, report results to the Finance Commission.

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

Measure: Maintain active contact with other states individually and through regulatory associations (CSBS and MTRA), trade associations (IBAT and TBA) and frequent contact with federal regulators to be aware of events, decisions, other state and federal policies and other areas of actual or potential impact to the Department’s regulatory functions or the industry. Take proactive steps to respond as issues arise affecting the industries or our supervisory duties.

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

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

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

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

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

Measure: Monitor for and investigate illegal activity, and when necessary, initiate appropriate regulatory enforcement actions against licensed and/or unlicensed entities to ensure compliance with applicable statutes and rules to protect the rights and interests of consumers. Refer cases as needed to federal law enforcement agencies.

II.6 Objective: Process consumer complaints/inquiries professionally, appropriately and timely.

Measure: Periodically report to the Finance Commission on the complaints/inquiries received and processed.

II.7 Objective: Continue to develop and refine examination procedures, reference materials, and internal guidance to enhance the examination process.

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

III. POLICY AND RULE DEVELOPMENT – *Policies, Rules and Financial Education Activities*

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

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

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

Measure: Draft amendments and new rules for potential adoption by the Finance Commission as necessary to timely effect necessary changes. Conduct reviews of all rules every four years to evaluate their continued necessity and applicability.

III.3 Objective: Maintain participation in financial education and outreach efforts.

Measure: Maintain and periodically update the Department financial education web pages and brochure. Highlight financial institutions with active programs in agency publications. Continue participation in financial education groups and events.

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

- IV.1 Objective: Actively recruit qualified personnel while strengthening the diversity of the workforce whenever possible. Maintain compliance with all state and federal employment laws.

Measure: Actively recruit entry level positions at state universities and colleges by attending no less than six job fair events and supporting banking programs at Texas universities. Promptly post vacancies. Periodically review and update personnel policies and procedures.

- IV.2 Objective: Strive to attain full staffing, with an emphasis on employee retention and staff diversity. Promote junior staff involvement in new responsibilities to better enable seamless transition into senior staff positions as vacancies occur. Continue efforts to maintain a competitive salary structure. Obtain feedback from the employee advisory council and implement changes where feasible.

Measure: Continue to improve examination staff retention by addressing major issues that contribute to non-retirement resignations, with a goal to have non-retirement turnover not exceed 8% for the fiscal year. Given the significant percentage of Department employees that are retirement-eligible, be proactive with succession planning development by providing leadership training. Maintain a competitive examiner salary program compared to the FDIC by striving to be at a 95% equivalency. Implement, when feasible, recommendations of the Employee Advisory Council.

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

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

- IV.4 Objective: Safeguard the integrity of data and information technology networks and systems from unauthorized access or use and ensure that access to critical systems by employees are available during an emergency.

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

- IV.5 Objective: Ensure financial examiners receive adequate and proper training to perform their duties and progress within the financial examiner series to become commissioned.
- Measure: Provide core required training courses to financial examiners in the FE I – FE III series so they can progress in the financial examiner series. Adequately prepare assistant examiners to pass the commissioning test.
- IV.6 Objective: Ensure agency expenditures are necessary and prudent and within budgetary constraints; revenues collected are adequate to cover expenditures; and provide a cash reserve or fund balance that complies with Finance Commission policies.
- Measure: Review expenditure and revenue patterns monthly. Prepare quarterly financial statements to substantiate the agency’s financial position and cash reserve.
- IV.7 Objective: Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency.
- Measure: Report on improvements identified and implemented.
- IV.8 Objective: Continue to explore options for physical relocation of the Finance Commission agencies that meets the needs of all three agencies.
- Measure: Report on activities related to the relocation of the Finance Commission agencies.
- IV.9 Objective: Comply with the directives of the State Office of Risk Management and the Department of Public Safety regarding the Business Continuity Plan.
- Measure: Ensure yearly update and exercise of the Plan.

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

Performance Measures for 2019

Department of Banking

Bank and Trust:

K Outcome Measures (Annual)

K	01-01.01	Percentage of Banks Receiving Examinations When Due	95.00%	90.00%
	01-01.02	Percentage of Foreign Bank Organizations Receiving Examinations When Due	95.00%	95.00%
	01-01.03	Percentage of Trust Companies Receiving Examinations When Due	95.00%	90.00%
	01-01.04	Percentage of Problem Institutions with Appropriate Supervisory Actions in Place	100.00%	100.00%
	01-01.05	Certificate of Accreditation by CSBS Maintained in Good Standing	YES	YES

K Output Measures (Quarterly)

K	01-01.06	Number of Bank and Foreign Bank Organization Examinations Performed	108	95
K	01-01.07	# Trust Co, Trust Dept, & IT Exams and Other Specialized Reviews Performed	218	208

Efficiency Measures (Annual)

	01-01.08	Average Cost Per Bank Examination	\$84,850.00	\$95,270.00
	01-01.09	Assets Examined Per Examiner Day (in millions)	\$10.50	\$10.10

K Explanatory Measure (Annual)

K	01-01.10	Percentage of Banks Classified Safe and Sound	95.00%	95.00%
	01-01.11	Number of State-Chartered Banks in Texas	233	235
	01-01.12	Total Assets (Dollars in Billions) in State-Chartered Banks in Texas	\$331.00	\$326.00

Special Audits:

K Outcome Measures (Annual)

K	01-02.01	Percentage of Money Services Business Licensees Examined By Special Audits When Due	90.00%	90.00%
	01-02.02	Percentage of Prepaid Funeral Contract Licensees Examined By Special Audits When Due	95.00%	90.00%
	01-02.03	Percentage of Perpetual Care Cemetery Licensees Examined By Special Audits When Due	95.00%	90.00%
	01-02.04	Percentage of PCC and PFC Applications Completed within Statutory Period	95.00%	95.00%

K Output Measures (Quarterly)

K	01-02.05	Number of Special Audits Licensees Examined	560	560
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Efficiency Measures (Annual)

	01-02.06	Average Direct Cost Per Prepaid Funeral Contract and Perpetual Care Cemetery Licensee Examination.	\$2,625	\$2,500
	01-02.07	Average Direct Cost Per Money Services Business Licensee Examination.	\$8,500	N/A

New

Explanatory Measures (Annual)

	01-02.08	Dollar Amount (in Billions) of Prepaid Funeral Contracts in Force	\$4.1	\$3.3
	01-02.09	Number of Special Audits Licensees	760	760
	01-02.10	Percentage of Special Audits Licensees Classified Safe and Sound	95.00%	N/A

New

Application Processing:

K Outcome Measures (Annual)

K	01-03.01	Percentage of Applications and Notices for Banks, Trust Companies, Money Service Businesses, Check Verification Companies, Private Child Support Enforcement Agencies, Cemetery Brokers, and Depository Agents Completed within Statutory Time Periods	95.00%	95.00%
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K Output Measures (Quarterly)

K	01-03.02	Number of Applications and Notices Completed for Banks, Trust Companies, Money Service Businesses, Check Verification Companies, Private Child Support Enforcement Agencies, Cemetery Brokers, and Depository Agents	272	307
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Explanatory Measures (Annual)

	01-04.01	Percentage of Written Complaints Resolved Within 90 Days	100.00%	N/A
	01-04.02	Number of Written Complaints Resolved	400	N/A

New

New

Regulatory Oversight: (Finance Commission) (Reported Internally)

Output Measures

	01-04.03	Number of Meetings Convened	6.0	6.0
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B.

**Department of Savings
and
Mortgage Lending**

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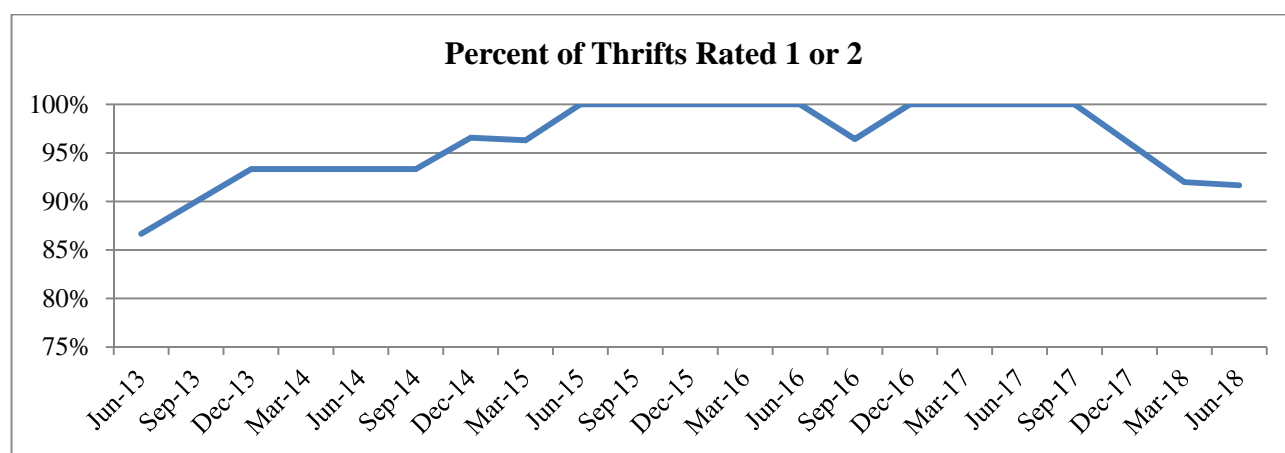
B. Texas Department of Savings and Mortgage Lending

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

a. Industry Status

The June 30th quarterly financial data on Texas state thrifts had not been finalized by the FDIC prior to the preparation of this report. A detailed report on the second calendar quarter of 2018 will be presented at the next meeting of the Finance Commission.

As of June 30, 2018, there are 24 state savings banks, of which 92% are rated a Composite 1 or 2. Two formal public enforcement actions are outstanding.



The Department continues to monitor various local, state, and national data sources to best understand the risks facing the industry and individual savings banks. Energy prices, cyber security, interest rate risk, construction lending, and liquidity risk all continue to be areas of particular focus.

b. Savings Bank Charter and Merger Activity

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.

Other activities included one application for a branch office and an application to amend the Articles of Incorporation.

c. Other Items

On June 12, 2018, the Department met with six trainees from Sparkasse, a savings bank in Germany. The thrift staff and the trainees discussed the thrift industry, the last two financial crises, Fintech and online banking, and other items of mutual interest.

Commissioner Jones attended the Federal Financial Institutions Examination Council (FFIEC) meeting on June 26, 2018, as a member of the State Liaison Committee.

Commissioner Jones attended the Texas Banker's Association's Legislative Tour in Austin on June 6, 2018, and in San Antonio on July 20, 2018.

The thrift examination group held in-house training in Austin the week of July 9, 2018.

The Department's thrift executive staff held the first Emerging Issues - All State Savings Bank call on July 19, 2018. The purpose of these regularly scheduled monthly calls will be to provide a forum for communication with the Department and the industry as a whole.

Thrift examiner Aaron Brock graduated from the Graduate School of Banking Colorado on July 26, 2018.

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

a. Residential Mortgage Loan Originators

Current Licensing Population:

License Type As of 07/31/2018	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>	110	n/a	
<i>Mortgage Company</i>	1,257	611	
<i>Mortgage Banker</i>	405	2,941	
<i>Mortgage Servicer</i>	185	n/a	
Totals	1,968	3,554	28,778

The following shows the aggregate Mortgage Call Report information for calendar years 2016, 2017, and 1st Quarter 2018. This information is reported by the licensees.

1 st Quarter CY2018 Mortgage Call Report Data			
	\$ Amount	# Loans	Average \$ Loan
Direct	\$15,377,642,474	73,368	\$209,596
3rd Party	\$1,858,002,840	7,652	\$242,813
CY2017 Mortgage Call Report Data			
	\$ Amount	# Loans	Average \$ Loan
Direct	\$70,116,964,723	337,755	\$207,597
3rd Party	\$7,922,958,005	33,686	\$235,200
CY2016 Mortgage Call Report Data			
	\$ Amount	# Loans	Average \$ Loan
Direct	\$74,726,156,712	364,054	\$205,261
3rd Party	\$8,615,102,846	37,941	\$227,066
Aggregate information as reported by licensees.			

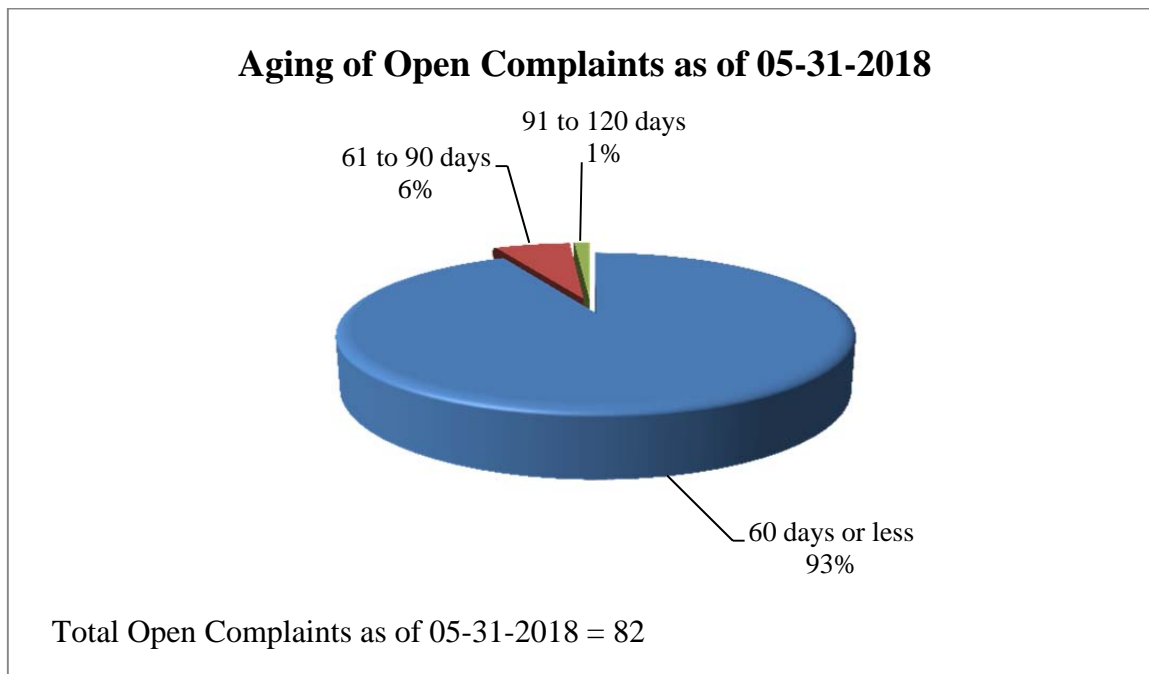
b. Mortgage Examinations

As of the third quarter of FY18, a total of 333 examinations were conducted covering 7,922 licensees. The examinations are continuing to identify incomplete conditional qualification/approval letters, missing Mortgage Company/Mortgage Banker Disclosures along with other compliance issues.

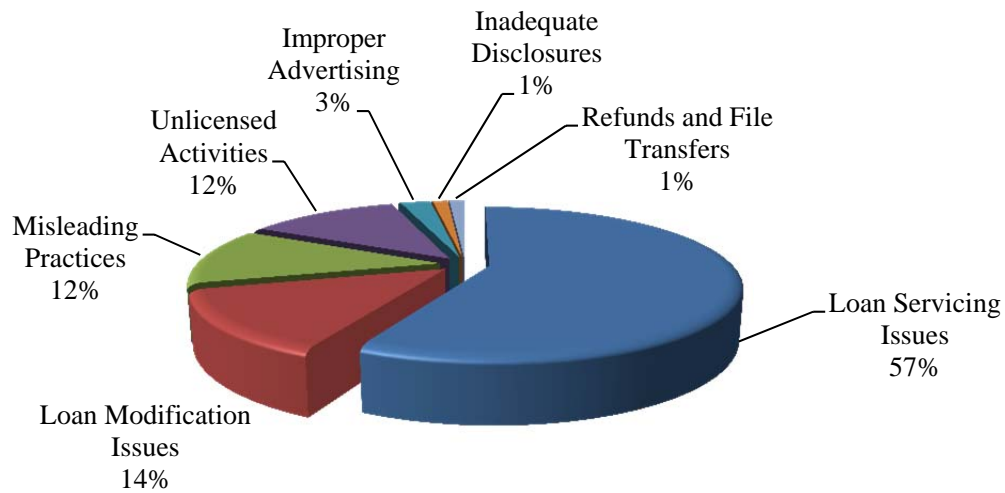
c. Consumer Complaints

As of the third quarter of FY18, a total of 895 consumer complaints were received. This represents a 16.5% increase when compared to the same period in FY17. Loan servicing complaints represent 70% of the total number of complaints received so far during FY18. As of May 31, 2018, there were a total of 82 open consumer complaints with 99% of the complaints aged less than 90 days.

The following charts reflect the consumer complaint information as of the third quarter of FY18.

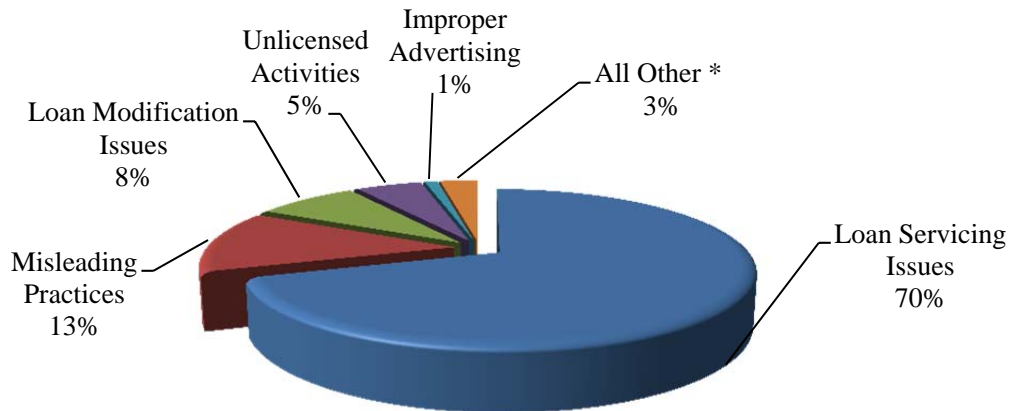


Nature of Open Complaints as of 05-31-2018



Total Open Complaints as of 05-31-2018 = 82

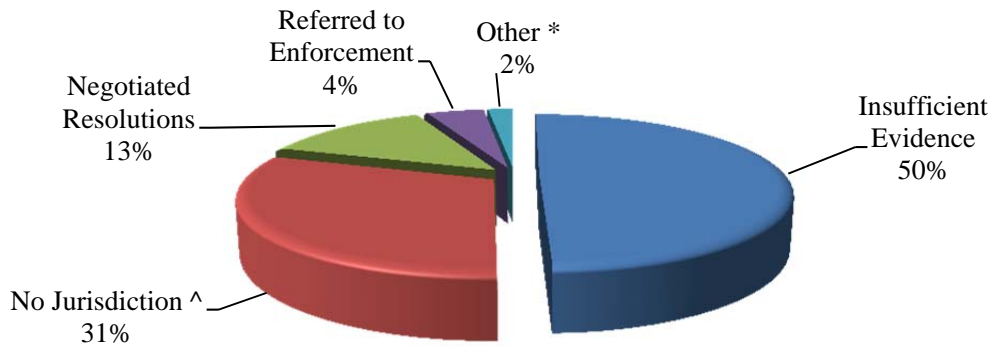
Nature of Complaints Received - As of 3rd Quarter FY18



Total Complaints Received in FY18 Year-to-Date = 895

* The "All Other" Category includes: Refunds and File Transfers, Complaints against State Savings Banks, Fraud-Consumer Reported, Inadequate Disclosures, Identity Theft, Failure to Pay Appraisers/Vendors, Fraud-Industry Referral, Permissible Charges/Fees and Sponsor Issues.

Disposition of Complaints - As of 3rd Quarter FY18



Total complaints Year-to-Date FY18 = 859

^ The "No Jurisdiction" category includes: complaint against exempt entities/individuals (No Jurisdiction-Exempt), complaints regarding issues outside the Department's authority (No Jurisdiction Over Issue), and complaints against entities/individuals with expired licenses (No Jurisdiction-License Expired).

* The "Other" category includes: Consolidated with Another File, Advisory Letter, Complaint Withdrawn, Information Only.

d. Other Items

On June 19 – 21, 2018, the mortgage examiner group held in-house training.

Commissioner Jones spoke to the North Texas Association of Mortgage Professionals on July 11, 2018.

Commissioner Jones, Director Florence, Director O'Shields, and three senior mortgage examiners attended the American Association of Residential Mortgage Regulators (AARMR) annual conference the week of July 30, 2018. Director Florence became Immediate Past President of AARMR's Board.

Bill Poe, Senior Compliance Examiner, has been appointed to the NMLS Policy Committee.

Actual Performance for Output Measures

Type/Strategy/Measure	2018 Target	2018 Actual	2018 YTD	Percent of Annual Target	
Output Measures-Key					
1-1-1 Thrift Safety and Soundness					
1. Number of Examinations Performed					
Quarter 1	22	6	6	27.27%	
Quarter 2	22	4	10	45.45%	
Quarter 3	22	3	13	59.09%	*
The Department examines state chartered savings banks jointly with the FDIC and FRBD, based on a priority schedule. Examination cycles range from 12 to 18 months with frequency based on multiple factors, including institution size, CAMELS rating, and length of time in operation. The results for this measure may fluctuate between quarters due to the timing of individual examinations.					
2-1-1 Mortgage Regulation					
1. Number of Applications Processed					
Quarter 1	7,500	2,273	2,273	30.31%	*
The number of applications submitted is outside the Department's control; therefore, the number of applications processed is ultimately affected in the same manner.					
Quarter 2	7,500	2,014	4,287	57.16%	*
The number of applications submitted is outside the Department's control; therefore, the number of applications processed is ultimately affected in the same manner.					
Quarter 3	7,500	3,037	7,324	97.65%	*
The number of applications submitted is outside the Department's control; therefore, the number of applications processed is ultimately affected in the same manner.					
2. Number of Licensees Examined					
Quarter 1	4,500	2,095	2,095	46.56%	*
Of the examinations completed during the quarter, three of the examined entities consisted of large numbers of MLOs. These three examinations accounted for 48% of the total number of licensees examined during the quarter.					
Quarter 2	4,500	4,582	6,677	148.38%	*
Of the examinations completed during the quarter, one of the examined entities consisted of large number of MLOs, which accounted for 68% of the total number of licensees examined during the quarter.					
Quarter 3	4,500	1,245	7,922	176.04%	*
Of the examinations completed during the quarter, three of the examined entities consisted of large numbers of MLOs, which accounted for 33% of the total number of licensees examined during the quarter.					
3-1-1 Consumer Responsiveness					
1. Number of Consumer Complaints Completed					
Quarter 1	975	259	259	26.56%	
Quarter 2	975	277	536	54.97%	
Quarter 3	975	322	858	88.00%	*
Complaint dispositions with a resolution of no jurisdiction or insufficient evidence accounted for 81% of the FY18 totals, which is an increase over prior years. These resolutions are normally less involved and can be closed without an extensive investigation.					

*Varies by 5% or more from target.

3. Fiscal/Operations Activity:

a. Funding Status/Audits/Financial Reporting

Funding Status/Budget – Staff has closed out the third quarter of FY18 and prepared the budget for FY19.

Audits – The report related to the Thrift Supervision audit performed by Garza/Gonzales is located elsewhere in the package.

b. Staffing

As of August 1, 2018, the Department was staffed at 51 regular full-time and 1 part-time employees with 61 FTEs available.

There was 0% turnover during the first three quarters of the fiscal year.

During the months of June and July the Department had three separations – one voluntary resignation, one interagency transfer, and one involuntary termination.

c. Other Items

In June 2018, service awards were awarded to 1 employee for 5 years of service, 11 employees for 10 years of service, 2 employees for 15 years of service, and 1 employee for 25 years of service.

As recommended by the Governor’s Office, all staff watched “Be the One in the Fight Against Human Trafficking” a training video developed by the Governor’s Office in conjunction with the Office of Attorney General. This training tool uses actual cases prosecuted in Texas to educate about the realities of the human trafficking industry and equips viewers with the necessary tools to recognize red flags and respond appropriately.

4. Legal Activities:

SOAH Cases:

The Department has had no contested hearings before SOAH, since the last report to the Finance Commission in June 2018.

Litigation:

Case No. D-1-GN-17-005803 Department of Savings and Mortgage Lending v. VPW & Associates LLC, et al.

The Attorney General’s Office has scheduled a hearing to be held on September 21, 2018, at 9:00 a.m. regarding the Motion for Default Judgement against (the two defendants that were previously served with the lawsuit) VPW & Associates (company) and individual defendant Jonathan Price (individual).

Gift Reporting:

On July 31, 2018 – August 2, 2018, the American Association of Residential Mortgage Regulators provided a scholarship for the 2018 AARMR Annual Conference registration fee. The value of the scholarship was \$795.

Legislative Activities:

H.R. 2570 – 115th Congress: Mortgage Fairness Act of 2017

Introduced by Representative Bill Posey (R-FL), the “Mortgage Fairness Act of 2017” amends the Truth in Lending Act to clarify that the points and fees in connection with a mortgage loan do not include certain compensation amounts already taken into account in setting the interest rate on such loan.

SML Future Rule Schedule

Rules	Short Title/Purpose	Projected Proposal Date for Presentation to Finance Commission
7 TAC 80.201	Loan Status Forms – update language and provide clarification	October 19, 2018
7 TAC 81.201	Loan Status Forms – update language and provide clarification	October 19, 2018

C.

**Office of Consumer
Credit Commissioner**

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Consumer Protection and Consumer Assistance Report

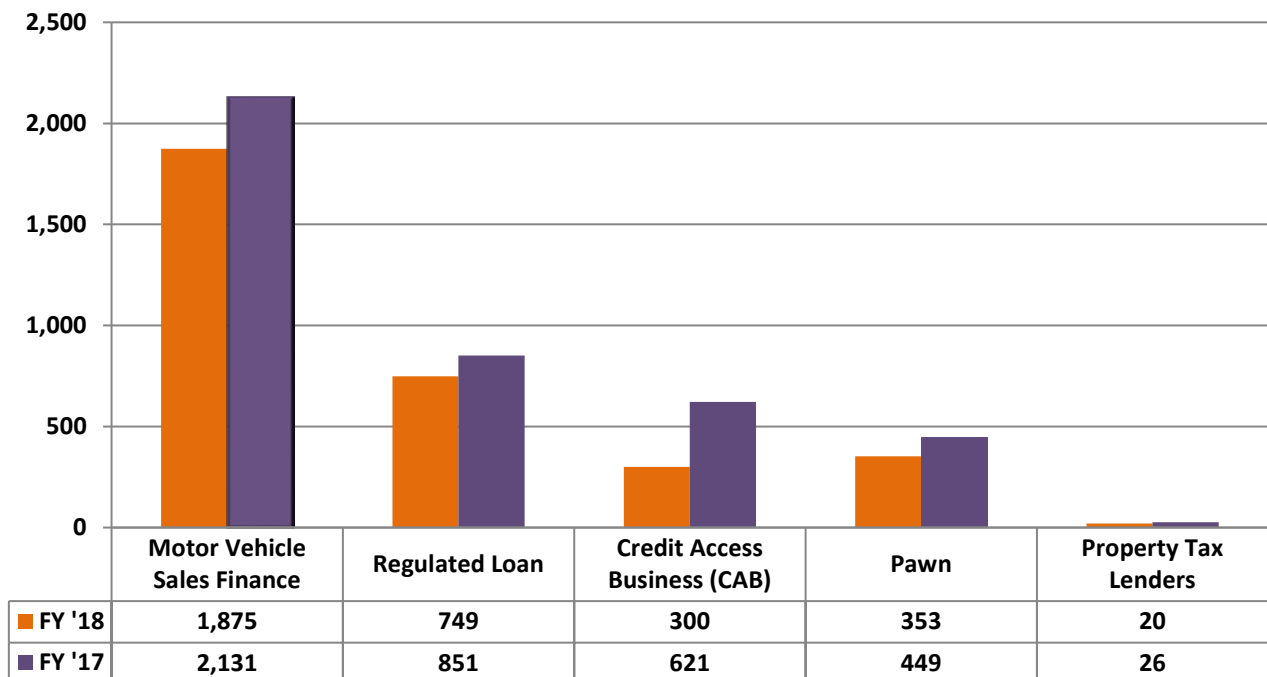
Rudy Aguilar, Director of Consumer Protection

A total of 3,297 examinations have been completed to the end of June. The over-all examination progress is slightly behind the pro rata goal of 3,500 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.

Candidates are being interviewed to hire for a new class of financial examiners (2- East/West Texas, 2 - South Texas, and 2 - North Texas). These examiners should be in place by fiscal year end.

A class of current examiners completed additional training and testing in Regulated Loan, Chapter 342, Subchapter E examinations. Those examiners that pass the competency test will complete the field training and certification process.

Examinations Conducted: Sept - Jun Fiscal Year Comparison

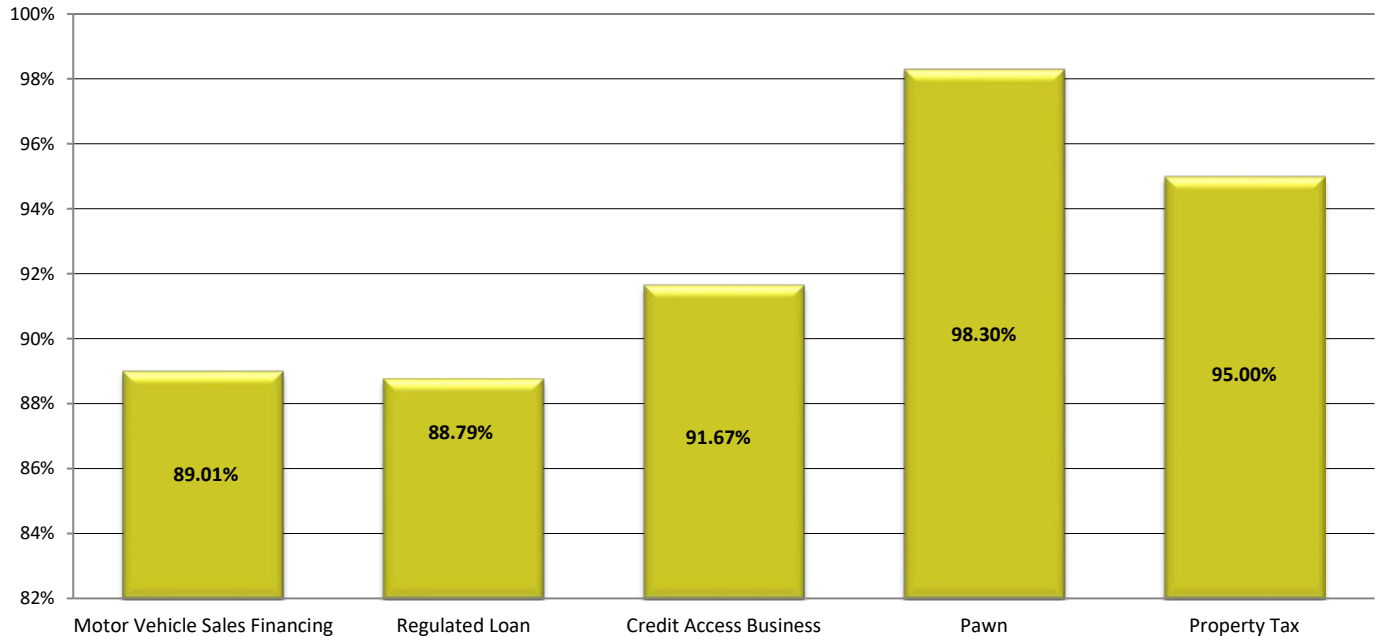


■ FY '18 ■ FY '17

Huffman Lewis and Eric Fancher presented a compliance workshop at the Texas Independent Auto Dealers Association (TIADA) Annual Conference and Expo held in Dallas July 30-31, 2018.

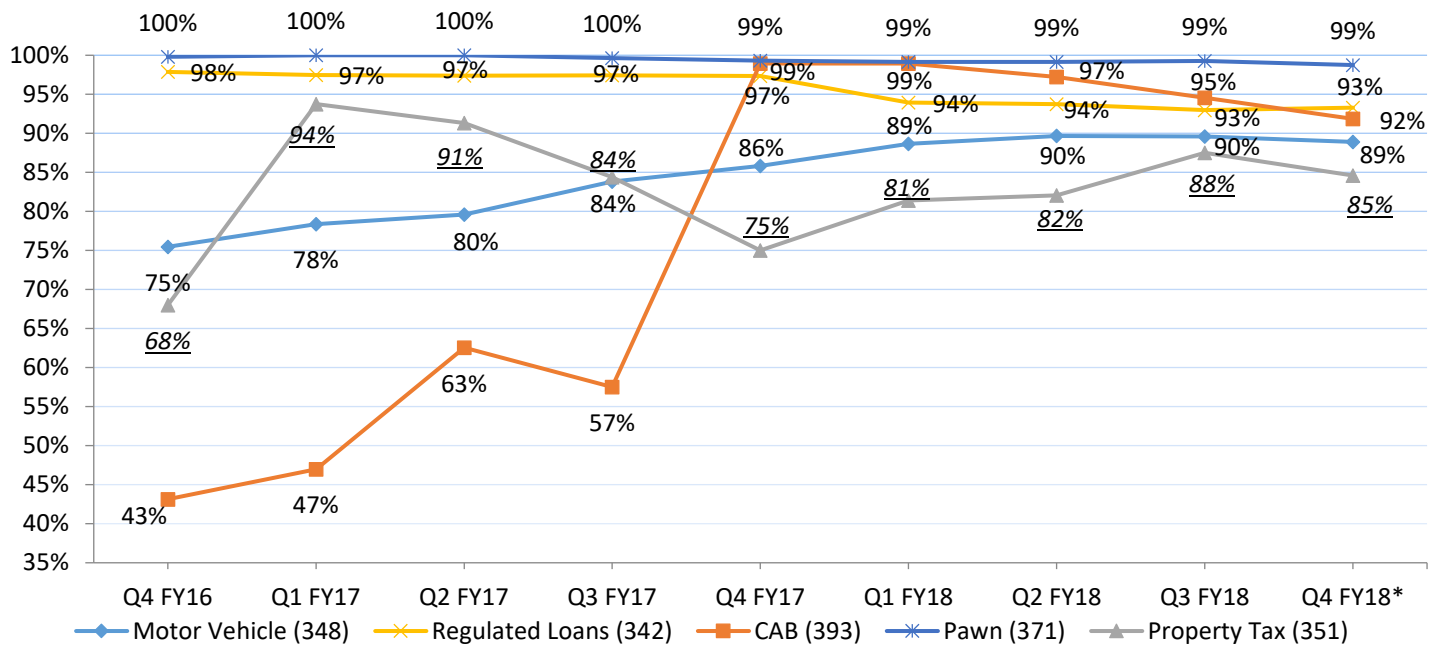
The level of compliance appears in good condition at this point in time.

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



Completed investigations are on track to achieve the FY2018

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



*as of 6/30

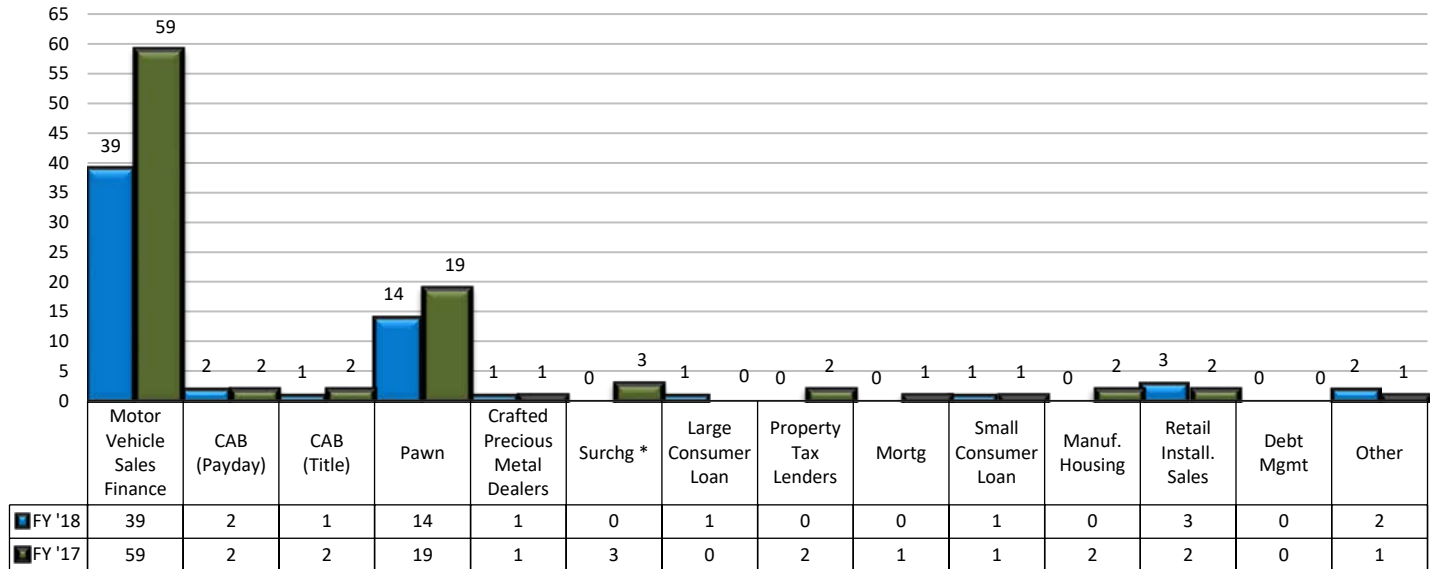
Investigations

FY '17 included a backlog of investigations that were resolved in coordination with the implementation of ACE. Credit card surcharge responsibility was transferred to the Attorney General of Texas. Additionally, unlicensed activity Motor Vehicle Sales Finance complaints and investigations continue to trend downward.

Investigations Completed

FY '18 (Sept 2017 - Jun 2018) Total: 64

FY '17 (Sept 2016 - Jun 2017) Total: 95



*Surcharge no longer regulated by OCCC

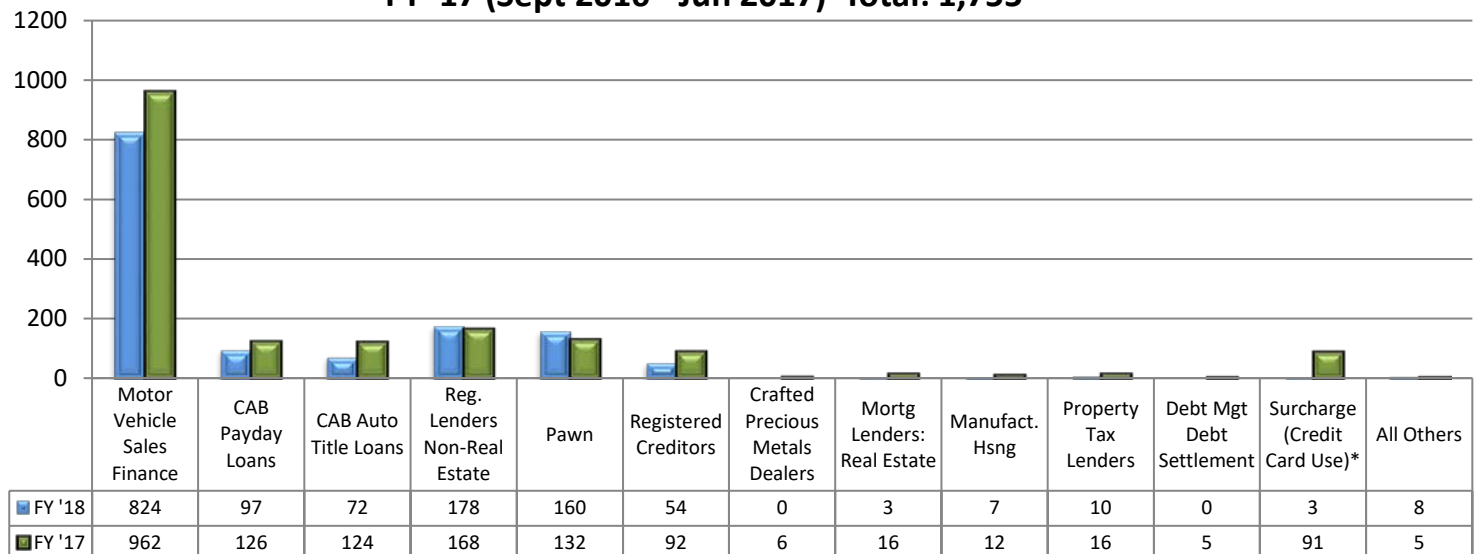
Consumer Assistance

There has been an overall decrease in complaints from FY '17 to FY '18. Positive economic indicators, such as an increase in the consumer confidence index and low unemployment rate, may be translating into fewer consumers experiencing conflict with creditors. The largest single area of reduced complaints has been Motor Vehicle Sales Finance, with 138 fewer complaints to date in FY '18. Specifically, fewer complaints involving payment processing and repossessions have been observed. Additionally, credit card surcharge complaints are now under the authority of the Attorney General of Texas.

Complaints Processed

FY '18 (Sept 2017 - Jun 2018) Total: 1,416

FY '17 (Sept 2016 - Jun 2017) Total: 1,755

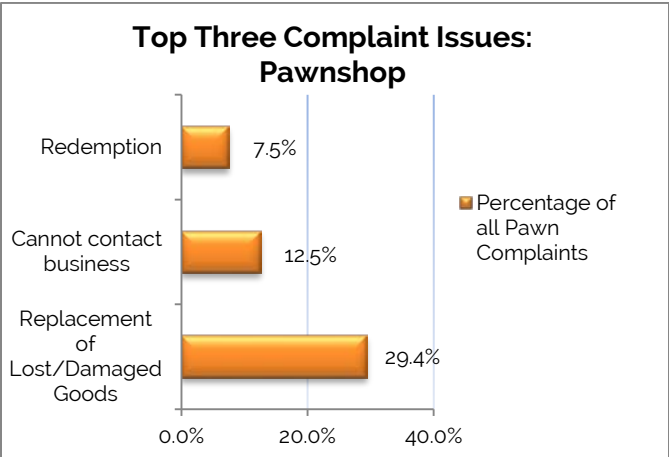
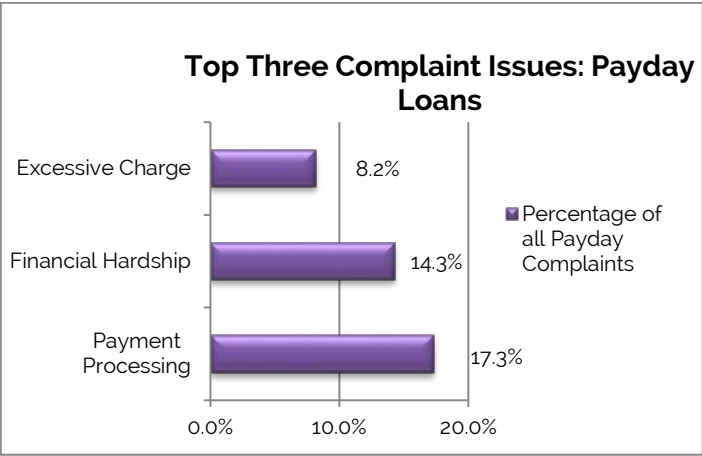
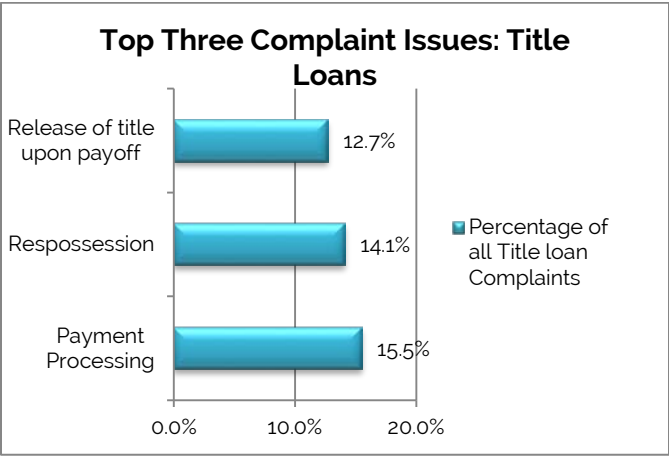
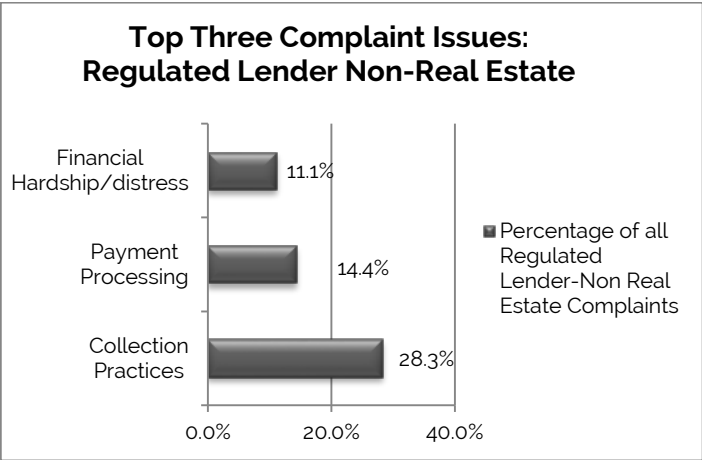
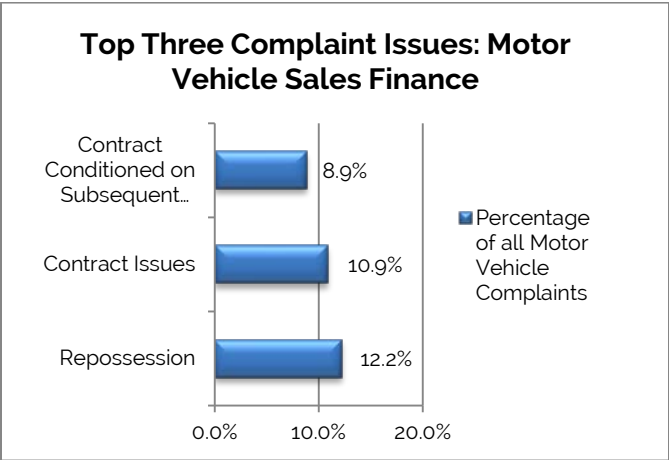


*Surcharge no longer regulated by OCCC

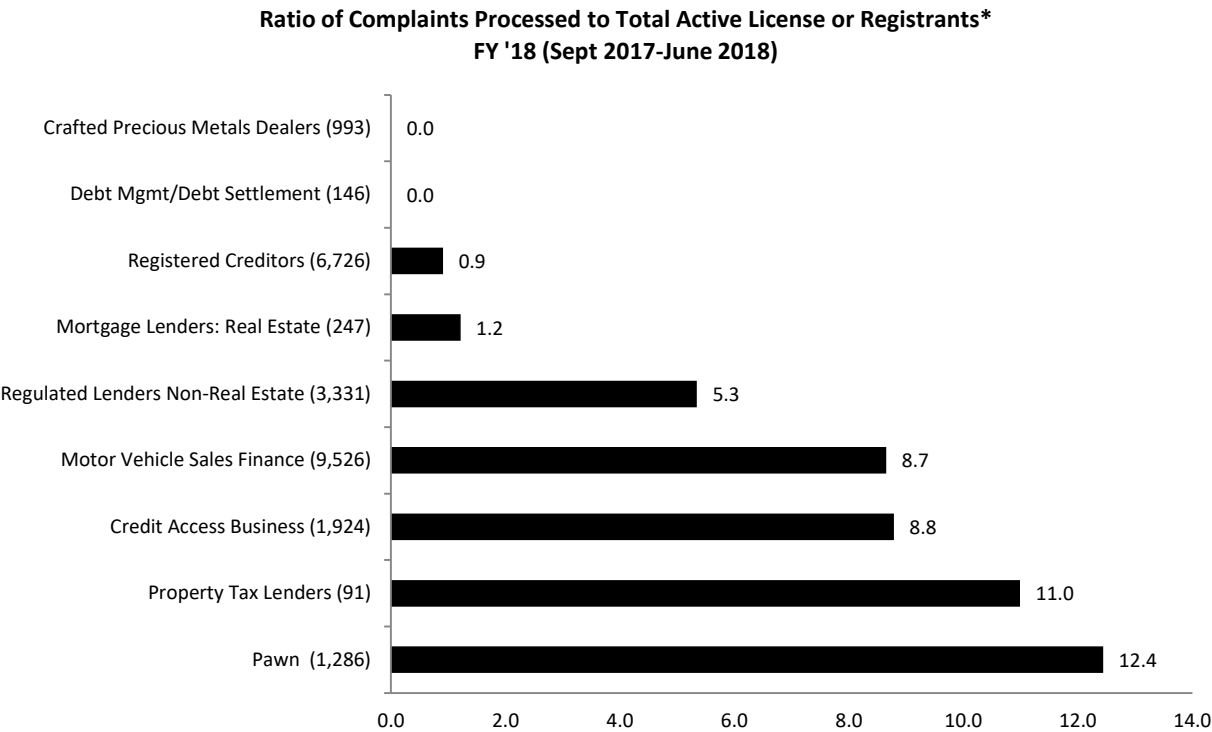
The top four areas of complaints are (1) Motor Vehicle Sales Finance (MVSF), (2) Regulated Lenders Non-Real Estate, (3) Credit Access Business (CAB) and (4) Pawn.

MVSF complaints were the largest complaint category at 58.2%. The second largest number of complaints came from Regulated Lenders Non-Real Estate at 12.6%. The third largest category of complaints came from CAB complaints at 12% collectively; separately, these are 6.9% for payday loans and 5.1% for title loans. The fourth largest category was Pawn at 11.3% 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 Property Tax Lending as the second highest, Credit Access Business as the third and MVSF as the fourth highest.



*License-Registrant levels as of 7-02-2018

■ Complaints per Hundred Licenses



Licensing Report- August 2018

Mirand Zepeda, Manager

Renewals

Pawn shop renewal ended June 30th, with 98% of pawnshops and 70% of pawn employees renewing their licenses. The department estimates more than 90% of pawn shop and pawn employee renewals were completed online through ALECS.

Renewal for motor vehicle sales finance licensees is concluding, with more than 8,000 licensees renewing.

Registered creditors will begin renewing in September and the department is preparing for more than 5,000 registrants to complete renewal.

Applications Processing

The department was able to diminish pending pawn employee applications by 35% in June and July, but continues to precisely analyze application processing data and incoming volume to further reduce pending pawn employee application volume.

Business license application processing volume and time frames continue to remain above the goal for the fiscal year. However, time dedicated to high call volume and the demand to provide good customer service, along with assisting with technical support during pawn and motor vehicle renewal impacts application processing. Due to these complexities, the department has implemented new plans to improve work load distribution which will help specialists process more applications without negatively affecting customer service.

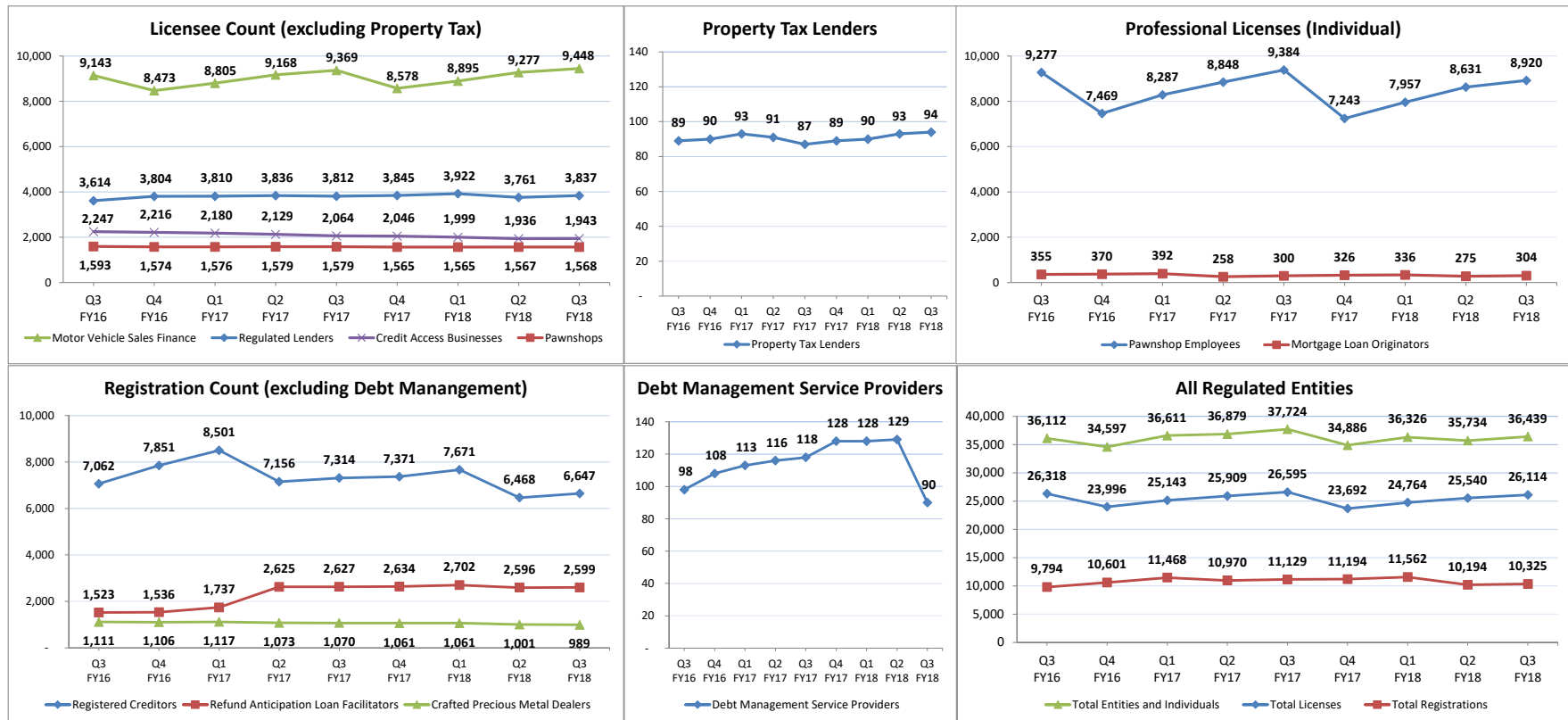
Other Updates

The licensing department has continued to work with IT and the contracted outside vendor, along with the Department of Public Safety, to launch the crafted precious metals application module in ALECS at the beginning of July. The transition has progressed smoothly and on schedule. Registrants have begun creating accounts, submitting applications and the department will continue to assist registrants through the transition period.

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





COMMUNICATIONS, HUMAN RESOURCES & ADMINISTRATION REPORT

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

COMMUNICATIONS

Agency staff continues to provide a combination of live presentations and communication through various channels to regulated entities. For this reporting period (June-July), more than 680 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 June 4, William Purce, Senior Review Examiner, presented topics of interest to the Tax Assessor-Collectors Association (TACA) 84th Annual Conference and July 10 to the Manufactured Housing Division Training Texas Department of Housing and Community Affairs. Also, on July 12, Senior Review Examiner Huffman Lewis and Financial Examiner Brian Arbogast presented Motor Vehicle Sales Finance training to the Houston Independent Auto Dealers Association (HIADA). In addition Huff also presented the topic “Deal Jacket Review” to the Texas Independent Auto Dealers Association (TIADA) in Dallas on July 30 & 31.

Commissioner Pettijohn presented on regulatory updates at the Texas Consumer Finance Association Annual Convention on July 12. In addition, she and Financial Examiner Christine Graham participated in roundtable presentations with attendees.

Since last reported, Commissioner Pettijohn and staff has served as resource to a number of inquiries from Sunset Commission Member Staff offices and interested stakeholders to discuss Sunset Staff Report recommendations and potential modifications and new issues.

The next hearing will be held August 29 and 30, when the Sunset Commission will vote on Sunset staff’s recommendations.

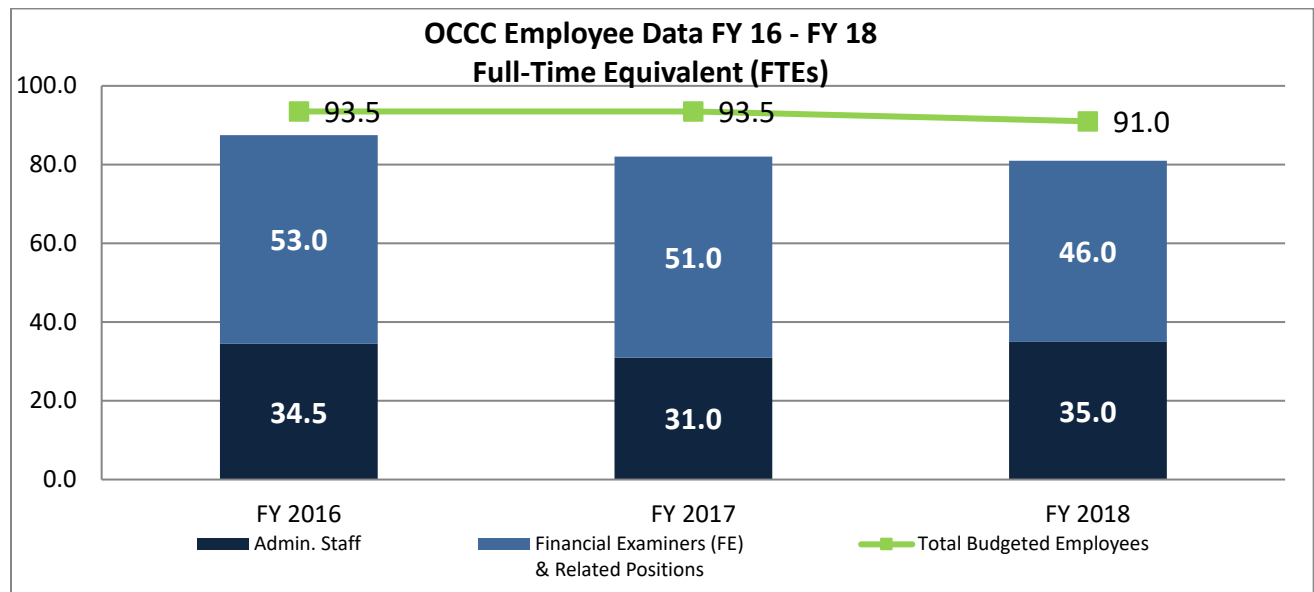
HUMAN RESOURCES

In this reporting period through the end of July, the OCCC had the following vacant positions:

Current FY 2018 Vacancies

Vacancy	Status
Attorney II-III	Active – Accepting Applications
Financial Examiner I (Austin)	Active – Accepting Applications
Financial Analyst (Austin)	Active – Accepting Applications
Financial Examiner I (San Antonio, Houston, Dallas, Regions)	Active – Accepting Applications

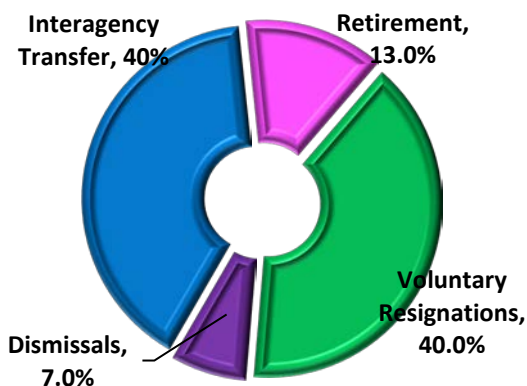
The chart below shows a comparison of financial examiners to administrative staff as compared to the total number of allowed FTEs (full-time equivalent). Currently the OCCC is staffed with 81 FTEs.



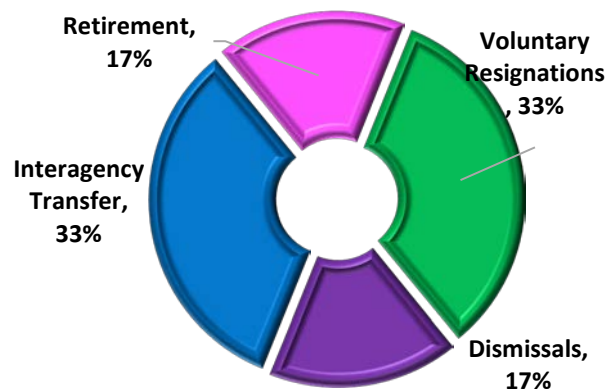
During this same period, the Agency had a total of seven separations: three interagency transfers, three voluntary resignations and one retirement. Five of these were in the Austin Headquarters, and two field examiners. As of July 31, the OCCC experienced an overall turnover of 18.52%.

Below is a summary of Agency turnover by category for Fiscal Year 2018 including the Financial Examiner series.

FY'18 Turnover Categories – All Employees
 (9/01/17 – 6/30/18)
 15 Total



FY'18 Turnover Categories – FE Series
 (9/01/17 – 6/30/18)
 6 Total



During this same period, the OCCC selected KnowBe4 as the agency's e-learning platform. KnowBe4 is the world's largest security awareness training and simulated phishing platform that helps organizations manage the ongoing problem of social engineering. Staff took an introduction to cybersecurity training course, and awareness training will continue to occur for all employees in the months to come.

ADMINISTRATION

FINANCIAL LITERACY

Since the last Finance Commission meeting in June, the Financial Literacy Specialist has provided two additional presentations for 14 participants. In efforts to bring financial education to North Texas, staff traveled to Haltom City, Texas to provide a presentation on “Fighting Elderly Exploitation” at Haltom City Senior Center. The senior center expressed interest in additional classes moving forward. For 2018 FYTD, the Financial Literacy Specialist provided 321 Texas consumers with financial education through presentations and other publications, meeting 99% of the yearly participation goal. There is one additional presentation scheduled before the fiscal year ends.

In addition, the Financial Literacy Specialist partnered with the Financial Literacy Coalition of Central Texas to facilitate a Junior Financial Literacy Academy to teach the Federal Reserve Bank of Texas Navigate Curriculum in Killeen for 60 students from across Texas. The Financial Literacy Specialist saw great success with this curriculum and plans to utilize it moving forward.

Lastly, the Financial Literacy Specialist attended the Texas Bankers’ Association’s 2018 Texas Financial Literacy Summit in Dallas, Texas, July 24-25. “This program is designed to help bankers [and teachers] exchange ideas, share financial education success stories and bring home new ideas and tools to enrich the financial education outreach.” The Financial Literacy Specialist was able to gain perspective on new financial education curriculums (i.e. NextGen Personal Finance, FDIC Navigate and Building Wealth) and network with other financial education organizations.



Accounting & IT Reports

Accounting

The Accounting Department has worked diligently with other team members in the agency on the FY 19 Budget which was completed and posted August 1st for public input and consideration by the Finance Commission. The Accounting Department engaged in processing and completing License Renewals for Motor Vehicle and Pawn. The department will also attend the second section of the Annual Financial Reporting training in preparation and anticipation of deadlines and year-end close procedures.

Information Technology

Modernization

The integration of Crafted Precious Metals Dealers into ALECS was completed by the first week of July.

OCCC's in-house programmer continues development for the new Human Resources database. This project is 95% complete, poised to enter the testing phase.

The transition to Microsoft Windows 10 operating system continues to make strong progress. Deployment among field examiner personnel is over 90%. Austin deployment exceeds 30% and remaining computers are on schedule to be upgraded or replaced.

A new uninterruptible power supply was acquired and installed, replacing an old unit that was operating inside its long-term failure warning window.

Security

OCCC has selected KnowBe4 as an e-learning platform and cybersecurity awareness tool to provide a series of on-line training materials focused on cybersecurity topics. An initial email phishing test returned about 30% of recipients clicking the embedded (harmless) link, as our organizational baseline. Further tests of various, personnel-based threat attempts will be conducted.

The agency has committed to implementing two-factor authentication for private-user ALECS access. Expected release is in late August.

IT generated two advisory bulletins on cybersecurity, posted on the OCCC intraweb. One was based upon a phishing email which was received by an IT member on his personal email account; the other was a review of the federal indictment against 12 Russian state-sponsored hackers and their pervasive attacks against organizations.

General

A new, multifunctional printer, with scanning and finishing capabilities, has been ordered, which will deliver higher throughput. Delivery and installation is expected before the end of FY18.

OFFICE OF CONSUMER CREDIT COMMISSIONER
EXECUTIVE SUMMARY

As of May 31, 2018

	FY 2016	FY 2017	FISCAL YEAR 2018				
			1st QTR	2nd QTR	3rd QTR	4th QTR	FYTD
CONSUMER PROTECTION							
Monies Returned to Consumers (000)	13,657	20,593	2,158	1,078	689		3,925
Regulated Lenders Examinations	891	1,207	321	184	152		657
Property Tax Lender Examinations	25	32	12	5	3		20
Pawnshop Examinations	484	575	188	75	42		305
Motor Vehicle Examinations	2,181	2,354	555	673	457		1,685
Credit Access Businesses Examinations	707	652	18	43	170		231
CONSUMER ASSISTANCE							
Telephone Complaints Received	1,177	986	220	158	125		503
Written Complaints Received	878	1,111	246	267	295		808
Total Complaints Processed	2,160	2,130	446	455	374		1,275
% of Written Complaints Closed within 90 Calendar Days	94.46%	91.83%	83.69%	83.27%	82.47%		83.13%
ADMINISTRATIVE ENFORCEMENT ACTIONS							
Originated	410	371	81	57	24		162
Finalized	459	389	29	76	39		144
LICENSING AND REGISTRATION							
Licenses							
Regulated Loan Licenses	3,804	3,845	3,922	3,761	3,837		3,837
Pawnshop Licenses	1,574	1,565	1,565	1,567	1,568		1,568
Pawnshop Employee Licenses	7,469	7,243	7,957	8,631	8,920		8,920
Commercial MV Sales Fin. Licenses	29	39	40	46	45		45
Motor Vehicle Sales Finance Licenses	8,444	8,539	8,855	9,184	9,403		9,403
Property Tax Loan Licenses	90	89	90	93	94		94
Mortgage Loan Originators	370	326	336	275	304		304
Credit Access Business Licenses	2,216	2,046	1,999	1,936	1,943		1,943
Registrations							
Registered Creditors	7,851	7,371	7,671	6,468	6,647		6,647
Crafted Precious Metal Dealers	1,106	1,061	1,061	1,001	989		989
Debt Management Service Providers	108	128	128	129	90		90
Refund Anticipation Loan Facilitators	1,536	2,634	2,702	2,596	2,599		2,599
Applications							
Business -- New	1,642	1,522	358	453	449		811
Business -- Change of Ownership	259	138	21	10	58		31
Pawnshop Employees -- New	3,253	3,133	832	850	524		1,682
HUMAN RESOURCES DATA							
Field Examiners Staffing	45	41	44	42	42		42
Total Staffing	86.5	82	86	83	84		84

OCCC Actual Performance for Output/Efficiency Measures

Fiscal Year 2018

For Period Ending February 2018

Type/Strategy/Measure	2018 Target	2018 Quarter	2018 YTD	Percent of Annual Target
Output Measures-Key				
1-1-1 COMPLAINT RESOLUTION				
1. # COMPLAINTS CLOSED				
Quarter 1	2,100	440	440	20.95%
Quarter 2	2,100	452	892	42% *
There are several elements affecting the number of resolved complaints falling short of the percent annual target. The OCCC has noted a combined decrease of 26.1% in CAB complaints for this period. This is attributed to a decrease in CAB locations. Additionally, effective September 1, 2017, the OCCC no longer has enforcement authority over credit card surcharge complaints. This has resulted in 41 fewer credit card surcharge complaints (95.3% decrease) for this period.				
Quarter 3	2,100	385	1,277	60.81% *
The OCCC noted an overall trend in decreased consumer complaints. A decrease in consumer financial complaints has also been documented in recent Consumer Financial Protection Bureau data. Additionally, other state financial regulatory agencies have experienced recent complaint level decreases.				
2. # INVESTIGATIONS CLOSED				
Quarter 1	80	14	14	17.50% *
The number of closed investigations in the first quarter of fiscal year 2018 is lower than the pro rata goal for the following reasons. Effective September 1, 2017, the enforcement authority for credit card surcharges was transferred from the Office of Consumer Credit Commissioner to the Office of the Attorney General. There are no more investigations for this product category. Additionally, the largest investigation category has historically been Chapter 348 investigations. For the past three years, this product category has averaged 56.6% of all investigations closed. From fiscal year 2016 to fiscal year 2017, there was a 26% drop in unlicensed Chapter 348 complaints received by the agency. These complaints often result in investigations. Finally, all areas of examination acceptable level of compliance are trending upward. The higher levels of compliance across the regulated industries results in fewer investigations into possible violations of the Texas Finance Code or applicable regulations.				
Quarter 2	80	17	31	39% *
The number of closed investigations for the first two quarters of fiscal year 2018 is lower than the pro rata goal for the following reasons. The enforcement authority for credit card surcharges was transferred to the Office of the Attorney General. A large fraction of investigations originate as consumer complaints. Several key complaint categories are lower from the first two quarters of fiscal year 2018 as compared to the same time period in fiscal year 2017. However, the agency has seen a recent increase in issues that will be assigned investigations and staff anticipates reaching this measure target by the end of FY18.				
Quarter 3	80	27	58	72.50%
2-1-1 EXAMINATION AND ENFORCEMENT				
1. # COMPLIANCE EXAMINATIONS PERFORMED				
Quarter 1	4,200	1,094	1,094	26.05%
Quarter 2	4,200	980	2,074	49%
Quarter 3	4,200	824	2,898	69% *
Several enterprise level examinations, which include large numbers of licensed locations, have completed their field work and are in the process of finalizing examination reports. Year end performance is expected to be within the annual target range.				
2-2-1 LICENSING				
1. # BUSINESS APPLICATIONS PROCESSED				
Quarter 1	1,600	358	358	22.38%
Quarter 2	1,600	453	811	51%
Quarter 3	1,600	449	1260	79%
2. # PAWN EMPLOYEE LICENSE APPLICATIONS PROCESSED				
Quarter 1	2,800	832	832	29.71%
Quarter 2	2,800	850	1,682	60% *
While the department processed a high number of pawn employee applications in the first half of FY 2018, this number will likely even out through the rest of the fiscal year due to staffing changes and increased incoming application volume.				
Quarter 3	2,800	524	2,206	78.79%

3-1-1

CONSUMERS RECEIVING FINANCIAL EDUCATION

Quarter 1	325	59	59	18.15%	*
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The first quarter of FY 2018 required heavy concentration on preparing and reviewing TFEE Grant templates and reports, and selecting new recipients for the third cycle. In addition, attendance at the one of the three financial education workshops conducted in Q1 was lower than anticipated. The financial education department attempts to recruit groups of 20 or more; however the agency is committed to providing resources to all organizations regardless of their program size. With the new TFEE funding cycle commencing January 1, 2018, staff will be able to focus on achieving financial education goals by the end of Q2.

Quarter 2	325	107	166	51.08%	
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Quarter 3	325	141	307	94.46%	*
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Scheduling was focused on the latter part of the fiscal year due to TFEE activities in the first two quarters. Attendance has been consistent and therefore reflects the current number of attendees. The department is confident the goal will be met by the fourth quarter.

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



Legal Department Report

Michael Rigby, General Counsel

August 2018

Enforcement Report

Contested Cases

During July 2018, the OCCC participated in two contested case hearings, both of which resulted in default orders from the State Office of Administrative Hearings (SOAH).

In the matter of *Office of Consumer Credit Commissioner v. Maz Auto, Inc.* (SOAH Docket No. 466-18-2931), the OCCC issued an injunction against a motor vehicle sales finance dealer. The injunction ordered Maz Auto to refund excessive and unauthorized lender processing fees, public official fees, deputy fees, inspection fees, and documentary fees. Maz Auto requested a hearing on the injunction, and the hearing was set at SOAH. Before the hearing, Maz Auto's attorney withdrew as counsel, and explained that Maz Auto had stopped communicating with him. Maz Auto did not appear at the hearing on July 11, and SOAH issued a default order remanding the case to the OCCC.

In the matter of *Office of Consumer Credit Commissioner v. Alfredo Prado* (SOAH Docket No. 466-18-3278), the OCCC set a hearing to revoke the pawnshop employee license of Alfredo Prado. Mr. Prado was an employee of Cash America Pawn, LP. Mr. Prado was arrested for accepting stolen jewelry from an undercover Austin Police Department officer. The license revocation is based on Mr. Prado's acceptance of stolen goods in violation of the Texas Finance Code and its implementing rules. Mr. Prado did not appear at the hearing on July 20, and SOAH issued a default order remanding the case to the OCCC.

Regulated Lender Annual Reports

In July 2018, the OCCC issued 19 enforcement orders against regulated lenders that did not timely and accurately file their 2017 annual reports by May 18, 2018. The deadline was extended from May 1 to May 18. The OCCC issued injunctions against 14 licensees ordering them to file timely and accurate reports, and issued administrative penalty orders against five licensees for violating a previous injunction. This is a reduction from the 43 enforcement orders issued in 2017 for late or inaccurate 2016 annual reports (consisting of 31 injunctions and 12 administrative penalty orders), and the 89 enforcement orders issued in 2016 for late or inaccurate 2015 annual reports (consisting solely of injunctions).

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 July 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 July 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	37	37	1	0
Pawnshop Employee License	48	69	0	0
Credit Access Business License	25	47	25	1
Motor Vehicle Sales Finance License	17	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)	5	2	1	6
Credit Card Surcharge (Ch. 339)	0	2	7	1
Residential Mortgage Loan Originator	1	1	0	0
Total Injunction Actions	138	230	157	25
Administrative Penalty Actions				
Regulated Loan License	0	13	0	73
Pawnshop License	6	3	40	4
Pawnshop Employee License	0	0	1	4
Credit Access Business License	6	23	97	136
Motor Vehicle Sales Finance License	25	106	129	76
Property Tax Loan License	6	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	44	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	183	388	458	388

From June 1, 2018, to July 31, 2018, the OCCC:

- closed 34 cases with final orders,
- opened seven cases in order to assess administrative penalties,
- opened 20 cases in order to issue injunctions,
- issued no assurances of voluntary compliance,
- participated in two contested case hearings, and
- dismissed one contested case hearing.

The OCCC has one hearing scheduled between August 1, 2018 and September 30, 2018.

Administrative Rule Report

At the August meeting, the OCCC is presenting proposed amendments to the regulated lender rules, based on its periodic rule review. These rule amendments are intended to ensure consistency, provide flexibility, modernize language, and make technical corrections. At the October meeting, the OCCC is scheduled to present proposed amendments to pawnbroker rules, based on its periodic 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 has filed its appellate brief arguing that the Dallas district court does not have jurisdiction over the case, and that the district court's temporary injunction is overly broad. VIP's response brief is due August 23.

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.

State of Texas v. Student Loan Relief, LLC

In October 2017, 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.

The lawsuit alleges that the defendants violated the Deceptive Trade Practice Act (DTPA) and Chapter 394 of the Texas Finance Code by: (1) providing debt management services to Texas consumers without registering with the OCCC, (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 June 26, 2018, the district court approved an agreed temporary injunction order between the parties. The temporary injunction prohibits the defendants from moving records, making unauthorized withdrawals, and charging consumers for goods and services without a registration, among other actions. A trial has been set for February 25, 2019.

The OCCC is represented in the district court by the Consumer Protection Division of the Office of the Attorney General. 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, in the 353rd District Court of Travis County, Texas.

Office of Consumer Credit Commissioner v. Tim McMahan d/b/a Advantage Auto

In June 2016, the OCCC issued an injunction against Tim McMahan d/b/a Advantage Auto, alleging that Mr. McMahan engaged in unlicensed activity under Chapters 342, 348, and 393 of the Texas Finance Code. In June 2017, the OCCC issued an order assessing an administrative penalty for violating the injunction.

In October 2017, the Office of the Attorney General filed a lawsuit in Travis County district court against Mr. McMahan. The lawsuit requests a judgment ordering that Mr. McMahan comply with the law and the OCCC's final administrative order, including payment of an administrative penalty. On June 28, 2018, the district court granted the OCCC's motion to serve Mr. McMahan through substitute service, by leaving the petition with anyone over 16 years old at Advantage Auto's place of business in Victoria, Texas.

The OCCC is represented in the district court by the Financial Litigation and Charitable Trusts Division of the Office of the Attorney General. The full style of the Texas case is *Texas Office of Consumer Credit Commissioner v/ Tim McMahan d/b/a Advantage Auto*. The case number is D-1-GN-17-005451, in the 98th District Court of Travis County, Texas.

Advisory Bulletins

From June 1, 2018 to July 31, 2018, the OCCC did not issue any advisory bulletins.

Official Interpretation Requests

From June 1, 2018 to July 31, 2018, the OCCC did not receive any requests for official interpretations. There were no pending interpretation requests as of July 31, 2018.

Public Information Requests

From June 1, 2018 to July 31, 2018, the OCCC received 31 requests for information under the Texas Public Information Act, with one referral to the Office of the Attorney General.

Gifts Received by the OCCC

From June 2, 2018, to July 31, 2018, the OCCC received one gift. The Texas Bankers Association provided a \$150 scholarship that allowed the OCCC's Consumer Education Specialist to attend its 2018 Financial Literacy Summit in Dallas, July 24-25, 2018.

Rule Item/Purpose	Proposal Date	Adoption Date
<p>Rules for Regulated Lenders - Adopt Completed Rule Review; Proposed Amendments & Repeal 7 TAC, Chapter 83, Subchapter A</p> <p>To conduct standard rule review under Tex. Gov't Code, §2001.039; to ensure consistency with current licensing terminology, agency procedures, and streamlined processes; to provide flexibility to licensees; to modernize or remove obsolete language; and to make technical corrections</p> <p><i>Precomment draft distributed July 13, 2018</i> <i>Stakeholder meeting and webinar held July 26, 2018</i> <i>Official comment period on rule review ended August 6, 2018</i></p>	08/17/18	
<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>	10/19/18	

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

2. Discussion of and Possible Vote to Take Action on the Adoption of the Completed Rule Review of 7 TAC, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders

PURPOSE: Pursuant to Texas Government Code, §2001.039, the agency has completed the review of 7 TAC, Chapter 83, Subchapter A. The notice of the review was published in the *Texas Register* as required on July 6, 2018 (43 TexReg 4563). The commission did not receive any written comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this subchapter continue to exist. As a result of internal review by the agency, the commission has determined that certain revisions are appropriate and necessary. Rule changes to Chapter 83, Subchapter A are being separately presented for proposal.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve and adopt the rule review of Chapter 83, Subchapter A, as the reasons for these rules continue to exist.

RECOMMENDED MOTION: I move that we find that the reasons for adopting Chapter 83, Subchapter A continue to exist and that the rules are repropose and readopted.

Title 7. Banking and Securities
Part 5. Office of Consumer Credit Commissioner
Chapter 83. Regulated Lenders and Credit Access Businesses
Subchapter A. Rules for Regulated Lenders

The Finance Commission of Texas (commission) has completed the review of Texas Administrative Code, Title 7, Part 5, Chapter 83, Subchapter A, concerning Rules for Regulated Lenders. Chapter 83, Subchapter A contains Division 1, concerning General Provisions (§§83.101 - 83.102); Division 2, concerning Authorized Activities (§§83.201 - 83.205); Division 3, concerning Application Procedures (§§83.301 - 83.311); Division 4, concerning License (§§83.401 - 83.404, and §§83.406 - 83.408); Division 5, concerning Interest Charges on Loans (§§83.501 - 83.505); Division 6, concerning Alternate Charges for Consumer Loans (§§83.601 - 83.606); Division 7, concerning Interest and Other Charges on Secondary Mortgage Loans (§§83.701 - 83.708); Division 8, concerning Refunds for Precomputed Loans (§§83.751 - 83.758); Division 9, concerning Insurance (§§83.801 - 83.812); Division 10, concerning Duties and Authority of Authorized Lenders (§§83.826 - 83.838); and Division 11, concerning Prohibitions on Authorized Lenders (§§83.851 - 83.862). The rule review was conducted pursuant to Texas Government Code, §2001.039.

Notice of the review of 7 TAC, Chapter 83, Subchapter A was published in the *Texas Register* as required on July 6, 2018 (43 TexReg 4563). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this subchapter continue to exist.

As a result of internal review by the agency, the commission has determined that certain revisions are appropriate and necessary. Those proposed changes are published elsewhere in this issue of the *Texas Register*.

Subject to the proposed changes to Chapter 83, Subchapter A, the commission finds that the reasons for initially adopting these rules continue to exist, and readopts this subchapter in accordance with the requirements of Texas Government Code, §2001.039.

This concludes the review of 7 TAC, Part 5, Chapter 83, Subchapter A.

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments and a Repeal in 7 TAC, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders, Resulting from Rule Review

PURPOSE: The purpose of the proposal regarding 7 TAC, Chapter 83, Subchapter A is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039. The proposed amendments and repeal are intended to fulfill the following four purposes: 1) ensure consistency with current licensing terminology, agency procedures, and streamlined processes; 2) provide flexibility to licensees; 3) modernize or remove obsolete language; and 4) make technical corrections.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve the amendments and proposed repeal in 7 TAC, Chapter 83, Subchapter A for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve for publication and comment the amendments and proposed repeal in 7 TAC, Chapter 83, Subchapter A.

Title 7. Banking and Securities

Part 5. Office of Consumer Credit Commissioner

Chapter 83. Regulated Lenders and Credit Access Businesses

Subchapter A. Rules for Regulated Lenders

The Finance Commission of Texas (commission) proposes amendments to 7 TAC, Chapter 83, Subchapter A, §§83.102, 83.302, 83.304, 83.505, 83.606, 83.707, 83.802, 83.828, 83.829, 83.833, and 83.835, concerning Rules for Regulated Lenders. The commission also proposes the repeal of 7 TAC §83.408.

The proposed changes affect rules contained in Division 1, concerning General Provisions; Division 3, concerning Application Procedures; Division 4, concerning License; Division 5, concerning Interest Charges on Loans; Division 6, concerning Alternate Charges for Consumer Loans; Division 7, concerning Interest and Other Charges on Secondary Mortgage Loans; Division 9, concerning Insurance; and Division 10, concerning Duties and Authority of Authorized Lenders.

In general, the purpose of the proposal regarding to 7 TAC, Chapter 83, Subchapter A is to implement changes resulting from the commission's review of subchapter under Texas Government Code, §2001.039. The notice of intention to review 7 TAC, Chapter 83, Subchapter A was published in the July 6, 2018, issue of the *Texas Register* (43 TexReg 4563). The commission received no comments in response to that notice.

The agency distributed an early draft of proposed changes to interested stakeholders for review and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC did not receive any informal written precomments on the rule

text draft. The agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The proposed amendments and repeal are intended to fulfill the following four purposes: 1) ensure consistency with current licensing terminology, agency procedures, and streamlined processes; 2) provide flexibility to licensees; 3) modernize or remove obsolete language; and 4) make technical corrections. Any regulated lender rule not included in this proposal will be maintained in its current form.

The individual purposes of the proposed amendments to each section, as well as the purpose of the proposed repeal, are provided in the following paragraphs. Specific explanation is included with regard to rule changes to ensure consistency, provide flexibility, and modernize language. The remaining changes throughout all sections consist of minor revisions to formatting, grammar, punctuation, and other technical corrections. The technical changes will be summarized more generally.

In §83.102, the definition of "Interpretation letter" in current paragraph (14) is proposed for deletion, as this definition is not used in the subchapter. As a result, the remaining definitions are being renumbered accordingly.

The agency's acronym "OCCC," currently defined in §83.102(18) (proposed §83.102(17)), will replace the use of "commissioner" in three instances in the

introductory language of §83.302. The agency believes that the use of "OCCC" will provide better clarity to the rules when the context calls for action by the agency, as opposed to the commissioner specifically. In addition to §83.302, the following rules include proposed amendments to replace "commissioner" with "OCCC": §83.802(b), concerning Authorized Property Insurance; and §83.835, concerning Annual Report.

Section 83.302, concerning Filing of New Application, includes numerous proposed rule changes to ensure consistency with current agency procedures. In §83.302(1)(A) and (1)(B), proposed changes streamline the introductory wording (referred to as "taglines") and grammar to more closely track the OCCC's online licensing portal, and to no longer refer to specific titles used on paper licensing forms. In particular, a statement that the "responsible person is also known as the location contact" is proposed for addition to §83.302(1)(A)(ii), to further the use of online terminology.

Proposed changes are included in §83.302(1)(A)(iii) regarding the signature on a new license application. These changes involve the deletion of unnecessary language, allowing for the electronic signature of an authorized individual of the applicant, without reference to particular titles of the person signing.

A proposed revision throughout §83.302(1)(B) relates to the percentage of ownership that must be disclosed by various entities. In the current rule, these percentages are 5%. In evaluating the appropriate level of disclosure necessary for the agency to properly assess principal parties, the agency had determined that 10% would achieve the needed information.

Therefore, the proposed amendments align the rule with current agency practice and provide consistency in disclosure of ownership for new applications with transfer applications found in §83.303. Consequently, 5% is being replaced with 10% in the following proposed provisions: §83.302(1)(B)(iii)(II), (1)(B)(iv), and (1)(B)(v). A parallel change is also proposed in §83.304, concerning Change in Form or Proportionate Ownership, as found in subsection (c)(1).

Proposed amendments updating licensing terminology continue in §83.302(1)(C) through (1)(K), (2)(A), and (3), to better align the rule with the OCCC's online portal. In addition, §83.302(1)(G) concerning employment history includes a proposed amendment to remove the phrase "with no gaps." As the rule still requires "a continuous 10-year [employment] history," the language proposed for deletion is not necessary.

Section 83.302(1)(D) contains several proposed amendments to ensure consistency with current agency procedure. First, the term "registered agent" will replace "statutory agent." These terms have been used synonymously, but "registered agent" is used by the Texas Secretary of State (SOS) and has become the more common term. Second, a natural person will require simply a different address from the licensed location, as opposed to the outdated requirement of a physical residential address. Third, a company's secretary may submit certification identifying an agent that differs from the SOS filing. Furthermore, these amendments are consistent with rule revisions previously adopted for other industries regulated by the agency and will provide consistency in the licensing process.

In §83.302(1)(J)(i), a proposed amendment adds language requiring all entity types to provide a bank confirmation if requested by the agency. This amendment memorializes the long-standing OCCC licensing procedure to obtain bank confirmations if necessary to confirm account balance information with financial institutions of applicants.

Section 83.302(2)(A)(iv) relates to the fingerprints of individuals who have previously been licensed by the agency and who are principal parties of currently licensed entities. Proposed amendments in §83.302(2)(A)(iv) update the fingerprinting requirements and provide increased flexibility so that applicants will not need to resubmit if acceptable fingerprints are on file. These proposed amendments correspond to changes approved by the commission in the OCCC's other licensed areas and will provide consistency across regulated entities.

Regarding the entity documents under §83.302(2)(C), several proposed amendments update the documents required for new applications, increasing the efficiency of the licensing process. The provisions under current (2)(C)(ii)(II) and (III), and (2)(C)(iv)(II) and (III) require that applicants provide copies of the relevant portions of bylaws, operating agreements, and minutes addressing the number and election of officers and directors. The agency recognizes that these documents are only necessary in limited situations. Thus, these provisions have been shifted to the end of each respective clause and language has been added to reflect that such documents should only be provided upon request. Additionally, the requirements in §83.302(2)(C)(ii)(IV)(-a-) and (2)(C)(iv)(IV)(-a-) are proposed for deletion.

The current provisions require applicants to provide minutes electing the statutory agent. The agency has streamlined the process for verification of the registered agent by certification from the secretary of the company.

Further, these proposed changes align the rule with the OCCC's online portal, listing the required documents first, removing documents no longer required, and listing last documents to only be provided "if requested" by the agency. Parallel changes are proposed for corporations in §83.302(2)(C)(ii), and for limited liability companies in §83.302(2)(C)(iv).

A proposed amendment in §83.302(2)(C)(viii) allows applicants to submit a "certification of formation." This language is similar to that approved by the commission in the OCCC's other regulated areas. The amendment provides flexibility to applicants that may wish to submit this type of document, as opposed to an entity-specific formation document (e.g., for a corporation, articles of incorporation).

Section 83.304 describes what action a licensee must take when it changes the proportion of ownership in or the form of the licensed entity and lists the time frame within which the licensee must notify the agency. The proposed changes in §83.304(b) revise grammar and formatting concerning mergers. Separate paragraphs have been created to distinguish the requirements for merger of a licensee, merger of a parent entity, and a merger beyond the parent level. These proposed amendments do not change what is required for each type of merger, but are intended to provide clarity and improve readability.

Section 83.404 describes the effect of criminal history information on applicants and licensees. In §83.404(f)(2), unnecessary language is proposed for deletion related to a citation update.

Section 83.408, concerning License Reissuance, is proposed for repeal. Upon reissuance of a license, this rule requires the licensee to return to the agency the license certificate held prior to the reissuance. With the OCCC's online portal, licensees print their own licenses and the agency no longer issues license certificates. As a result, §83.408 has become obsolete.

In §83.505, concerning Deferment, proposed new subsection (j) will provide important amendments that increase flexibility for licensees during times of natural disasters. With recent hurricanes and floods, the agency has recognized the need for licensees to assist borrowers in these difficult situations. In accordance with agency practice, the addition of proposed §83.505(j) memorializes in the rule the deferment procedures the agency has recently permitted during natural disasters. This disaster exception allows the licensee to deliver the deferment notice without obtaining the borrower's signature if the borrower resides in an area designated as a state of disaster, and the deferment occurs before the state of disaster has been terminated. Further, the proposed exception is similar to that approved by the commission for motor vehicle sales finance licensees.

A proposed amendment to §83.606(f) will update internal references to a definition being renumbered as part of this proposal. With the proposed deletion of the definition in current §83.102(14), all remaining definitions will be renumbered, including

the definition of "United States rule" currently contained in §83.102(30). Section 83.606, concerning Maximum Term and Maximum Installment Account Handling Charge, references the United States rule definition. Thus, the proposed amendments to §83.606(f) will update the internal references to the proposed new definition number (§83.102(29)).

Section 83.707(d)(2), concerning Other Fees, contains a proposed amendment to make a correction in terminology. The rule currently uses the phrase "finance charge," where the intended phrase is "contract rate."

Several proposed changes are intended to modernize §83.802, concerning Authorized Property Insurance. Since §83.802 was adopted, the Texas Department of Insurance (TDI) does not fix or approve rates for property insurance, but rather has what is referred to as a "file and use" system. As a result, this terminology is being modernized throughout §83.802. The rates provided by Figure: 7 TAC §83.802(c) are also being amended. The existing rates have not been updated for many years. The proposed rates in the figure correspond to those recently accepted by TDI for dual interest personal property insurance. Additionally, proposed §83.802(d) maintains the requirement for licensees to file with the OCCC a copy of the relevant policy to be used for a rate that has not been filed with TDI.

The proposed changes to the following rules enhance recordkeeping and reporting for licensees. First, in §83.828(13), concerning Files and Records Required (Subchapter E and F lenders), a proposed amendment streamlines the compliance file requirements to align with examinations issued through the online portal. An

additional proposed amendment removes the requirement to maintain compliance bulletins, as these are now posted on the OCCC's website.

In §83.829(1)(H), concerning Files and Records Required (Subchapter G lenders), proposed terminology updates refer to the "compliance" file, as opposed to the prior term of "official correspondence" file.

Throughout §83.833(b), concerning Correction of Errors or Violations, proposed amendments make corrections in terminology. This rule currently uses the term "retail buyer," where the intended term is "borrower."

In §83.835, concerning Annual Report, proposed changes in grammar and use of the agency's acronym will improve readability and consistency.

Christina Cuellar Hoke, Manager of Accounting, has determined that for the first five-year period the proposed rule changes are in effect there will be no fiscal implications for state or local government as a result of administering the rules.

Rudy Aguilar, Director of Consumer Protection, has determined that for each year of the first five years the amendments and repeal are in effect, the public benefits anticipated as a result of the proposal will be that the commission's rules will be more easily understood by applicants and licensees, will reflect current agency procedures, and will be more easily enforced. Additional benefits of the proposed rule changes are increased efficiencies, more flexibility for licensees, and modernized rule language.

The general substance of these rules has already been in effect, as the majority of the changes are to ensure consistency with agency procedures and to make technical corrections. Thus, there is no anticipated cost to persons who are required to comply with the rule changes as proposed. There will be no adverse economic effect on rural communities or small or micro-businesses.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. The proposed rule changes do not require an increase or decrease in fees paid to the agency. The proposal does not create a new rule. The proposal amends §§83.102, 83.302, 83.304, 83.505, 83.606, 83.707, 83.802, 83.828, 83.829, 83.833, and 83.835, resulting in certain requirements that are expanded and certain requirements that are limited, as discussed previously in this proposal. The proposal repeals §83.408, which is no longer necessary. The proposed rule changes do not increase or decrease the number of individuals subject to the regulated lender regulations in Chapter 83, Subchapter A. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Laurie Hobbs, Assistant General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. central time on the 31st day after the date the proposal is

published in the *Texas Register*. At the conclusion of business on the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The amendments are proposed under Texas Finance Code §11.304, which authorizes the Finance Commission to adopt rules to enforce Title 4 of the Texas Finance Code. Additionally, Texas Finance Code, §342.551 grants the Finance Commission the authority to adopt rules to enforce the consumer loan chapter.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 342.

Title 7, Texas Administrative Code

Chapter 83. Regulated Lenders and Credit Access Businesses

Subchapter A. Rules for Regulated Lenders

Division 1. General Provisions

§83.102. Definitions.

Words and terms used in this subchapter that are defined in Texas Finance Code, Chapter 342 have the same meanings as defined in Chapter 342. The following words and terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) - (13) (No change.)

~~[(14) Interpretation letter--A formal interpretation of Texas Finance Code, Title 4 made by the commissioner and approved~~

~~by the Finance Commission under Texas Finance Code, §14.108.]~~

(14) [(15)] Licensee--Any person who has been issued a regulated loan license pursuant to Texas Finance Code, Chapter 342. Another name for a "regulated loan license" is a "consumer loan license."

(15) [(16)] Making a loan--The act of making a loan is either the determination of the credit decision to provide the loan, or the act of funding the loan or transferring money from the lender to the borrower. A person whose name appears on the loan documents as the payee of the note is considered to have "made" the loan.

(16) [(17)] Negotiating a loan--The process of submitting and considering offers between a borrower and a lender with the objective of reaching agreement on the terms of a loan. The act of passing information between the parties can, by itself, be considered "negotiation" if it was part of the process of reaching agreement on the terms of a loan. "Negotiation" involves acts which take place before an agreement to lend or funding of a loan actually occurs.

(17) [(18)] OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

(18) [(19)] Precomputed loan--A loan in which the borrower agrees to pay the total of payments that includes both principal and all anticipated interest through the full term of the loan. If a borrower prepays a precomputed loan, the borrower is entitled to a rebate of all unearned interest and unearned charges.

(19) [(20)] Prepaid interest--Interest paid separately in cash or by check before or

at consummation in a transaction, or withheld from the proceeds of the credit at any time. Some common terms such as points, discounts, and origination fees have been used to identify this charge.

(20) [(21)] Principal--The capital sum of the debt, including any interest capitalized and added to the cash advance at the inception of the loan. Principal is the amount of money which is used, forborne, or detained and upon which interest is charged. The principal amount does not include any interest accrued after the inception of the loan, such as default charges.

(21) [(22)] Pro rata method--A formula for determining the amount of unearned interest or other charges, such as insurance, to be refunded following prepayment or acceleration by applying the amounts to equal unit periods. The formula for the pro rata method assumes that interest or other charges are earned in direct proportion to the time that a loan has been outstanding.

(22) [(23)] Rebate--A refund of all or part of a precomputed charge or interest.

(23) [(24)] Regulated loan--A loan made under the authority of Texas Finance Code, Chapter 342.

(24) [(25)] Renewal or refinance--A new loan contract that includes, in whole or in part, the net balance of one or more existing loan contracts.

(25) [(26)] Simple annual rate--The interest rate under the loan agreement expressed as a percentage rate per year employing the U.S. rule method.

(26) [(27)] Sum of the monthly balances or sum of the periodic balances method--A formula for determining the amount of unearned interest or other charges to be refunded. The sum of the balances method is a variant of the rule of 78s. This method provides that the fraction of the contract interest to be rebated at any given time in the loan term is the sum of the monthly loan balances for the months remaining in the originally scheduled loan term divided by the sum of the monthly balances for all of the months in the scheduled loan term. For example, for a six-month loan of \$600 that is scheduled to be repaid in \$100 monthly installments, the rebate fraction after two months would be: $400 + 300 + 200 + 100$ divided by $600 + 500 + 400 + 300 + 200 + 100 = 1000/2100 = 10/21 = 0.476$ (rounded). For any loan that is paid off in equal installments, the sum of the balances method and the rule of 78s will provide identical rebates. If, however, a loan schedule contains unequal payments, and especially where the debt is retired by a final balloon payment, the rebates under the two formulas will be different.

(27) [(28)] Term loan--A loan made repayable in a single payment.

(28) [(29)] Transacting a loan--Any of the significant events associated with the lending process through funding, including the preparation, negotiation and execution of loan documents and the transfer of money by the lender to the borrower or to a third party on the borrower's behalf. Transacting a loan also includes the act of arranging a loan.

(29) [(30)] United States rule--Ruling of United States Supreme Court in Story v. Livingston, 38 U.S. (13 Pet.) 359, 371 (1839) that, in partial payments on a

debt, each payment is applied first to interest and any remainder reduces the principal. Under this rule, accrued but unpaid interest cannot be added to the principal, and interest cannot be compounded.

Division 3. Application Procedures

§83.302. Filing of New Application.

An application for issuance of a new regulated loan license must be submitted in a format prescribed by the OCCC ~~[commissioner]~~ at the date of filing and in accordance with the OCCC's ~~[commissioner's]~~ instructions. The OCCC ~~[commissioner]~~ may accept the use of prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. Appropriate fees must be filed with the application and the application must include the following:

(1) Required application information. All questions must be answered.

(A) Application for license ~~[License]~~.

(i) Location. A physical street address must be listed for the applicant's proposed lending address. A post office box or a mail box location at a private mail-receiving service generally may not be used. If the address has not yet been determined or if the application is for an inactive license, then the application must so indicate.

(ii) Responsible person. The person responsible for the day-to-day operations of the applicant's proposed offices must be named. The responsible person is also known as the location contact.

(iii) Signature. Electronic signatures will be accepted in a manner approved by the commissioner. Each applicant must have the application signed by an authorized individual.

~~[(I) If the applicant is a proprietor, the owner must sign.]~~

~~[(II) If the applicant is a partnership, one general partner must sign.]~~

~~[(III) If the applicant is a corporation, an authorized officer must sign.]~~

~~[(IV) If the applicant is a limited liability company, an authorized member or manager must sign.]~~

~~[(V) If the applicant is a trust or estate, the trustee or executor, as appropriate, must sign.]~~

(B) ~~[Disclosure of]~~ Owners and principal parties ~~[Principal Parties]~~.

(i) Proprietorships. The applicant must disclose the name of any individual holding an ownership interest in the business and the name of any individual responsible for operating the business. If requested, the applicant must also disclose the names of the spouses of these individuals.

(ii) General partnerships. Each partner must be listed and the percentage of ownership stated. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations

Code, §1.002, and a description of the ownership of each legal entity must be provided. General partnerships that register as limited liability partnerships should provide the same information as that required for general partnerships.

(iii) Limited partnerships. Each partner, general and limited, must be listed and the percentage of ownership stated.

(I) General partners. The applicant should provide the complete ownership, regardless of percentage owned, for all general partners. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided.

(II) Limited partners. The applicant should provide a complete list of all limited partners owning 10% [5%] or more of the partnership.

(III) Limited partnerships that register as limited liability partnerships. The applicant should provide the same information as that required for limited partnerships.

(iv) Corporations. Each officer and director must be named. Each shareholder holding 10% [5%] or more of the voting stock must be named if the corporation is privately held. If a parent corporation is the sole or part owner of the proposed business, a narrative or diagram must be included that describes each level of ownership of 10% [5%] or greater.

(v) Limited liability companies. Each "manager," "officer," and "member" owning 10% [5%] or more of the company, as those terms are defined in Texas Business Organizations Code, §1.002, and each agent owning 10% [5%] or more of the company must be listed. If a member is a legal entity and not a natural person, a narrative or diagram must be included that describes each level of ownership of 10% [5%] or greater.

(vi) Trusts or estates. Each trustee or executor, as appropriate, must be listed.

(C) Disclosure questions. [~~Application Questionnaire~~]. All applicable questions must be answered. Questions requiring a "yes" answer must be accompanied by an explanatory statement and any appropriate documentation requested.

(D) Registered agent. The registered agent must be provided by each applicant. [~~Appointment of Statutory Agent and Consent to Service. Each applicant must appoint a statutory agent and consent to service to that agent.~~]The registered [~~statutory~~] agent is the person or entity to whom any legal notice may be delivered. The agent must be a Texas resident and list an address for legal service. If the registered [~~statutory~~] agent is a natural person, the address must be a different [~~physical residential~~] address than the licensed location address. If the applicant is a corporation or a limited liability company, the registered [~~statutory~~] agent should be the registered agent on file with the Office of the Texas Secretary of State. If the registered [~~statutory~~] agent is not the same as the registered agent filed with the Office of the Texas Secretary of State, then the

applicant must submit certification from the secretary of the company identifying the registered agent [~~certified—minutes appointing the new agent~~].

(E) Personal affidavit [~~Affidavit~~]. Each individual meeting the definition of "principal party" as defined in §83.301 of this title (relating to Definitions) must provide a personal affidavit. All requested information must be provided.

(F) Personal questionnaire [~~Questionnaire~~]. Each individual meeting the definition of "principal party" as defined in §83.301 of this title must provide a personal questionnaire. Each question must be answered. If any question, except question 1, is answered "yes," an explanation must be provided.

(G) Employment history [~~History~~]. Each individual meeting the definition of "principal party" as defined in §83.301 of this title must provide an employment history. Each principal party should provide a continuous 10-year history[~~, with no gaps,~~] accounting for time spent as a student, unemployed, or retired. The employment history must also include the individual's association with the entity applying for the license.

(H) Statement of experience [~~Experience~~]. Each applicant should provide a statement setting forth the details of the applicant's prior experience in the lending or credit granting business. If the applicant or its principal parties do not have significant experience in the same type of credit business as planned for the prospective licensee, the applicant must provide a written statement explaining the applicant's relevant business experience or education, why the commissioner should find that the

applicant has the requisite experience, and how the applicant plans to obtain the necessary knowledge to operate lawfully and fairly.

(I) Business operation plan [~~Operation—Plan~~]. Each applicant must provide a brief narrative to the application explaining the type of lending operation that is planned. This narrative should discuss each of the following topics:

(i) - (vi) (No change.)

(J) Financial statement and supporting financial information [~~Statement and Supporting Financial Information~~].

(i) All entity types. The financial statement must be dated no earlier than 60 days prior to the date of application. Applicants may also submit audited financial statements dated within one year prior to the application date in lieu of completing the supporting financial information [~~Supporting—Financial Information~~]. All financial statements must be certified as true, correct, and complete. If requested, a bank confirmation to confirm account balance information with financial institutions must be submitted.

(ii) Sole proprietorships. Sole proprietors must complete all sections of the financial statement and supporting financial information [~~Financial—Statement—and Supporting—Financial—Information~~], or provide a personal financial statement that contains all of the same information requested by the financial statement and supporting financial information [~~Financial Statement—and—Supporting—Financial Information~~]. The financial statement and supporting financial information [~~Financial~~

~~Statement and Supporting Financial Information~~ must be as of the same date.

(iii) Partnerships. A balance sheet for the partnership itself as well as each general partner must be submitted. In addition, the information requested in the supporting financial information ~~[Supporting Financial Information]~~ must be submitted for the partnership itself and each general partner. All of the balance sheets and supporting financial information ~~[Supporting Financial Information]~~ documents for the partnership and all general partners must be as of the same date.

(iv) Corporations and limited liability companies. Corporations and limited liability companies must file a balance sheet that complies with generally accepted accounting principles (GAAP). The information requested in the Supporting Financial Information must be submitted. The balance sheet and supporting financial information ~~[Supporting Financial Information]~~ must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the corporate or limited liability company applicant should contain no personal financial information.

(v) Trusts and estates. Trusts and estates must file a balance sheet that complies with generally accepted accounting principles (GAAP). The information requested in the supporting financial information ~~[Supporting Financial Information]~~ must be submitted. The balance sheet and supporting financial information ~~[Supporting Financial Information]~~ must be as of the same date. Financial statements are generally not

required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the trust or estate applicant should contain no personal financial information.

(K) (No change.)

(2) Other required filings.

(A) Fingerprints.

(i) For all persons meeting the definition of "principal party" as defined in §83.301 of this title, a complete set of legible fingerprints must be provided. All fingerprints should be submitted in a format prescribed by the OCCC and approved by the Texas Department of Public Safety and the Federal Bureau of Investigation.

(ii) For limited partnerships, if the owners and principal parties ~~[Disclosure of Owners and Principal Parties]~~ under paragraph (1)(B)(iii)(I) of this section does not produce a natural person, the applicant must provide a complete set of legible fingerprints for individuals who are associated with the general partner as principal parties.

(iii) For entities with complex ownership structures that result in the identification of individuals to be fingerprinted who do not have a substantial relationship to the proposed applicant, the applicant may submit a request to fingerprint three officers or similar employees with significant involvement in the proposed business. The request should describe the relationship and significant involvement of the individuals in the proposed business. The OCCC may approve the request, seek alternative appropriate individuals, or deny the request.

(iv) For individuals who have previously been licensed by the OCCC and principal parties of entities currently licensed, fingerprints are generally not required if the fingerprints are on record with the OCCC, are less than 10 years old, and have been processed by both the Texas Department of Public Safety and the Federal Bureau of Investigation. Upon request, individuals and principal parties previously licensed by the OCCC may be required to submit a new set of fingerprints.

(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Savings and Mortgage Lending), fingerprints are still required to be submitted to the OCCC, as per Texas Finance Code, §14.152. Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.

(B) (No change.)

(C) Entity documents.

(i) Partnerships. A partnership applicant must submit a complete and executed copy of the partnership agreement. This copy must be signed and dated by all partners. If the applicant is a limited partnership or a limited liability partnership, provide evidence of filing with the Office of the Texas Secretary of State.

(ii) Corporations. A corporate applicant, domestic or foreign, must provide the following documents:

(I) a complete copy of the certificate of formation or articles of incorporation, with any amendments;

(II) a certification from the secretary of the corporation identifying the current officers and directors as listed in the owners and principal parties section of the application [a copy of the relevant portions of the bylaws addressing the required number of directors and the required officer positions for the corporation];

(III) a certificate of good standing from the Texas Comptroller of Public Accounts [a copy of the minutes of corporate meetings that record the election of all current officers and directors as listed on the Disclosure of Owners and Principal Parties, or a certification from the secretary of the corporation identifying the current officers and directors as listed on the Disclosure of Owners and Principal Parties];

(IV) if the registered agent is not the same as the one filed with the Office of the Texas Secretary of State, a certification from the secretary of the corporation identifying the registered agent; [if the statutory agent is not the same as the registered agent filed with the Office of the Texas Secretary of State:]

~~[(a) a copy of the minutes of corporate meetings that record the election of the statutory agent; or]~~

~~[(b) a certification from the secretary of the corporation identifying the statutory agent; and]~~

(V) if requested, a copy of the relevant portions of the bylaws addressing the required number of directors and the required officer positions for the corporation; and

(VI) if requested, a copy of the minutes of corporate meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application [a certificate of good standing from the Texas Comptroller of Public Accounts].

(iii) Publicly held corporations. In addition to the items required for corporations, a publicly held corporation must file the most recent 10K or 10Q for the applicant or for the parent company.

(iv) Limited liability companies. A limited liability company applicant, domestic or foreign, must provide the following documents:

(I) a complete copy of the articles of organization;

(II) a certification from the secretary of the company identifying the current officers and directors as listed in the owners and principal parties section of the application [a copy of the relevant portions of the operating agreement or regulations addressing responsibility for operations];

(III) a certificate of good standing from the Texas Comptroller of Public Accounts [a copy of the minutes of company meetings that record the election of all current officers and directors as listed on the Disclosure of Owners and Principal Parties, or a certification from the secretary of the corporation identifying the current officers and directors as listed on the Disclosure of Owners and Principal Parties];

(IV) if the registered agent is not the same as the one filed with the Office of the Texas Secretary of State, a

certification from the secretary of the corporation identifying the registered agent; [if the statutory agent is not the same as the registered agent filed with the Office of the Texas Secretary of State:]

~~[(a) a copy of the minutes of company meetings that record the election of the statutory agent; or]~~

~~[(b) a certification from the secretary of the company identifying the statutory agent; and]~~

(V) if requested, a copy of the relevant portions of the operating agreement or regulations addressing responsibility for operations; and

(VI) if requested, a copy of the minutes of company meetings that record the election of all current officers and directors a listed in the owners and principal parties section of the application [a certificate of good standing from the Texas Comptroller of Public Accounts].

(v) - (vii) (No change.)

(viii) Formation document alternative. As an alternative to the entity-specific formation document applicable to the applicant's entity type (e.g., for a corporation, articles of incorporation), an applicant may submit a "certificate of formation" as defined in Texas Business Organizations Code, §1.002, if the certificate of formation provides the entity formation information required by this section for that entity type.

(D) (No change.)

(3) Subsequent applications (branch offices). If the applicant is currently licensed

and filing an application for a new office, the applicant must provide the information that is unique to the new location including the application for license, disclosure questions, owners and principal parties, and a new financial statement [~~Application for License, Application Questionnaire, Disclosure of Owners and Principal Parties, and a new Financial Statement~~] as provided in paragraph (1)(J) of this section. The responsible person at the new location must be listed. Other information required by this section need not be filed if the information on file with the OCCC is current and valid.

§83.304. Change in Form or Proportionate Ownership.

(a) (No change.)

(b) Merger.

(1) Merger of licensee. If a licensee is a party to a merger that results in a new or different surviving entity other than the licensee, then the merger is a transfer of ownership, and the licensee must file a [~~A merger of a licensee is a change of ownership that results in a new or different surviving entity and requires the filing of a~~] license transfer application or a new license application on transfer of ownership pursuant to §83.303 of this title (relating to Transfer of License; New License Application on Transfer of Ownership).

(2) Merger of parent entity. If a licensee's parent entity is a party to a merger [~~If the merger of the parent entity of a licensee~~] that leads to the creation of a new entity or results in a different surviving parent entity, the licensee must advise the OCCC in writing of the change within 14 calendar days by filing a license amendment

and paying the required fees as provided in §83.310 of this title.

(3) Merger of entity beyond parent entity level. Mergers or transfers of other entities with a beneficial interest beyond the parent entity level only require notification within 14 calendar days in accordance with the OCCC's instructions.

(c) Proportionate ownership.

(1) A change in proportionate ownership that results in the exact same owners still owning the business, and does not meet the requirements described in paragraph (2) of this subsection, does not require a transfer. Such a proportionate change in ownership does not require the filing of a license transfer application or a new license application on transfer of ownership, but does require notification when the cumulative ownership change to a single entity or individual amounts to 10% [~~5%~~] or greater. No later than 14 calendar days following the actual change, the licensee is required to notify the OCCC in writing of the change in proportionate ownership. This section does not apply to a publicly held corporation that has filed with the OCCC the most recent 10K or 10Q filing of the licensee or the publicly held parent corporation, although a license transfer application or a new license application on transfer of ownership may be required under §83.303 of this title.

(2) (No change.)

Division 4. License

§83.404. Denial, Suspension, or Revocation Based on Criminal History.

(a) - (e) (No change.)

(f) Other grounds for denial, suspension, or revocation. The OCCC may deny a license application, or suspend or revoke a license, based on any other ground authorized by statute, including the following:

(1) (No change.)

(2) a conviction for an offense listed in Texas Code of Criminal Procedure, [~~art. 42.12, §3g (effective through December 31, 2016),~~] art. 42A.054 [~~(effective January 1, 2017),~~] or art. 62.001(6), as provided by Texas Occupations Code, §53.021(a)(3)-(4);

(3) - (5) (No change.)

~~[/§83.408. License Reissuance:]~~

~~[In the event of reissuance of a license for any reason, the licensee must return to the OCCC the license certificate that was held prior to the reissuance. Should the licensee be unable to return the license certificate to the OCCC, the licensee must provide a written statement to that effect, including the reason for inability to return it (e.g., lost, destroyed).]~~

Division 5. Interest Charges on Loans

§83.505. Deferment.

(a) - (i) (No change.)

(j) Disaster exception. A lender must deliver the deferment notice to the borrower, but is not required to obtain the borrower's signature, if the following conditions are met:

(1) The borrower resides in an area designated as a state of disaster under Texas Government Code, §418.014; and

(2) The deferment occurs before the state of disaster has been terminated:

(A) by executive order; or

(B) by expiration as described in Texas Government Code, §418.014(c).

(k) [(j)] Noncompliance. Deferment fees not assessed or collected in accordance with the requirements of this section are subject to refund to the borrower. In the event deferment fees are refunded to the borrower, no rescheduling of the loan contract is permitted.

Division 6. Alternate Charges for Consumer Loans

§83.606. Maximum Term and Maximum Installment Account Handling Charge.

(a) - (e) (No Change.)

(f) Maximum installment account handling charge for loan contract using the scheduled installment earnings method or the true daily earnings method.

(1) Generally. On a regular transaction or irregular transaction, a loan contract may provide for an installment account handling charge computed using the scheduled installment earnings method or the true daily earnings method. The installment account handling charge may not exceed the equivalent rate or effective return of the installment account handling charge for the original scheduled term of the loan.

(2) Scheduled installment earnings method. For a loan contract using the scheduled installment earnings method, the maximum installment account handling charge is computed by applying a daily rate

to the unpaid principal balance as defined by this section, as if each payment will be made on its scheduled installment date. A payment received before or after the due date does not affect the amount of the scheduled reduction in the unpaid principal. The computation of the installment account handling charge must comply with the United States rule as defined by §83.102(29) [~~§83.102(30)~~] of this title (relating to Definitions).

(3) True daily earnings method. For a loan contract using the true daily earnings method, the maximum installment account handling charge is computed by applying a daily rate to the unpaid principal balance as defined by this section. The computation of the installment account handling charge must comply with the United States rule as defined by §83.102(29) [~~§83.102(30)~~] of this title. The earned installment account handling charge is computed as follows:

(A) multiplying the unpaid principal balance by the daily rate; and

(B) multiplying the results of subparagraph (A) of this paragraph by the number of days the actual unpaid principal balance is outstanding.

(4) - (6) (No change.)

(g) - (i) (No change.)

Division 7. Interest and Other Charges on Secondary Mortgage Loans

§83.707. Other Fees.

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

(d) Broker fees. An authorized lender may pay a broker fee in a secondary

mortgage loan if the consideration paid by the borrower in the loan that involves a broker does not exceed the consideration paid by the borrower in a loan that does not involve a broker.

(1) (No change.)

(2) Example 2: A prospective borrower is quoted a contract rate [~~finance charge~~] of 12% plus a 2% origination fee when the borrower makes the inquiry directly to an authorized lender. On this same individual, a broker quotes a contract rate of 12% plus a 2% origination fee for a loan of the same amount from the same authorized lender. The loan is then consummated with the authorized lender paying a 2% fee to the broker for originating the loan. Since the authorized lender has absorbed the expense of the fee, no unauthorized charge has been assessed, charged, or received.

(e) - (g) (No change.)

Division 9. Insurance

§83.802. Authorized Property Insurance.

(a) Property insurance, other than insurance covering a motor vehicle, written in connection with a loan made under Texas Finance Code, Chapter 342 must be written at lawful rates that have been filed with [~~not in excess of the rates fixed or approved by~~] the Texas Department of Insurance [~~if a rate structure has been fixed or approved for that particular type of coverage~~].

(b) If property insurance, other than insurance covering a motor vehicle, requested or required on a loan is sold or obtained by a licensee at a rate that has not been filed with [~~is not fixed or approved by~~]

the Texas Department of Insurance, the licensee must file information with the OCCC ~~[first obtain prior acknowledgment from the commissioner]~~ that the coverage and the rate bear a reasonable relationship to:

(1) the amount, term, and conditions of the loan;

(2) the value of the collateral; and

(3) the existing hazards or risk of loss, damage, or destruction.

(c) A licensee who offers or provides property insurance, other than insurance covering a motor vehicle, requested or required on a loan sold or obtained by a licensee at a rate that is not filed with ~~[fixed or approved by]~~ the Texas Department of Insurance may use the rates found in ~~[, does not have to comply with the terms of subsection (b) of this section if the charges are equal to or less than the rates established by]~~ the following figure.

Figure: 7 TAC §83.802(c) *{{See page following rule text for proposed amendments to figure.}}*

~~[(d) Insurance, other than insurance covering a motor vehicle, written at rates not fixed or approved by the Texas Department of Insurance, is subject to cancellation or adjustment if the insurance is not otherwise approved by the commissioner.]~~

(d) ~~[(e) [If a licensee is seeking authority from the commissioner under subsection (b) of this section for a rate not fixed or approved by the Texas Department of Insurance, a]~~ A copy of the relevant policy that is to be issued must be filed with the OCCC, together with any evidence that

is probative on the factors listed in subsection (b) of this section.

(e) ~~[(f)]~~ Property insurance written in connection with a Texas Finance Code, Chapter 342 loan must be provided by a company authorized to do business in this state.

Division 10. Duties and Authority of Authorized Lenders

§83.828. Files and Records Required (Subchapter E and F Lenders).

(1) - (12) (No change.)

(13) Compliance file. Each licensee must maintain a separate file for all communications from the OCCC and for copies of correspondence and reports addressed to the OCCC. This file must include, at a minimum, electronic or paper copies of the current Texas Finance Code, Chapter 342, the last three examination reports, correspondence relating to compliance~~[, compliance bulletins]~~ issued in the last two years, and current rules issued by the commissioner. A licensee will be considered to have maintained copies of the Texas Finance Code and current rules by having access to the websites containing the official versions of the current Texas Finance Code and the current Texas Administrative Code. A licensee will be considered to have maintained copies of some or all of the last three examination reports if those reports were issued electronically by the OCCC.

(14) (No change.)

§83.829. *Files and Records Required*
(Subchapter G Lenders).

Each licensee must maintain records with respect to each loan made under Texas Finance Code, Chapter 342, Subchapter G and each home equity loan made under Texas Constitution, Article XVI, Section 50, and make those records available for examination. The records required by this section may be maintained by using either a paper or manual recordkeeping system, electronic recordkeeping system, optically imaged recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section. The records required by this section must be retained and made available for inspection in the same manner as that specified in §83.828(14) of this title (relating to Files and Records Required (Subchapter E and F Lenders)).

(1) Required records. A licensee must maintain the following items in a substantially similar form to the respective provisions of §83.828 of this title, as follows:

(A) - (G) (No change.)

(H) A compliance [~~An official correspondence~~] file.

(2) - (5) (No change.)

§83.833. *Correction of Errors or Violations.*

(a) (No change.)

(b) In lieu of crediting an existing account, a refund may be made directly to the borrower by cash, check, money order, or other negotiable instrument. The licensee must maintain sufficient records that the refund was made.

(1) Cash refunds. If the refund is made directly to the borrower in cash, the licensee must obtain a signed or authenticated acknowledgment from the borrower. The signed or authenticated acknowledgment must contain the following information:

(A) - (C) (No change.)

(D) a statement that the borrower received the refund in cash and that the licensee has not instructed or required the borrower [~~retail-buyer~~] to repay the cash refund.

(2) Refunds made by check, money order, or other negotiable instrument. If the refund is made directly to the borrower [~~retail-buyer~~] by check, money order, or other negotiable instrument, the licensee must, at a minimum, mail the refund to the last known address of the borrower [~~retail-buyer~~] by first-class mail. The licensee must maintain a complete paper or electronic copy of the check, money order, or other negotiable instrument. The licensee must also maintain sufficient information that could be used to determine whether the check, money order, or other negotiable instrument was successfully negotiated.

(c) - (g) (No change.)

§83.835. *Annual Report.*

Each licensee must file the required annual report by May 1 for the prior calendar year's [~~calendar~~] loan activity on forms prescribed by the OCCC [~~commissioner~~] and must comply with all instructions relating to submitting the report.

Certification

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

Issued in Austin, Texas on August 17, 2018.

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

Figure: 7 TAC §83.802(c)

CHAPTER 342, SUBCHAPTER E TANGIBLE PERSONAL PROPERTY <u>DUAL INTEREST INSURANCE RATES</u>	
Insurable Amount	Rate per \$100 per year
<u>\$300 or more</u> [\$0.00 to \$1,000.00]	<u>3.00</u> [1.80]
[\$1000.01 to \$2,000.00]	[1.35]
[\$2000.01 or more]	[0.90]

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D.

Texas Department of Banking

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TEXAS DEPARTMENT OF BANKING

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Kurt Purdom

To: Finance Commission Members

From: Kurt Purdom, Director of Bank & Trust Supervision

Date: July 27, 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		5/31/2018		8/31/2018	
Industry Profile (# / Assets in billions)												
# Banks	247	\$248.3	240	\$252.9	240	\$257.1	238	\$254.8	237	\$255.4		
# Trust Co. (1)	19	\$101.4	17	\$108.5	18	\$110.0	17	\$105.7	17	\$105.9		
# FBA/FBB	10	\$70.0	10	\$56.1	8	\$64.7	7	\$66.8	7	\$68.2		
Examinations Performed												
Banks	105		103		24		25		22			
Trust Co.	31		26		6		4		12			
FBA/FBB	2		3		0		0		1			
Bank Uniform Financial Institution Composite Ratings												
1	126	51.0%	123	51.3%	121	50.4%	117	49.2%	114	48.1%		
2	109	44.1%	104	43.3%	105	43.8%	108	45.4%	110	46.4%		
3, 4, & 5	12	4.9%	12	5.0%	13	5.4%	12	5.0%	12	5.1%		
Non-Rated	0	-	1	0.4%	1	0.4%	1	0.4%	1	0.4%		

(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

Page 2

Enforcement Actions Outstanding (Number outstanding as of the date indicated)			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	2	
Informal	19	22	22	20	19	
Banks - Bank Secrecy Act (BSA)						
Formal	0	0	0	0	0	
Informal	0	2	1	1	1	
Banks - Information Technology (IT)						
Formal	0	0	0	0	0	
Informal	0	2	2	2	3	
Trust Departments of Banks and Trust Companies						
Formal	0	0	0	0	0	
Informal	3	2	2	2	2	
Total Enforcement Actions Outstanding						
Formal	0	2	2	2	2	
Informal	22	28	27	25	25	
Total	22	30	29	27	27	

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 (YTD – June 2018)
Commercial Banks (All / DOB Only)	91% / 98%	93% / 97%
IT	92% / 100%	95% / 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 ten months of fiscal year 2018, nine bank examinations were started outside of policy guidelines, averaging 20 days late. Two late examinations were the responsibility of the Department (averaging one day late) and seven were the responsibility of the FDIC (averaging 26 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 seven banks were also late for FDIC information technology examinations.

Division Highlights

- Leadership Development – Senior staff members of the Bank and Trust Division are participating in leadership and management development training activities. The purpose of this directed training is to arm current and future leaders with the skills needed to manage effective teams. A component of the training is for each participant to choose a project that benefits their division and the agency. Project updates will be given to senior management in August, October and November, as project ideas are field-tested and refined. Projects that are considered beneficial and cost-effective will be implemented into the agency's processes.
- **Special Operations and Conferences:**
 - A Regional Directors' meeting was held in Austin the week of June 4th, 2018. Discussion issues included staffing levels, training, budgeting, and coordination of examinations with the FDIC and Federal Reserve Bank of Dallas (FRB – Dallas).
 - On June 12, 2018, staff met with students from Germany and discussed the framework of the United States banking system and the importance of the Texas banking system to the overall economy of Texas.
 - On July 2, 2018, Commissioner Cooper met with Chris Furlow, the new Texas Bankers Association President and Chief Executive Officer.
 - On July 10, 2018, Chris Robinson, Director of Examination Support, and other staff members met with representatives from the FRB - Dallas to discuss products and services offered to Texas banks by the FRB – Dallas.
 - Commissioner Cooper participated in the BKD Leadership Conference held in Indianapolis on July 11 and 12, 2018.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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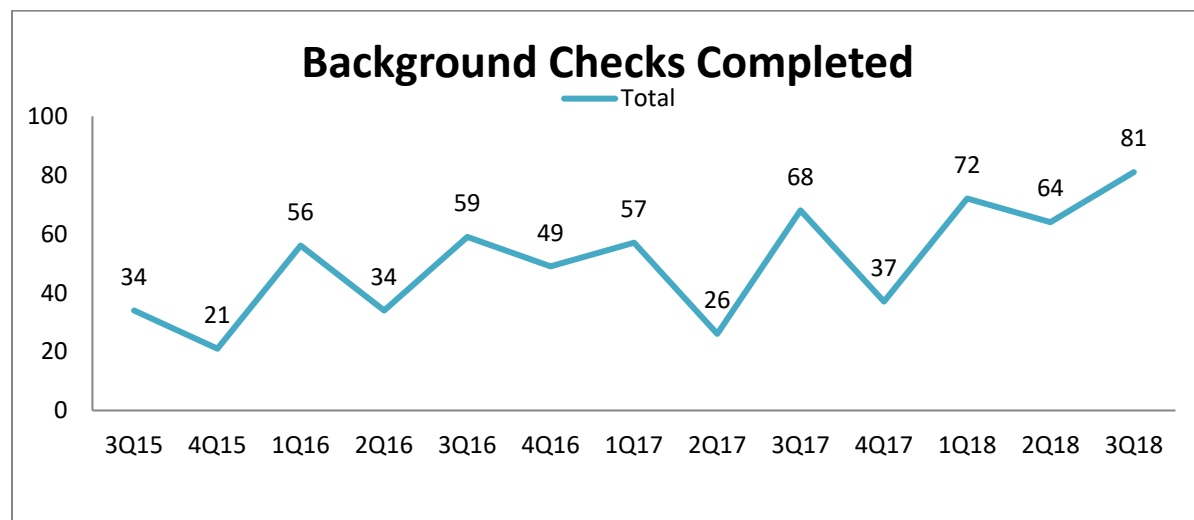
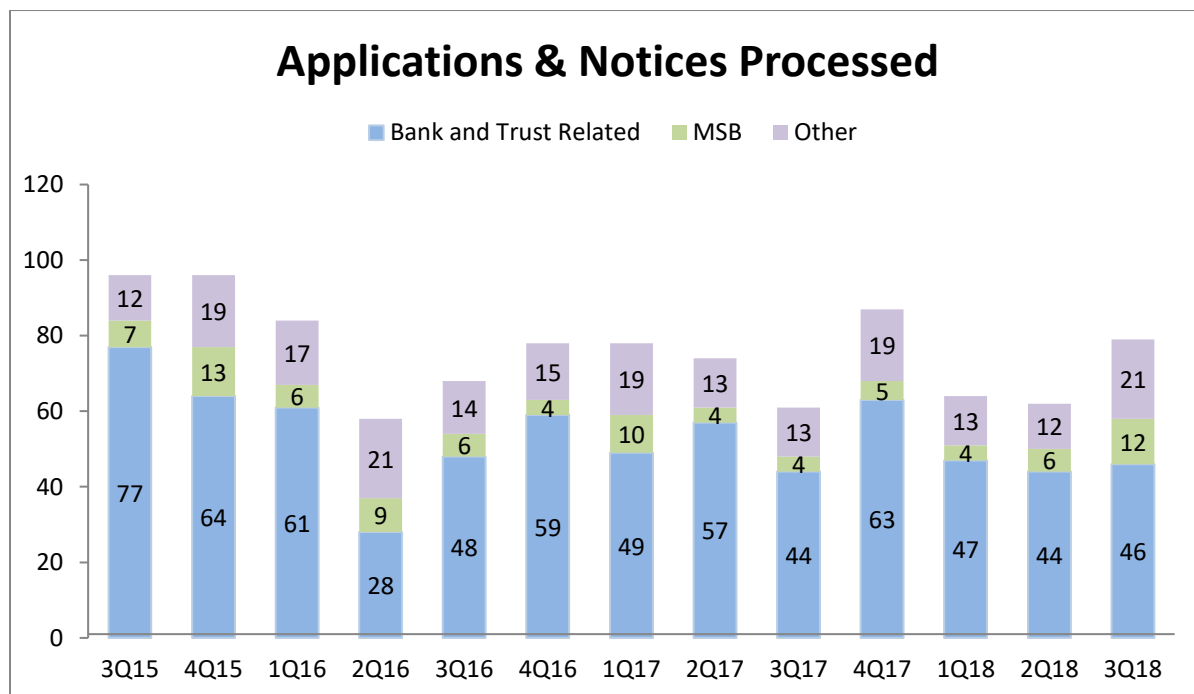
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To: Finance Commission Members

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

Date: July 25, 2018

Subject: Summary of the Corporate Division Activities



Entities/Activities	Applications and Notices Under Review (as of July 25, 2018)
Bank Related	15
Trust Companies	4
Money Services Business (MSB)	11
Others	3
Totals	33

Division Highlights

- We are experiencing an active bank merger and acquisition environment aided by bank stock prices hovering near multiyear highs. The volume of other bank and trust related filing activity appears to be picking up as well. The number of MSB applications received also remains significant primarily from applications by new MSB entrants and change of control filings for existing MSB entities.
- Charter, Conversion, and Merger Activity – The following transactions have consummated since Corporate’s last report to the Finance Commission:
 - *Banks*
 - Independent Bank, McKinney, Texas, completed its acquisition merger of Integrity Bank, SSB, Houston, Texas
 - Westbound Bank, Katy, Texas, merged into Guaranty Bank & Trust, N.A., Mt. Pleasant, Texas
 - Guadalupe Bank, Kerrville, Texas, converted from a national bank under the name of Guadalupe National Bank to a Texas state bank



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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

To: Finance Commission Members

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

Date: August 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	160	\$114.4		
Prepaid Funeral Contract (PFC)	375	\$3.9	373	\$4.0	374	\$4.0	368	\$4.0		
Perpetual Care Cemeteries (PCC)	242	\$332.9	242	\$338.0	242	\$341.6	241	\$345.9		
Cemetery Brokers (CB)	14	n/a	14	n/a	14	n/a	14	n/a		
Private Child Support Enforcement Agencies (PCSEA)	10	n/a	10	n/a	10	n/a	14	n/a		
Check Verification Entities (CVE)	2	n/a	2	n/a	2	n/a	2	n/a		
Bullion Depository Agent (BDA)	*	*	0	n/a	0	n/a	0	n/a		
Examinations Performed										
MSB	104		24		31		24			
MSB Limited Scope	3		0		0		0			
MSB Accepted other State	7		4		2		5			
PFC	284		64		46		59			
PFC Limited Scope	2		0		4		2			
PCC	172		43		59		71			
PCC Limited Scope	4		1		2		0			
Ratings (# / %) Assigned to All Regulated Entities										
1	303	40%	292	38.7%	289	38.2%	277	36.6%		
2	384	51%	391	51.8%	386	51.1%	397	52.4%		
3,4, & 5	70	9%	72	9.5%	81	10.7%	83	11%		
Noncompliance with Examination Priorities (Past Due)										
MSB	5		12		9		10			
PFC	4		2		3		10			
PCC	5		3		2		1			

NOTES:

PCC \$ amounts reflected in the millions.

Limited scope examinations do not receive a rating.

*BDA – Bullion Depository Agent (new registration requirement)

Noncompliance with Examination Priorities (Past Due)

- The ten MSB past due examinations are on average one month past due.
- The one PCC past due examination is 90 days past due and the ten PFC past due examinations are on average twenty-seven days past due.
- Our examination schedule reflects that nine of the past due PFC examinations were completed in June 2018, one was completed in July 2018 and the remaining past due PCC examination will be completed in August 2018. Based on the previous satisfactory rating for the PCC, the examination was delayed allowing for coordinating travel with performing another local examination to reduce travel expenses.
- Our examination schedule reflects that four of the past due MSB examinations were completed in June 2018 and one was completed in July 2018. Furthermore, the remaining five past due examinations have been delayed due to coordination with other MTRA state agencies. Three examinations will be completed in August 2018, one will be completed in October 2018, and the remaining past due examination will be completed in November 2018.
- Special Audits met or exceeded all performance measures for the third quarter of FY 18.

Division Activities

MSB staff continues with its participation in conference calls every two months with the MTRA Licensing/Emerging Issues Committee. The conference calls allow MTRA member states to discuss various licensing issues and MSB business models to attempt to provide clarity and regulatory certainty for businesses and individuals engaged in an expanding field of financial activity.

On July 31st, Review Examiner Jesse Saucillo will attend the Anti-Counterfeiting Case Studies Conference for Law Enforcement/Investigative personnel in Austin, Texas. This conference is designed to educate law enforcement and investigators with hands-on training and presentations on various investigation strategies.

Actual Performance for Output/Efficiency Measures

Fiscal Year 2018

For Period Ending May 2018

Type/Strategy/Measure	2018 Target	2018 Quarter	2018 YTD	Percent of Annual Target
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Output Measures-Key

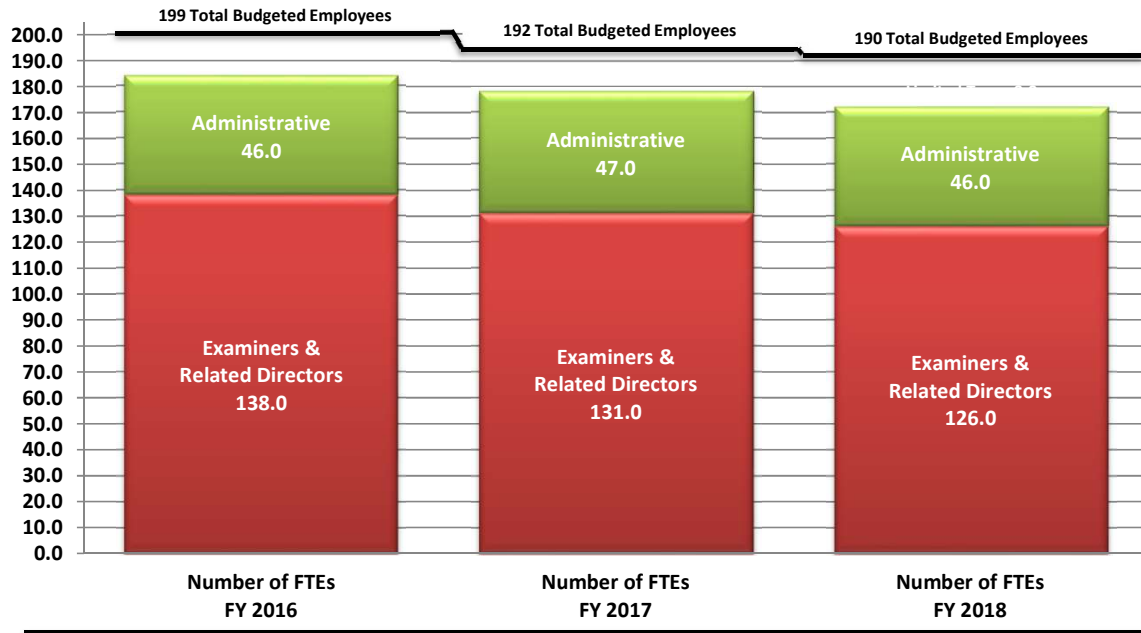
1-1-1 BANK EXAMINATION				
1. # BANK EXAMINATIONS PERFORMED				
Quarter 1	95	24	24	25.26%
Quarter 2	95	25	49	51.58%
Quarter 3	95	23	72	75.79%
2. # TRUST/IT EXAMINATIONS PERFORMED				
Quarter 1	208	49	49	23.56%
Quarter 2	208	54	103	49.52%
Quarter 3	208	59	162	77.88%
1-2-1 NON-BANK EXAMINATION				
1. # SPECIAL AUDIT LICENSEES EXAMINED				
Quarter 1	560	136	136	24.29%
Quarter 2	560	144	280	50.00%
Quarter 3	560	161	441	78.75%
1-3-1 APPLICATION PROCESSING				
1. # LICENSE APPLICATIONS COMPLETED				
Quarter 1	307	64	64	20.85%
Quarter 2	307	62	126	41.04%
Quarter 3	307	79	205	66.78%

The number of filings completed for the quarter was lower than expected due to the Department receiving fewer branch filings and no objection letter requests.

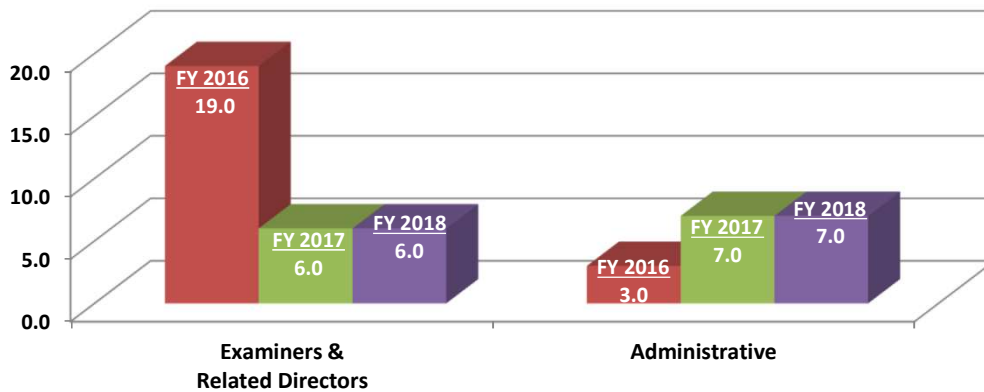
*Note: Variance of 5% from target require explanation.

Texas Department of Banking

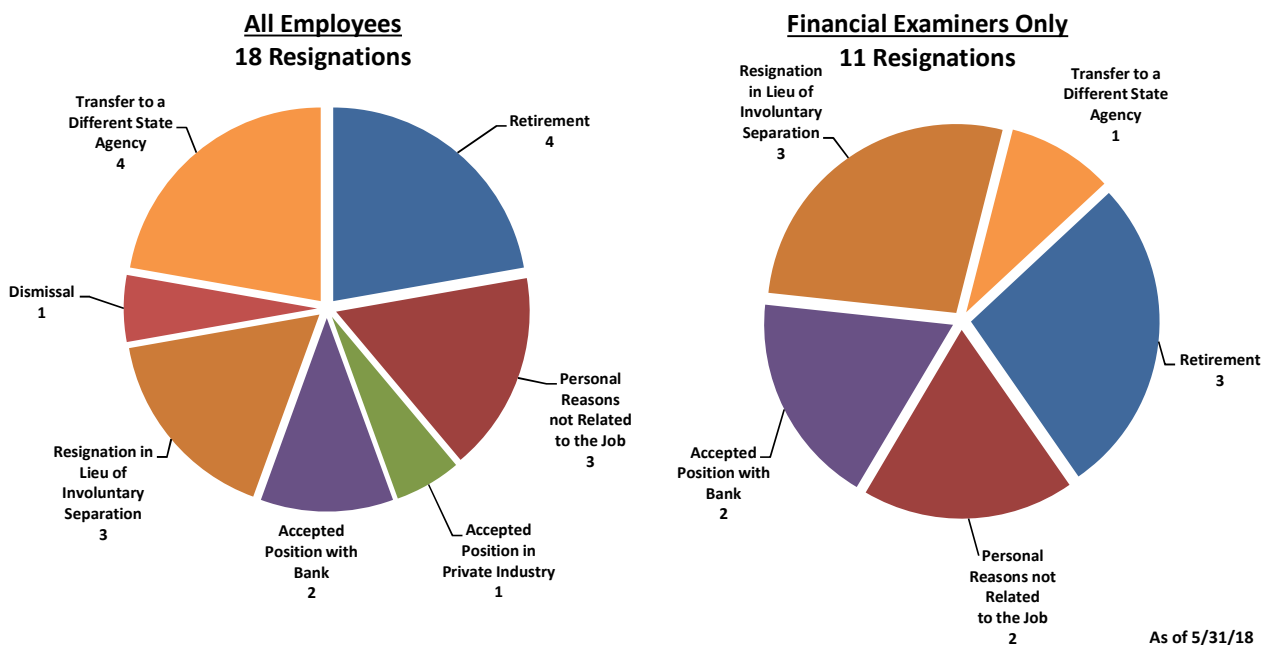
Employee Data for Fiscal Years 2016, 2017 and 2018 as of 5/31/18



New Hire Data for Fiscal Years 2016, 2017 and 2018



FY 2018 Employee Turnover Reasons





Charles G. Cooper
Commissioner


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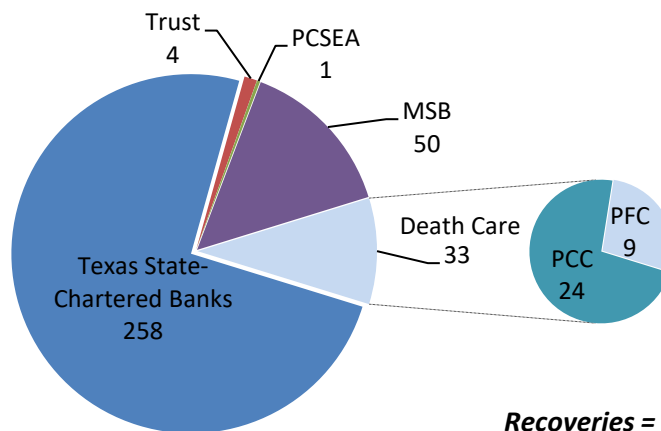
To: Finance Commission Members

From: Wendy Rodriguez, Director of Strategic Support 

Date: August 1, 2018

Subject: Summary of the Strategic Support Division Activities

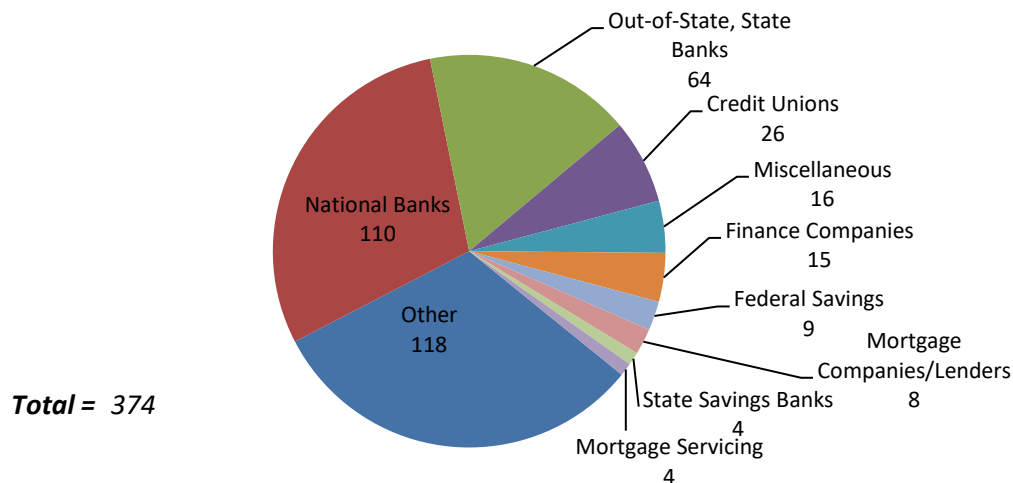
Jurisdictional Complaints September 2017 - June 2018



Recoveries = \$200,278.47

Total = 346

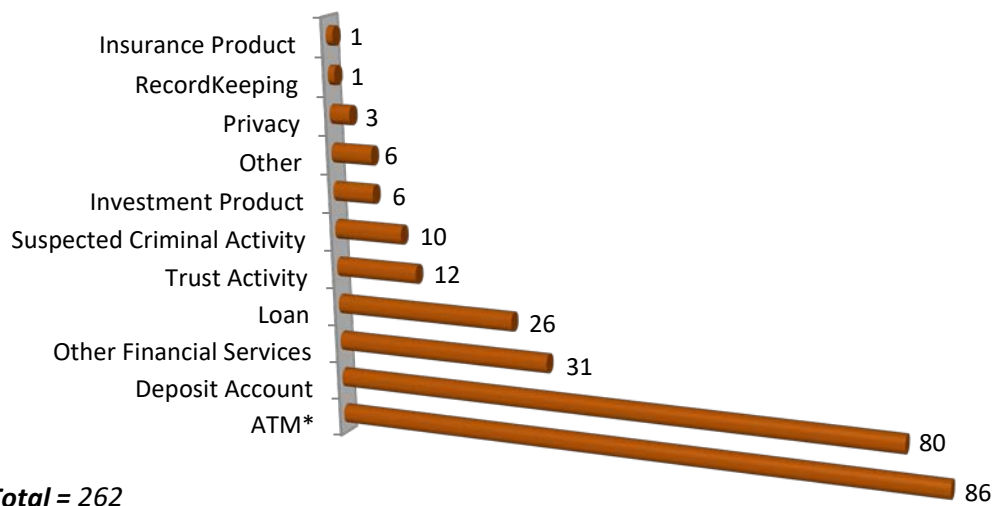
Complaints Against Non-Jurisdictional Entities September 2017 - June 2018



Total = 374

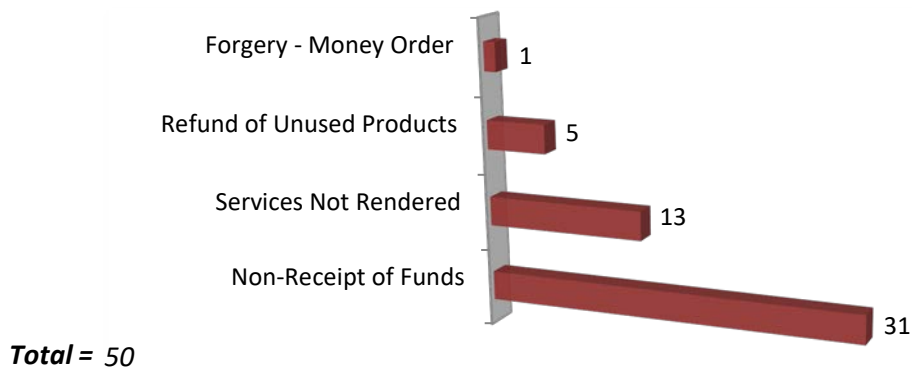
Often, consumers do not provide the name of the entity they need assistance with. In these situations, the communication is categorized in the "Other" category.

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

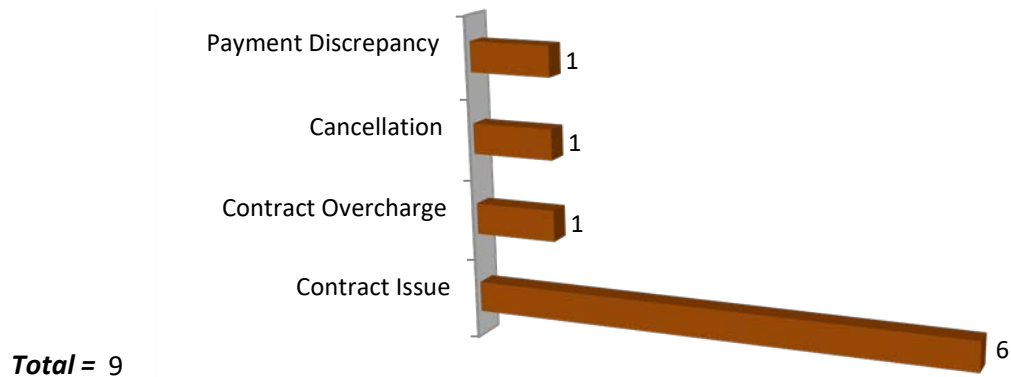


*Activity related to annual privacy notice containing the Department's contact information. Consumer complaints range from needing clarification of the notice to account balance issues and card related problems.

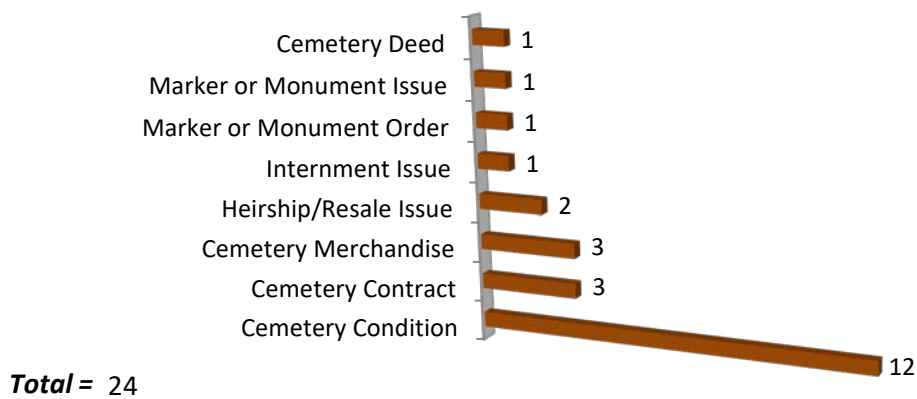
Money Services Businesses Complaints by Type September 2017 - June 2018



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



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



Average Number of Days to Close a Written Complaint

Type	Sept. 2017 – June 2018
State-Chartered Banks	15
Trust	8
PCSEA	61
PFC/PCC	33
MSB	41

CANS ACTIVITY

January 1, 2014 – July 18, 2018

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	214	1,098
Texas State-Chartered Savings Banks	23	65
Federal Savings Banks	10	81
State Credit Unions	132	1,105
Federal Credit Unions	229	744
National Banks	170	301
Out-of-State State-Chartered Banks	12	101
Out-of-State National Banks	6	15
Total	796	3,510

Bank Examination Testing System (BETS) Activity

Number of Candidates Passing Each Phase

	FY 2015	FY 2016	FY 2017	FY 2018 (As of 07/31/18)
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	3
Total FE3	19	18	24	24

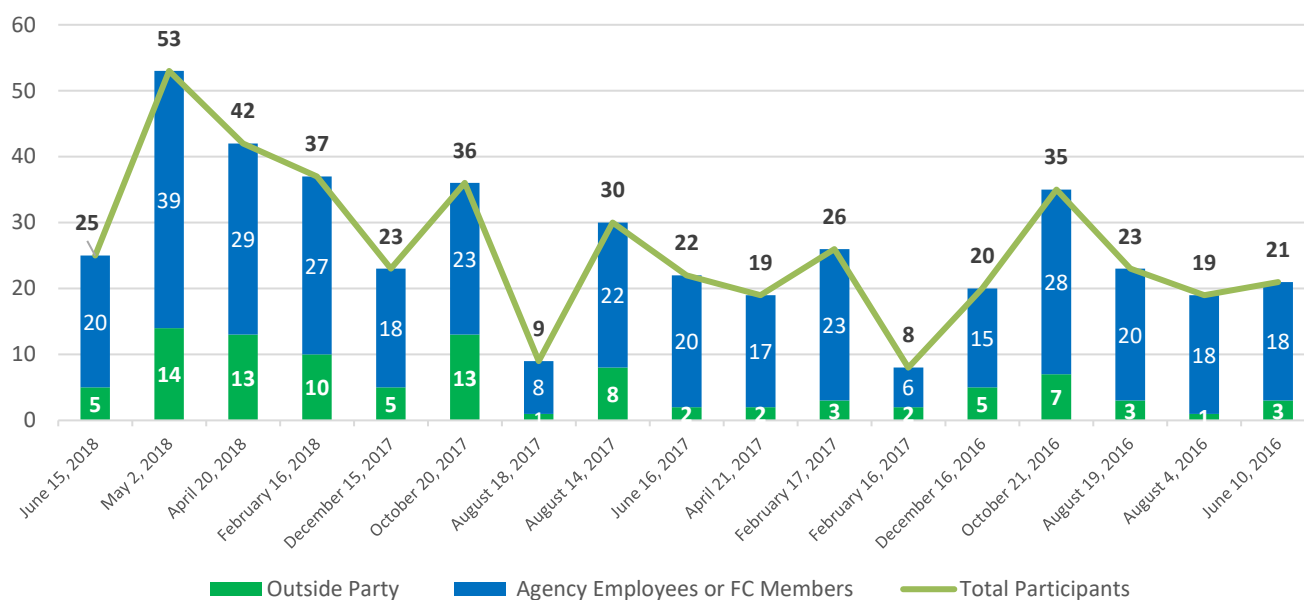
Promotions

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

- *Accreditation*
 - The Department completed the Conference of State Bank Supervisors (CSBS) self-evaluation questionnaire in preparation for the Department's reaccreditation and on-site visit scheduled for October 16-18, 2018. This will be the sixth review conducted by CSBS.
- *Policies and Procedures*
 - Supervisory Memorandum 1003 regarding examination frequency for state-chartered banks was revised as of July 9, 2018. The policy was amended to reflect an increase in the total asset threshold for banks to be eligible for an 18-month examination frequency from \$1 billion to \$3 billion. This modification is due to the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) which became effective on May 24, 2018.
- *Website*
 - The Finance Commission website is in the final stage of redesign with minor adjustments being made. The site offers a clean, fresh design that is responsive and mobile friendly. The redesigned site will be launched in mid to late August 2018.

Two-Year 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: August 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 a contested case hearing at which the Respondent did not appear, the administrative law judge 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. On July 10, 2018, Commissioner Cooper issued an order adopting the findings and imposing the recommended penalty. Respondent has until August 6, 2018 to file a motion for rehearing.

In re JetPay Corporation and JetPay HR & Payroll Services, Inc.; Docket No. BM-1805-17-048. On April 2, 2018, the Department issued an order requiring Respondent to cease and desist from conducting further money transmission business for Texas customers. Respondent timely requested a hearing on the Cease and Desist Order, which was set for June 28, 2018. The hearing was dismissed because the parties successfully negotiated a Consent Order in which Respondent is required to become licensed and pay a penalty for the unauthorized activity.

The Department has two confidential administrative penalty proceedings pending before an administrative law judge. They are set for hearing on September 5, 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 four enforcement orders. All of these are final and non-appealable, except the order against Bellwood Memorial Park (see above).

Bank and Trust

- Order No. 2018-014, dated June 27, 2018; Consent Order, Equifax Inc., Atlanta, Georgia
- Order No. 2018-015, dated July 2, 2018; Order Prohibiting Further Participation, Lori Nan Dean, Houston, Texas

Special Audits

- Order No. 2018-016, dated July 9, 2018; Consent Order, JetPay Corporation, Allentown, Pennsylvania
- Order No. 2018-018, dated July 10, 2018; Final Order, Bellwood Memorial Park, Temple, Texas

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.

FUTURE RULEMAKING ACTIVITY		
Rule	Subject	Projected Date for Presentation
7 TAC Ch. 11	<i>Rule Review:</i> Finance Commission of Texas	October 19, 2018
7 TAC Ch. 26	<i>Rule Review:</i> Perpetual Care Cemeteries	October 19, 2018
7 TAC Ch. 27	<i>Rule Review:</i> Applications	October 19, 2018
7 TAC Ch. 31	<i>Rule Review:</i> Private Child Support Enforcement Agencies	October 19, 2018
7 TAC § 33.23	<i>Amendment:</i> Permissible Investments	October 19, 2018
7 TAC § 3.24	<i>New rule:</i> Notification of Cybersecurity Breach	October 19, 2018

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July 13, 2018

F. John Podvin, Jr.
214.377-0147
jpodvin@sbbolaw.com

Stacy G. London
Chair
Finance Commission of Texas
2601 North Lamar
Austin, Texas 78705

Charles G. Cooper
Executive Director
Finance Commission of Texas and
Commissioner
Texas Department of Banking
2601 North Lamar
Austin, Texas 78705

**Re: Amended Petition To Initiate Rulemaking Proceedings under Texas
Government Code § 2001.021 and 7 T.A.C. § 9.82 (the “Petition”)**

Dear Chair London and Commissioner Cooper:

On behalf of my client, Paycom Software, Inc. and its subsidiaries, including Paycom Payroll LLC, which is headquartered in Oklahoma City, Oklahoma (“**Paycom**”), which is an “interested person” due to its operations in various cities¹ in the State of Texas, we are writing this Amended Petition to the Finance Commission of Texas (the “**Commission**”) and the Texas Department of Banking (the “**Department**”) seeking an exclusion from money transmission licensing under the Money Services Act, Texas Finance Code Chapter 151 (the “**Act**”) and its implementing regulations. We are in receipt of a letter dated July 11, 2018 to the undersigned from Marcus Adams, Assistant General Counsel of the Department, communicating that the original Petition was not accepted for filing because it “does not include the ‘full text of the proposed rule’”. A copy of the July 11, 2018 letter is enclosed with this letter as **Exhibit A**.

Under 7 T.A.C. § 9.83(a), “the agency shall notify the applicant in writing of all deficiencies found and give the petitioner an opportunity to cure them by filing an amended petition” (emphasis added). Accordingly, on behalf of Paycom, I am filing this amended petition, which includes and incorporates by reference a copy of the original Petition enclosed as **Exhibit B**,

¹ Paycom has offices in the following Texas cities: Austin, Dallas, Lewisville, Fort Worth, Houston and San Antonio. Paycom recently announced a new Texas Operations Center will be built in Grapevine. See, <http://investors.paycom.com/press-releases/press-release-details/2018/Paycom-Finalizes-Tax-Incentive-Agreement-with-the-City-of-Grapevine-for-Texas-Operations-Center/default.aspx#.WyJ7X2y0U2w>. For a listing of addresses for Paycom’s offices, including its Texas offices, please visit <https://www.paycomonline.com/contact-us/>. See Texas Gov. Code § 2001.021(d)(2) and (4).

which includes all the information required under 7 T.A.C. § 9.82(1, 3, 4 and 5). Concerning the deficiency noted related to 7 T.A.C. § 9.82(2), we enclose **Exhibit C**.

We reviewed *Texas Government Code* §§ 2001.021-et seq. and §§ 2006.001-002 as well as 1 T.A.C. §§ 91.1-74 as Mr. Adams suggested in his letter. We note that the sections cited by Mr. Adams generally apply to a “state agency”. It goes without saying that Paycom is not a “state agency” and the undersigned is not “legal counsel” to the agency or an “agency liaison” under applicable Texas law. Indeed, Paycom does not have rulemaking authority, however, it does have the right, as an “interested person” to petition a state agency to initiate rulemaking proceedings, just like every resident of Texas.

Accordingly, in preparing **Exhibit C**, we used the same format that the Department used in its ***Texas Register*** filing for its proposed rule to implement 7 T.A.C. § 33.4. *See* 40 *Tex.Reg* 5605-5606 (September 4, 2015). We hope that this revised format previously used by the Department in 2015 is what the Department would accept from any “interested person” in Texas who would file a “Petition To Initiate Rulemaking Proceedings” pursuant to 7 T.A.C. § 9.82 and specifically as a cure for the deficiency cited for the “full text of the proposed rule” requirement under 7 T.A.C. § 9.82(2).

Very truly yours,



F. John Podvin, Jr.

FJP/aem
Enclosures

cc: Alice McAfee
Assistant Attorney General
William P. Clements Building
300 W. 15th Street
Austin, Texas 78701



Charles G. Cooper
Commissioner

EXHIBIT A

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
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July 11, 2018

F. John Podvin, Jr.
Partner
Shapiro, Biegging, Barber, Otteson LLP
5400 LBJ Freeway, Suite 930
Dallas, Texas 75240

*Sent via email to jpodvin@sbbolaw.com and
certified mail, return receipt requested
No. 91 7199 9991 7031 6436 8121*

Re: Petition for Adoption of Rules pursuant to *Texas Government Code* § 2001.021 and 7 T.A.C.
§ 9.82 (the Petition)

Dear Mr. Podvin:

On June 21, 2018, you submitted the above cited Petition for rulemaking with the Finance Commission of Texas (Finance Commission) and the Texas Department of Banking (Department).

The Department has reviewed the Petition and has determined that it does not comply with 7 T.A.C. § 9.82. Specifically, the Petition is deficient as to section 9.82(2) in that it does not include the "full text of the proposed rule." Therefore, the Petition is not accepted for filing.

Formal rulemaking is initiated by publishing the notice of the proposed rule in the Texas Register. Therefore, in order for the Finance Commission to vote on whether to deny the petition or initiate rulemaking, the proposed text of the rule included with the petition must meet the format and content requirements of the Texas Register. The requirements for the proposed rule can be found in *Texas Government Code* §§ 2001.021–et seq and §§ 2006.001–002. Furthermore, the rules governing the publication in the Texas Register can be found in 1 T.A.C. §§ 91.1–74.

Per 7 T.A.C. § 9.83, this letter stands to inform you (the applicant) of the deficiency found. Under section 9.83, you may submit an amended petition, curing the noted deficiency, by 5:00 p.m. on the 15th day following the date this notice of deficiency is mailed. If no amended petition is received by that deadline, the petition will be deemed denied for the reason stated above.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcus Adams".

Marcus Adams
Assistant General Counsel
marcus.adams@dob.texas.gov
(512) 475-1236

cc (via email): Stephanie Newberg, Deputy Commissioner, Texas Department of Banking
Catherine Reyer, General Counsel, Texas Department of Banking

EXHIBIT B



SHAPIRO | BIEGING
BARBER | OTTESON

Dallas

Denver

June 21, 2018

F. John Podvin, Jr.
214.683.4580
jpodvin@sbbolaw.com

Stacy G. London
Chair
Finance Commission of Texas
2601 North Lamar
Austin, Texas 78705

Charles G. Cooper
Executive Director
Finance Commission of Texas and
Commissioner
Texas Department of Banking
2601 North Lamar
Austin, Texas 78705

Re: Petition for Adoption of Rules pursuant to Texas Government Code § 2001.021 and
7 T.A.C. § 9.82 (the "*Petition*")

Dear Chair London and Commissioner Cooper:

On behalf of my client, Paycom Software, Inc. and its subsidiaries, including Paycom Payroll LLC, which is headquartered in Oklahoma City, Oklahoma ("*Paycom*"), which is an "interested person" due to its operations in various cities¹ in the State of Texas, we are writing this Petition to the Finance Commission of Texas (the "*Commission*") and the Texas Department of Banking (the "*Department*") seeking an exemption from money transmission licensing under the Money Services Act, Texas Finance Code Chapter 151 (the "*Act*") and its implementing regulations, for companies that process payroll for Texas employers, which includes delivery of workers' wages and salaries as well as delivery of tax withholding payments and any other payments associated with employee benefit plans offered by Texas employers to their employees. As discussed on the Commission's website, "*The Finance Commission is the policy making body for [the*

¹ Paycom has offices in the following Texas cities: Austin, Dallas, Lewisville, Fort Worth, Houston and San Antonio. Paycom recently announced a new Texas Operations Center will be built in Grapevine. See, <http://investors.paycom.com/press-releases/press-release-details/2018/Paycom-Finalizes-Tax-Incentive-Agreement-with-the-City-of-Grapevine-for-Texas-Operations-Center/default.aspx#.WyJ7X2y0U2w>. For a listing of addresses for Paycom's offices, including its Texas offices, please visit <https://www.paycomonline.com/contact-us/>. See Texas Gov. Code § 2001.021(d)(2) and (4).

Department and two other agencies] and is not a separate state agency.” As a result and based on the authority in the Act, we have addressed the Petition to both the Commission and the Department.

Job growth has been a long term economic driver for the State of Texas. An important factor impacting new business and job growth includes employers’ access to efficient and cost-effective administration services such as payroll processing and tax payments services. Paycom is a business to business provider of human capital management software delivered to employer clients. Paycom’s services to Texas employers includes payroll processing and tax payment services. Although Paycom provides services to a diverse range of Texas employers, it targets employers with 50-2,000 employees. The Department has concluded that when a company assists a Texas employer with its payroll, as well as the payment of its withholding payments to governments, that this constitutes “money transmission” under the Act and requires such companies to obtain a license under the Act. The licensing requirements and associated operational requirements under the Act and its implementing regulations as administered by the Department are burdensome and costly on companies that provide payroll processing for Texas employers. This burden is quickly realized through the obligation of hiring additional personnel to implement rigorous compliance programs under the Bank Secrecy Act, when the Federal agency that administers the Bank Secrecy Act, the Financial Crimes Enforcement Network, has indicated that that law should not be imposed on payroll processors. The increased costs on payroll processing in Texas is transferred directly to Texas employers. This serves as a burden on job growth for Texas employers and serves as a deterrent to employers who want to consider moving their companies (and the associated jobs) to Texas.

Furthermore, several states have already granted exemptions to payroll processors from money transmitting licensing, including, California, Ohio, North Carolina and Washington. These exemptions were discussed with the Department’s senior staff, who encouraged Paycom to get the law changed in Texas. That is why we are submitting this petition because the Department has the clear legal authority granted by the Legislature to create an exception.

The full text of the rule proposed to the Commission by Paycom, required under 7 T.A.C. § 9.82(2), is enclosed with this letter as Exhibit A and for reference purposes, it tracks the exemption language in the North Carolina statute.

Pursuant to Sections 151.102 of the Act, the Commission has virtually no limit on its rulemaking authority to administer and enforce Chapter 151 of the Act and “the presence or absence of a specific reference in this chapter to a rule regarding a particular subject is not intended to and does not limit the general rulemaking authority granted to the [Commission] by this section.” Section 151.003(10) of the Act provides that the following persons are not required to be licensed under this chapter: . . . “(10) any other person, transaction, or class of persons or transactions exempted by commission rule or any other person or transaction *exempted by the commissioner’s order on a finding that the licensing of the person is not necessary to achieve the*

purposes of this chapter.” (Emphasis added.) Accordingly, as required by 7 T.A.C. § 9.82(3), the Commission has the clear legal authority to adopt the proposed rule for a “person, transaction, or class of persons or transactions”.

The Commission has exercised its rulemaking authority to exempt a class of persons from the money transmission licensing requirements of the Act when it published 7 T.A.C. § 33.4 entitled “Payment Processors” (herein referenced as the “**Payment Processors Rule**”). See 40 Tex.Reg. 7622 (November 5, 2015) and 41 Tex.Reg. 10562 (January 5, 2017).

The Payment Processors Rule specifically articulates a policy, which provides as follows:

(a) Policy. The Texas Department of Banking (Department) is committed to carrying out its legislative mandate under Finance Code Chapter 151 with respect to money services businesses (MSBs) while minimizing the regulatory burden where possible. Specifically, the Legislature has charged the Department with the following threefold mandate²: to preserve and protect the safety and soundness of MSBs; to protect the interests of purchasers of money services and the public; and³ to protect against drug trafficking, terrorist funding, and money laundering or related financial crimes. But when issuing a license is not required to achieve this mandate, the Legislature has also authorized the Finance Commission to adopt rules that exclude from licensure any person, transaction, or class of persons or transactions that might otherwise require a license under Chapter 151.

7 T.A.C. § 33.4(a) (Emphasis and footnotes added).

To be specific, Paycom, as an “interested person”, requests that the Commission and the Department comply with Texas Government Code §§ 2001.021(c) and 2001.030 and give specific reasons why payroll processors should or should not have an exemption from licensing under the Act. If the Commission and the Department decide not to grant an exemption, we request that they address each prong of the Legislature’s “threefold mandate”: (i) to preserve and protect the safety and soundness of MSBs; (ii) to protect the interests of purchasers of money services and the public; and (iii) to protect against drug trafficking, terrorist funding, and money laundering or related financial crimes requires the imposition of the licensing burden on payroll processors.

In particular, Paycom specifically requests that the Commission and the Department provide actual documented evidence where payroll processors operating in Texas were involved in “drug

² The Commission selected the words “threefold mandate” which we understand to be all three things must be met.

³ The Commission selected the word “and” as a conjunction in the specific context of the phrase “threefold mandate”, which we understand to underscore that all three “mandates” must be met. See, Bd. of Ins. Comm’rs v. Guardian Life Ins. Co. of Tex., 180 S.W.2d 906, 908 (Tex. 1944); see also, Beal, The Art of Statutory Construction: Texas Style, 64 Baylor L. Rev. 342, 388-389 (Spring 2012).

Stacy G. London
Charles G. Cooper
June 21, 2018
Page 4

trafficking, terrorist funding, and money laundering or related financial crimes” in the context of a payroll processor assisting Texas businesses with paying its employees and with sending withholding payments to the state and federal taxing authorities. Put in other words, we assert that helping Texas employers deliver wages and benefits to their employees and assisting those Texas employers with sending its tax withholding payments to local, state and Federal agencies (including, but not limited to, the Internal Revenue Service and the Texas Workforce Commission) is a low risk activity from a “drug trafficking, terrorist funding, and money laundering or related financial crimes” perspective.

Additionally, if the Commission and the Department cannot provide such evidence, then imposing the burden of the licensing requirement and the associated operating requirements on payroll processors under the Act violates the Legislature’s threefold mandate and the Commission’s and the Department’s articulated policy discussed above. Furthermore, under 7 T.A.C. § 9.82(4), granting an exemption by rule for payroll processors would benefit the public by reducing payroll costs for Texas employers, e.g., exempting payroll processors from the imposition of unnecessary burdens associated with compliance with the Act would save Texas employers from paying higher fees for payroll services. This proposed exemption helps make Texas more attractive to businesses who want to grow their business or who wish to relocate to Texas and bring their associated jobs to Texas, which benefits the public.

Very truly yours,



F. John Podvin, Jr.

FJP/aem

EXHIBIT A

[Proposed rule – full text pursuant to 7 T.A.C. § 9.82(2)]

§33.5. Payroll Processors.

(a) Policy. The Texas Department of Banking (Department) is committed to carrying out its legislative mandate under Finance Code Chapter 151 with respect to money services businesses (MSBs) while minimizing the regulatory burden where possible. Specifically, the Legislature has charged the Department with the following threefold mandate: to preserve and protect the safety and soundness of MSBs; to protect the interests of purchasers of money services and the public; and to protect against drug trafficking, terrorist funding, and money laundering or related financial crimes. But when issuing a license is not required to achieve this mandate, the Legislature has also authorized the Finance Commission to adopt rules that exclude from licensure any person, transaction, or class of persons or transactions that might otherwise require a license under Chapter 151. Because the nature of the transactions involved presents low risk to purchasers of money services, low risk of money laundering or related financial crimes, and low risk to the safety and soundness of MSBs, the Department has found that requiring certain classes of payroll processors to obtain money transmission licenses is not necessary to achieve the goals of its mandate under Chapter 151.

(b) Definitions. The following words and terms, when used in this section, have the following meanings unless the context clearly indicates otherwise.

(1) "Payroll processor" means a person engaged exclusively in any of the following:

- (A) Delivering wages or salaries on behalf of employers to employees;
- (B) Facilitating the payment of payroll taxes to State and federal agencies;
- (C) Making payments related to employee benefit plans;
- (D) Making distribution of other authorized deductions from employees' wages or salaries; or
- (E) Transmitting other Funds on behalf of an employer in connection with transactions related to employees.

(2) "Funds" means money or monetary value as defined by Finance Code §151.301(b)(3).

(c) Payroll Processors. A payroll processor does not need a license under Finance Code Chapter 151.

Exhibit C

TITLE 7. BANKING AND SECURITIES

PART 2. TEXAS DEPARTMENT OF BANKING

CHAPTER 33. MONEY SERVICES BUSINESSES

7 TAC §33.5

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes new §33.5, concerning payroll processors. The new rule is proposed to exclude from money services business (MSB) licensure payroll processors that might otherwise be required to obtain money transmission licenses under Finance Code Chapter 151. The new rule will clarify regulatory requirements and allow the department to more efficiently enforce the Texas Money Services Act (Act).

Finance Code §151.003(10) authorizes the commission to adopt rules that exclude from licensing any person, transaction, or class of persons or transactions on a finding that licensing the person or transaction is not necessary to achieve the purposes of the Act. The purposes of the Act, as expressed in Finance Code § 151.102, are to preserve and protect the safety and soundness of MSBs, to protect the interests of purchasers of money services, and to protect against money laundering and similar financial crimes. The commission has found that regulation of the payroll processors described in the new rule is not necessary to achieve these aims.

New §33.5 grants a new exclusion for payroll processors as defined in the rule because those persons and transactions are a low risk of "drug trafficking, terrorist funding, and money laundering and related financial crime".

Second, the commission notes that the states of California, North Carolina, Ohio and Washington have passed legislation granting payroll processors an exclusion or exception from licensing under the respective state statutes similar to the Act. Under Texas law, the commission can grant this exclusion by rule.

Stephanie Newberg, Deputy Commissioner, Texas Department of Banking, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the rule.

Ms. Newberg also has determined that, for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule is greater clarity for how regulated entities can comply with the requirements of Finance Code Chapter 151.

For each year of the first five years that the rule will be in effect, there will be no economic costs to persons required to comply with the rule as proposed. The rule creates no new regulatory requirements, and creates no new licensable activity.

There will be no adverse economic effect on small businesses or micro-businesses. There will be no difference in the cost of compliance for small businesses as compared to large businesses.

To be considered, comments on the proposed new rule must be submitted no later than 5:00 p.m. on _____, 2018. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300,

Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

The new rule is proposed under Finance Code, §151.102, which authorizes the commission to adopt rules to administer and enforce Chapter 151, and under Finance Code §151.003(10) which authorizes the commission to adopt rules that exclude from licensing a person, transaction, or a class of persons or transactions.

Finance Code, §151.003 and §151.302 are affected by the proposed new section.

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(c) Payroll Processors. A payroll processor does not need a license under Finance Code Chapter 151.

The agency certifies that legal counsel has reviewed the proposed rule and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on _____, 2018.

Catherine Reyer
General Counsel
Texas Department of Banking
Effective date: _____
Proposal publication date: _____

For further information, please call: (512) 475-1301