

A.

Finance Commission

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FINANCE COMMISSION OF TEXAS

MEETING DATEApril 12, 2019

MEETING LOCATIONFinance Commission Building
William F. Aldridge Hearing Room
2601 North Lamar Boulevard
Austin, Texas 78705

CONTACT INFORMATION.....Phone: (512) 936-6222
Website: www.fc.texas.gov

FUTURE MEETING DATESJune 21, 2019
.....August 16, 2019
.....October 18, 2019
.....December 20, 2019

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

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FINANCE COMMISSION AGENDA

Friday, April 12, 2019

8:00 a.m.

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

Section A.3 will take up agenda item A1 with NO DISCUSSION as notated in bold and italicized

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

A. FINANCE COMMISSION MATTERS

- 1. *Review and Approval of the Minutes of the February 15, 2019 Finance Commission Meeting***
2. General Public Comment
3. Consent Agenda
4. Finance Commission Operations
5. Audit Committee Report
 - A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' February 28, 2019 Investment Officer Reports
 1. Texas Department of Banking
 2. Department of Savings and Mortgage Lending
 3. Office of Consumer Credit Commissioner
 - B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's Internal Audit Report as Prepared and Presented by McConnell & Jones LLP Regarding the Investment Administration Controls of the Texas Financial Education Endowment Fund
6. Update on Efficiency Audit Services by McConnell & Jones, LLP
7. Discussion of and Possible Vote to Take Action on the Finance Commission Agencies' Fiscal Year 2019 Mid-Term Accomplishment Reports
8. Discussion of the Report of the Financial Condition of the State Banking System
(Note: Report provided separately)
9. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance

Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff

10. Discussion of and Possible Vote to Take Action Regarding Facility Planning and Real Property Matters Pursuant to §551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property
11. Discussion and Consultation with Attorney and Possible Vote to Take Action Pursuant to §551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys, including matters related to the potential financial exposure of the Finance Commission Agencies and their officers and the Finance Commission and its officers and including matters of pending and contemplated litigation
12. Discussion of and Consultation on Security Audit, possible issue related to confidential or sensitive information, security breach audit and assessment, or security assessments or deployment related to information resources technology as authorized by Tex. Govt. Code Secs. 551.076 and 551.089

B. TEXAS DEPARTMENT OF BANKING

1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Special Audits Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities
2. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

C. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

1. Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; and b) State Savings Bank Charter and Application Activity
2. Discussion of and Possible Vote to Take Action on the Maximum Annual Assessment Rate Schedule for Texas State Savings Banks
3. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; and c) Consumer Complaints
4. Fiscal and Departmental Operations: a) Funding Status/Audits/Financial Reporting; and b) Staffing
5. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities
6. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §80.201(a) and (b), concerning Loan Status Forms
7. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §81.201(a) and (b), concerning Loan Status Forms
8. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

D. OFFICE OF CONSUMER CREDIT COMMISSIONER

1. Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities
2. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Texas Office of Consumer Credit Commissioner v. Tim McMahan d/b/a Advantage Auto; Cause No. D-1-GN-17-005451, in the 98th District Court of Travis County, Texas

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

NOTE: The Finance Commission may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

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

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**MINUTES OF THE
FINANCE COMMISSION MEETING
Friday, February 15, 2019**

The Finance Commission of Texas convened at 8:30 a.m. on February 15, 2019 with the following members present:

Finance Commission Members in Attendance:

Paul W. Plunket, Chairman
Phillip Holt, Vice Chair
Bob Borochoff
Molly Curl
Stacy G. London
Will Lucas
Cliff McCauley
Lori McCool
Vince Puente

Finance Commission Chairman Paul Plunket announced a quorum with nine members present.

Chairman Paul Plunket made a motion to excuse Hector Cerna from the Finance Commission meeting held on February 15, 2019. There were no objections and the motion passed unanimously. (00:46)

Agenda Item	Action	Location on Video File
A. Finance Commission Matters		
1. Review and Approval of the Minutes of the December 14, 2019 Finance Commission Meeting	On Consent Agenda – Item A1	00:01 start of discussion
2. General Public Comment	No Action Required.	01:10 start of discussion
3. Consent Agenda – Item A1	Molly Curl made a motion to Approve Consent Agenda item A1. Lori McCool seconded, and the motion passed.	02:06 start of discussion 02:23 vote
4. Finance Commission Operations	No Action Required.	02:46 start of discussion

5. Audit Committee Report		06:43 start of discussion
<p>A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' November 30, 2018 Investment Officer Reports</p> <ol style="list-style-type: none"> 1. Department of Savings and Mortgage Lending 2. Office of Consumer Credit Commissioner 3. Texas Department of Banking 	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' November 30, 2018 Investment Officer Reports passed.	<p>07:15 start of discussion</p> <p>07:33 vote</p>
<p>B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2019 First Quarter Financial Statements</p> <ol style="list-style-type: none"> 1. Department of Savings and Mortgage Lending 2. Office of Consumer Credit Commissioner 3. Texas Department of Banking 	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' 2019 First Quarter Financial Statements passed.	<p>07:42 start of discussion</p> <p>07:55 vote</p>
6. Discussion and Consultation with Attorney pursuant to §551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys, including presentation by Assistant Attorney General related to anti-lobbying regulations and interactions with the Legislature by the Finance Commission members	Deferred to Executive Session – no vote taken.	n/a
7. 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
8. 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

9. Discussion and Consultation with Attorney and Possible Vote to Take Action Pursuant to §551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys, including matters related to the potential financial exposure of the Finance Commission Agencies and their officers and the Finance Commission and its officers and including matters of pending and contemplated litigation	Deferred to Executive Session – no vote taken.	n/a
10. Discussion of and Consultation on Security Audit, possible issue related to confidential or sensitive information, security breach audit and assessment, or security assessments or deployment related to information resources technology as authorized by Tex. Govt. Code Secs. 551.076 and 551.089	Deferred to Executive Session – no vote taken.	n/a
B. Department of Savings and Mortgage Lending		
1. Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; and b) State Savings Bank Charter and Application Activity	No Action Required.	08:30 start of discussion
2. Discussion of and Possible Vote to Take Action on the Assessments to be Paid by the Texas State Savings Banks	Phillip Holt made a motion to approve the Assessments to be Paid by the Texas State Savings Banks. Molly Curl seconded and the motion passed.	12:11 start of discussion 16:07 vote
3. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; and c) Consumer Complaints	No Action Required.	16:30 start of discussion
4. Fiscal and Departmental Operations: a) Funding Status/Audits/Financial Reporting; and b) Staffing	No Action Required.	20:25 start of discussion

5. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities	No Action Required.	21:34 start of discussion
6. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a
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	No Action Required.	43:28 start of discussion
<p>2. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation</p> <p><i>Texas Office of Consumer Credit Commissioner v. Tim McMahan d/b/a Advantage Auto; Cause No. D-1-GN-17-005451, in the 98th District Court of Travis County, Texas</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>	No Action Required.	n/a
D. Texas Department of Banking		
1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Special Audits Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint	No Action Required.	01:02:09 start of discussion

Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities		
2. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a

Chairman Paul Plunket called for an Executive Session at 10:03 a.m. (01:22:43) on the audio file). The open meeting resumed at 10:56 a.m. (01:24:16) on the audio file.)

There being no further business, Chairman Paul Plunket adjourned the meeting of the Finance Commission at 10:57 a.m. (1:25:20) on the audio file).

Paul W. Plunket, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Anne Benites, Executive Assistant
Finance Commission of Texas

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Finance Commission of Texas

Consent Agenda

April 12, 2019

A. Finance Commission Matters

1. Review and Approval of the Minutes of the February 15, 2019 Finance Commission Meeting

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TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705

512-475-1300 / 877-276-5554

www.dob.texas.gov

MEMORANDUM

TO: The Finance Commission

FROM: Charles G. Cooper, Commissioner

DATE: April 1, 2019

RE: Department of Banking Priorities for Fiscal Year 2019 with Updates Through February 28, 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.

February Update:

- *Commissioner Cooper testified at the House Pensions, Investments & Financial Services Committee hearing on February 14, 2019.*
- *Introductory meetings have been held with the members of the committees the agency will appear before.*
- *The Commissioner testified as a resource witness at several hearings.*

- 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.

February Update:

- *Beginning in January, weekly legislative reports are emailed to Commission members.*
- *Commissioner Cooper provides an update of federal and state legislative developments at each Finance Commission meeting.*

- 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.

February Update:

- *Suggestions for statutory improvements were provided to the Chairman of the House Pensions, Investments and Financial Services Committee and Senate Business and Commerce.*
- *The agency is currently tracking 161 bills.*
- *The agency has completed 36 fiscal notes.*
- *The agency has served as a resource to Legislative staff who have called with questions.*

- I.4 Objective: Monitor the 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.

February Update:

- *Management actions related to performance measures, budgeting, and travel expenditures have been completed.*
- *A training manual has been drafted as required per Management Action 7.1. The manual is now being reviewed by the newest Finance Commission members.*
- *Management actions related to the consumer complaint area and efficiency study are on-going.*
- *Agency staff have attended Sunset hearings and Commissioner Cooper testified as a resource witness.*

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 the Conference of State Bank Supervisors (CSBS) the Bank and Trust Division. Quarterly, report results to the Finance Commission.

February Update:

- *Through February 28, 2019, all key performance measures were met or exceeded.*
- *The Department was reaccredited by CSBS on November 21, 2018.*

- 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 Money Transmitters Regulator Association (MTRA)), trade associations (Independent Bankers Association (IBAT) and the Texas Banker's Association (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.

February Update:

- *The agency participated in the FDIC Deposit Insurance Application Roundtable in February 2019.*
- *In January/February, the Department collaborated with the Texas Bankers Association to produce a handout that provides "8 Tips for Banking Online Safely" and "8 Tips to be More Cybersecure." The handouts are available in English and Spanish.*
- *Department staff is participating on a seven-state CSBS task force charged with developing updated model state law for money service businesses.*
- *The agency is an active member of the MTRA and the Multi-State MSB Examination Taskforce (MMET). Commissioner Cooper continues to serve as Chairman of MMET, and Director Reese continues to serve on the MTRA Board of Directors.*
- *Agency personnel are active in working with the Money Service Business (MSB) Accreditation Working Group to set appropriate standards to support modernized and harmonized MSB programs across the state system.*

- 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.

February Update:

- *Agency staff members closely monitor risk profiles of the institutions we regulate through ongoing on-site examinations. BSA examiners monitor Suspicious Activity Reports from large institutions, and IT examiners participate in multi-state examinations for large service providers. Finally, on-going monitoring through our quarterly off-site monitoring program helps to identify increased risks in between examination cycles.*
- *The Department is sending all examination staff and supervisors to a CSBS sponsored class called Intermediate IT & Cybersecurity Training. This three-day training explains cybersecurity guidance and frameworks, how hackers attack, methods of protecting information systems, explains the examiner's role, and describes techniques for evaluating weaknesses and vulnerabilities. In the first half of this fiscal year, the Department has sent 95 employees to this course.*

- 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.

February Update:

- *The agency has joined a six-state task force charged with developing money service business model practices and laws. The task force is being led by the CSBS and is a component of their Vision 2020 initiative.*
- *The agency is actively participating in a MSB Multistate Licensing Agreement working group primarily designed to promote efficiency and effectiveness among the states for proposed MSB licensees by recognizing certain specified standards. This working group is being coordinated by the CSBS.*
- *The agency is actively participating in a multistate working group to help automate and streamline MSB change of control application filings among the states. This working group is being coordinated by the CSBS.*
- *The agency agreed to be part of a 2019 MSB Multi-State Joint Examination Pilot whereby a multi-state company will be examined only once in 2019. The efforts are being coordinated in part by MMET and the various participating states.*
- *An agency staff serves on the executive committee and is president-elect of the North American Death Care Regulators Association, which strives to promote a forum for death care regulators to discuss problems affecting the public and death care industry.*

- *Agency representatives attended the annual Nationwide Multistate Licensing Conference held in Orlando, Florida, on February 18-21, 2019.*

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.

February Update:

- *Agency staff monitors and pursues illegal activity in the following ways:*
 - *Ongoing monthly monitoring of SAR reports;*
 - *Pursuing prohibition orders when warranted;*
 - *Reviewing information for cases involving individuals and entities operating without a requisite bank or trust charter or MSB license. In many instances, this requires communication with other federal and state banking agencies across the country.*
- *Issued one order against an unauthorized entity purporting to be a bank.*
- *Issued nine orders against unauthorized money service businesses.*
- *Issued one cease and desist order against a currency exchange operator.*
- *Issued one cease and desist order against a money transmitter.*
- *Issued one order against a prepaid funeral contract seller.*
- *Issued one prohibition order against a former bank officer.*
- *Issued one consent order against a bank officer.*
- *Coordinated with federal law enforcement on three matters involving illegal MSB activities.*
- *Notified six MSB entities that may be engaged in money transmission without a license, and as a result:*
 - *One company provided documentation and upon review by Special Audits and the Legal Division, did not require a license; and,*
 - *Five companies responded and provided documentation that is currently being reviewed by the Legal Division.*
- *Administrative Memorandum (AM)*
 - *Issued new AM 2003 – Suspicious Activity Reports Filed by the DOB (September)*

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.

February Update:

- *Consumer assistance activity is reported at each Finance Commission meeting. We also updated our reporting to include the percentage of written complaints resolved in 90 days and the number of written complaints resolved which was a Sunset recommendation.*

- 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.

February Update:

- *Revised Examiner Bulletins (XB) for Bank & Trust examination staff and provided timely communication of the changes to staff.*
 - *XB 2018-06 CML - Guidelines for Procedures and Work Paper Documentation (November)*
 - *XB 2018-07 TR - Guidelines for Procedures and Work Paper Documentation (November)*
 - *XB 2018-08 IT - Guidelines for Procedures and Work Paper Documentation (November)*
- *Administrative Memorandum (AM) updates related to Bank & Trust and MSB examinations were communicated to staff in a timely manner.*
 - *AM 2024 - Follow-up on Bank Compliance Examinations Conducted by Federal Regulators (December)*
 - *AM 2040 - Removal of Confidential FinCEN Data Files (February)*
- *Revised Bank & Trust examination procedures and provided timely notification of changes to staff.*
 - *Revised seven commercial examination procedures: Planning & Control, Audit, Borrowed Funds/Liquidity, Investment Securities, Management, Other Supervisory Issues, and BSA/AML.*
 - *Revised one trust examination procedure: Planning & Control.*
 - *Revised one information technology examination Procedure: Planning & Control.*

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.

February Update:

- *Supervisory Memorandums (SM)*
 - *Revised SM 1023 – Examination Frequency for MSBs (September)*
 - *Revised SM 1037 – Regulatory Treatment of Virtual Currencies Under the Texas Money Services Act (January)*

- 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.

February Update:

- *Rule amendments were adopted to:*
 - *Update language to reflect implementation of employee training program.*
 - *Clarify requirements for complaint notices by perpetual care cemeteries.*
 - *Modify permissible investment requirements for money service businesses.*
- *Rule reviews were conducted for 7 TAC Chapters 5, 11, 26, 27, and 31.*

- 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.

February Update:

- *Modified the financial education brochure at the beginning of the fiscal year.*
- *Director Rodriguez participated in the Alliance for Economic Inclusion meeting held in October 2018.*
- *The Department featured a financial institution in the October edition of the Texas Bank Report for their financial education programs. A separate featured article was done on the Texas Jump\$tart Coalition and their promotion of youth financial education.*
- *Deputy Commissioner Newberg attended the Jump\$tart Texas Capitol Day on February 27, 2019.*

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.

February Update:

- *The Department updated Section 1 of the Personnel Policy and Procedure Manual, including the Recruitment/Workforce Diversity/Equal Employment Opportunity Plan.*
- *Seventeen jobs were posted from September 1, 2018 through February 28, 2019.*
- *Successfully filled key positions in the agency through internal promotion: Deputy Commissioner; Director of Bank and Trust Supervision; Deputy General Counsel; and Director of Corporate Activities.*
- *Filled three Financial Examiner positions in the San Antonio Regional Office.*
- *Filled the Law Clerk position in Legal.*
- *Filled an Administrative Assistant position in Corporate Activities.*
- *Agency representatives attended ten recruiting fairs around the state.*

- 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.

February Update:

- *Agency fiscal year 2019 turnover rate through February 28, 2019 is 4.01%; Agency turnover excluding retirements is 2.86%. Financial Examiner fiscal year 2019 rate through February 28, 2019 is 3.25%; Financial Examiner turnover excluding retirements is 2.44%.*
- *Eight Financial Examiner VII's and the newly appointed Director of Corporate Activities are attending the DOB leadership development program.*
- *Completed the first full-cycle performance appraisal process for all employees through an automated system called NEOGOV.*
- *Through February 28, 2019, the agency has hired six new employees and lost seven employees.*
- *Salaries remain competitive with the FDIC.*

- 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.

February Update:

- *Replaced three VM servers and network storage devices.*
- *Upgraded Windows Servers' operating system to Windows Server 2016.*
- *VOIP phones installed in HQ and regional offices.*

- 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.

February Update:

- *Texas Cybersecurity Assessment performed by AT&T has been completed.*
- *Section one of four security training modules has been completed by staff.*
- *First quarter vulnerability system scan has been completed 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.

February Update:

- *Nine individual commissioning phases have been conducted through February 28, 2019.*
- *Two financial examiners were commissioned in the first half of FY 2019.*

- 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.

February Update:

- *Monthly financial statements are provided to all divisions for review and to the Finance Commission each quarter.*
- *Budget variances are analyzed quarterly.*

- *For the first quarter of fiscal year 2019, revenues were 110.7% of budget and expenditures were 97.3% of budget. Preliminary year to date second quarter data has revenues at 108% of budget and expenditures at 95.2% of budget.*
- *Cash reserves are within policy guidelines.*
- *On March 1, 2019, Commissioner Cooper announced a 20% reduction in the third fiscal quarter bank assessment.*

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.

February Update:

- *Administrative Memorandums (AM) Revisions related to internal processes or procedures:*
 - *AM 2031 – Delegation of Authority (September)*
 - *AM 2035 – Finance Commission Parking Policy (October)*
 - *AM 2038 – Frequent Overnight Stay-Out Stipend Program (November)*
 - *AM 2023 – Website (Internet) and DOBIE (Intranet) Maintenance Policy (January)*
 - *AM 2019 – Employment and Promotion Qualifications for Financial Examiners (February)*

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.

February Update:

- *Agencies continue to work with the broker to look for a suitable building location.*
- *Agency is monitoring legislative bills related to SDSI agencies purchasing and selling property and the related cash reserves.*

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.

February Update:

- *The yearly Plan update, which includes the plan exercise and after-action report, was submitted to the State Office of Risk Management in January 2019.*

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.



DEPARTMENT of SAVINGS & MORTGAGE LENDING

Caroline C. Jones, Commissioner

Memorandum

To: The Finance Commission

From: Caroline C. Jones

Date: April 1, 2019

Re: Agency Priorities for Fiscal Year 2019 – Mid-Year Update

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.

Status: *The Department monitors all legislation for those bills that might impact the Department or the regulated industries. Those bills that have direct impact on the Department or the regulated industries are reported on a weekly basis to the Finance Commission. Besides these bills, the Department is tracking other bills of interest. In total the Department is tracking 298 bills.*

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.

Status: *Department staff has served as resource support to legislative members and their staff by providing appropriate and comprehensive information, as legally permissible, to requests for information on a variety of bills. Additionally, Department staff has met with stakeholders and legislative staff on bills impacting the regulated industries. The Commissioner provided written and oral testimony at the organizational meeting of the House Committee on Pensions, Investments and Financial Services on February 14, 2019. The Department has provided fiscal notes as requested to the Legislative Budget Board.*

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.

Status: *During the first half of FY19, the Department participated in the Sunset Process by providing information to members of the Legislature as requested. The Department is coordinating with the Department of Banking and Office of Consumer Credit Commissioner, as appropriate on statutory changes and management recommendations.*

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

Status: *The Department's Mortgage Penalty Matrix has been updated and will be implemented by April 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.

Status: *During the first half of FY19, the Department monitored legislation and regulations at the federal level and as appropriate reported information to the Finance Commission as well as to its regulated industries.*

II. Regulatory Items

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

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

Status: *The Department monitors the thrift industry's risk profiles and reports information to the Finance Commission on a regular basis. The Department is actively engaged in determination of necessary supervisory action and taking appropriate supervisory action during on-site examinations and off-site reviews. Compliance with existing enforcement actions is monitored through quarterly reports from the thrifts and on-site visitations and examinations.*

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

Measure: Report on status of implementation.

Status: *The roll out of NMLS 2.0 by the State Regulatory Registry Board (owners of the system) has not taken place; therefore, implementation has not begun.*

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.

Status: *As of February 28, 2019, the Department conducted 241 examinations of mortgage entities covering 2,383 mortgage loan originators. The Department provides the top violations to industry at various opportunities, including presentations to statewide and local associations and at the Department's Mortgage Seminar. The Department issued formal and informal enforcement actions as deemed necessary.*

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

Measure: Report on enforcement actions.

Status: *As of February 28, 2019, the Department had issued 93 orders related to either examinations or complaints.*

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

Measure:

a. Provide updates to the Finance Commission on the aging of complaints.

Status: *The Department reports to the Finance Commission the aging of complaints on a quarterly basis. As of February 28, 2019, 96 % of the open consumer complaints were aged less than 90 days.*

b. Conduct management review of any complaints open over 120 days to identify issues preventing the timely closing of such complaints.

Status: *As of February 28, 2019, the Department had no complaints aged over 120 days.*

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.

Status: *No Home Equity interpretations were requested in the first half of FY19.*

- b. Implement any rule and interpretations adopted by the Finance Commission and the Credit Union Commission.

Status: *As of February 28, 2019, there have been no rules or interpretations to implement.*

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.

Status: *Members of the Department's management team serve in leadership positions on several national associations and committees. These include: the American Council of State Savings Supervisors, (Board Chair), the American Association of Residential Mortgage Regulators, (Board), and the State Regulatory Registry (Board). The Commissioner serves on the Federal Financial Institutions Examination Council (FFIEC) through the State Liaison Committee and on Financial and Banking Information Infrastructure Committee (FBIIC). Both FFIEC and FBIIC provide opportunities for active contact with federal counterparts. Several staff members serve on Conference of State Bank Supervisors working groups. The Department participated in the FDIC Dallas Region Annual Regulator Meeting.*

- 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.

Status: *The Department has continued its joint Safety & Soundness examination program with the FDIC and FRB, as well as its Compliance examination program.*

- c. Report to the Finance Commission on interaction with federal agencies in all of the above listed activities.

Status: *In addition to those mentioned above, the Department attended FDIC's Deposit Insurance Application Roundtable. Also Commissioner Jones met with FDIC Chairman Jelena McWilliams at the FDIC Dallas Regional Office on November 27, 2018.*

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.

Status: *Rules relating to statutory changes during the 86th Legislative Session will be presented to Finance Commission post-session.*

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.

Status: *The Department stays in contact with the relevant state trade associations. During the first half of FY19, the Department served on panels or presented to eight statewide or local chapters of trade associations, including, but not limited to, the Texas Mortgage Round Up, the Department's Mortgage Seminar, Thrift Industry Day, and IBAT's Annual Convention.*

Various Department representatives discuss issues related to the industry via individual face to face meetings and electronic means as deemed necessary and appropriate. The Commissioner and Deputy Commissioner hold a monthly "Emerging Issues" call for State Savings Banks Presidents/CEOs and other staff members from their institutions. The Commissioner has held two outreach meetings with state savings banks and held a stakeholder meeting for mortgage representatives and other stakeholders.

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.

Status: *During the first half of FY19, over 58% of personnel received training or professional development. Additionally, in the first half of FY19 the Department filled three positions and had three separations of employment.*

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.

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

Status: *The Department has reported on its four key output measures to the Finance Commission on a quarterly basis. As of the second quarter of FY19, the Department has met or exceeded three of these key measures. The Department expects to meet or exceed all the output measures for the fiscal year.*

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.

Status: *During the first half of FY19, the Department has been under review of the Sunset Commission and working with McConnell Jones on the Efficiency Study. No other audits have been conducted during this period.*

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.

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

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.

Status: *As deemed appropriate, the Department has implemented critical patches to the network and staff computers.*

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.

Status: *The Department, along with the Department of Banking and Office of Consumer Credit Commissioner, continues to search for potential properties and review information relating to the relocation of the agencies' headquarters. Information has been reported to the Finance Commission as available.*

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Office of Consumer Credit Commissioner

Agency Priorities – Mid-Year Report

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.

Status: *Weekly status reports have been provided to Finance Commission members since the beginning of the legislative session. Members from the 86th legislative session have filed a total of 7,120 bills or 7.4% more bills than the 85th Legislative Session (6,631). The OCCC high priority legislation report reflects 46 bills that the agency is very closely monitoring. The OCCC staff have served or will likely be called to serve as resource witnesses on many, if not most of the bills on this list. The agency staff have also provided a substantial amount of resource support related to legislation, particularly on the OCCC Sunset bill.*

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.

Status: *The OCCC is tracking the agency's sunset bill HB 1442 (Paddie) and SB 603 (Hall) through the legislative process. OCCC staff has provided testimony to the House Pensions, Investments & Financial Services Committee (PIFS). At the request of the bill author, staff provided additional language for HB 1442 committee substitute. In addition, HB 1442 has been reported favorably out of the PIFS committee and is scheduled for consideration by the full House on April 2.*

2. REGULATORY ACTIVITIES

2.1. Regulated Entities

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

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

Status:

License	Compliance Status as of 2/28/19	Enforcement
<i>Pawn</i>	<i>88.76% acceptable level of compliance.</i>	<i>140 enforcement actions closed: 134 injunctive actions 5 administrative penalty actions 1 license revocation</i>
<i>Regulated Loans</i>	<i>97.74% acceptable level of compliance.</i>	<i>9 enforcement actions closed: 5 injunctive actions 4 administrative penalty actions</i>
<i>Property Tax Loans</i>	<i>92.31% acceptable level of compliance.</i>	<i>2 enforcement actions closed: 1 injunctive actions 1 administrative penalty actions</i>
<i>Credit Access Business</i>	<i>96.21% acceptable level of compliance.</i>	<i>20 enforcement actions closed: 14 injunctive actions 6 administrative penalty actions</i>
<i>Motor Vehicle Sales Finance</i>	<i>86.29% acceptable level of compliance.</i>	<i>12 enforcement actions closed: 8 injunctive actions 4 administrative penalty actions</i>

2.1.2. Objective: Achieve overall weighted average acceptable level of compliance of 85% 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.

Status: *The agency has completed 2,012 examinations at mid-year which is 95.8% of the pro rata goal and 47.9% of the annual goal for the fiscal year. The overall compliance rate is 89.71% for all five examination areas combined. Restitution from examinations conducted is \$14,444,193 as of February 28, 2019. During this period, the agency closed 183 enforcement actions concerning the five examination areas. The 183 closed cases*

include 162 injunctive actions, 20 administrative penalty actions, and one license revocation.

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.

Status: *Refinement and enhancement of the (ACE) tool continues to make progress. Ongoing change management meetings are held regularly to discuss and prioritize refinements to the system. It is anticipated that the build for the Annual Report project will begin in April with beta testing beginning in late summer.*

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.

Status: *As of the end of Q2 of 2019 the Licensing Department has processed 71% of applications within 60 days of receipt. This is due to departmental turnover and cross-training new team members. Staff predicts this performance will improve in the second half of FY 2019. Additionally, so far in FY 2019 the department held two customer service trainings, as well as a team-building development event. More professional development and training events are being planned which will give employees more resources and tools to complete tasks.*

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.

Status: *Due to pending legislation that may affect these chapters, including potential amendments based on recommendations from the Sunset Commission, the rule reviews*

of Part 1, Chapter 2 for OCCC residential mortgage loan originators and Chapter 86 for retail creditors have been scheduled for proposal at the commission's October 2019 meeting (early FY 2020). In addition, the rule review of Chapter 90 relating to plain language contract provisions has been reassigned to later in FY 2020. This rescheduling will allow the agency to more efficiently fulfill legislative mandates, avoid conflicting amendments, and present focused rule reviews.

- 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.

Status: *In May, the agency plans to hold a stakeholder meeting relating to complaint processing rule changes that implement recommendations from the Sunset Commission. During the last quarter of FY 2019 and into FY 2020, the agency anticipates continued stakeholder engagement to implement 2019 legislation, as well as to complete the scheduled rule reviews.*

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.

Status: *Staff continues to report on fund activities, investment earning, grant reimbursement request submissions and grantee program highlights to the Finance Commission, Audit Committee, and Grant Advisory Committee. The [2016-2017 Impact Report](#) was completed during the first half of the fiscal year highlighting the 2016-2017 cycle of the TFEE grant. The report showcases grantee participation by program type, program achievements, participation hours and participant success stories. In addition, staff has developed a timeline for the 2020-2021 upcoming grant cycle.*

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.

Status: *At mid-year, staff has reached out to 14 new partners (senior centers, community centers, schools, and youth programs) across the state, i.e., the Dallas-Ft. Worth area, South Texas, and East Texas. During this same period, staff provided financial education to 212 participants, which is 65.2% of the goal for this fiscal year.*

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.

Status: *OSCC staff participate in a number of groups such as Financial Literacy Coalition of Central Texas (FLCCT), Texas Jump Start Coalition (board member), and FDIC Alliance for Economic Inclusion (AEI) in order to bring awareness and education to Texas consumers. These organizations focus on new advancements for financial education. Publications will be developed in the second half of the year for distribution to consumers and industry stakeholders.*

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.

Status: *The agency is currently on track to meet or exceed 8 of the 9 key performance targets.*

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.

Status: *Review of the agency's compensation levels for staff members will be conducted following the legislative session to ensure appropriate alignment with agency goals and market competitiveness.*

The agency turnover ratio is currently 8.05%. Efforts continue to be made to increase staff retention. Those efforts include conducting in-person exit meetings to determine the factors that could aid the agency in employee retention.

- 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.

Status: *All examiners attended the agency examiners' annual training meeting, where an in-depth curriculum is presented, including changes to the specific industries regulated by the agency. Other training opportunities provided to certain examiners include: National Association of Consumer Credit Administrators (NACCA) Examiner's School and Conference of State Bank Supervisors (CSBS) Training School Examiner-in-Charge Training. Future training opportunities will include American Association of Residential Mortgage Regulators (AARMR) Training School, Governor's Management Training, as well as OCCC led classroom trainings (i.e. mortgage loan, property tax loan and credit access business services training).*

All newly hired Financial Examiners (8) received eight weeks of introductory classroom training before moving into the field. Additional staff development opportunities have been posted on the Agency intranet.

- 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.

Status: *Policies were reviewed and updated during the first part of the fiscal year. In addition, the employee manual was improved to be more accessible and readable. Supervisor resources will be the focus on the second half of the fiscal year.*

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.

Status: *The agency monitors and timely reviews the financial status through monthly Operating Statements and Budget Analysis reports. These reports are also reviewed on a quarterly basis by the Finance Commission. Financial performance in the year was within the budgeted levels as established by the Finance Commission.*

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.

Status: *The Finance Commission agencies have continued to actively work on options towards a long term solution for headquarters facilities. The Finance Commission has been regularly briefed on these activities at Finance Commission meetings.*

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.

Status: *A major development revision, the Core Build Update, was developed during the first half of the fiscal year and is to be released mid-year. The Core Build Update modernizes dynamic ALECS functionality by integrating the newest features of underlying software libraries and accommodates changes available in the latest versions of leading web browsers. Also, requirements gathering for ease-of-use by public users submitting annual reports was completed during this timeframe and submitted to the contract vendor for development.*

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.

Status: *Contracting through DIR, AT&T performed an external review of the OCCC's cybersecurity posture. The report will be used to develop a roadmap to continuously improve the agency's maturity levels.*

B.

Texas Department of Banking

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TEXAS DEPARTMENT OF BANKING

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To: Finance Commission Members

From: Daniel Frasier, Director of Bank & Trust Supervision

DBF

Date: March 29, 2019

Subject: Summary of the Bank & Trust Supervision Division Activities

Bank and Trust Supervision					FY 2019							
8/31/2017		8/31/2018			11/30/2018		2/28/2019		5/31/2019		8/31/2019	
Industry Profile (# / Assets in billions)												
# Banks	240	\$252.9	236	\$257.3	233	\$257.7	231	\$261.6				
# Trust Co. (1)	17	\$108.5	17	\$107.4	18	\$108.0	18	\$101.4				
# FBA/FBB	10	\$56.1	7	\$66.3	7	\$64.8	7	\$68.0				
Examinations Performed												
Banks	103		107		26		23					
Trust Co.	26		27		5		3					
FBA/FBB	3		3		0		1					
Bank Uniform Financial Institution Composite Ratings												
1	123	51.3%	114	48.3%	111	47.6%	111	48.0%				
2	104	43.3%	111	47.0%	111	47.6%	109	47.2%				
3, 4, & 5	12	5.0%	11	4.7%	11	4.8%	11	4.8%				
Non-Rated	1	0.4%	0	-	0	-	0	-				

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

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

Summary of the Bank & Trust Supervision Division Activities

Page 2

Enforcement Actions Outstanding (Number outstanding as of the date indicated)			FY 2019			
	8/31/2017	8/31/2018	11/30/2018	2/28/2019	5/31/2019	8/31/2019
Banks - Safety and Soundness						
Formal	2	2	2	2		
Informal	22	17	17	16		
Banks - Bank Secrecy Act (BSA)						
Formal	0	0	1	0		
Informal	2	1	1	1		
Banks - Information Technology (IT)						
Formal	0	0	0	0		
Informal	2	3	2	3		
Trust Departments of Banks and Trust Companies						
Formal	0	0	0	0		
Informal	2	2	2	2		
Total Enforcement Actions Outstanding						
Formal	2	2	3	2		
Informal	28	23	22	22		
Total	30	25	25	24		

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 2018	FY 2019 (YTD – Feb. 2019)
Commercial Banks (All / DOB Only)	94% / 98%	98% / 98%
IT	96% / 100%	96% / 95%
Trust	100% / 100%	100% / 100%
Foreign Banks (FRB)	100%	100%
Trust Companies (DOB)	100%	100%
IT	100%	100%

Compliance with examination priorities for commercial banks exceeds the agency's goal of completing 95% of examinations within policy guidelines. As an ongoing reminder, U.S. Senate Bill 2155, which became law on May 24, 2018, raised the eligibility to qualify for an 18-month examination cycle for banks with \$1 billion in total assets to \$3 billion in total assets. This change effectively moved some of the agency's larger bank examinations into the second and third fiscal quarters of 2019. As a result of this change, examinations for five banks could start late between now and this fiscal year end, August 31, 2019. The effects of this examination cycle change are not expected to extend beyond the current fiscal year.

Division Highlights

- **Intermediate IT & Cybersecurity Training:** This three-day training covers cybersecurity guidance and frameworks, explains how hackers attack, evaluates methods of protecting information systems, explains an examiner's role, and describes techniques for evaluating weaknesses and vulnerabilities. To date, the Department has sent 95 employees to this course with the goal of sending all examination personnel and supervisors to this school.
- **2018 Rate the Department Survey:** Results of the annual Rate the Department survey showed that 93 banks and trust companies responded, and the feedback is mostly positive. This Survey provides feedback on the communication and general working relationship between the agency personnel and supervised entities.
- **Special Operations and Conferences:**
 - Commissioner Cooper participated in the Independent Bankers Association of Texas Regional Tour visiting several Texas cities beginning on January 29, 2019.
 - Review Examiner Graham represented the Department on the Regulatory Panel at the Texas Bankers Association's Lending School in Austin on February 12, 2019.
 - Commissioner Cooper participated in the Nationwide Multistate Licensing System (NMLS) Conference in Orlando, Florida, starting on February 18, 2019.
 - Director of Bank and Trust Supervision Dan Frasier attended the FDIC Deposit Insurance Roundtable in Dallas, Texas, on February 22, 2019. The purpose of the roundtable was to discuss the FDIC insurance application process for de novo banks.
 - Commissioner Charles Cooper along with Headquarters and regional office personnel participated in the Independent Bankers Association of Texas Regional Meetings held in various Texas cities from January 29, 2019 through February 28, 2019.
 - Deputy Commissioner Kurt Purdom along with several other Department personnel participated in the Texas Bankers Associate Bankers Blitz that started on March 5, 2019, in Austin.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705

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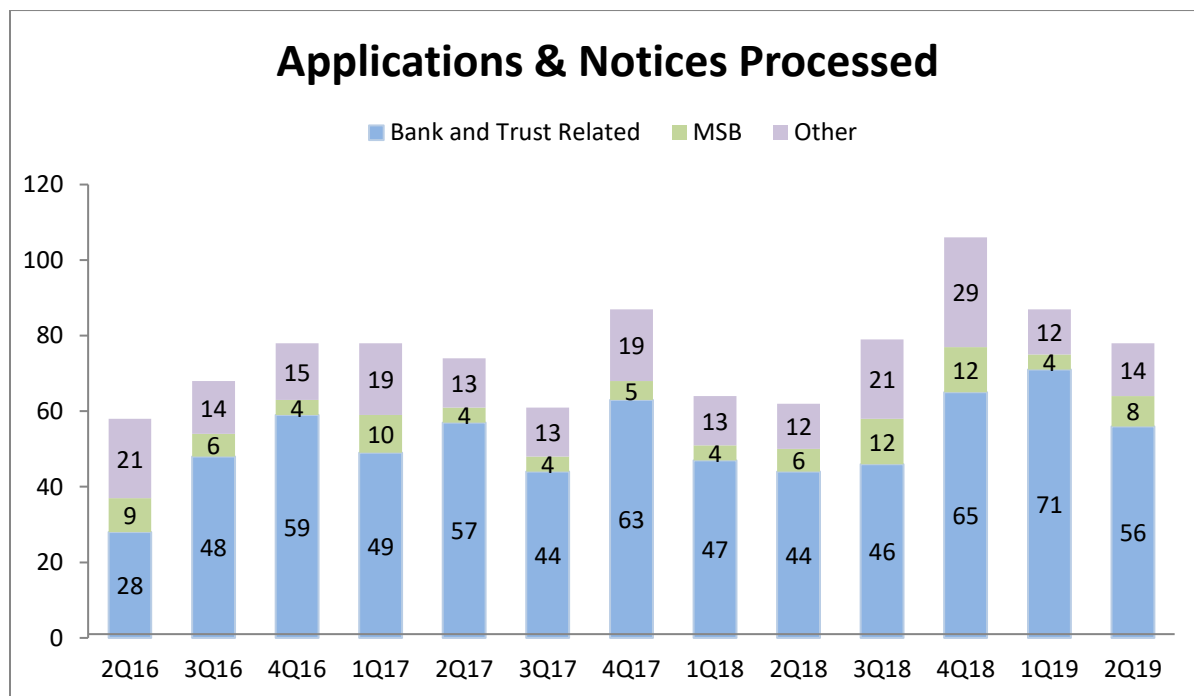
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To: Finance Commission Members

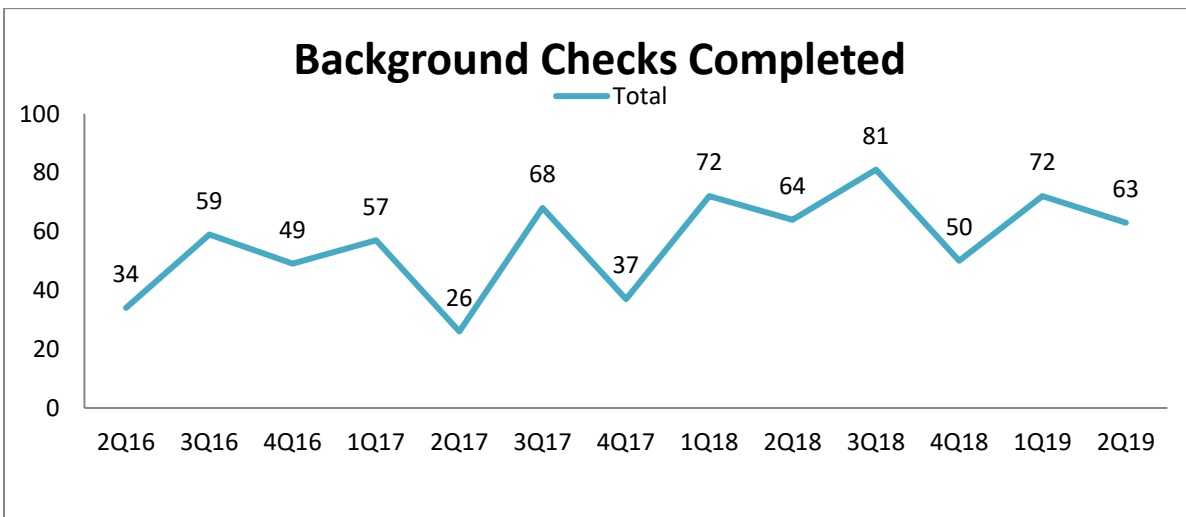
From: Mark Largent, Acting Director of Corporate Activities

Date: March 29, 2019

Subject: Summary of the Corporate Division Activities



Information on a Fiscal Quarter Basis.



Information on a Fiscal Quarter Basis.

Finance Commission Memorandum

Corporate Activities

Entities/Activities	Applications and Notices Under Review (as of March 28, 2019)
Bank Related	21
Trust Companies	9
Money Services Business (MSB)	12
Others	0
Totals	42

Division Highlights

- Application volume continues to be significant and above the level reported at the last Finance Commission meeting. Compared to our last report submitted to the Finance Commission, the Corporate Division's applications and notices presently under review by category type changed by:
 - Bank related increased 6 (40%)
 - Trust company was unchanged 0 (0%)
 - MSB related increased 2 (20%)
 - Other was unchanged 0 (0%)
- Charter, Conversion, and Merger Activity – The following transactions have consummated since Corporate's last report to the Finance Commission:
 - *Banks*
 - American State Bank, Arp, Texas, completed its acquisition merger of Texas State Bank, Joaquin, Texas
 - Mainland Bank, Texas City, Texas, merged into Investar Bank, Baton Rouge, Louisiana [estimated loss in state banking assets of approximately \$140 million]
 - Alliance Bank, Sulphur Springs, Texas, completed its acquisition merger of First National Bank of Mount Vernon, Mount Vernon, Texas [estimated gain in state banking assets of approximately \$189 million]
- Conferences, Conventions, and Committee Meetings – Since the last report to the Finance Commission, Corporate participated in the following:
 - Corporate Analyst Xazel Garcia attended the annual Nationwide Multistate Licensing System Conference in Orlando, Florida, on February 18-21, 2019
 - Acting Director Mark Largent participated in the Texas Bankers Blitz in Austin, Texas, on March 5, 2019



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Commissioner

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To: Finance Commission Members

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

Date: April 1, 2019

Subject: Summary of the Special Audits Division Activities

Special Audits (SA)			FY 2019							
Entity	FY 2018		1 st		2 nd		3 rd		4 th	
Industry Profile (# / Assets (billions))										
Money Services Businesses (MSB)	161	\$131.5	160	\$135.4	167	\$137.7				
Prepaid Funeral Contract (PFC)	365	\$4.0	365	\$4.1	365	\$4.1				
Perpetual Care Cemeteries (PCC)	241	\$346.8	241	\$352.4	241	\$357.1				
Cemetery Brokers (CB)	14	n/a	14	n/a	14	n/a				
Private Child Support Enforcement Agencies (PCSEA)	10	n/a	10	n/a	10	n/a				
Check Verification Entities (CVE)	2	n/a	2	n/a	2	n/a				
Bullion Depository Agent (BDA)	0	n/a	0	n/a	0	n/a				
Examinations Performed										
MSB	97		22		24					
MSB Limited Scope	1		0		1					
MSB Accepted other State	14		5		4					
PFC	240		104		58					
PFC Limited Scope	8		3		0					
PCC	201		43		38					
PCC Limited Scope	4		1		0					
Ratings (# / %) Assigned to All Regulated Entities										
1	277	36.7%	268	35.5%	266	35.2%				
2	399	52.8%	412	54.5%	415	54.9%				
3	66	8.7%	64	8.5%	60	7.9%				
4 & 5	13	1.8%	11	1.5%	15	2%				
Noncompliance with Examination Priorities (Past Due)										
MSB	13		10		9					
PFC	13		5		2					
PCC	16		7		6					

NOTES:

PCC \$ amounts reflected in the millions.

Limited scope examinations do not receive a rating.

Noncompliance with Examination Priorities (Past Due)

- The nine MSB past due examinations are on average twenty days past due.
- The six PCC past due examinations are on average ten days past due and the two PFC past due examinations are on average one month past due.
- Our examination schedule reflects that five of the past due PFC/PCC examinations were completed in March 2019, and the remaining three past due examinations will be completed in April 2019.
- Our examination schedule reflects that three of the past due MSB examinations were completed in March 2019, and four of the past due examinations will be completed in April 2019. The two remaining past due MSB examinations have been delayed due to ongoing enforcement proceedings.
- Special Audits met or exceeded all examination performance measures for the second quarter of FY 19.

MSB Financial Examiners met in Round Rock the week of February 18th and the PFC/PCC Financial Examiners met in Round Rock the week of March 25th to discuss current trends and events in the industry, to receive additional training on performing examinations and submitting compliant examination reports.

The 2018 Special Audits “Rate the Department” survey was recently completed. We only received 97 survey responses from the industry, or 12.6% of the total number of Special Audits license holders surveyed. The majority of the comments received were very positive. Also, the low number of survey responses received is generally a good indicator that the majority of the industry is satisfied with the Department’s supervisory duties. The survey results were discussed during the recent staff conferences to elicit feedback on comments received and to brainstorm on how to increase future industry participation.

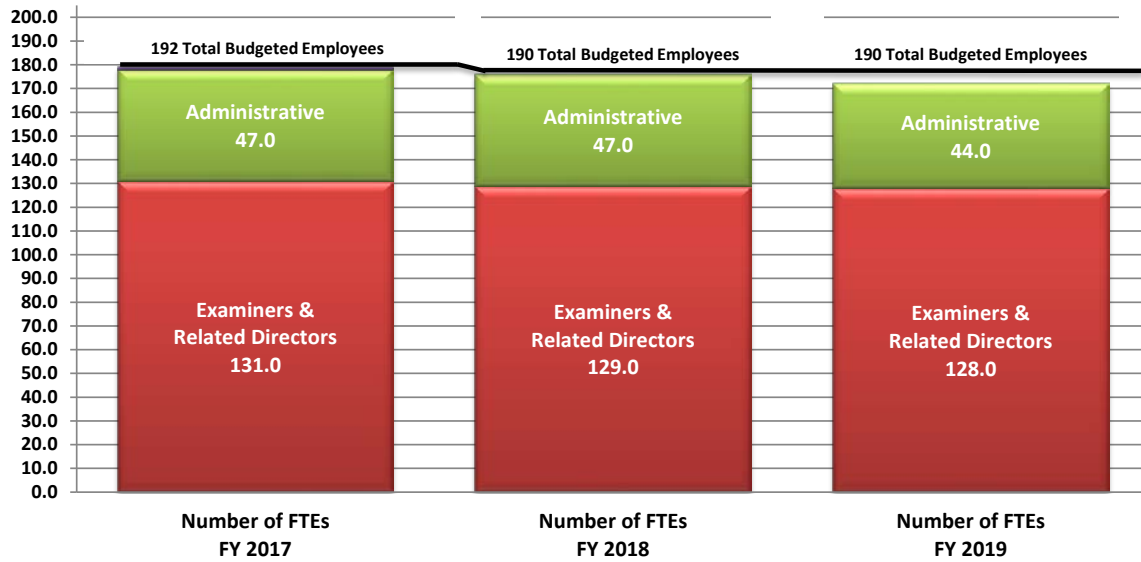
On April 3rd, Special Audits will interview applicants to fill the current MSB Financial Examiner position.

Agency personnel are active in working with the CSBS MSB Accreditation Working Group to set appropriate standards to support modernized and harmonized MSB programs across the state system. To further these efforts, Review Examiner Saucillo will travel to Washington D.C. on April 30th to attend a meeting to finalize the group’s recommendations which will be presented to the CSBS Performance Standards Committee for approval.

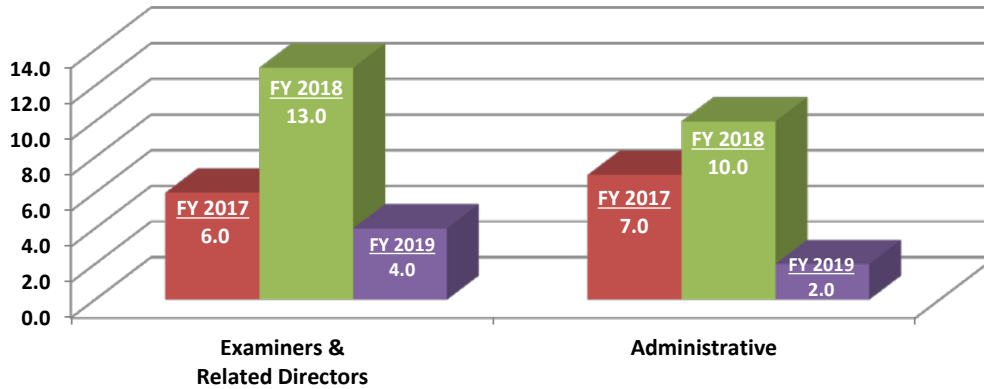
Furthermore, the agency has joined a six-state task force being led by CSBS to develop standardized MSB model practices and laws. In addition, the agency agreed to be part of a 2019 MSB Multi-State Joint Examination Pilot whereby a company will be examined only once in 2019. The efforts are being coordinated in part by Multi-State MSB Examination Task Force (MMET) and the various participating states.

Finally, the three MSB actions noted above are all efforts by various state regulators, including Texas, to streamline state regulation of MSBs. These tasks are being led by CSBS and are components of a larger strategic initiative called Vision 2020.

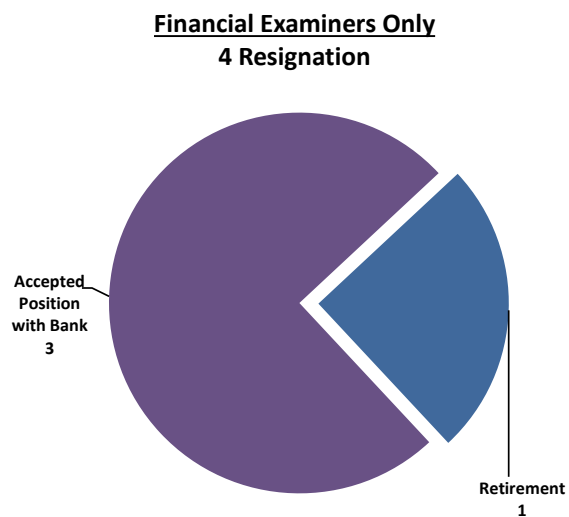
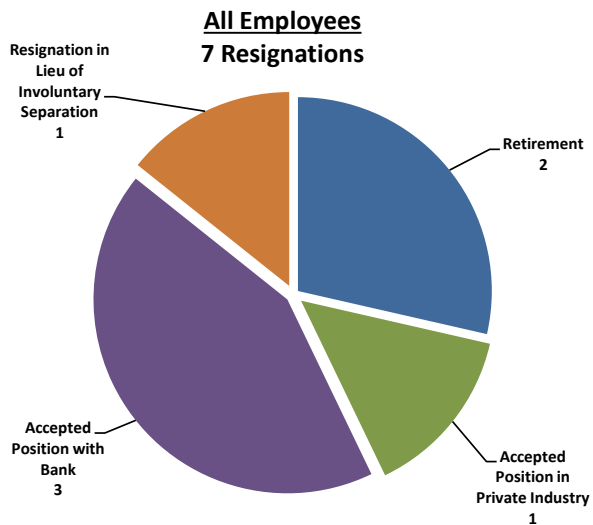
Texas Department of Banking
Employee Data for Fiscal Years 2017, 2018 and 2019 as of 2/28/19



New Hire Data for Fiscal Years 2017, 2018 and 2019



FY 2019 Employee Turnover Reasons



As of 2/28/19

Department of Banking
Actual Performance for Output Measures
Fiscal Year 2019

Type/Strategy/Measure	2019 Target	2019 Actual	2019 YTD	Percent of Annual Target		Comparable Historical Data for the same time period			
						FY2018	FY2017	FY2016	FY2015
Output Measures-Key									
1-1-1 Bank Examination									
1. # Bank Examinations Performed									
Quarter 1	108	26	26	24.07%		25	25	33	24
Quarter 2	108	24	50	46.30%		25	27	23	28
2. # Trust/IT Examinations Performed									
Quarter 1	218	53	53	24.31%		49	44	61	54
Quarter 2	218	48	101	46.33%		54	51	59	53
1-2-1 Non-Bank Examination									
1. # Special Audit Licensees Examined									
Quarter 1	560	178	178	31.79%	*	136	145	156	132
Quarter 2	560	123	301	53.75%		144	139	111	146
FY 2019, Quarter 1 - The positive variance relates to a team examination of a large entity with numerous licensees that was started near the end of the first quarter but was finalized in the second quarter. At the end of the second quarter, the performance will be near or at the budget.									
1-3-1 Application Processing									
1. # License Applications Completed									
Quarter 1	272	87	87	31.99%	*	64	78	84	65
Quarter 2	272	78	165	60.66%	*	62	74	58	85
FY 2019, Quarter 1 - The number of filings completed was above expectations due to the higher than expected volume of bank and trust related filings received.									
FY 2019, Quarter 2 - The number of filings completed was above expectations due to the higher than expected volume of bank and money service business filings received.									

*Varies by 5% or more from target.



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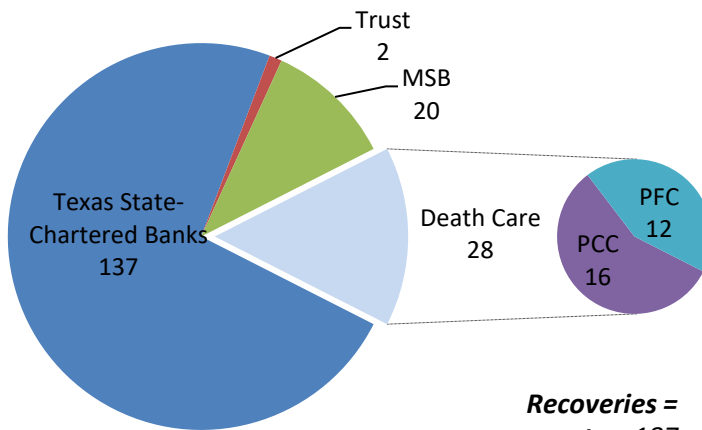
To: Finance Commission Members

From: Wendy Rodriguez, Director of Strategic Support 

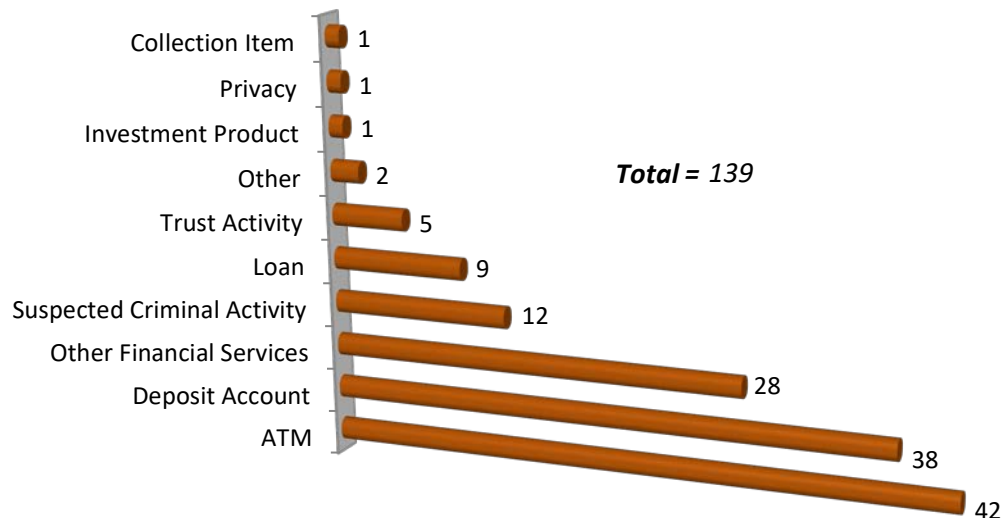
Date: April 1, 2019

Subject: Summary of the Strategic Support Division Activities

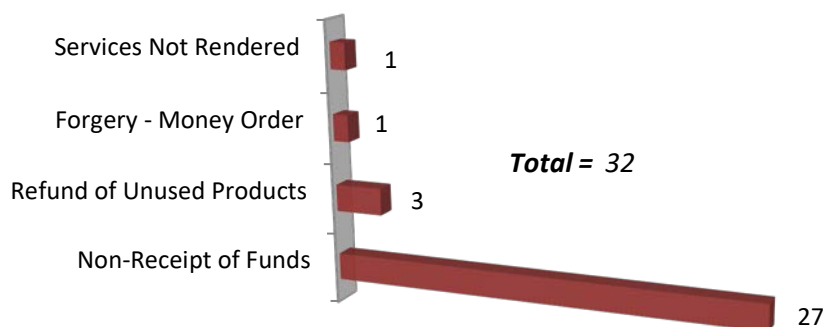
Jurisdictional Written Complaints September 2018 - February 2019



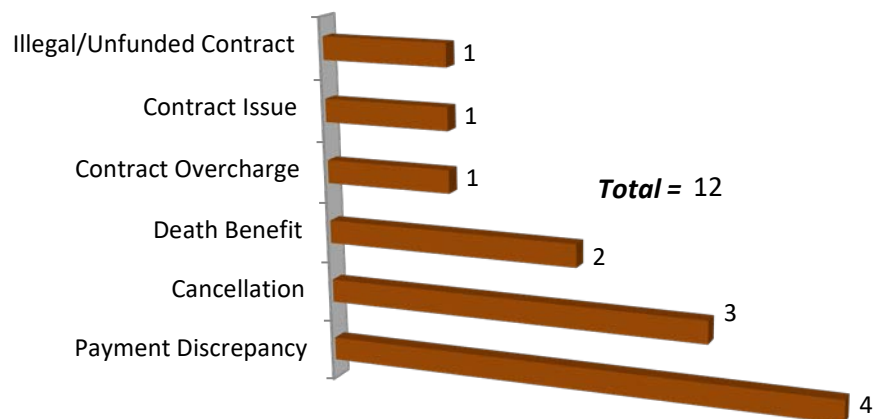
State-Chartered Banks and Trust Companies Written Complaints by Type September 2018 - February 2019



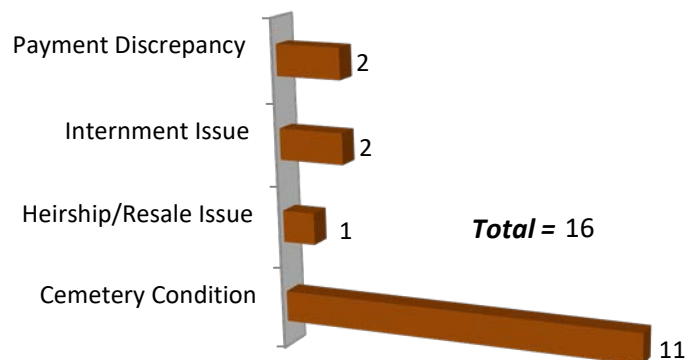
**Money Services Businesses
Written Complaints by Type
September 2018 - February 2019**



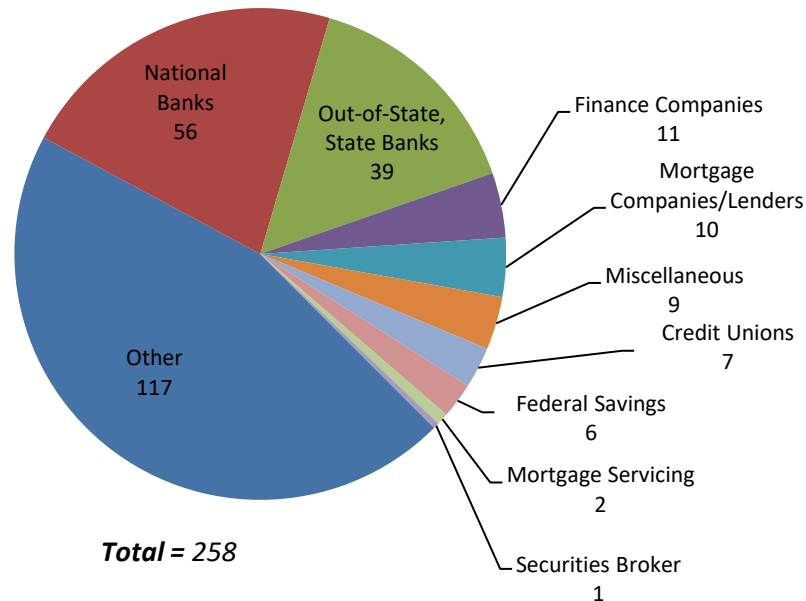
**Prepaid Funeral Contract Sellers
Written Complaints by Type
September 2018 - February 2019**



**Perpetual Care Cemeteries
Written Complaints by Type
September 2018 - February 2019**



Written Complaints Against Non-Jurisdictional Entities September 2018 - February 2019



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.

Consumer Assistance Activities Performance Measures

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
State-Chartered Banks				
Avg. Number of Days to Close a Written Complaint	19	7		
Percentage of Written Complaints Resolved Within 90 days	100%	100%		
Number of Written Complaints Resolved	59	75		
Trust				
Avg. Number of Days to Close a Written Complaint	15	40		
Percentage of Written Complaints Resolved Within 90 days	100%	100%		
Number of Written Complaints Resolved	1	1		
PCSEA				
Avg. Number of Days to Close a Written Complaint	NA	NA		
Percentage of Written Complaints Resolved Within 90 days	NA	NA		
Number of Written Complaints Resolved	NA	NA		
PFC/PCC				
Avg. Number of Days to Close a Written Complaint	32	39		
Percentage of Written Complaints Resolved Within 90 days	100%	100%		
Number of Written Complaints Resolved	13	10		
MSB				
Avg. Number of Days to Close a Written Complaint	36	30		
Percentage of Written Complaints Resolved Within 90 days	100%	100%		
Number of Written Complaints Resolved	17	17		

CANS ACTIVITY
January 1, 2016 – March 21, 2019

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	208	580
Texas State-Chartered Savings Banks	23	51
Federal Savings Banks	10	1
State Credit Unions	132	744
Federal Credit Unions	229	427
National Banks	170	177
Out-of-State State-Chartered Banks	12	128
Out-of-State National Banks	6	1
Total	790	2,109

Bank Examination Testing System (BETS) Activity
Number of Candidates Passing Each Phase

	FY 2016	FY 2017	FY 2018	FY 2019 As of 3/29/19
I. General Knowledge	9	8	6	2
II. Loan Analysis	4	3	3	2
III. Panel	3	2	2	2
IV. Test Bank	2	3	3	1
Total FE3	18	24	22	22

Promotions

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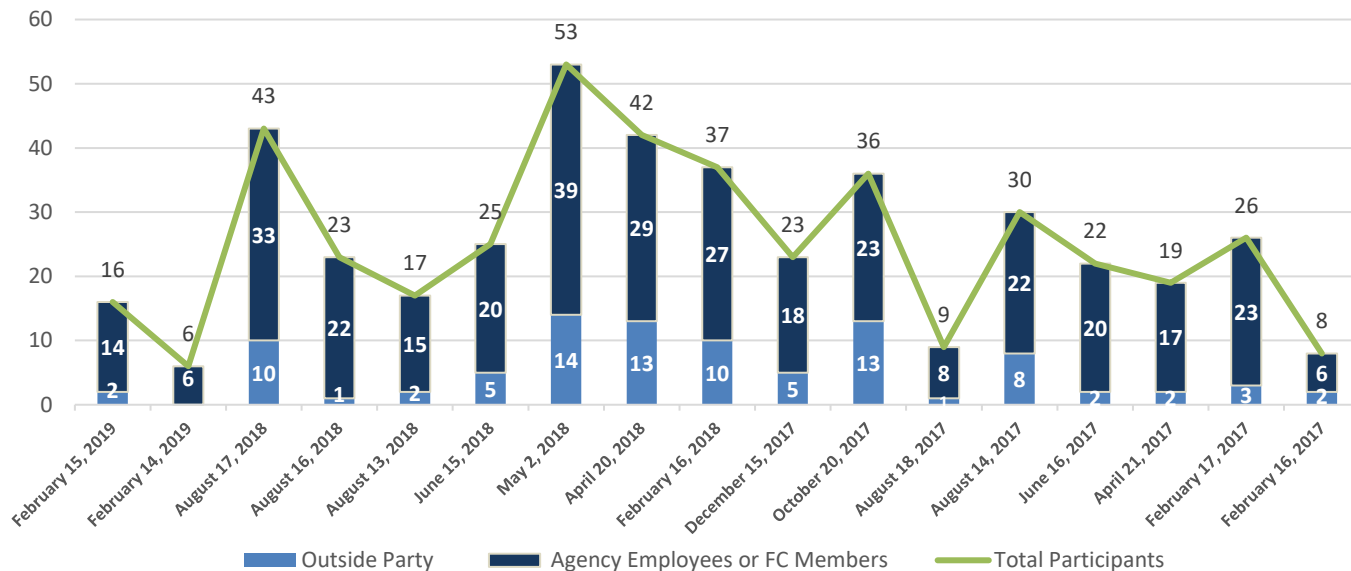
Other Divisional Items:

- *Publication*
 - The March 2019 edition of the Condition of the Texas State Banking System report is available with financial data as of December 31, 2018.
 - Various agency publications were updated in March 2019, including the [Agency Profile](#), [Top 100 Banks in Texas](#), and the [Overall Texas Banking Activity](#).
 - The Department collaborated with the Texas Bankers Association to produce a [handout](#) that provides "8 Tips for Banking Online Safely" and "8 Tips to be More Cybersecure." The handouts are available in English and Spanish and to assist customers to keep near their computers when conducting online transactions.

- *Home Equity*
 - The Home Equity Lending Worksheet used by examination staff was revised to incorporate the recent changes to Article 16, Section 50 of the Texas Constitution. The changes became effective on January 1, 2018.
- *86th Legislative Session*
 - The Texas Legislature convened on Tuesday, January 8, 2019 and is over halfway through the session which ends on May 27, 2019. A weekly status report on bills of interest to the Finance Commission (FC) is provided to each FC member on Mondays. Senate and House Committees are meeting regularly and bills of interest to the FC and the Department are in various stages of the legislative process. As of March 29, 2019, the Department is tracking 247 bills. Bill tracking reports are updated weekly and posted on the Intranet (DOBIE) to help keep agency staff informed of legislative activities.
- *Personnel and Policies Manual Updates*
 - Personnel Manual
 - Annual review of the Department's Fraud Policy was conducted. Technical changes were made.
 - Administrative Memorandums (AM)
 - Revised
 - AM 2023 – Website (Internet) and DOBIE (Intranet) Maintenance Policy
 - AM 2040 – Removal of Confidential FinCEN Data Files
 - AM 2019 – Employment and Promotion Qualifications for Financial Examiners
 - AM 2002 – Equal Employment Opportunity, Discrimination and Sexual Harassment Policy
 - New AM
 - AM 2028 was issued in March 2019 and relates to background checks conducted in accordance with statutory authority. The memo outlines the policies of the Department related to conducting background checks on the entities we supervise and applicants, and the controlling owners, directors, and executive management of those entities in accordance with the Department's statutory authority.
- *Website Statistics between September 1, 2018 through February 28, 2019*
 - The Texas Department of Banking website had 340,363-page views of the homepage. The top three pages were the entity search (16,013-page views), Applications and Forms (8,403-page views) and Money Service Businesses (8,130-page views). The financial education webpage had 900-page views during the same period. Users are accessing the site via desktop (54,069), mobile (35,456), and tablet devices (2,946).
 - The Finance Commission website had 1,003-page views of the homepage. The top three visited pages were the Home page (645-page views), Membership (61-page views), and Meetings (38-page views). Users are accessing the site via desktop (781), mobile (128), and tablet devices (20). This data represents the view on the redesigned website beginning 11/27/2018 when Google Analytics was added to the site.

- The Texas Prepaid Funeral Contracts website had 163-page views of the homepage. Users are accessing the site via desktop (119), mobile (N/A), and tablet devices (2).

Finance Commisison Webcast Historical Data*



* Webcast data is not available for the October 2018 and December 2018 meetings held at the capitol.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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Memorandum

TO: Finance Commission Members

FROM: Catherine Reyer, General Counsel

DATE: April 1, 2019

RE: Legal Division Update

Pending Contested Cases

In the Matter of Billy F. Peel, Individually and as President of Austin Peel and Son Funeral Home, Inc. and Austin Peel and Son Funeral Home, Inc., Austin, Texas; Docket No. BF-1806-18-194. Respondents held a permit to issue prepaid funeral contracts until 2006. On August 1, 2018, Commissioner Cooper issued an emergency cease and desist order which authorized seizure by the Department of Peel's records concerning the sale of unauthorized (illegal) prepaid funeral contracts. On November 6, 2018, Commissioner Cooper issued a Consent Order requiring the owner to pay \$524,780 in restitution and a minimum penalty of \$250,000. On February 28, 2019, we received full payment of the penalty and restitution amounts. We expect to have all restitution delivered to the purchasers covered under the Consent Order or escheated to the Texas Comptroller's office by April 30.

Isabel Cristina Rubio v. Bonial & Associates, P.C., et al.; Civil Action No. 4:18-cv-03307 in the United States District Court for the Southern District of Texas, Houston Division. Rubio, a sovereign citizen, named Texas Banking Commissioner Charles G. Cooper as one of many defendants in her civil lawsuit against JPMorgan Chase regarding foreclosure of her property. The Department of Banking was represented in the matter by the Office of the Attorney General. Following a removal to federal court in the Southern District of Texas by Defendant Chase, motions to dismiss were filed by the defendant parties. The Magistrate Judge overseeing the case filed a memorandum and recommendation that the motions to dismiss should be granted. Following objections filed by Rubio, Senior U.S. District Judge Gray H. Miller conducted a de novo review of the memorandum and recommendation along with the subsequently filed objections by Rubio and the underlying complaint. Judge Miller overruled Rubio's objections and adopted the memorandum and recommendation in full. Judge Miller also issued an Order of Final Judgment, granting the defendants' motions to dismiss. Rubio's claims were dismissed with prejudice per the signed order on March 6, 2019.

In the Matter of Southwest Group, LLC and Ryan Sasser, Fort Myers, Florida; Docket No. 18-1807-16-310. Respondents own and operate the website currencyliquidator.com, which offers customers the option to buy and sell foreign currencies. The Department had previously determined that the activity constitutes money transmission, and therefore requires a license. Following contact by Department staff in late 2015, Respondents certified in February 2016 that it had ceased conducting money transmission in Texas. Upon receiving information that Respondents' website had been reconfigured to once again accept Texas customers, the Department issued a Cease and Desist Order to Respondents in 2016. In August 2018, Department staff learned that Respondents had violated the Cease and Desist Order by again providing unlicensed money transmission services to Texas customers. A hearing on the matter was

scheduled for March 28, 2019. Mr. Sasser agreed to resolve the matter through a Consent Order under which he is required to pay a penalty of \$150,000. The Order was issued March 20, 2019.

Gifts

The Department received expense reimbursement from the Conference of State Bank Supervisors/State Regulatory Registry for tuition (\$695.00) and lodging and travel related expenses (\$941.52) for Xazel Garcia to attend the 2019 NMLS Conference February 18-21 in Orlando, Florida.

Orders Issued 2/1/19 – 3/31/19

During this time period, the Commissioner issued four enforcement orders, all of which are final and non-appealable:

Bank and Trust

- Prohibition Order dated February 4, 2019; Catana Gray, Amarillo, TX
- Consent Order of Removal and Prohibition, Awarding Restitution, and Imposing Administrative Penalties, March 20, 2019; David Wake Mann, Waco, TX

Special Audits

- Consent Order dated March 20, 2019; Southwest Group, LLC and Ryan Sasser, Fort Myers, FL
- Consent Order dated March 22, 2019; Clayton Kay-Vaughan Funeral Homes, Grandview, TX

FY 2019 To Date Quarterly Order Activity

BANK				
Type of Action	1st	2nd	3rd	4th
Consent Order	1	0		
Cease & Desist	1	0		
Supervision	0	0		
Prohibition	0	3		
Total	2	3		
TRUST COMPANY				
Consent Order	0	0		
Cease & Desist	0	0		
Supervision	0	0		
Prohibition	0	0		
Total	0	0		
MONEY SERVICE BUSINESS				
Consent Order	8	1		
Cease & Desist	0	2*		
Total	8	3		
PERPETUAL CARE CEMETERY				
Consent Order	0	1		
Cease & Desist	0	0		
Refusal to Renew Cert/Auth	0	0		
Final Order after hearing	0	0		
Total	0	1		
PREPAID FUNERAL CONTRACT				
Consent Order	1	1		
Cease & Desist	0	0		
Conversion	0	0		
Total	1	1		

*The subjects of these Orders have requested hearings; therefor the Orders are not yet effective.

FUTURE RULEMAKING ACTIVITY		
Rule	Subject	Projected Date for Presentation
7 TAC Ch. 11	Complaint Handling Procedures (new)	June 21, 2019
7 TAC Chs. 3, 17, 33	Notification in Event of Cybersecurity Breach (new)	June 21, 2019
7 TAC Ch. 25	Assessments on Prepaid Funeral Contract Sellers (new)**	June 21, 2019
7 TAC Ch. 26	Assessments on Perpetual Care Cemeteries (new)**	June 21, 2019
7 TAC Chs. 9, 10, 12, 25	Rule Reviews	June 21, 2019
7 TAC Ch. 9	Procedures for Alternative Dispute Resolution (new)**	August 16, 2019
7 TAC Ch. 33	Bullion Depository Agents**	August 16, 2019

** These rules are contingent upon passage of legislation.

C.

**Department of Savings and
Mortgage Lending**

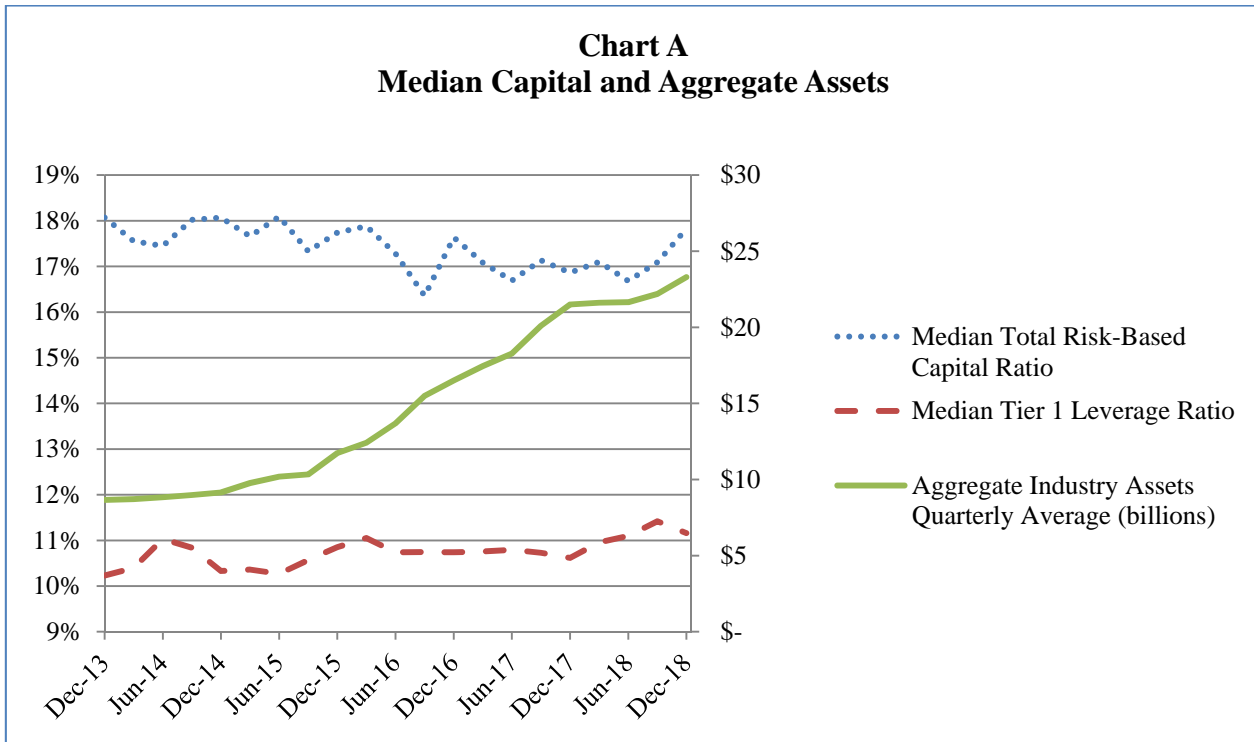
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C. Texas Department of Savings and Mortgage Lending

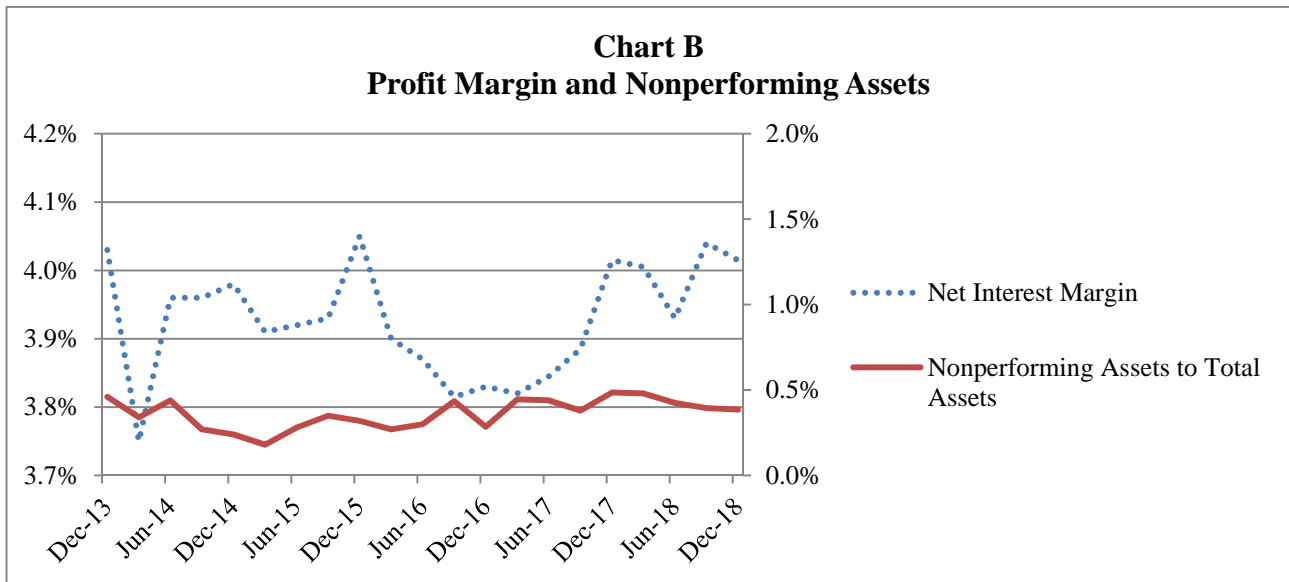
1. Industry Status and Departmental Operations – State Savings Bank Activity:

a. Industry Status

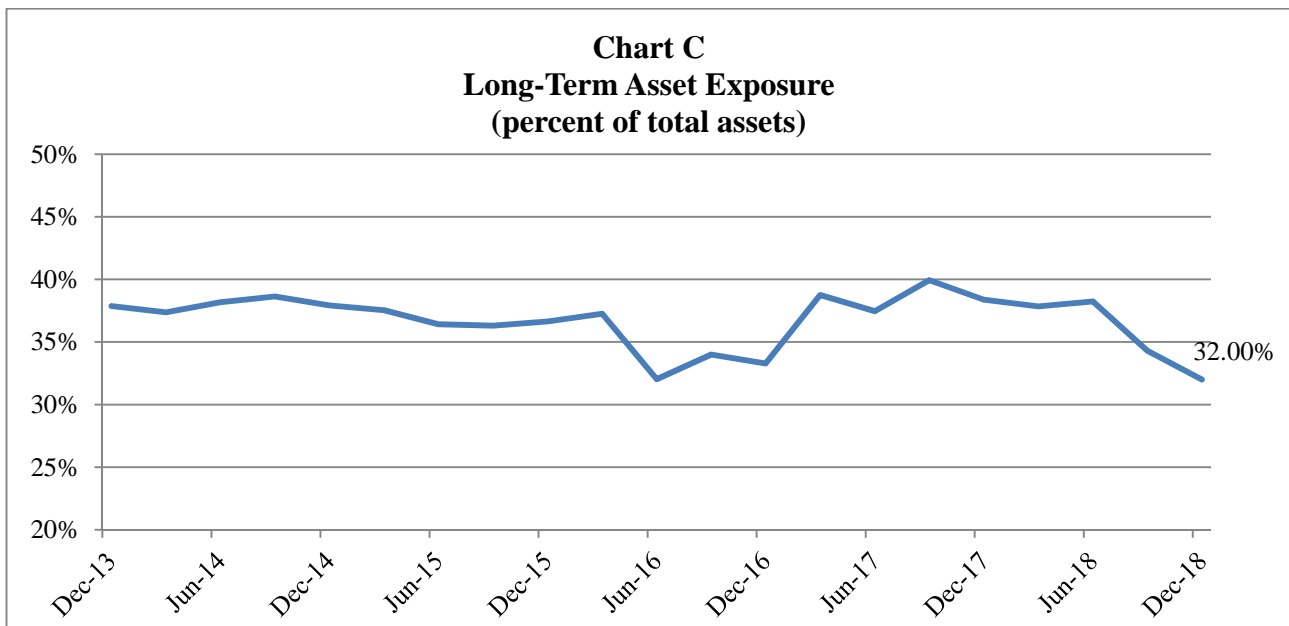
The Department continues to monitor various local, state, and national data sources to best understand the risks facing the industry and individual savings banks. Below is a state savings bank industry status to highlight specific areas that the department monitors in relation to changes in the state and national economic environment.



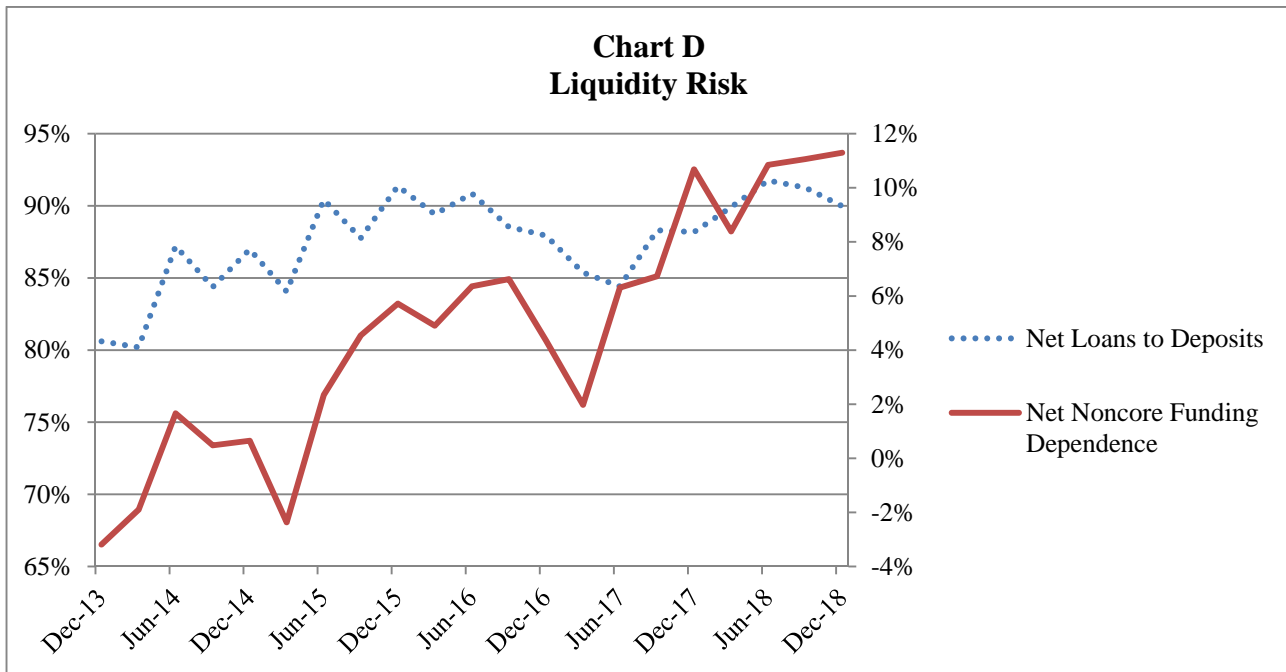
As of December 31, 2018, there were 24 state savings banks totaling \$24.4 billion in total assets. The average asset size of the median state savings bank (“SSB”) grew by 4.68% in the last four quarters to \$315.9 million. The median total risk-based capital ratio and median leverage capital protection have remained generally consistent and are now 17.83% and 11.16%, respectively.



The net interest or profit margin (Chart B) remains consistent with the prior year at 4.02%. Nonperforming asset levels remain low at 0.39% of total assets, compared to the prior year's 0.49%.



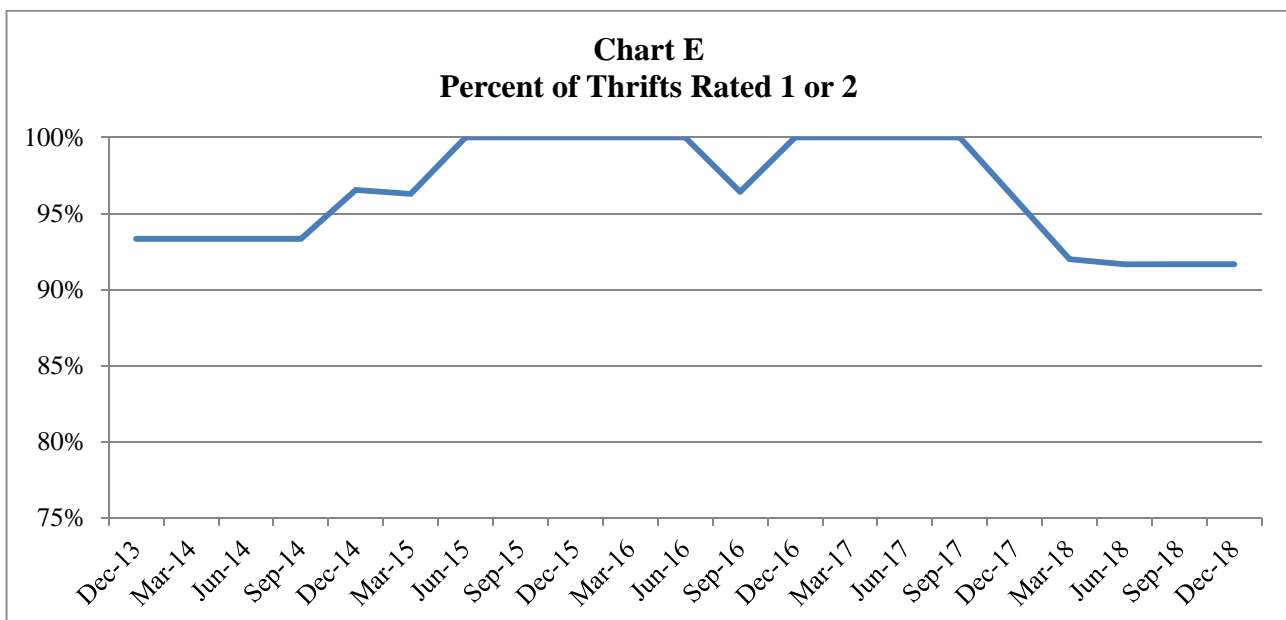
Market risk, as evidenced by long-term asset exposure (Chart C), was noticeably elevated from late 2013 through early 2016. In early 2017, the exposure again began to rise, however levels continue to indicate a decreasing trend in long-term asset exposure through the most recent quarter. There remain a small number of outlier institutions with high long-term asset exposure; however, these are generally operating within historical norms of ten years or more.



Liquidity risk in Texas thrifts has trended upwards over the last five years (Chart D), as indicated by the Net Noncore Funding Dependence (NNCFD) Ratio, a measure of the funding of long-term assets using short-term funding strategies. The median NNCFD Ratio has increased from 10.68% to 11.30% in the last four quarters, but is considered manageable. The loan-to-deposit ratio, a measure of the use of deposits to fund lending activities, also remains elevated at 89.98% with 21% of the industry over 100%.

All SSBs are subject to quarterly offsite reviews. Those with the highest risk profiles receive enhanced scrutiny, as warranted, with targeted visitations, accelerated examinations, and/or corrective actions.

Ninety-two percent of SSBs at December 31, 2018, were rated a Composite 1 or 2 (Chart E). There are two formal outstanding enforcement actions.



b. Savings Bank Charter and Merger Activity

On December 19, 2018, application was received from Spirit of Texas Bank, SSB, College Station, Texas, to acquire The First National Bank of Beeville, Beeville, Texas. The merger is tentatively scheduled to occur in April 2019.

The Department continues to receive and process various other applications.

Departmental Operations - Thrift

Deputy Commissioner Trotti attended IBAT's Texas Tour in La Grange.

Commissioner Jones participated in FDIC Dallas Region's Roundtable on FDIC Deposit Insurance Applications on February 22, 2019.

Commissioner Jones and General Counsel Garcia attended TBA's Breakfast with Legislators on March 6, 2019.

Commissioner Jones spoke on the regulatory panel at TBA's Women in Banking Conference on March 8, 2019.

2. Discussion of and Possible Vote to Take Action on the Maximum Annual Assessment Rate Schedule for Texas State Savings Banks.

MAXIMUM ANNUAL ASSESSMENT RATE SCHEDULE

Effective September 1, 2019

Assets Over	Not Over	Amount	Plus	Over
\$0	\$2 million	\$5,548	0.000000000	\$0
2 million	20 million	5,548	0.000219058	2 million
20 million	100 million	9,491	0.000175245	20 million
100 million	200 million	23,510	0.000113940	100 million
200 million	1 billion	34,900	0.000096381	200 million
1 billion	2 billion	112,004	0.000078857	1 billion
2 billion	6 billion	190,861	0.000070094	2 billion
6 billion	20 billion	471,237	0.000059643	6 billion
20 billion	40 billion	1,306,239	0.000044928	20 billion
40 billion	250 billion	2,204,799	0.000035103	40 billion
250 billion		9,576,429	0.000034751	250 billion

Surcharge (condition premium), assessed in addition to the regular assessment

CAMELS < 3	0 % of regular assessment
CAMELS = 3	50 % of regular assessment
CAMELS > 3	100 % of regular assessment

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

a. Residential Mortgage Loan Originators

Current Licensing Population:

License Type As of 03/31/2019	Approved		
	Entity (MU1)	Branch (MU3)	MLO (MU4)
<i>Auxiliary</i>	3	n/a	
<i>CUSO</i>	4	2	
<i>FSC</i>	1	n/a	
<i>Independent Contractor</i>	128	n/a	
<i>Mortgage Company</i>	1,336	645	
<i>Mortgage Banker</i>	412	2,861	
<i>Mortgage Servicer</i>	192	n/a	
Totals	2,076	3,508	26,071

The license renewal and reinstatement period ended February 28, 2019; any license that had not requested renewal or reinstatement expired. There were 76 company, 165 branch, and 6,242 individual licenses that expired. As of the second quarter 3,946 applications had been processed. For the first half of FY19, the Department received 3,842 applications and 56,014 other related filings – record amendments, sponsorship changes, etc.

b. Mortgage Examinations

During the first half of FY19, a total of 241 examinations were conducted covering 2,383 individual licensees.

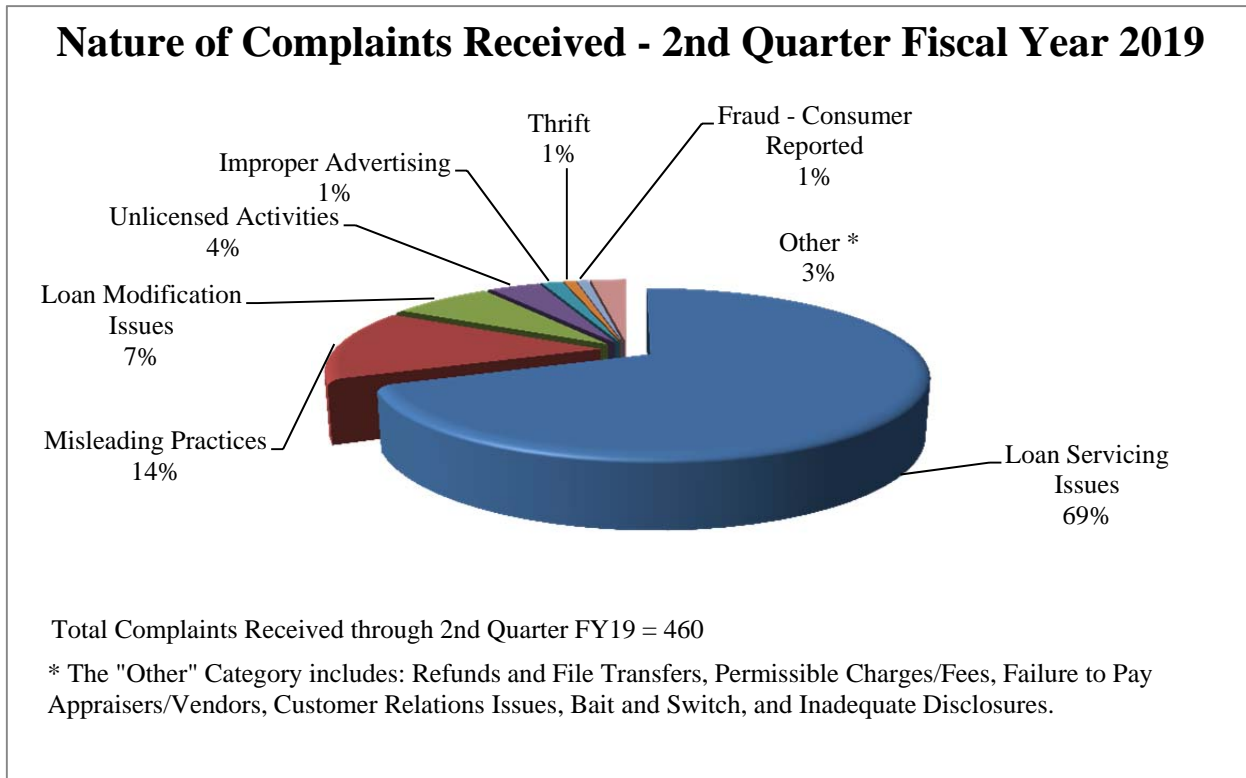
The number of examinations is slightly higher when compared to the same period in FY18. The number of individual licensees covered decreased by 64%. The decrease in the number of licensees covered is a direct result of one large entity operation being examined during the second quarter of FY18 that accounted for 47% of the annual total.

Below is a breakdown of mortgage examination results by compliance rating for the first half of FY19. There were no 5 rated examinations issued during the first half of FY19.

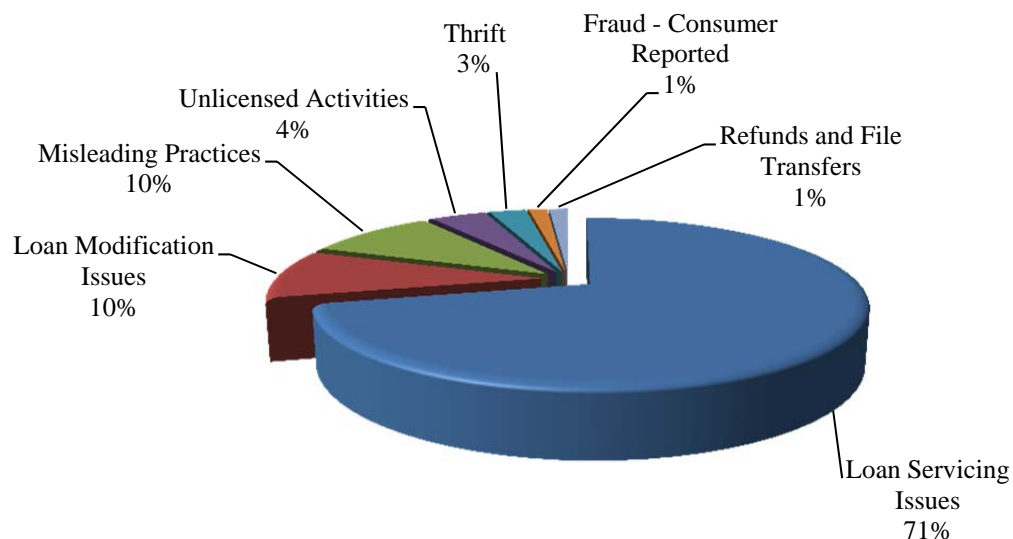
Mortgage Examination Compliance Ratings											
	# Mortgage Exams	Rated "1"	%	Rated "2"	%	Rated "3"	%	Rated "4"	%	Rated "5"	%
Fiscal Year 2017											
9/1/16 - 8/31/17	476	62	13%	214	45%	156	32%	41	9%	3	1%
Fiscal Year 2018											
9/1/17 - 8/31/18	431	53	12%	213	49%	120	28%	44	10%	1	1%
As of 2nd Qtr FY19											
9/1/18 - 2/28/19	241	33	14%	122	51%	71	29%	15	6%	0	0%

c. Consumer Complaints

During the first half of FY19, a total of 460 consumer complaints were received. This represents an 18% decrease when compared to the same period in FY18. Loan servicing complaints accounted for 69% of the total number of complaints received. As of February 28, 2019, there were a total of 73 open consumer complaints with 96% of the complaints being aged less than 90 days. The following charts reflect consumer complaint activity through the end of the second quarter.

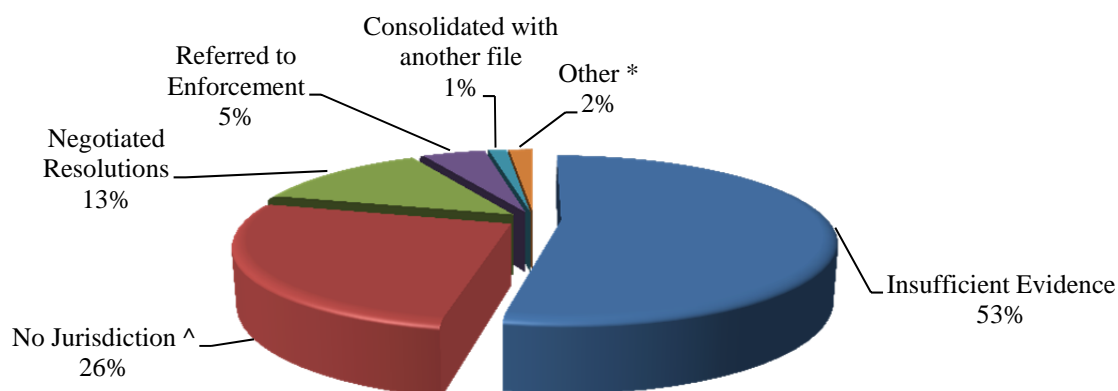


Nature of Open Complaints as of 02-28-2019



Total Open Complaints as of 02-28-2019 = 73

Disposition of Resolved Complaints - 2nd Quarter Fiscal Year 2019



Total complaints resolved through the 2nd Quarter FY19 = 450

^ 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: Information Only, Complaint Withdrawn, Opened in Error, and No Investigation

Departmental Operations - Mortgage

Commissioner Jones spoke at the Texas Mortgage Round-up on February 12, 2019.

Director Florence, Director O'Shields and Examiner Bill Poe, attended the NMLS annual conference the week of February 18, 2019.

Commissioner Jones spoke at the Texas Land Developers Association's Mortgage and Home Symposium on March 6, 2019.

Department of Savings and Mortgage Lending
Actual Performance for Output Measures

Type/Strategy/Measure	2019 Target	2019 Actual	2019 YTD	Percent of Annual Target		Comparable Historical Data for the same quarter ending time period			
						FY2018	FY2017	FY2016	FY2015
Output Measures-Key									
1-1-1 Thrift Safety and Soundness									
1. Number of Examinations Performed									
Quarter 1	22	5	5	22.73%					
Quarter 2	22	8	13	59.09%	*	10	11	7	11
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	8,000	2,107	2,107	26.34%					
Quarter 2	8,000	1,839	3,946	49.33%		4,289	4,096	3,443	2,882
2. Number of Licensees Examined									
Quarter 1	6,000	1,103	1,103	18.38%	*				
During the quarter, 79% of the examinations conducted were of smaller companies, most having fewer than 10 originators being sponsored by the company.									
Quarter 2	6,000	1,280	2,383	39.72%	*	6,677	3,376	2,695	5,210
During the quarter, 82% of the examinations conducted were of smaller companies, most having fewer than 10 originators being sponsored by the company. The Department anticipates meeting this target by year end.									
3-1-1 Consumer Responsiveness									
1. Number of Consumer Complaints Completed									
Quarter 1	1,000	230	230	23.00%	¹				
Quarter 2	1,000	220	450	45.00%		536	506	515	398

*Varies by 5% or more from target.

¹ The first quarter number has been restated from what was previously reported. The original number reported was 228.

4. Fiscal/Operations Activity:

a. Funding Status/Audits/Financial Reporting

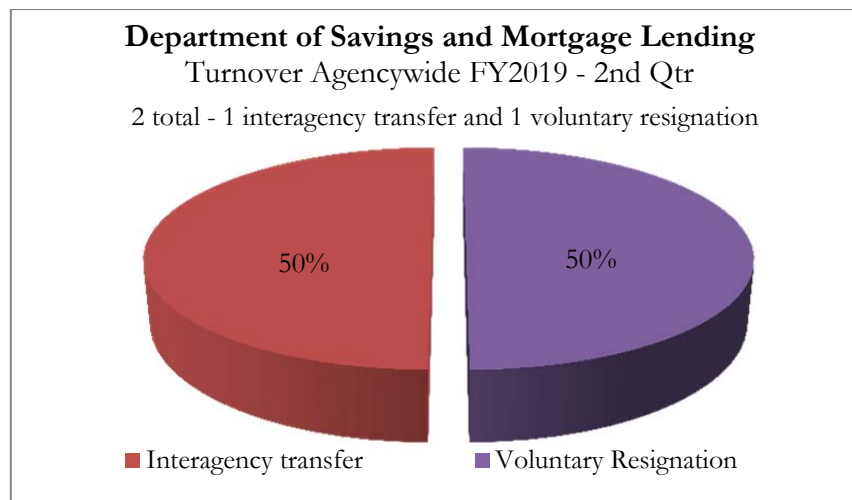
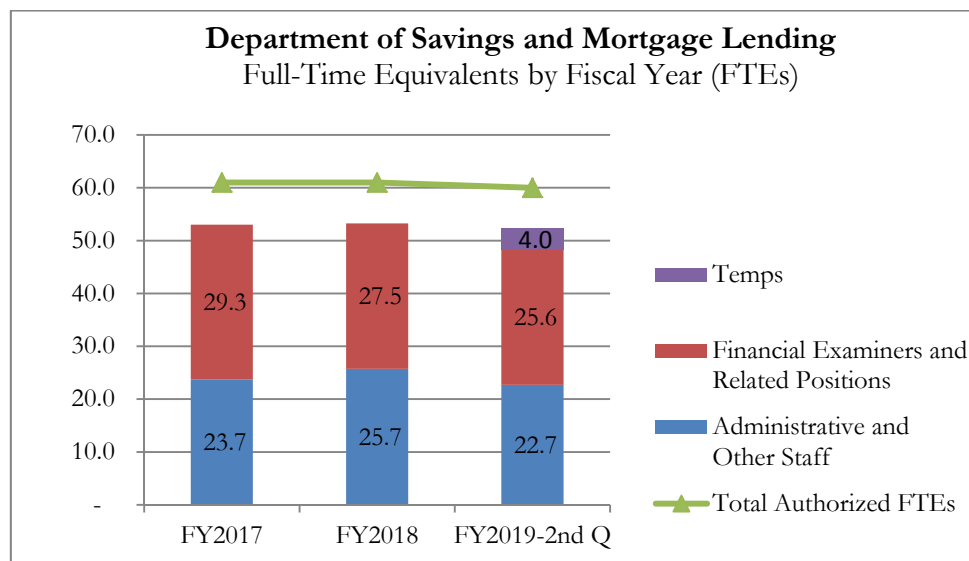
Funding Status/Budget – Staff is working on closing out the second quarter of FY19.

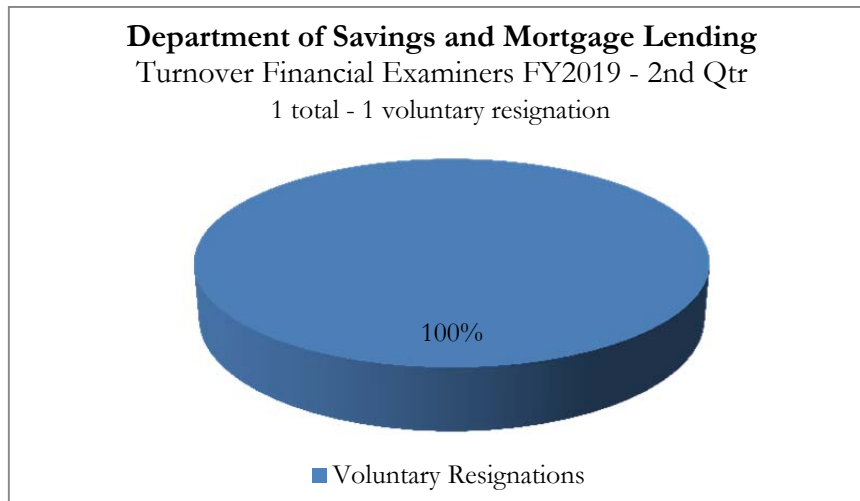
Efficiency Study – Staff has responded to multiple information requests from McConnell Jones.

b. Staffing

As of March 31, 2019, the Department was staffed at 52 regular employees – 51 full-time and one part-time with 60 FTEs available.

During the months of February and March, there were two new hires – an Administrative Assistant and a Customer Service Representative, and one voluntary separation.





Below is the status of the Department's vacancies:

Vacancy Status	
Customer Service Representative I/II	Closed - Hired
Administrative Assistant II	Closed - Hired
Financial Examiner I/II – Thrift	Open – Conducting Interviews
Financial Examiner III – Thrift	Open – Conducting Interviews
Financial Examiner IV – Thrift	Open – Conducting Interviews
Investigator II - Licensing	Open – Reviewing applications
License and Permit Specialist II/III	Open – Reviewing applications
Attorney II/III	Open – Collecting applications

Departmental Operations

The Department participated in the “2019 Get Fit Texas!” state agency challenge from January 21, 2019 to March 31, 2019.

5. Legal Activities:

SOAH Cases:

Case No. 450 19-0563 *Department of Savings and Mortgage Lending v. Ian Keber*

The Department denied the RMLLO license application of Ian Keber on the grounds that he had failed to establish that he was of good moral character. Mr. Keber appealed the license denial. A contested SOAH hearing was held before an administrative law judge on December 20, 2018. A Proposal for Decision was issued by the SOAH ALJ on March 11, 2019, finding that Mr. Keber's application for licensure be denied. As allowed by statute, the Department is waiting on any exception to be filed by Mr. Keber.

Gift Reporting:

On February 18 - 21, 2018, the State Regulatory Registry, LLC provided a scholarship for the 2019 NMLS Annual Conference, covering registration, airfare, and hotel. The value of the scholarship was \$1,907.

Legislation:

The Department is monitoring bills that might impact the Department or the regulated industries and as requested staff serves as resource on these bills. In addition to these bills, the Department is

tracking other bills of interest, mostly general government in nature. In total the Department is tracking 298 bills.

The Sunset bills pertaining to the Department and the Department of Banking are SB614 (Nichols, Birdwell, Buckingham, Hall) and companion HB1569 (Lambert). SB614 passed out of the Senate on March 27, 2019. The bill was received in the House from the Senate on March 27, 2019. On April 1, 2019 the bill was referred to the House Committee on Pensions, Investments and Financial Services.

SB42 (Zaffarini) relating to wrap-around loans was laid out on March 12, 2019, before the Senate Committee on Business and Commerce, where public testimony was heard. The bill was left pending in committee. The bill, if passed, will create new Chapter 159 to the Finance Code to be administered by the Department.

HB3945 (Parker) and companion SB2330 (Creighton) relating to temporary authority would align the Texas SAFE Act with recent amendments to the Federal SAFE Act. They would allow temporary authority to originate residential mortgage loans, prior to receiving a state license, for certain individuals who are currently registered with a depository institution and are going to work for a licensed mortgage company or mortgage banker in Texas; and for certain individuals currently licensed by other states or other governmental jurisdictions and the individual is working for a mortgage company or mortgage banker licensed in Texas. Both bills were referred to their respective committees – House Committee on Pensions, Investments and Financial Services and Senate Committee on Business and Commerce – on March 21, 2019.

6. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, §80.201 (a) and (b), Concerning Loan Status Forms.

PURPOSE: The purpose of the proposed amendment is to: (1) make the content of the conditional pre-qualification forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; (2) emphasize that the pre-qualification form is not a loan approval or commitment to lend; (3) make the content of the conditional loan approval forms or letters used by mortgage loan companies, mortgage bankers, and residential mortgage loan originators more uniform; and (4) emphasize that the conditional loan approval form states that the applicant is in fact approved for a mortgage loan, provided that certain conditions are met prior to loan closing.

RECOMMENDED ACTION: The Department recommends that the Commission approve publication of the proposed amendments in 7 TAC, §80.201 (a) and (b) for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that we publish proposed amendments to 7 TAC, §80.201 (a) and (b) in the *Texas Register* for comment.

***Title 7. Banking and Securities
Part 4. Department of Savings and
Mortgage Lending
Chapter 80. Residential Mortgage Loan
Companies
Subchapter C. Duties and Responsibilities
7 TAC §80.201***

The Finance Commission of Texas (the commission) on behalf of the Department of Savings and Mortgage Lending (the department), proposes to amend 7 Texas Administrative Code Chapter 80, Subchapter C, §80.201 concerning loan status forms.

The proposed amendments to Section 80.201 clarify the usage of conditional pre-qualification and conditional loan approval forms, when such forms are provided by mortgage loan companies to mortgage applicants or prospective mortgage applicants. The proposed amendments amend Graphic Form A the conditional pre-qualification letter content and Form B the conditional loan approval letter content. Forms A and B as amended: (1) make the content of the conditional pre-qualification forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; (2) emphasize that the pre-qualification form is not a loan approval or commitment to lend; (3) make the content of the conditional loan approval forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; and (4) emphasize that the conditional loan approval form states that the applicant is in fact approved for a mortgage loan, provided that certain conditions are met prior to loan closing.

Caroline C. Jones, the Department of Savings and Mortgage Lending Commissioner, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the proposed rules.

Commissioner Jones also has determined that, for each year of the first five years the rules as proposed are in effect: (a) the public benefit anticipated as a result will be to decrease consumer / borrower misunderstanding or confusion as to when they are conditionally pre-qualified for a loan in contrast to when they are actually conditionally approved for a mortgage loan and (b) there will be no economic costs to persons required to comply with the rules as proposed.

For each year of the first five years that the rules will be in effect, the rules will not:

- (1) create or eliminate a government program;
- (2) require the creation of new employee positions or the elimination of existing employee positions;
- (3) require an increase or decrease in future legislative appropriations to the agency;
- (4) require an increase or decrease in the fees paid to the agency;
- (5) create a new regulation;
- (6) expand, limit or repeal an existing regulation;
- (7) increase or decrease the number of individuals subject to the rule's applicability; and
- (8) positively or adversely affect this state's economy.

There will be no adverse economic

effect on small businesses, micro-businesses, or rural communities. There will be no difference in the cost of compliance for these entities. The department has considered alternate methods of achieving the purpose of the proposed rule and has concluded that the proposed rule is the best method to achieve the purpose of decreasing consumer confusion.

Comments on the proposed amendments may be submitted in writing to Ernest C. Garcia, General Counsel, Department of Savings and Mortgage Lending, 2601 North Lamar, Suite 201, Austin, TX 78705 or by email to smlinfo@sml.texas.gov within 30 days of publication in the *Texas Register*.

The amendments are proposed under Texas Finance Code §11.306, which provides that the Finance Commission may adopt residential mortgage loan origination rules as provided by Chapter 156 and by Texas Finance Code §156.102, which provides that the Finance Commission may adopt rules relating to Residential Mortgage Loan Companies.

The statutory provisions affected by the proposed amendments are contained in Texas Finance Code, Chapter 156.

7 TAC §80.201

§80.201 Loan Status Forms

(a) Except as otherwise provided by subsection (d) ~~[(e)]~~ of this section, when provided to a mortgage applicant or prospective mortgage applicant ~~[or mortgage applicant]~~, written confirmation of conditional pre-qualification shall include the information in Form A, Figure: [7 TAC § 80.201\(a\)](#). This information can be provided by utilizing Form A or an alternate

form that includes all of the information found on Form A. There is no requirement to issue a written confirmation of conditional pre-qualification. Form A or an alternate form ~~[Either form]~~ may be modified by adding any of the following as needed:

Figure: 7 TAC §80.201(a) {See attached amended form}

(1) Any additional aspects of the loan as long as not misleading;

(2) Any additional items that the originator has reviewed in determining conditional qualifications; or

(3) Any additional terms, conditions, and requirements.

(b) When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan ~~[application]~~ approval on the basis of credit worthiness, but not on the basis of collateral, shall include the information in Form B, Figure: [7 TAC § 80.201\(b\)](#). This information can be provided by utilizing Form B or an alternate form that includes all of the information found on Form B. There is no requirement to issue a written notification of conditional loan approval. Form B or an alternate ~~[Either]~~ form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional loan approval should not be issued until all credit requirements have been met unless an item is not a condition of the loan. Desktop or other automated underwriting does not

qualify the mortgage applicant or prospective mortgage applicant for conditional approval.

Figure: 7 TAC §80.201(b) {See attached amended form}

(c) An individual is required to be licensed under Finance Code, Chapter 157 if the individual issues or signs a conditional pre-qualification letter or conditional approval letter pursuant to 7 TAC §80.100(a)(5).

(d) [(e)] Subsection (a) of this section does not apply to "firm offers of credit," as that term is defined in 15 U.S.C. § 1681a (l).

Certification

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on April 12, 2019.

Ernest C. Garcia
General Counsel
Department of Savings and Mortgage
Lending

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

[~~Residential Mortgage Loan Originator:~~]

[~~License Number:~~ _____]

Prospective Applicant(s)/ Applicant(s):

[Address: _____]

[Phone #: _____]

Mortgage Company:

NMLS ID #:

Loan Details [~~(describe as follows)~~]:

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

[~~Residential mortgage loan originator _____ has _____ has not received a signed application for the Loan from the prospective applicant~~]

Mortgage company [~~Residential mortgage loan originator~~] _____ has _____ has not reviewed the prospective applicant's / applicant's credit report and credit score

[~~Residential mortgage loan originator _____ has _____ has not reviewed the prospective applicant's credit score~~]

[~~Residential mortgage loan originator has reviewed the following additional items (list):~~]

The prospective applicant(s) / applicant(s) has provided the mortgage company [~~residential mortgage loan originator _____ verbally _____ in writing~~] with the following information [~~about the prospective applicant~~]:

Income _____ Yes _____ No _____ Not applicable

Available cash to close [~~for down payment and payment of closing costs~~] _____ Yes _____ No _____ Not applicable

Debts _____ Yes _____ No _____ Not applicable

Assets _____ Yes _____ No _____ Not applicable

Figure: 7 TAC §80.201(a)

Based on the information that the prospective applicant(s) / applicant(s) has provided, the mortgage company [~~to the residential mortgage loan originator as described above, the residential mortgage loan originator~~] has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section [~~an approval for the Loan~~].

Approval of the loan [~~Loan~~] requires:

1. Receipt of a complete loan application and all supporting documents requested [~~(1) the residential mortgage loan originator to verify the information that the prospective applicant has provided;~~]

2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided [~~(2) the prospective applicant's financial status and credit report to remain substantially the same until the loan closes;~~]

3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes [~~(3) the collateral for the loan (the subject property) to satisfy the lender's requirements (for example, appraisal, title, survey, condition, and insurance);~~]

4. The collateral for the loan to satisfy the lender's requirements [~~(4) the loan, as described, to remain available in the market;~~]

5. The loan, as described, to remain available in the market [~~(5) the prospective applicant to execute loan documents the lender requires; and~~]

6. The prospective applicant(s) / applicant(s) to execute loan documents the lender requires [~~(6) the following additional items (list);~~]

7. The following additional items (list): _____

This conditional pre-qualification expires on: _____

Residential Mortgage Loan Originator Name

NMLS ID #

Form B

Conditional Approval Letter

Date:

~~[Residential Mortgage Loan Originator:]~~

~~[License Number: _____]~~

Prospective Applicant(s) / Applicant(s):

Mortgage Company:

NMLS ID #:

~~[Address: _____]~~

~~[Phone #: _____]~~

Loan Details ~~[(describe as follows)]:~~

Loan Amount:

Interest Rate*:

Term:

Interest Rate Lock Expires (if applicable):

Maximum Loan-to-Value Ratio:

Loan Type and Program:

*Interest rate is subject to change unless it has been locked

~~[Secondary financing terms (if applicable):—~~

~~Optional Information: Points: Origination: _____ Discount: _____~~

~~Commitment: _____ Other (describe): _____]~~

Has a subject property been identified? ~~[Subject Property:]~~ ____ Yes ____ No

~~[Residential mortgage loan originator has received a signed application from the applicant.]~~

Mortgage company ~~[Residential mortgage loan originator]~~ has:

Reviewed prospective applicant's / applicant's credit report and credit score ____ Yes ____ No ____ Not applicable

Verified prospective applicant's / applicant's income ____ Yes ____ No ____ Not applicable

Verified prospective applicant's / applicant's available cash to close ~~[for down payment and closing costs]~~
____ Yes ____ No ____ Not applicable

Figure: 7 TAC §80.201(b)

Reviewed prospective applicant's / applicant's debts and other assets ____ Yes ____ No ____ Not applicable

Prospective applicant(s) / applicant(s) [~~Applicant~~] is **approved** [~~approved~~] for the loan provided that [~~the applicant's~~] creditworthiness and financial position do not materially change prior to closing and **provided that** [~~provided that~~]:

1. The subject property is appraised for an amount not less than \$_____ [;]
2. The lender does not object to encumbrances to title shown in the title commitment [~~or survey~~;]
3. The subject property's survey shows no encroachments[;]
4. [~~3-~~] The subject property's condition meets lender's requirements[;]
5. [~~4-~~] The subject property is insured in accordance with lender's requirements[;]
6. [~~5-~~] The prospective applicant(s) / applicant(s) executes the loan documents lender requires[;] and
7. [6] The following additional conditions are complied with (list):

This conditional approval expires on _____.

Residential Mortgage Loan Originator Name

NMLS ID #

7. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, §81.201 (a) and (b), Concerning Loan Status Forms.

PURPOSE: The purpose of the proposed amendment is to: (1) make the content of the conditional pre-qualification forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; (2) emphasize that the pre-qualification form is not a loan approval or commitment to lend; (3) make the content of the conditional loan approval forms or letters used by mortgage loan companies, mortgage bankers, and residential mortgage loan originators more uniform; and (4) emphasize that the conditional loan approval form states that the applicant is in fact approved for a mortgage loan, provided that certain conditions are met prior to loan closing.

RECOMMENDED ACTION: The Department recommends that the Commission approve publication of the proposed amendments in 7 TAC, §81.201 (a) and (b) for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that we publish proposed amendments to 7 TAC, §81.201 (a) and (b) in the *Texas Register* for comment.

***Title 7. Banking and Securities
Part 4. Department of Savings and
Mortgage Lending
Chapter 81. Mortgage Bankers and
Residential Mortgage Loan Originators
Subchapter C. Duties and Responsibilities
7 TAC §81.201***

The Finance Commission of Texas (the commission) on behalf of the Department of Savings and Mortgage Lending (the department), proposes to amend 7 Texas Administrative Code Chapter 81, Subchapter C, §81.201 concerning loan status forms.

The proposed amendments to Section 81.201 clarify the usage of conditional pre-qualification and conditional loan approval forms when such forms are provided by mortgage bankers and residential mortgage loan originators to mortgage applicants or prospective mortgage applicants. The proposed amendments amend Graphic Form A the conditional pre-qualification letter content and Form B the conditional loan approval letter content. Forms A and B as amended: (1) make the content of the conditional pre-qualification forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; (2) emphasize that the pre-qualification form is not a loan approval or commitment to lend; (3) make the content of the conditional loan approval forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; and (4) emphasize that the conditional loan approval form states that the applicant is in fact approved for a mortgage loan, provided that certain conditions are met prior to loan closing.

Caroline C. Jones, the Department of

Savings and Mortgage Lending Commissioner, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the proposed rules.

Commissioner Jones also has determined that, for each year of the first five years the rules as proposed are in effect: (a) the public benefit anticipated as a result will be to decrease consumer / borrower misunderstanding or confusion as to when they are conditionally pre-qualified for a loan in contrast to when they are actually conditionally approved for a mortgage loan and (b) there will be no economic costs to persons required to comply with the rules as proposed.

For each year of the first five years that the rules will be in effect, the rules will not:

- (1) create or eliminate a government program;
- (2) require the creation of new employee positions or the elimination of existing employee positions;
- (3) require an increase or decrease in future legislative appropriations to the agency;
- (4) require an increase or decrease in the fees paid to the agency;
- (5) create a new regulation;
- (6) expand, limit or repeal an existing regulation;
- (7) increase or decrease the number of individuals subject to the rule's applicability; and
- (8) positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There will

no difference in the cost of compliance for these entities. The Department has considered alternate methods of achieving the purpose of the proposed rule and has concluded that the proposed rule is the best method to achieve the purpose of decreasing consumer confusion.

Comments on the proposed amendments may be submitted in writing to Ernest C. Garcia, General Counsel, Department of Savings and Mortgage Lending, 2601 North Lamar, Suite 201, Austin, TX 78705 or by email to smlinfo@sml.texas.gov within 30 days of publication in the *Texas Register*.

The amendments are proposed under Texas Finance Code §11.306, which provides that the Finance Commission may adopt residential mortgage loan origination rules as provided by Chapter 156 and by Texas Finance Code §157.0023, which provides that the Finance Commission may adopt rules relating to Chapter 157.

The statutory provisions affected by the proposed amendments are contained in Texas Finance Code, Chapter 157.

7 TAC §81.201

§81.201 Loan Status Forms

(a) Except as otherwise provided by subsection (d) ~~[(e)]~~ of this section, when provided to a mortgage applicant or prospective mortgage applicant ~~[or mortgage applicant]~~, written confirmation of conditional pre-qualification shall include the information in Form A, Figure: 7 TAC §81.201(a). This information can be provided by utilizing Form A or an alternate form that includes all of the information found on Form A. There is no requirement to issue a written confirmation of

conditional pre-qualification. Form A or an alternate form ~~[Either form]~~ may be modified by adding any of the following as needed:

Figure: 7 TAC §81.201(a) {See attached amended form}

(1) Any additional aspects of the loan as long as not misleading;

(2) Any additional items that the originator has reviewed in determining conditional qualifications; or

(3) Any additional terms, conditions, and requirements.

(b) When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan ~~[application]~~ approval on the basis of credit worthiness, but not on the basis of collateral, shall include the information in Form B, Figure 7: TAC §81.201(b). This information can be provided by utilizing Form B or an alternate form that includes all of the information found on Form B. There is no requirement to issue a written notification of conditional loan approval. Form B or an alternate ~~[Either]~~ form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional loan approval should not be issued until all credit requirements have been met unless an item is not a condition of the loan. Desktop or other automated underwriting does not qualify the mortgage applicant or prospective mortgage applicant for

conditional approval.

Figure: 7 TAC §81.201(b) {See attached amended form}

(c) An individual is required to be licensed under Finance Code, Chapter 157 if the individual issues or signs a conditional pre-qualification letter of conditional approval letter pursuant to 7 TAC §81.100(a)(5).

(d) [(e)] Subsection (a) of this section does not apply to "firm offers of credit," as that term is defined in 15 U.S.C. §1681a(1).

Certification

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on April 12, 2019.

Ernest C. Garcia
General Counsel
Department of Savings and Mortgage
Lending

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID # [~~Registration Number~~ _____]

[~~Address~~ _____]

[~~Phone #~~ _____]

Loan Details [~~(describe as follows)~~]:

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

[~~Mortgage banker _____ has _____ has not received a signed application for the loan from the prospective applicant~~]

Mortgage banker ____ has ____ has not reviewed the prospective applicant's / applicant's credit report and credit score

[~~Mortgage banker ____ has ____ has not reviewed the prospective applicant's credit score~~]

[~~Mortgage banker has reviewed the following additional items (list):~~]

The prospective applicant(s) / applicant(s) has provided the mortgage banker [~~____ verbally ____ in writing~~] with the following information [~~about the prospective applicant~~]:

Income ____ Yes ____ No ____ Not applicable

Available cash to close [~~for down payment and payment of closing costs~~] ____ Yes ____ No ____ Not applicable

Debts ____ Yes ____ No ____ Not applicable

[~~Other~~] Assets ____ Yes ____ No ____ Not applicable

Figure: 7 TAC §81.201(a)

Based on the information that the prospective applicant(s) / applicant(s) has provided, ~~[to the mortgage banker, as described above,]~~ the mortgage banker has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan ~~[Loan]~~.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section ~~[an approval for the loan].~~

Approval of the loan requires:

1. Receipt of a complete loan application and all supporting documents requested ~~[(1) the mortgage banker to verify the information that the prospective applicant has provided;]~~
2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided ~~[(2) the prospective applicant's financial status and credit report to remain substantially the same until the loan closes;]~~
3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes ~~[(3) the collateral for the loan (the subject property) to satisfy the lender's requirements (for example, appraisal, title, survey, condition, and insurance);]~~
4. The collateral for the loan to satisfy the lender's requirements ~~[(4) the loan type and terms, as described, to remain available in the market;]~~
5. The loan, as described, to remain available in the market ~~[(5) the prospective applicant to execute loan documents the lender requires, and]~~
6. The prospective applicant(s) / applicant(s) to execute loan documents the lender requires ~~[(6) the following additional items (list):]~~
7. The following additional items (list):

This conditional pre-qualification expires on _____

Residential Mortgage Loan Originator Name ~~[Mortgage Banker or Loan Officer]~~

NMLS ID #

Form B

Conditional Approval Letter

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID # [Registration Number _____]

[Address _____]

[Phone # _____]

Loan Details [(describe as follows)]:

[1.] Loan Amount:

[2.] Interest Rate*:

Term:

[3.] Interest Rate Lock Expires (if applicable):

[4.] Maximum Loan-to-Value Ratio:

[5.] Loan Type and Program:

*Interest rate is subject to change unless it has been locked

~~[Secondary financing terms (if applicable):-~~

~~-~~

~~Optional Information: Points:-~~

~~Origination:-~~

~~Discount:-~~

~~Commitment:-~~

~~Other (describe):-]~~

Has a subject property been identified? _____ Yes _____ No ~~[Subject Property:-]~~

~~[Mortgage banker has received a signed application from the applicant.]~~

Mortgage banker has:

Reviewed prospective applicant's / applicant's credit report and credit score: _____ Yes _____ No _____ Not applicable

Verified prospective applicant's / applicant's income: _____ Yes _____ No _____ Not applicable

Verified prospective applicant's / applicant's available cash to close ~~[for down payment and closing costs]:~~
____ Yes ____ No ____ Not applicable

Reviewed prospective applicant's / applicant's debts and other assets: ____ Yes ____ No ____ Not applicable

Prospective applicant(s) / applicant(s) ~~[Applicant]~~ is **approved** for the loan provided that ~~[the applicant's]~~ creditworthiness and financial position do not materially change prior to closing and **provided that** ~~[the following additional conditions are fully satisfied]:~~

1. The subject property is appraised for an amount not less than \$_____ [;]
2. The lender ~~[mortgage banker]~~ does not object to encumbrances to title shown in the title commitment ~~[or survey:]~~
3. The subject property's survey shows no encroachments[;]
4. ~~[3.]~~ The subject property's condition meets lender's ~~[mortgage banker's]~~ requirements[;]
5. ~~[4.]~~ The subject property is insured in accordance with lender's ~~[mortgage banker's]~~ requirements[;]
6. ~~[5.]~~ The prospective applicant(s) / applicant(s) ~~[applicant]~~ executes the loan documents the lender ~~[mortgage banker]~~ requires ~~[and abides by closing instructions;]~~ and
7. ~~[6.]~~ The following additional conditions are complied with (list):

This conditional approval expires on _____.

Residential Mortgage Loan Originator Name ~~[Mortgage Banker]~~

NMLS ID #

SML Future Rule Activity		
Rule	Short Title/Purpose	Projected Date for Presentation
7TAC, Ch. [TBD]	Complaint Rules Ch. [TBD] Complaint Procedures The rule provides guidance on how the Department processes and accounts for consumer complaints. These changes are being made to comply with the Sunset Management Action.	June, 2019
7TAC, Ch. 155	Payoff Statements To conduct standard rule review under Tex. Gov't. Code, §2001.039 Joint rule review action between the Finance Commission agencies and the Credit Union Department.	June, 2019

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**Office of Consumer Credit
Commissioner**

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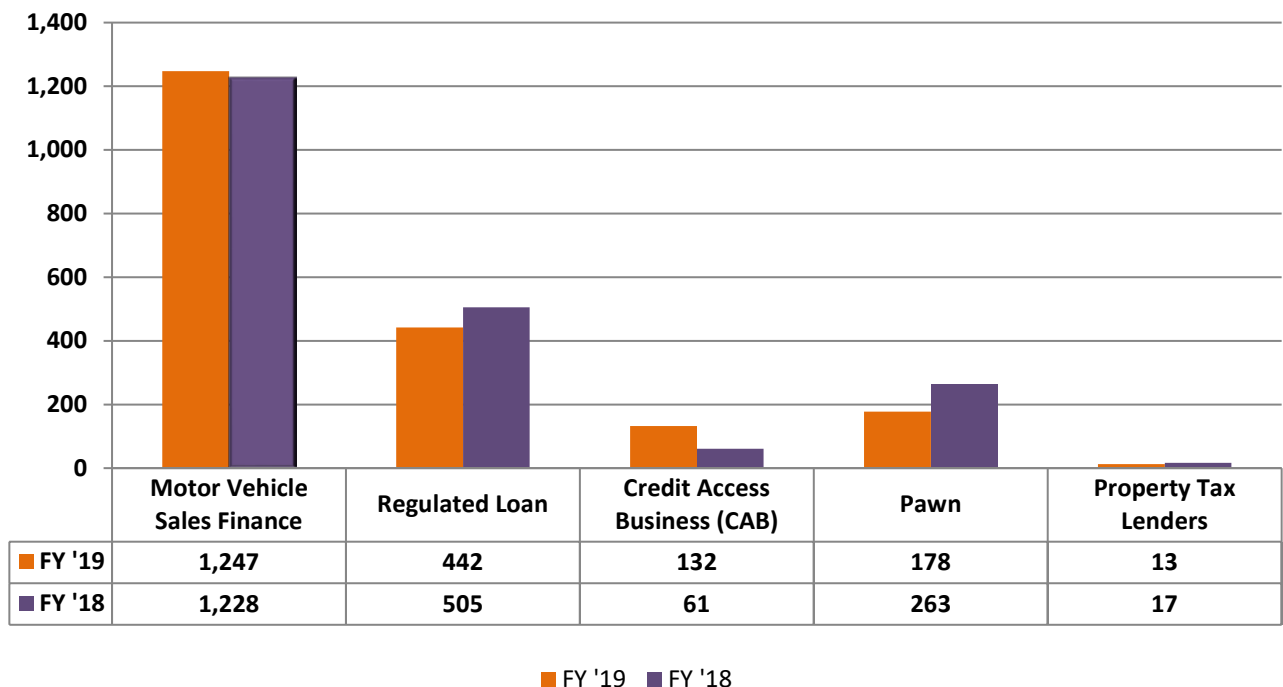
Consumer Protection and Consumer Assistance Report

Examination activity for the first six months of FY 2019 is on track to meet the FY 2019 goals. Within the respective industry groups, the progress on examinations conducted is within expectations, with the exception of Credit Access Businesses. Currently, the Consumer Protection Department has several Credit Access Business enterprise level exams in progress or in the planning stages. With this anticipated activity, the department expects to meet the goals across all industry groups by the end of the fiscal year.

Austin area staff attended the most recent regional field examiner staff meetings to discuss exam process updates and travel guidelines.

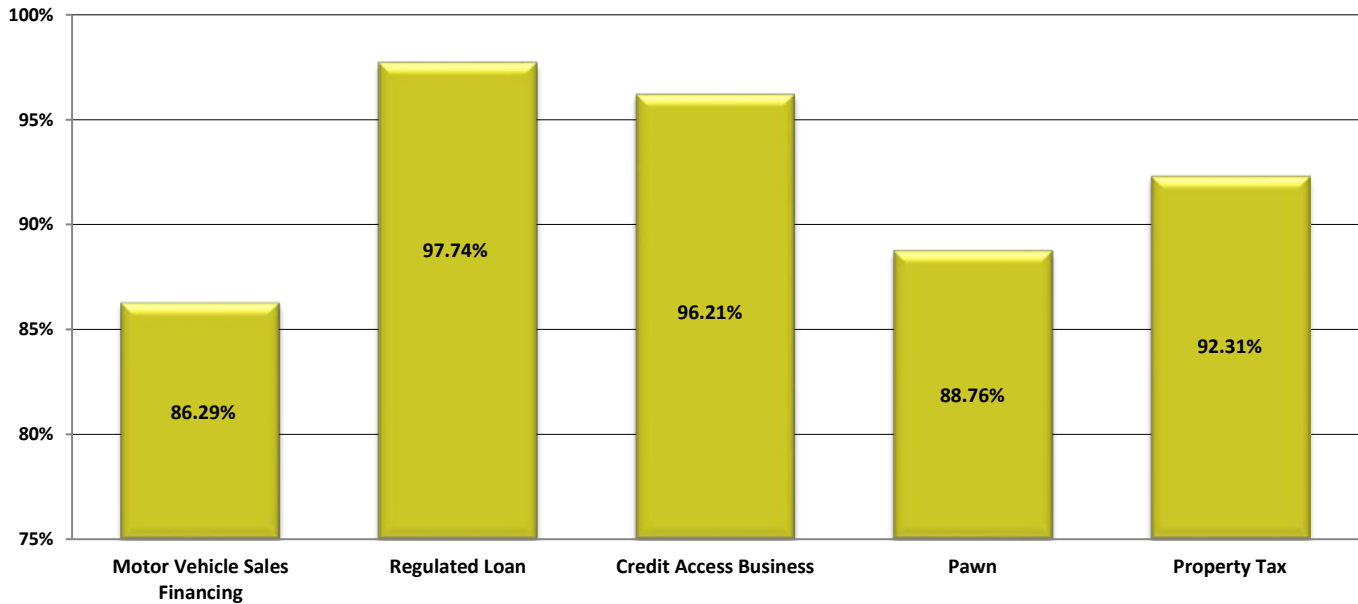
The two groups of financial examiners hired in the first quarter of FY 2019 are in the process of field certifications in Motor Vehicle Sales Finance. Four examiners completed classroom training modules in Subchapter F Regulated Lending and Pawnshops and are currently receiving field training. The Consumer Assistance department hired a new investigator who is currently in training. Two financial examiners successfully completed Financial Examiner III testing.

Examinations Conducted: Sept - Feb Fiscal Year Comparison

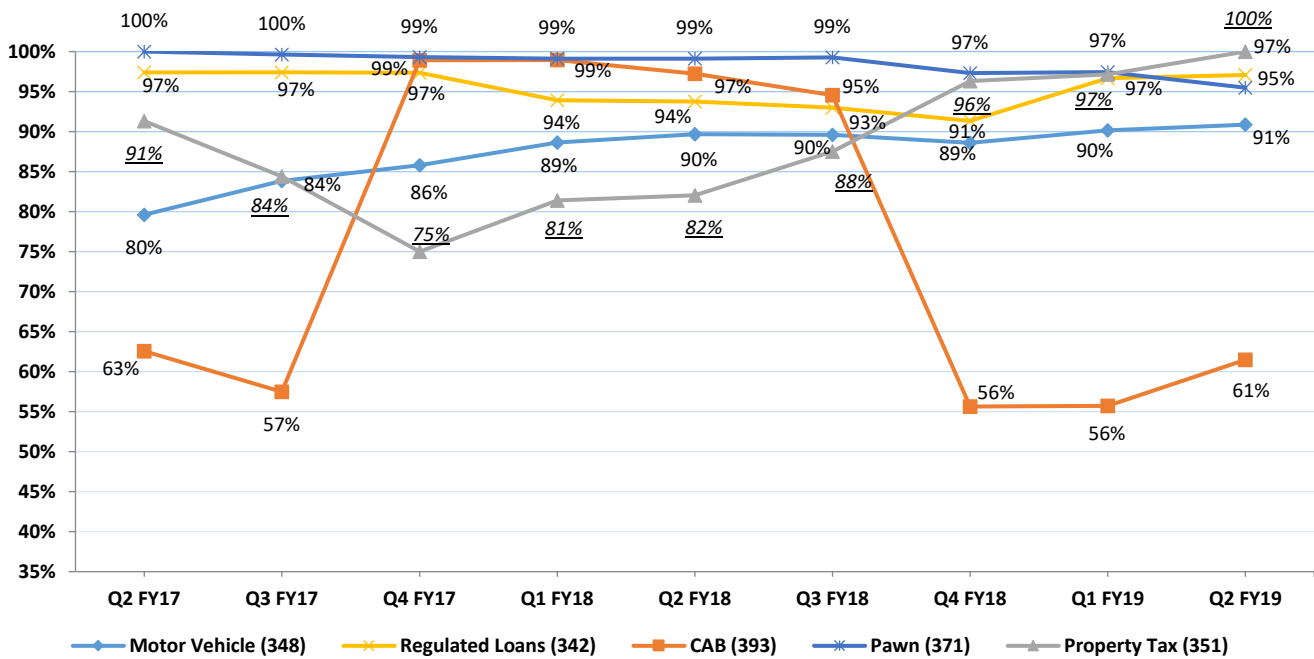


The first chart below reflects an acceptable level of compliance for examinations conducted during the first six months of FY 2019. All five license types are within an acceptable level of compliance (85%). The second chart shows acceptable compliance levels over a 12-month trailing period.

Acceptable Level of Compliance FY '19 (Sept 2018 - Feb 2019)



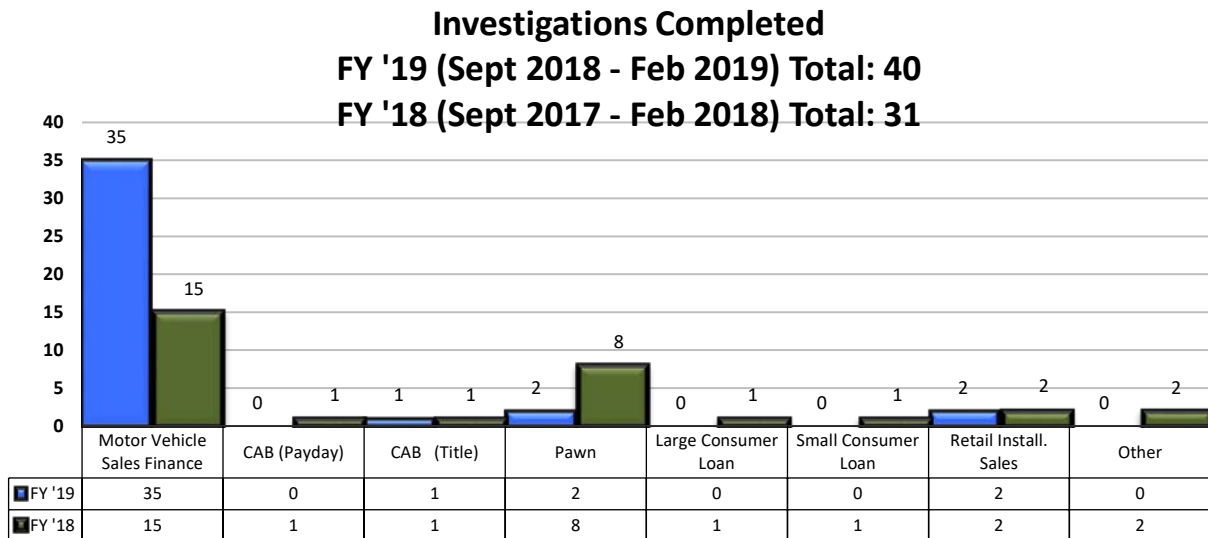
Acceptable Compliance Levels - Trailing 12 Months (at quarter end)



Motor Vehicle Sales Finance investigations and complaints are at a high level relative to other industry groups. The majority of the investigations and complaints are attributed to unlicensed activity and issues relating to repossessions.

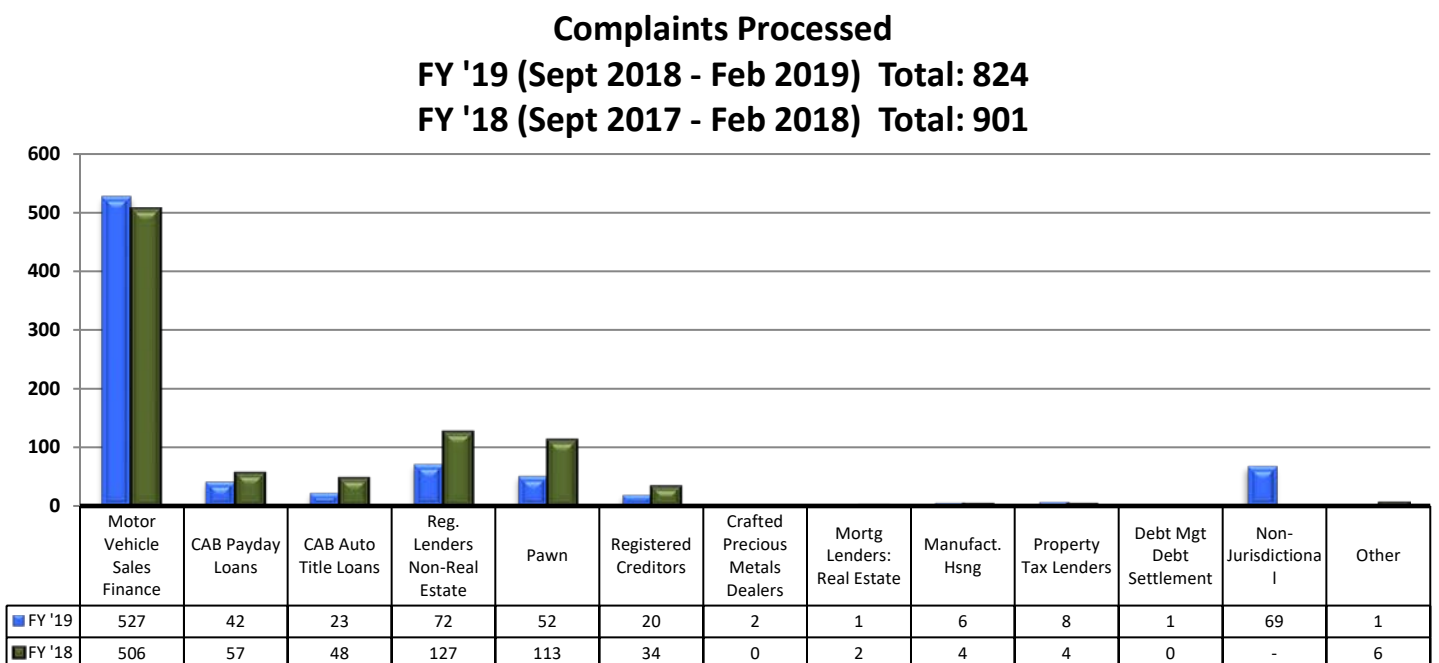
Investigations

The agency completed 40 investigations, 50% of the FY 2019 goal of 80 investigations. Motor Vehicle Sales Finance was the largest category comprising 87.5 % of the overall number of investigations completed for the first half of FY 2019 with unlicensed activity as the top issue.



Consumer Assistance

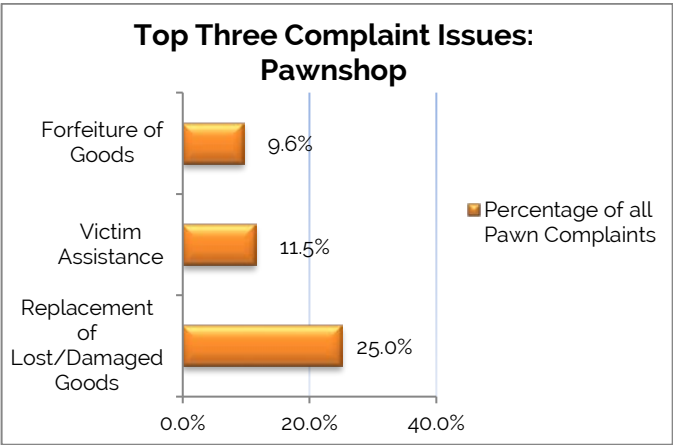
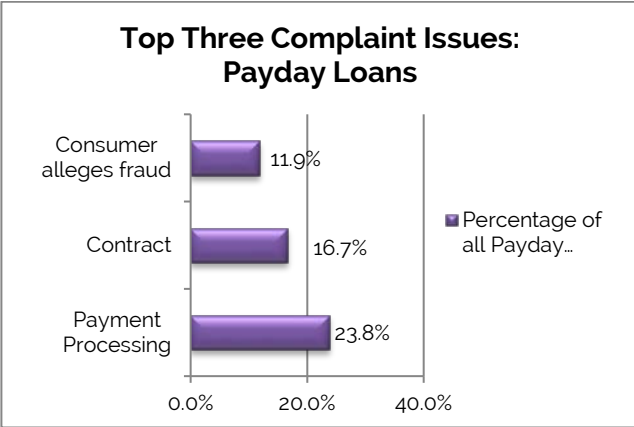
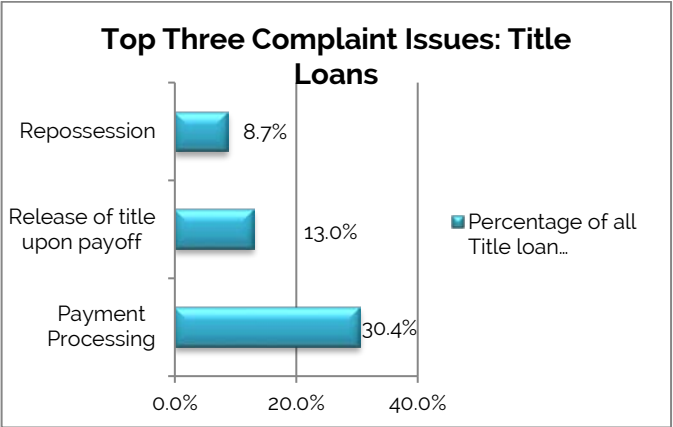
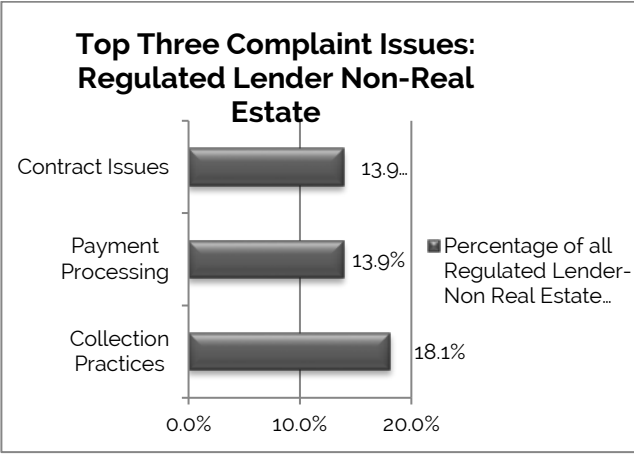
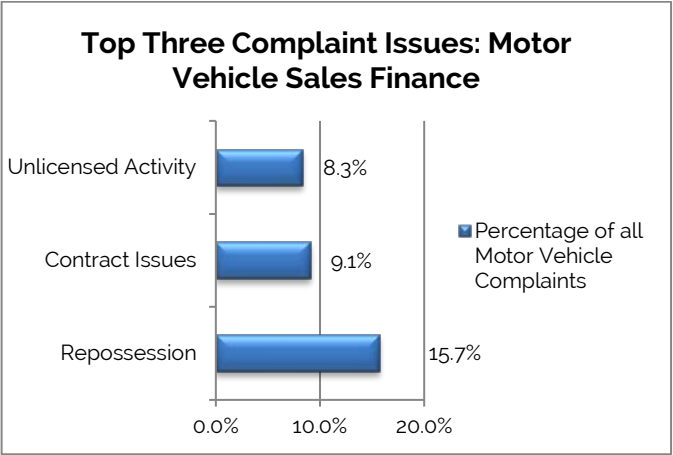
For this period, 824 complaints were processed of which 69 were classified as non-jurisdictional. The number of complaints processed or closed has declined due to a reduction in the overall number of actual complaints received. The agency has received 729 complaints for FY19YTD in comparison to 891 complaints for FY18YTD. Although the number of complaints received has declined, the agency has noted an increase of 25 complaints involving complex transactions in Motor Vehicle Sales Finance and Property Tax Lenders over the same period in FY18 which require more resources to process.



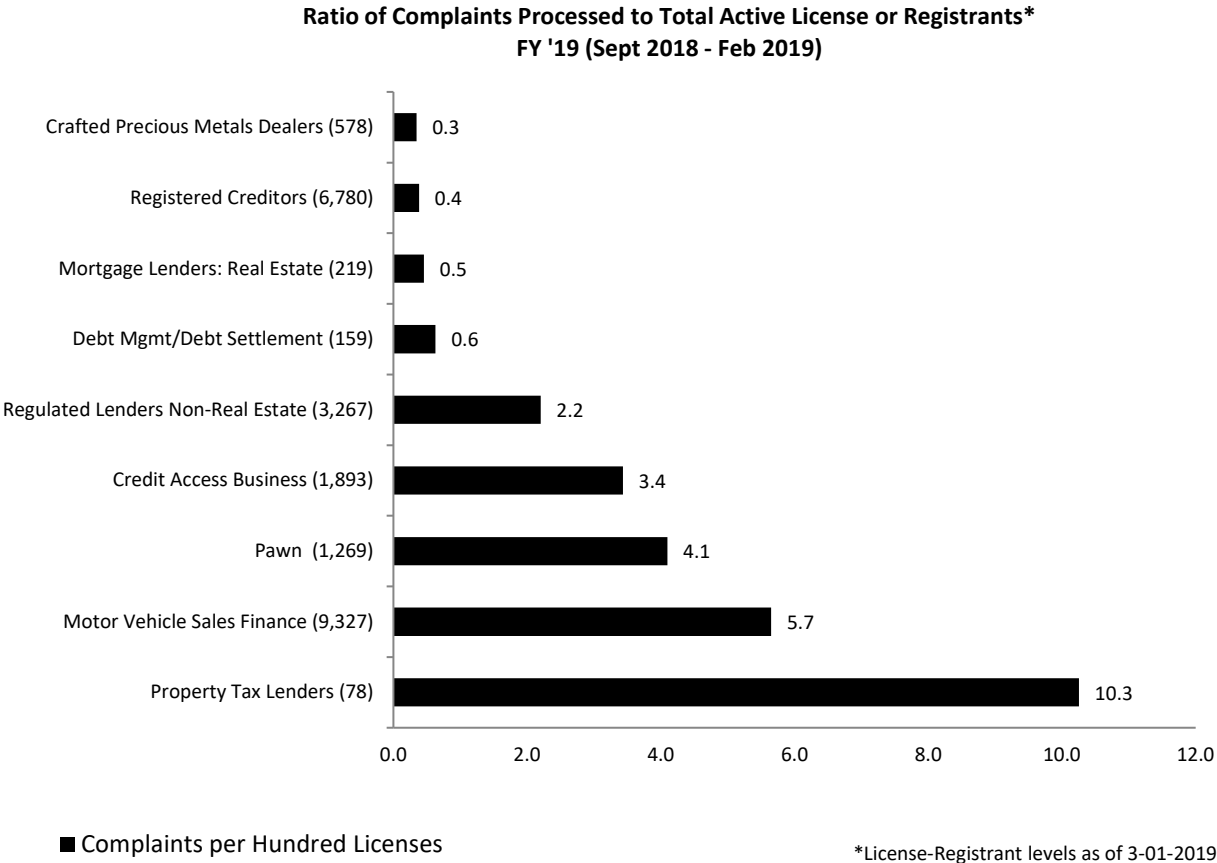
The top four areas of complaints are (1) Motor Vehicle Sales Finance (MVSF), (2) Regulated Lenders Non-Real Estate, (3) Credit Access Business (CAB) and (4) Pawn.

MVSF complaints were the largest complaint category at 64.0%. The second largest number of complaints came from Regulated Lenders Non-Real Estate at 8.7%. The third largest category of complaints came from CAB complaints at 7.9% collectively; separately, these are 5.1% for payday loans and 2.8% for title loans. The fourth largest category was Pawn at 6.3% complaints.

Each of the following charts represents the three top complaint issues by 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 Property Tax Lenders, followed by Motor Vehicle Sales Finance as the second highest, Pawn as the third, and Credit Access Business as the fourth highest.



CAB Reporting Update

Summaries of CAB reports through 2018 are available on the OCC website. Presented are selected statistics of both Annual and Quarterly reports through the years. Total loan volume has decreased 22% in dollars and 34% in total transactions since 2013. Primary factors of the decrease include consolidation in the industry and an increase in installment lending that leads to less refinance activity.

Installment loans also increase the length of time consumers are indebted and increase the fees accruing per transaction. Even though total loan volume has decreased, fees as a percentage of the total loan amount increased from 35% in 2013 to 56% in 2018. Additional changes in the market include loan volume share reported by out of state locations rising from 16% in 2013 to 26% in 2018.

Data Highlights (All Loan Types) Calendar Year	2018	2017	2016	2015	2014	2013
Number of new Payday Loans	2,120,397	2,178,620	2,340,945	2,410,917	2,451,568	2,543,855
Total Refinances - Payday	1,739,496	2,173,152	2,389,340	2,877,806	3,303,752	3,556,668
Number of new Auto Title Loans	329,292	294,813	269,190	328,520	367,518	473,194
Total Refinances - Title	777,966	764,598	898,851	1,168,782	1,347,303	909,275
Percentage of Payday Loans due in multiple installments	55%	45%	42%	40%	35%	27%
Percentage of Auto Title Loans due in multiple installments	54%	39%	41%	30%	18%	15%
Number of vehicles repossessed under all Auto Title Loans	37,777	32,347	32,077	37,296	44,052	36,918
Total Customers ¹	1,505,212	1,499,599	1,651,278	1,691,553	1,757,882	1,903,627
Total \$ fees accrued on all transactions	\$1.86 B	\$1.76 B	\$1.63 B	\$1.67 B	\$1.53 B	\$1.49 B
Total \$ Loaned by All Licensees (in billions)	\$3.33 B	\$3.27 B	\$3.60 B	\$4.10 B	\$4.28 B	\$4.26 B
Total \$ Loaned by Out of State Licensees (in millions)	\$851 M	\$839 M	\$813 M	\$747 M	\$704 M	\$662 M

Payday Loans Calendar Year	Single Installment			Multiple Installment		
	2018	2017	2016	2018	2017	2016
Average loan amount	\$468	\$460	\$449	\$621	\$593	\$561
Average fee per \$100 borrowed	\$23.57	\$24.05	\$23.76	\$135.52	\$153.55	\$165.88
Average original term (in days)	21	20	18	142	150	159
Average Fee Converted to a Daily Rate ²	1.10%	1.23%	1.33%	0.95%	1.02%	1.04%
Estimated transactions per borrower ³	5.7	5.6	5.4	1.8	1.7	1.6

Title Loans Calendar Year	Single Installment			Multiple Installment		
	2018	2017	2016	2018	2017	2016
Average loan amount	\$1,340	\$1,318	\$1,241	\$1,245	\$1,060	\$1,219
Average fee per \$100 borrowed	\$15.93	\$16.33	\$16.79	\$114.79	\$127.60	\$100.30
Average original term (in days)	30	30	30	155	157	160
Average Fee Converted to a Daily Rate ²	0.53%	0.55%	0.57%	0.74%	0.81%	0.63%
Estimated transactions per borrower ³	7.8	6.3	7.7	2.2	2.6	1.7

¹Customers are reported on the annual report item #5. They are unique to each product type and to each location. Depending on customer borrowing habits they may be counted more than once.

²Based on averages, per dollar borrowed a consumer would pay this percentage per day. The APR could be approximated by multiplying this rate by 365; however, it could be significantly higher if the multiple installment loans reduce principal with each payment and the total fees remain the same.

³Equation: \sum Quarterly 10F / Annual Report #5. Effects on the estimation include (1) Single store reporting can count customers more than once if obtaining loans at different stores (2) Total transactions in 10F could be made to some customers who aren't counted in this year's customer count. e.g. They are refinancing loans made in the prior year.



Licensing Report- April 2019

Mirand Diamond, Director

Renewals

The department is preparing timelines and projections for renewal periods to increase communication through agency departments and create consistency to streamline the process.

Pawn renewal will open in May for pawn shops and pawn employees.

Applications Processing

The volume of pending pawn employee and business license applications continues to remain under the goal, a significant achievement since the department is currently short-staffed. As training of new team members occurs, and cross-training continues, pending volume may increase but staff has implemented long-term plans to manage the workload.

Other Updates

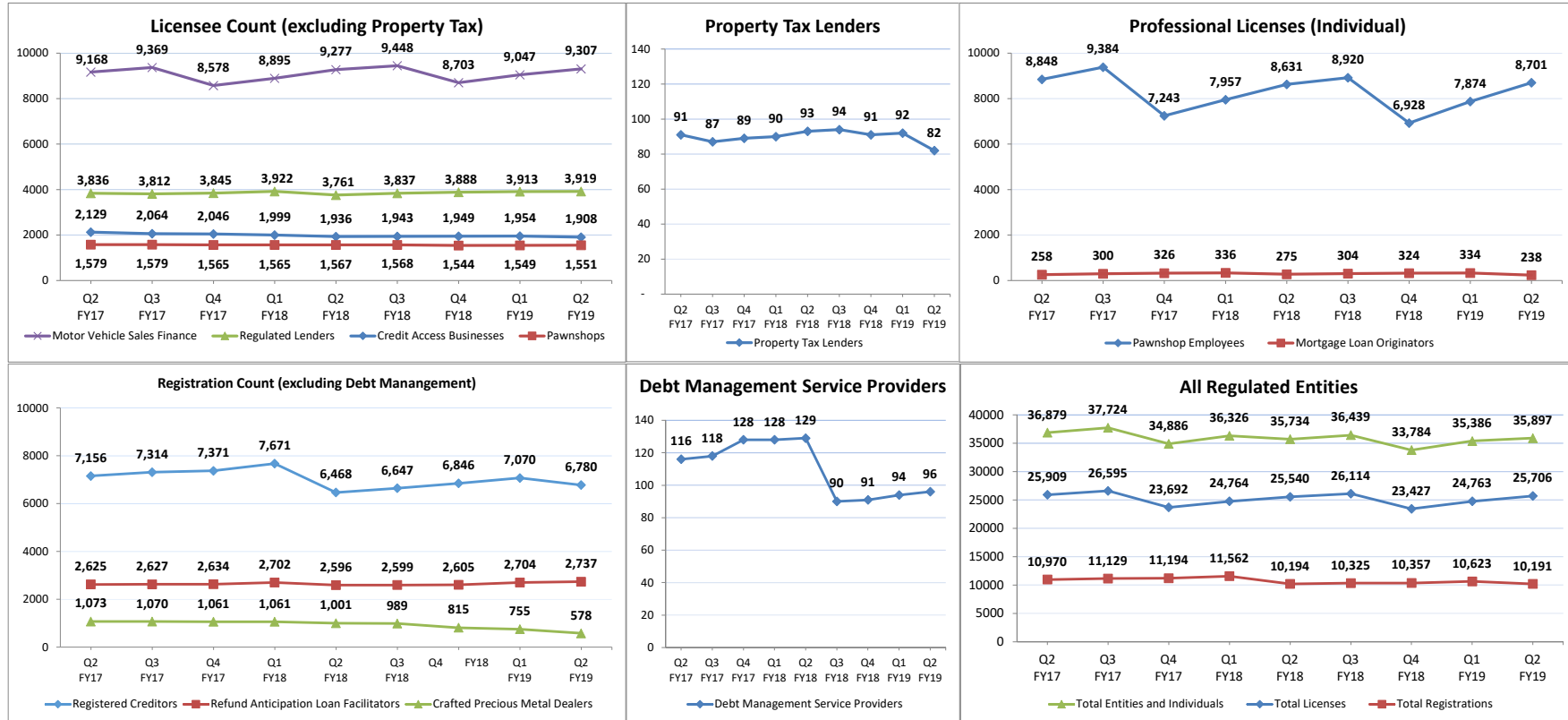
The licensing director attended the NMLS Annual Training and Conference in February. Updates, trainings, networking and other impactful actions occurred and information garnered from the conference has been disseminated throughout the agency.

The department is also working to anticipate any changes, costs or enhancements anticipated as the agency sunset bill continues to make its way through the legislative process.

Regulated Entity Population Trends

The following charts reflect the number of OCCC regulated entities at the end of each quarter in fiscal years 2017 and 2018 to current data.

Number of OCCC Regulated Entities Quarterly Comparison of FY17-19



*Data through 3/1/2019



Communications, Human Resources & Administration Report

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

Since last reported, the Texas Legislature is now halfway through the 86th Regular Session (March 19, 2018). Committees are moving along and the number of bills being considered in public hearings has begun to increase. On March 12, the Pensions, Investments & Financial Services (PIFS) Committee held a meeting and heard the OCCC HB 1442 (Sunset bill by Representative Paddie), among other bills. There was a healthy discussion and Commissioner Pettijohn provided testimony during the hearing to answer questions about the bill. Also, the Texas Association of Pawnbrokers raised concerns about Sunset's recommendation to eliminate pawn employee licenses. They asked the author to reconsider this recommendation and retain the license as optional for pawn employees.

On March 21, the PIFS committee voted out committee substitute HB 1442 (OCCC Sunset Bill) retaining the pawn employee licensing as an option that may be selected by each licensed pawnshop. Since then, a committee report was filed and sent to the Calendars Committee for consideration. The bill was set on the Major State Calendar and is scheduled to be heard on the House floor on April 2.

During this legislative session, 9,135 total bills have been filed (7,175 bills; 216 joint resolutions; 194 concurrent resolutions; 1,550 resolutions) or 16.8% less as compared to 10,672 total bills during the 85th legislative session.

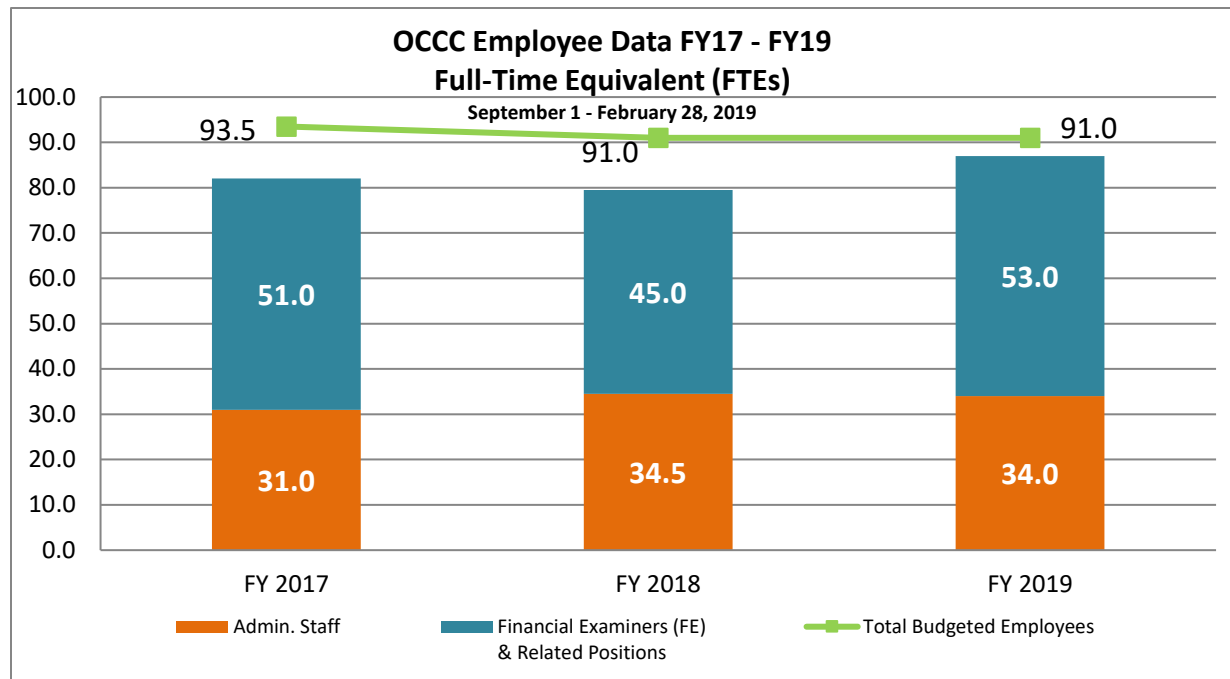
Agency staff continues to provide a combination of live presentations and communication through various channels to regulated entities. At mid-year, 740 industry participants attended staff presentations regarding compliance matters and the regulatory role and responsibilities of the agency at training seminars hosted by other organizations.

Human Resources

During the first half of the year, 12 employees were hired: (1) Attorney, (1) Financial Analyst, (7) Financial Examiners, (1) Investigator, (1) System Support Specialist, and (1) Legal Assistant.

Vacancy	Status
Accountant I	Seeking applications
Licensing & Permit Specialist	Background information being conducted

The chart below compares administrative staff vs. financial examiners for the last three fiscal years.



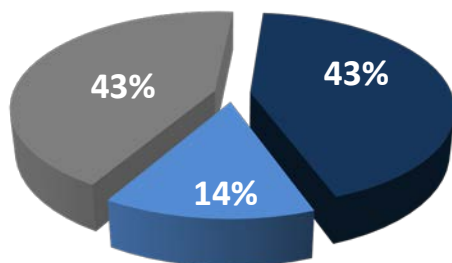
At mid-year the Agency experienced a total of 7 separations: (1) *Interagency transfer* [Financial Examiner II, San Antonio Region]; (3) *voluntary resignations* [(1) Accountant II, (1) Legal Assistant III, (1) Compliance Analyst II – Austin Headquarters]; (3) *retirements*: (1) Financial Examiner IV – Dallas Region; (1) Information Security Officer [Austin]; and (1) Director of Consumer Protection [Austin].

OCCC Turnover Categories

FY 19 - All Employees

(09/01/18 - 2/28/19)

7 total - 1 Interagency Transfer, 3 Voluntary Resignation, 3 Retirements



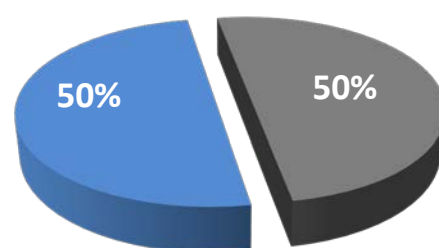
■ Interagency Transfer ■ Retirement
 ■ Voluntary Resignation

OCCC Turnover Categories

FY 19 - Financial Examiners

(09/01/18 - 02/28/19)

2 total - 1 Interagency Transfer, 1 Retirement



■ Interagency Transfer ■ Retirement

Financial Literacy

By the end of March 2019, the Financial Literacy Specialist had provided a total of 17 financial literacy presentations to 306 Texans seeking financial education, or 65% of the yearly participation goal. The Financial Literacy Specialist continued to utilize valuable partnerships with Junior Achievement and Financial Literacy Coalition of Central Texas (FLCCT) to create new presentation opportunities, and is regularly seeking new partnership opportunities. Moving forward, the Financial Literacy specialist will work to coordinate presentations in Dallas/Fort Worth, Tyler, Houston, the Rio Grande Valley and other areas.

In February, the Financial Literacy Specialist and Texas Jumpstart Coalition board facilitated and attended the “Jumpstart Texas Financial Literacy Day” at the Texas State Capitol. The purpose of the legislative day was to build a strong financial literacy awareness campaign around the current state of financial education in Texas, why it is important, and promote current organizations offering financial education services. This was an excellent opportunity for the OCCC to network with industry stakeholders and create new partnerships, and learn more about the current state financial literacy requirements. Informational flyers promoting both the Texas Financial Education Endowment and OCCC Financial Education opportunities were dispersed to Texas Representatives and their constituents in hope of reaching more Texans.

Information Technology

State Reporting and Compliance

Contracting through DIR, AT&T performed an external review of the OCCC’s cybersecurity posture. The report will be used to develop a roadmap to continuously improve the agency’s maturity levels.

Physical Facilities and Hardware

During the previous State Office of Risk Management review, SORM recommended upgrading old surge protectors. The OCCC deployed all surge protects that were older than 2015.

Expanded active RAM was procured for the physical servers, which will give more flexibility for reconfigurations and allow updating of the Microsoft server platform to 2019 edition, necessary because the 2008 edition is quickly approaching end of support.

Security & Software

The Application, Licensing, Examination, and Compliance System (ALECS) core update, which focuses on security improvements, was released for development testing in mid-March. The first round of user acceptance testing (UAT) was projected for completion by the end of March. Several issues had been identified, most of which have been minor and quickly addressed.



Accounting Report

Christina Cuellar Hoke, Manager

The Accounting department has been analyzing and preparing requested Fiscal Notes for the 86th Legislative Session. Fiscal Notes are analyzed and prepared to provide written estimates of fiscal impact to legislative proposals. The department has also worked on Record Retention clean-up. In addition, the accounting manager attended a meeting regarding Hotel Engine, the new contracted vendor for the State Travel Management Program. Hotel Engine is a resource that connects State of Texas travelers to rates unavailable to the public and streamlines business travel management.

OFFICE OF CONSUMER CREDIT COMMISSIONER
EXECUTIVE SUMMARY

As of February 28, 2019

	FY 2017	FY 2018	FISCAL YEAR 2019				
			1st QTR	2nd QTR	3rd QTR	4th QTR	FYTD
CONSUMER PROTECTION							
Monies Returned to Consumers (000)	20,593	5,122	2,352	12,092			14,444
Regulated Lenders Examinations	1,207	1,085	266	176			442
Property Tax Lender Examinations	32	27	10	3			13
Pawnshop Examinations	575	484	121	57			178
Motor Vehicle Examinations	2,354	2,269	593	654			1,247
Credit Access Businesses Examinations	652	638	22	110			132
CONSUMER ASSISTANCE							
Telephone Complaints Received	986	742	154	78			232
Written Complaints Received	1,111	1,073	270	227			497
Total Complaints Processed	2,130	1,768	482	342			824
% of Written Complaints Closed within 90 Calendar Days	91.83%	83.72%	85.28%	76.49%			81.13%
ADMINISTRATIVE ENFORCEMENT ACTIONS							
Originated	371	194	199	38			237
Finalized	389	200	22	161			183
LICENSING AND REGISTRATION							
Licenses							
Regulated Loan Licenses	3,845	3,888	3,913	3,919			3,919
Pawnshop Licenses	1,565	1,544	1,549	1,551			1,551
Pawnshop Employee Licenses	7,243	6,928	7,874	8,701			8,701
Commercial MV Sales Fin. Licenses	39	49	52	55			55
Motor Vehicle Sales Finance Licenses	8,539	8,654	8,995	9,252			9,252
Property Tax Loan Licenses	89	91	92	82			82
Mortgage Loan Originators	326	324	334	238			238
Credit Access Business Licenses	2,046	1,949	1,954	1,908			1,908
Registrations							
Registered Creditors	7,371	6,846	7,070	6,780			6,780
Crafted Precious Metal Dealers	1,061	815	755	578			578
Debt Management Service Providers	128	91	94	96			96
Refund Anticipation Loan Facilitators	2,634	2,605	2,704	2,737			2,737
Applications							
Business -- New	1,522	1,594	417	462			879
Business -- Change of Ownership	138	136	50	23			73
Pawnshop Employees -- New	3,133	3,135	1,164	1,069			2,233
HUMAN RESOURCES DATA							
Field Examiners Staffing	41	39	45	45			45
Total Staffing	82	80	86	87			87

Office of Consumer Credit Commissioner
Actual Performance for Output Measures
Fiscal Year 2019

Type/Strategy/Measure	2019 Target	2019 Actual	2019 YTD	Percent of Annual Target	Comparable Historical Data for the same time period			
					FY2018	FY2017	FY2016	FY2015
Output Measures-Key								
1-1-1	Complaint Resolution							
	1. # Complaints Closed							
Quarter 1	2,020	482	482	23.86%				
Quarter 2	2,020	342	824	40.79% *	892	943	1,180	979
The number of complaints processed or closed has declined due to a reduction in the overall number of actual complaints received. The agency has received 729 complaints for FY19YTD in comparison to 891 complaints for FY18YTD. Although the number of complaints received has declined, the agency has noted an increase of 25 complaints involving complex transactions in Motor Vehicle Sales Finance and Property Tax Lenders over the same period in FY18 which require more resources to process.								
	2. # Investigations Closed							
Quarter 1	80	19	19	23.75%				
Quarter 2	80	21	40	50.00%	31	44	58	49
2-1-1	Examination and Enforcment							
	1. # Compliance Examinations Performed							
Quarter 1	4,200	1,012	1,012	24.10%				
Quarter 2	4,200	1,000	2,012	47.90%	2,074	2,219	1,796	1,753
2-2-1	Licensing							
	1. # Business Applications Processed							
Quarter 1	1,445	417	417	28.86%				
Quarter 2	1,445	462	879	60.83% *	811	822	931	923
The licensing department's volume of applications received increased in the first 2 quarters in FY 2019. Due to that increase, the department had to work to process more applications.								

**Office of Consumer Credit Commissioner
Actual Performance for Output Measures
Fiscal Year 2019**

Type/Strategy/Measure	2019	2019	2019	Percent of		Comparable Historical Data for the same time period			
	Target	Actual	YTD	Annual Target		FY2018	FY2017	FY2016	FY2015
2. # Pawn Employee License Applications Processed									
Quarter 1	2,700	1,164	1,164	43.11%	*				
Pending volume of pawn employee applications had increased in Q4 of FY 2018 so there was an immediate need to diminish that volume. In Q1 of 2019 the department was able to allocate resources to process a high number of pawn employee applications and get the number back down to a manageable level. Processing should adjust to normal levels throughout the remainder of FY 2019.									
Quarter 2	2,700	1,069	2,233	82.70%	*	1,682	1,605	1,689	1,511
In order to diminish the significant number of pending applications the licensing department had to diligently work to process a high number of pawn employee applications and reallocate resources in the first 2 quarters of FY 2019. This number will likely even out in the rest of the fiscal year.									
3-3-1 Financial Education									
1. # Consumers Receiving Financial Education									
Quarter 1	325	66	66	20.31%	*				
The financial education specialist focused on school age consumers and the number reflects the limited availability or access to students at the beginning of the school year.									
Quarter 2	325	146	212	65.23%	*	166	61	85	233
As the school year progressed, availability and access to students increased and allowed additional program scheduling.									

*Varies by 5% or more from target.



Legal Department Report

Michael Rigby, General Counsel

April 2019

Enforcement Report

Contested Cases

During February 2019, the OCCC participated in one contested case hearing before the State Office of Administrative Hearings (SOAH), resulting in an agreed order to revoke a credit access business license. The matter is *Office of Consumer Credit Commissioner v. Januco LLC d/b/a Xpress Title Loans* (SOAH Docket No. 466-18-5225). The revocation was based on multiple violations of Texas law, including failure to maintain a credit services organization registration, failure to provide required disclosures, failure to maintain records, misleading surety bond disclosures, and repeated failure to file timely and accurate quarterly and annual reports. Before bringing the revocation action, the OCCC had previously issued an injunction and three administrative penalty orders against Xpress Title Loans for failure to file timely and accurate quarterly and annual reports.

The OCCC and Xpress Title Loans entered an agreed order to revoke Xpress Title Loans' credit access business license on March 12, 2019. Under the agreed order, Xpress Title Loans must cease entering credit access business transactions, must cease collecting any fees, and must transfer open transactions to another credit access business within 60 days from the date of the agreed order.

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 March 31, 2019. 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 March 31, 2019				
	FYTD 2019	FY 2018	FY 2017	FY 2016
Injunction Actions				
Crafted Precious Metal Dealer	0	0	0	0
Credit Access Business	32	27	47	25
Debt Management Provider	0	5	2	1
Manufactured Housing	0	0	1	0
Motor Vehicle Sales Finance	11	19	31	18
Pawnshop	78	39	37	1
Pawnshop Employee	67	48	69	0
Property Tax Lender	1	2	2	16
Registered Creditor	0	1	1	1
Regulated Lender	5	12	37	88
Residential Mortgage Loan Originator	0	1	1	0
Total Injunction Actions	194	154	230	157
Administrative Penalty Actions				
Crafted Precious Metal Dealer	0	0	0	2
Credit Access Business	6	6	23	97
Debt Management Provider	0	1	0	1
Motor Vehicle Sales Finance	6	26	106	129
Pawnshop	5	6	3	40
Pawnshop Employee	0	0	0	1
Property Tax Lender	1	6	2	3
Regulated Lender	4	0	13	0
Residential Mortgage Loan Originator	0	0	0	1
Total Administrative Penalty Actions	22	45	147	273
Revocation / Suspension Actions				
Crafted Precious Metal Dealer	0	0	0	0
Credit Access Business	0	0	3	2
Motor Vehicle Sales Finance	0	1	2	9
Pawnshop	0	0	1	3
Pawnshop Employee	1	0	1	2
Property Tax Lender	0	0	0	0
Regulated Lender	0	0	1	1
Residential Mortgage Loan Originator	0	0	0	0
Total Revocation / Suspension Actions	1	1	8	17
Application Denial and Protest Actions				
Credit Access Business	0	0	0	0
Motor Vehicle Sales Finance	2	0	1	3
Pawnshop	0	0	1	1
Pawnshop Employee	0	0	0	7
Property Tax Lender	0	0	0	0
Regulated Lender	0	0	0	0
Residential Mortgage Loan Originator	0	0	1	0
Total App. Denial and Protest Actions	2	0	3	11
Total Actions Closed	179	200	388	458

From February 1, 2019 to March 31, 2019, the OCCC:

- closed 37 cases with final orders,
- opened 9 cases in order to assess administrative penalties,
- opened 37 cases in order to issue injunctions,
- participated in one contested case hearing, and
- opened no cases challenging an application denial.

The OCCC has no hearings scheduled between April 1, 2019, and May 31, 2019.

Administrative Rule Report

The OCCC is not presenting any rule actions at the April meeting.

Litigation

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, at the OCCC's request, the Office of the Attorney General filed a lawsuit in Travis County district court against Mr. McMahan. A trial on the merits was held in on March 5, 2019, and Mr. McMahan did not appear. The court entered a final judgment ordering Mr. McMahan to pay the previously ordered administrative penalty to the OCCC.

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.

Federal Rulemaking

CFPB Payday Lending Rule

On February 6, 2019, the Consumer Financial Protection Bureau (CFPB) issued two notices of proposed rulemaking regarding its previously adopted Payday Lending Rule.

In the first proposal, the CFPB proposes rescinding the Payday Lending Rule's mandatory underwriting provisions. The mandatory underwriting provisions would generally require creditors to verify the consumer's income and reasonably determine that the consumer has the ability to repay the loan according to its terms, while also meeting major financial obligations and basic living expenses. The proposal to rescind these provisions is based on the CFPB's current determination that the evidence used to support these provisions was not sufficient.

In the second proposal, the CFPB proposes delaying the August 19, 2019 compliance date for the mandatory underwriting provisions by 15 months to November 19, 2020. This is based on input from industry participants stating that they do not have resources to sufficiently update their compliance management systems by August 2019.

Both proposals relate to the Payday Lending Rule's mandatory underwriting provisions, and would not affect the rule's payment provisions. The payment provisions would require creditors to provide written notice before withdrawing payments, and would generally prohibit creditors from attempting further withdrawals after two consecutive withdrawal attempts fail. In the proposals, the CFPB explains that it has received requests to exempt certain types of creditors from the payment provisions or to extend the payment provisions' compliance date. The CFPB intends to examine these issues and, if further action is warranted, to commence a separate rulemaking action.

The CFPB will accept comments on the proposals until May 15, 2019.

Advisory Bulletins

From February 1, 2019 to March 31, 2019, the OCCC did not issue any advisory bulletins.

Official Interpretation Requests

From February 1, 2019 to March 31, 2019, the OCCC did not receive any requests for official interpretations. As of March 31, 2019, there were no pending requests for official interpretations.

Public Information Requests

From February 1, 2019 to March 31, 2019, the OCCC received 46 requests for information under the Texas Public Information Act, with no referrals to the Office of the Attorney General.

Gifts Received by the OCCC

The State Regulatory Registry LLC provided one scholarship to attend the 2019 NMLS Annual Conference, valued at \$1,862.98.

Rule Item/Purpose	Proposal Date	Adoption Date
Administration – Amendments & New 7 TAC, Chapter 82 To develop rules relating to complaint processing in order to implement Sunset Commission recommendations	06/21/2019	
Residential Mortgage Loan Originators Applying for Licensure with the OCCC under the SAFE Act – Rule Review 7 TAC, Part 1, Chapter 2 To conduct standard rule review under Tex. Gov't Code, §2001.039; to ensure consistency with agency procedures; and to make technical corrections	10/18/2019	
Retail Creditors - Rule Review 7 TAC, Chapter 86 To conduct standard rule review under Tex. Gov't Code, §2001.039; to ensure consistency with agency procedures; and to make technical corrections	10/18/2019	
Chapter 342, Plain Language Contract Provisions - Rule Review 7 TAC, Chapter 90 To conduct standard rule review under Tex. Gov't Code, §2001.039; to ensure consistency with agency procedures; and to make technical corrections	TBD FY 2020	