

# FINANCE COMMISSION OF TEXAS

## AUDIT COMMITTEE MEETING

Friday, August 21, 2020  
8:30 a.m.  
Via Webinar

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**Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the August 21, 2020 meeting of the Finance Commission of Texas will be held via webinar/telephonic conference call, as authorized under Texas Government Code section 551.125.**

Members of the public who would like to participate in this meeting will need to register at [www.fc.texas.gov](http://www.fc.texas.gov). An electronic copy of the agenda is now available at [www.fc.texas.gov](http://www.fc.texas.gov), and a copy of the meeting materials will be available on August 13, 2020 at [www.fc.texas.gov](http://www.fc.texas.gov). To access the recording visit [www.fc.texas.gov](http://www.fc.texas.gov) after August 21, 2020.

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*Public comment on any agenda item or issue under the jurisdiction of the Finance Commission of Texas agencies is allowed. Finance Commission members who are not members of the Audit Committee may be present at this committee meeting creating a quorum of the Finance Commission.*

- A. Review and Approval of the Minutes of the June 19, 2020 Audit Committee Meeting
- B. Review of Agencies' Activities
  - 1. Department of Savings and Mortgage Lending
  - 2. Office of Consumer Credit Commissioner
  - 3. Texas Department of Banking
- C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2020 Third Quarter Investment Officer Reports
  - 1. Department of Savings and Mortgage Lending
  - 2. Office of Consumer Credit Commissioner
  - 3. Texas Department of Banking
- D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Readoption of the Investment Policies for:
  - 1. Department of Savings and Mortgage Lending
  - 2. Office of Consumer Credit Commissioner
  - 3. Texas Department of Banking
- E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2020 Third Quarter Financial Statements
  - 1. Department of Savings and Mortgage Lending
  - 2. Office of Consumer Credit Commissioner
  - 3. Texas Department of Banking
- F. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2021 Operating Budgets
  - 1. Department of Savings and Mortgage Lending
  - 2. Office of Consumer Credit Commissioner
  - 3. Texas Department of Banking

- G. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Savings and Mortgage Lending's 2020 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez & Associates
- H. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's 2020 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez & Associates
- I. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's Revenue Accounting Process Audit Report as Prepared and Presented by Garza/Gonzalez & Associates
- J. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's 2020 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez & Associates
- K. Report on Activities Relating to the Texas Financial Education Endowment Fund

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

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

# MINUTES OF THE AUDIT COMMITTEE MEETING Friday, June 19, 2020

The Audit Committee of the Finance Commission of Texas convened at 8:30 a.m. on June 19, 2020 with the following members present:

**Audit Committee Members in Attendance (via webinar):**

Molly Curl, Chairman  
Hector Cerna  
Larry Long

Chairman Curl announced there was a quorum of the Audit Committee of the Finance Commission of Texas with three members present. (:16 on audio file).

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. Review and Approval of the Minutes of the April 17, 2020 Audit Committee Meeting	Hector Cerna made a motion to Approve the Minutes of the April 17, 2020 Audit Committee Meeting. Larry Long seconded and the motion passed.	1:01 start of discussion  1:40 Vote
B. Review of Agencies' Activities 1. Office of Consumer Credit Commissioner 2. Texas Department of Banking 3. Department of Savings and Mortgage Lending	No Action Required.	2:02 start of discussion
C. Discussion of the 2021 Budget Process	No Action Required.	5:50 start of discussion
D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action to Reapprove the Internal Auditor Contract for Garza/Gonzalez & Associates for Fiscal Year 2021	Molly Curl made a motion to recommend that the Finance Commission Reapprove the Internal Auditor Contract for Garza/Gonzalez & Associates for Fiscal Year 2021. Hector Cerna seconded and the motion passed.	7:37 start of discussion  8:35 Vote
E. Report on Activities Relating to the Texas Financial Education Endowment Fund	No Action Required.	11:47 start of discussion
F. 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

Chairman Curl called for an Executive Session at 8:45 a.m. *(15:36 on the audio file)*. The open meeting resumed at 9:09 a.m. *(16:43 on the audio file)*.

There being no further business of the Audit Committee of the Finance Commission of Texas, Chairman Curl adjourned the meeting at 9:10 a.m. *(17:26 on the audio file)*.

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Molly Curl, Chairman, Audit Committee  
Finance Commission of Texas

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Charles G. Cooper, Executive Director  
Finance Commission of Texas

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Brenda Medina, Executive Assistant  
Finance Commission of Texas

**Department of Savings and Mortgage Lending**  
**Audit Activity Report as of August 6, 2020**

Auditor	Garza/Gonzales	Audit Report Date
Audit Area	Records Management	7/10/2020
Observation	Status Update	
Update review process	<b>Completed.</b> Review process of TexLinx AC dates updated.	
Contact TSLAC staff with request to change Texlinx information	<b>Completed.</b> Request sent to Texas State Libraries and Archives Commission staff.	

Auditor	State Office of Risk Management (SORM)	Audit Report Date
Audit Area	Risk Management Program Review	N/A
Recommendation	Status Update	
N/A	<b>Scheduled.</b> Review scheduled for August 18, 2020.	

**Office of Consumer Credit Commissioner**  
**Status of Agency Activities and Outstanding Audit Findings and Recommendations as of August 2020**

<b>Auditor</b>	<b>Garza/Gonzales</b>		<b>Audit Report Date</b>
<b>Audit Area</b>	<b>Records Management</b>		<b>August 2020</b>
<b>Recommendation</b>	<b>Response</b>	<b>Status Update</b>	<b>Implementation Date</b>
The OCCC should assess, and revise if appropriate, its current RDL review procedures to ensure any errors in the completed RDL are detected timely to ensure state records are not improperly destroyed.	The OCCC will analyze and revise records disposition log review procedures to allow for review on multiple levels and allow ample time for review and verification to ensure compliance with OCCC RRS. Additionally the OCCC will add a step to the process that RML must receive a scanned copy of approved log before disposition can begin. Staff will be trained on the new procedures.	Pending	October 1, 2020
The Licensing department should evaluate and revise, as considered necessary, the current imaging and verification logging procedures; and, ensure Licensing staff consistently follow the established procedures.	The Licensing department has determined that the current imaging, verification, and logging procedures for digital records stored in Application Xtender are appropriate and adequate. The department will ensure that staff are re-trained to ensure the procedures are consistently followed.	Pending	October 1, 2020

<b>Auditor</b>	<b>State Office of Risk Management (SORM)</b>		<b>Audit Report Date</b>
<b>Audit Area</b>	<b>Risk Management Program Review</b>		<b>June 8, 2020</b>
<b>Recommendation</b>	<b>Response</b>	<b>Status Update</b>	<b>Implementation Date</b>
The OCCC should develop a comprehensive Risk, Safety & Health (S&H) Manual that would act as a central resource for employees and supervisors to reference Risk and Safety practices.	The OCCC established a comprehensive Risk, Safety and Health Reference Guide for all employees. The reference guide was sent to all employees on 7/9/2020 and has been added to the OCCC Employee Website.	Complete	July 9, 2020
The OCCC should review and update its Emergency Contingency Plan. The review should include documentation on designation of an Assembly Area or Rally Point and the method for conducting a head count.	OCCC continues to provide the emergency evacuation process and rally location to all employees. The rally location may be found on the Risk, Safety and Health Reference Guide plus the OCCC Employee Website.	Complete	June 8, 2020
The OCCC should develop a detailed Driver Safety Training Program. Once developed, SORM suggests all OCCC employees whose primary function requires them to drive should successfully complete an annual training session.	OCCC assigned a Defensive Driving Course for all employees to complete by July 31, 2020. New hires will have to complete the course upon hire. Human Resources will require the Defensive Driving Course on an annual basis for all staff members.	Complete	July 9, 2020

<b>Future Items</b>			
<b>Entity</b>	<b>Activity</b>	<b>Status</b>	<b>Date</b>
None Pending at this time	-	-	-



## **Risk Management Program Review Report**

Office of Consumer Credit Commissioner

June 17, 2020

**Conducted by:**  
Jim Stephens, Risk Manager





State Office of Risk Management

300 W. 15<sup>TH</sup>, AUSTIN, TEXAS 78701 / P.O. BOX 13777, AUSTIN, TEXAS 78711-3777  
(512) 475-1440, FAX (512) 370-9025 / WWW.SORM.STATE.TX.US

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June 17, 2020

Ms. Leslie Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
2601 North Lamar Blvd. 2nd Floor  
Austin, TX 78705

Agency # 466

Re: Risk Management Program Review (RMPR)

Dear Ms. Pettijohn,

On Monday June 8, 2020, the State Office of Risk Management (SORM) conducted a Risk Management Program Review (RMPR) with the OCCC via ZOOM meeting. The consultation was conducted under authority of Texas Labor Code, Title V, Subtitle A, Chapter 412, and is designed to assist state agencies with the development and implementation of comprehensive risk management programs that meet Risk Management for Texas State Agencies (RMTSA) guidelines.

The visit was scheduled as a consultation with agency risk management to discuss observed or potential exposures and to help the Agency eliminate or mitigate those risks.

The following items were reviewed and discussed during the visit:

- The Agency's SORM 200 data.
- Annual Report and Agency Financial and Strategic Workforce Plans.
- OCCC Employee Handbook along with the Agency Emergency Procedures, COOP Plan and employee safety best practices.
- The Agency website was reviewed and found to be detailed and user friendly.
- The Risk Evaluation and Planning System Questions (REPS) were reviewed. The questionnaire was filled out and no omissions were found.



SORM reviewed and discussed workers' compensation insurance data and claims with OCCC during the consultation. The information reflects claims received by SORM from FY2016 through April 2020.

- OCCC experienced four worker's compensation claims, with only one accepted, during FY16-April2020. The one accepted claim occurred during FY17 and was a strain as a result of lifting.
- Medical expenses incurred for this claim were minor.

Determinations about whether to retain or transfer the financial consequences of a potential risk are an essential calculus for any effective risk management program. To this end and in accordance with its statutory authority contained within the Texas Labor Code, SORM assists state agencies by providing tools and education for making these critical decisions, as well as by sponsoring six statewide lines of insurance, also known as risk financing mechanisms. The insurance lines are: Automobile, Property, Directors' and Officers', Volunteer, Builders' Risk, and Fine Arts. Potential exposures with regards to these potentially insurable risks in these areas were reviewed with OCCC during this RMPR.

"Maximum Possible Loss" and "Maximum Probable Loss" are mentioned below in accordance with Texas Labor Code, Title V, Subtitle A, Chapter 412, Section 412.053 (3).

OCCC is located at 2601 N. Lamar St Austin. The building is owned by the Finance Commission. OCCC does not have a financial interest in the building. The Agency currently participates in the SORM Auto, D&O (with cyber endorsement) and property insurance programs. OCCC has a reported "contents only" Total Insured Value (TIV) of \$549,325.

Volunteer: According to OCCC staff, the agency currently uses one intern that may be considered a volunteer. OCCC retains the risk.

Noteworthy observations made during this consultation include the following:

- Established in 1963, the mission of the Office of Consumer Credit Commissioner (OCCC) is to regulate non-depository financial services and to educate consumers and creditors; fostering a fair, lawful, and healthy credit environment for economic prosperity in Texas. A review of the Agency financial records and strategic plan show the Agency is functioning in line with its mission.
- On January 27, 2020, Candance Vargas invited me to conduct a Safe Lifting training session at OCCC. There were about 40 employees in attendance including the Commissioner. The training session lasted about 90 mins. The training was well received, and I believe the request for SORM to conduct this training is a direct reflection of the positive and proactive approach OCCC Leadership takes to risk management and employee safety.

- OCCC has several well-written and detailed policies on *Telecommuting, Social Media and Cloud usage*.
- OCCC's *Return-to-Work (RTW) policy* is detailed and well written.
- Although OCCC has a couple of vacancies at the time of this report, OCCC has a history of good employee retention. I believe this accomplishment is a direct reflection on OCCC Leadership. A component in mitigating risk is an Agency's ability to control the outbound flow of institutional knowledge as employees leave the Organization. Retaining employees helps control that flow. OCCC recognizes the value of employee retention and addresses the potential employee vacancies through the Agency Strategic Workforce Plan.

During this visit, SORM discussed the following recommendations from the previous RMPR and they are now **closed**:

- 16-05-01      Risk Management: Policies and Procedures: Armed Intruder**
- 16-05-02      Risk Management – Policies/Procedures: Indoor Air Quality (IAQ) Plan**
- 16-05-03      Safety: Fire Safety: Small Appliance**

SORM is happy to provide the following documents/templates to assist OCCC in completing the below recommendations.

- SORM will provide a sample template of a typical Risk, Safety and Health Table of Contents and samples of specific employee protection best practices as requested.
- SORM will provide an example of an Emergency Action Plan Flip Chart for OCCC to use as reference when developing the Agency document.
- SORM will provide a copy of the Texas Labor Code Sec. 412.054 "Continuity of Operations Plan" and the 2019 Texas Continuity Policy Letter for reference.

Recommendations to maintain the efficiency of your Risk Management Program from this SORM visit include the following:

**20-06-01      Policy/Procedure/Training – Risk Management, Safety & Health Manual**

Considering the size of the Agency and OCCC employee's primary function is office duties, the combining of a Risk Management Manual and an Employee Safety & Health Manual is the viable option for OCCC. OCCC has several well written and important Risk and Safe Work Practices. However, these documents

are presently housed in the Employee Handbook and not readily visible when needed.

SORM recommends developing a comprehensive Risk, Safety & Health (S&H) Manual that would act as a central resource for employees and supervisors to reference Risk and Safety practices.

SORM also noted the following areas of Risk and Safety that present opportunities for improvement. Once developed, SORM recommends OCCC staff attend training on the newly created policies and procedures.

- OCCC does not have a signed Risk, S&H policy statement. A signed policy statement (signed by the Commissioner) shows the agency's commitment to providing a safe and healthy workplace. It also provides support and validity to the program.
- SORM recommends implementing an annual Risk, Safety & Health Manual review process and update the Commissioner signature.
- A section on Fire Prevention.
- As discussed in the review, OCCC does have a procedure for employees working alone. However, SORM recommends the policy/procedure be documented. (*Lone Worker*).

*Reference: SORM, RMTSA Guidelines, volume one and volume three*

#### **20-06-02 Policy/Procedure/Training: Emergency Action Plan (EAP) – Assembly Area**

The OCCC Emergency Action Plan is identified as the Agency Emergency Contingency Plan. A review of the document shows the plan should include important details such as instructing employees where to meet in the event of an emergency evacuation. This is routinely referred to as the Assembly Point or Rally Point that is outside and away from the building

SORM recommends OCCC review and update its Emergency Contingency Plan. The review should include documentation on designation of an Assembly Area or Rally Point and the method for conducting a head count. This new information should also be added to the Agency new-hire orientation program.

*Reference: OSHA CFR 29 1910.38(c)(4) "Emergency Action Plans - Procedures to account for all employees after evacuation"*

**20-06-03 Policy/Procedure/Training – Driver Safety Training**

OCCC has a written training policy which outlines the overall policy and objectives. The policy addresses subjects such as the implementation of training, cross-training, examiner conferences and speaking engagements. In the paragraph, ***Specialized, High Interest Areas, or Specific Subject Matter Training***, the document acknowledges the need for *defensive driving*. However, the policy does not address the details for implementing a Driver Safety Training Program.

50+/-% of OCCC employees are assigned to the field and these employees drive thousands of miles annually in course and scope of their duties. Considering the high potential for exposure to risk and safety these employees face daily, SORM recommends OCCC develop a detailed Driver Safety Training Program. Once developed, SORM suggests all OCCC employees whose primary function requires them to drive should successfully complete an annual training session.

As the SORM Risk Manager assigned to OCCC, I'll be happy to assist in developing a safe driver training program.

*Reference: SORM, RMTSA Guidelines, Volume III, Section Two, Chapter 6*

Please complete the attached Risk Strategy Plan for the above listed recommendations and forward them to SORM by **July 10, 2020**. If OCCC needs more time to complete the requested Risk Strategy Plan, please reach out to me and we can determine a new date.

Please convey my sincere appreciation to Ms. Vargas and Ms. Zepeda for their cooperation and assistance during the consultation. If you have any questions or concerns regarding this report, please contact me by phone at 512-936-1570 or email at [jim.stephens@sorm.texas.gov](mailto:jim.stephens@sorm.texas.gov).

Sincerely,



Jim Stephens, CHMM, CFPS  
Risk Manager  
State Office of Risk Management

cc: [candance.vargas@occc.texas.gov](mailto:candance.vargas@occc.texas.gov)  
[mirand.zepeda@occc.texas.gov](mailto:mirand.zepeda@occc.texas.gov)

**Texas Department of Banking**  
**Outstanding Audit Findings/Recommendations Report**  
**as of July 31, 2020**

<b>Auditor:</b>	<i>Garza/Gonzalez &amp; Associates</i>	<b>Audit Report Date:</b> <i>June 2020</i>
<b>Audit Area:</b>	<i>Revenue Accounting Process</i>	
<b>Findings:</b>	<b>Status Update:</b>	
No Findings	<i>Completed – June 2020</i>	

<b>Auditor:</b>	<i>Garza/Gonzalez &amp; Associates</i>	<b>Audit Report Date:</b> <i>July 2020</i>
<b>Audit Area:</b>	<i>Imaging and Records Management</i>	
<b>Findings:</b>	<b>Status Update:</b>	
Record Retention Periods	<i><b>Completed</b> – Additional training was provided to correct quality control issue.</i>	
Archival Records	<i><b>In-process</b> – The Texas State Library Archivist is in the process of reviewing sample records to determine if the series in question is archival or not.</i>	

<b>Auditor:</b>	<i>Garza/Gonzalez &amp; Associates</i>	<b>Audit Report Date:</b> <i>N/A</i>
<b>Audit Area:</b>	<i>Change Management Follow-Up</i>	
<b>Findings:</b>	<b>Status Update:</b>	
Change Management Framework	<i><b>In-process</b> – Change management procedures for code and project/program management have been developed, and tracking software has been reconfigured to accommodate change requests. Consolidated procedures are in the final stages of development. Estimated completion is August 31, 2020.</i>	
Risk Assessment Process	<i><b>In-process</b> - A risk rating system for program/project level changes has been implemented; however, consolidated change management procedures are in the final stages of development. Estimated completion is August 31, 2020.</i>	
Approval Authority Based on Risk Rating	<i><b>In-process</b> - Data/application owner procedures are being developed. Estimated completion is September 30, 2020.</i>	
Software Application Updates	<i><b>Completed</b></i>	
Review Process for Code Change	<i><b>Completed</b></i>	

<b>Auditor:</b>	<i>Department of Information Resources/AT&amp;T Consulting</i>	<b>Audit Report Date:</b> <i>February 28, 2020</i>
<b>Audit Area:</b>	<i>External Network Penetration Test and Web Application Vulnerability Scan</i>	
<b>Findings:</b>	<b>Status Update:</b>	
Findings Related to Network Security	<b><i>On-going</i></b> – Action plan is in place to remediate report findings. Expected completion date is August 31, 2020.	

# Department of Savings and Mortgage Lending

## Investment Officer Report as of May 31, 2020

### Recovery Fund

	Beginning Balance 3/1/2020	Additions/ Reductions	Interest Received	Bank Fees	Ending Balance 5/31/2020
Cash & Cash Equivalents	\$4,314,579.29	\$35,910.00	\$5,790.49	(\$330.58)	\$4,355,949.20

Bank Name	Type	Maturity Date	Interest Rate	Book/Market Value	Accrued Interest
Tx Treasury Safekeeping Trust Co	Overnight Repurchase Agreements	6/1/2020	0.02%	\$3,108,669.56	\$2.04
Dalhart Federal Savings	CD - 24 months	10/18/2020	2.50%	250,000.00	10,260.42
Horizon Bank SSB	CD - 24 months	1/31/2021	2.27%	250,000.00	488.68
TBK Bank	CD - 24 months	4/7/2021	3.00%	247,279.64	1,133.37
First Fed Community Bank, SSB	CD - 18 months	6/13/2021	1.70%	250,000.00	2,006.94
South Star Bank SSB	CD - 24 months	4/17/2022	1.20%	250,000.00	366.67
				\$4,355,949.20	\$14,258.12

#### Investment Position:

The Fund is capable of meeting all known obligations.

Investment Officer: /s/Antonia Antov

Investment Officer: /s/Steven O'Shields

#### Investment Compliance:

The Department's Investment Policy has been followed.

Date: 6/16/2020

Date: 6/16/2020

**Office of Consumer Credit Commissioner  
Fiscal Year 2020 - 3rd Quarter**

**Residential Mortgage Loan Originator Recovery Trust Fund #3008**

<u>Beginning Balance at 03/01/2020</u>	<u>Additions / *(Deductions)</u>	<u>Interest Paid</u>	<u>Paid Bank Fees</u>	<u>Ending Balance at 05/31/2020</u>	<u>Current Interest Rate</u>
\$ 158,498.23	\$ -	\$ 89.85	\$ (45.57)	\$ 158,542.51	0.023%

Prepared By: /s/ Adrian Alejandro Hernandez

Date: 08/05/2020

Investment Officer: /s/ Mirand Diamond

Date: 8/10/2020

Note: These funds are held at the Texas Treasury Safekeeping Trust Company in overnight repurchase agreements.  
The above investments are in compliance with the agency's investment policy.



**Office of Consumer Credit Commissioner**  
**Fiscal Year 2020 - 3rd Quarter**

<b>Texas Financial Education Endowment Fund #3071</b>								
	Beginning Balance at 03/01/2020	Additions	Interest Paid	Transfers	Grant Disbursements	Paid Bank Fees	Ending Balance at 05/31/2020	Current Interest Rate
<b>Cash</b>	\$ 1,644,682.08	\$ 6,294.26	\$ 932.58	\$ -	\$ (20,440.65)	\$ (6,482.97)	\$ 1,624,985.30	0.023%
	Beginning Balance at 03/01/2020	Additions	*Change in Value	Transfers	Transfer Out	Paid Fees	Ending Balance at 05/31/2020	
<b>Invested Portfolio</b>								
Cash in Bank	\$ 38,740.91	\$ -	\$ (38,740.91)	\$ -	\$ -	\$ -	\$ -	
Investments - STIF	2,584,146.03	4,432.75	366,700.47			(1,450.67)	2,953,828.58	
Interest & Dividends Receivable	3,747.99		(3,362.06)				385.93	
Trade Receivables	-		-				-	
Investments - Equities	10,445.73		10,076.80				20,522.53	
Investments - Alternatives	3,677,440.31		(336,801.51)				3,340,638.80	
Investments - Fixed Income	293,206.49		(238,716.52)				54,489.97	
Investments - Futures	-		-				-	
Investments - SWAPS, at Fair Value	-		55,160.04				55,160.04	
Total Assets-Invested Portfolio	\$ 6,607,727.46	\$ 4,432.75	\$ (185,683.69)	\$ -	\$ -	\$ (1,450.67)	\$ 6,425,025.85	
<b>Liabilities</b>								
Accounts Payable	\$ (3,049.92)	\$ 3,049.92	\$ -	\$ -	\$ -	\$ -	\$ -	
Interest Payable	-	-					-	
Trade Payables	(1,405.75)	(59,409.37)					(60,815.12)	
Futures Contracts, at Fair Value	-	-					-	
Swaps, at Fair Value	(50,746.20)	50,746.20					-	
Total Liabilities	\$ (55,201.87)	\$ (5,613.25)	\$ -	\$ -	\$ -	\$ -	\$ (60,815.12)	
Total Net Fiduciary Assets-Invested Portfolio	\$ 6,552,525.59						\$ 6,364,210.73	
<b>Total Endowment Funds</b>	<u>\$ 8,197,207.67</u>						<u>\$ 7,989,196.03</u>	

Note: These funds are invested with the Texas Treasury Safekeeping Trust Company.  
The above investments are in compliance with the agency's investment policy.

\* Reflects redistributed amount among the asset classes in addition to market value adjustment.

Prepared By: /s/ Adrian Alejandro Hernandez

Date: 08/05/2020

Investment Officer: /s/ Mirand Diamond

Date: 8/10/2020

Department of Banking Quarterly Investment Report  
 March 1, 2020 to May 31, 2020

Seized Prepaid Funeral Funds Held in a Financial Institution	Book Value at February 29, 2020	Interest Income Received	Trustee Fees Paid	Other Deductions	Other Additions	Book Value at May 31, 2020	Financial Institution	Investment Type	Maturity Date	Interest Rate
None	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00			N/A	N/A
Total Seized Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00				

Notes:

/s/

Jesse Saucillo

Investment Officer

6/25/2020

Date

/s/

Sami Chadli

Investment Officer

7/2/2020

Date

**Trust-Funded Prepaid Funeral Guaranty Fund Quarterly Investment Report**  
**March 1, 2020 to May 31, 2020**

<u>Book Value at February 29, 2020</u>	<u>Interest Income Received</u>	<u>Trustee Fees Paid</u>	(1) <u>Other Deduction</u>	(2) <u>Other Additions</u>	<u>Book/Market Value at May 31, 2020</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Accrued Interest on CDs</u>
\$1,454,596.58	\$4,172.45	\$103.76	\$103,354.19	\$5,430.00	\$1,360,741.08	--	--	\$636.16

Trust Account Balances at Trustee/Depositories

Texas Treasury Safekeeping Trust Company *	\$629,242.96	6/1/2020	0.02%	
United Texas Bank, Dallas, Texas (CD)	\$246,972.43	12/19/2020	1.95%	\$145.14
State Bank of Texas, Dallas, Texas (CD)	\$240,000.00	12/16/2020	1.85%	\$133.81
Frontier Bank of Texas, Elgin, Texas (CD)	\$244,525.69	7/18/2021	1.24%	\$357.21
Subtotal	\$1,360,741.08			

(1) Other deduction comprised of \$103,354.19 restitution paid to prepaid funeral contract consumers related to Hernandez Funeral Home, Inc. (HFH), Emergency Order to Cease and Desist Activity, and to Seize Records and Funds Number 2019-015.

(2) Other additions include: (a) \$330.00 of PFC payments from consumers regarding HFH; (b) \$500.00 restitution received from Mr. Kevin Keeney on behalf of Howell-Doran Funeral Home; (c) \$400.00 restitution received from Mr. Marc Gonzalez; (d) \$400.00 restitution received from Mr. Roy and Ms. Kay Bryant dba Amarillo Family Funeral Home; and (e) \$3,800.00 restitution received from Ms. Maria de la Luz Hernandez on behalf of HFH.

\* These funds are held at the Texas Treasury Safekeeping Trust Company in overnight repurchase agreements.  
The above investments are in compliance with the investment strategies of Administrative Memorandum 2016.

/s/ Jesse Saucillo  
Investment Officer

6/25/2020  
Date

/s/ Sami Chadli  
Investment Officer

7/2/2020  
Date

**Insurance-Funded Prepaid Funeral Guaranty Fund Quarterly Investment Report**  
**March 1, 2020 to May 31, 2020**

<u>Book</u> <u>Book Value at February 29, 2020</u>	<u>Interest Income</u> <u>Received</u>	<u>Trustee</u> <u>Fees Paid</u>	<u>Other</u> <u>Deductions</u>	(1) <u>Other</u> <u>Additions</u>	<u>Book/Market</u> <u>Value at May 31, 2020</u>	<u>Maturity</u> <u>Date</u>	<u>Interest</u> <u>Rate</u>	<u>Accrued Interest</u> <u>on CDs</u>
\$649,111.50	\$1,592.48	\$75.69	\$0.00	\$69,350.00	\$719,978.29			\$255.12

Account Balances at Trustee/Depositories

Texas Treasury Safekeeping Trust Company *	\$474,346.74	3/1/2020	0.02%	
AccessBank, Denton, Texas (CD)	<u>\$245,631.55</u>	7/14/2020	2.23%	\$255.12
Subtotal	\$719,978.29			

(1) Other additions include assessments collected from permit holders on new insurance-funded contracts.

\* These funds are held at the Texas Treasury Safekeeping Trust Company in overnight repurchase agreements.  
The above investments are in compliance with the investment strategies of Administrative Memorandum 2016.

/s/ Jesse Saucillo  
Investment Officer

6/25/2020  
Date

/s/ Sami Chadli  
Investment Officer

7/2/2020  
Date

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

## **Overview**

This policy governs the investment of funds of the ~~Mortgage~~-Recovery Fund (“the Fund”) administered by the Department of Savings and Mortgage Lending (“the Department”) to the extent the Department has statutory investment authority. The Fund has been established as mandated by the 76<sup>th</sup> Legislature; and organized pursuant to the Texas Finance Code, Chapter 156, Subchapter F. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code; Chapter 2256), efforts are made to closely follow the Act.

This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission reapproved this policy on ~~August 16, 2019~~ August 21, 2020. The policy includes changes ~~stemming from legislation enacted by the 86<sup>th</sup> Legislative Session and~~ clarifying content. Previous changes to this policy were approved on ~~October 20, 2017~~ August 16, 2019.

It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio; and
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Appropriate diversification of investments will be sought.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

## **Identification of Covered Funds**

Funds covered by this policy include amounts deposited into the ~~Mortgage~~-Recovery Fund as prescribed in Texas Finance Code; Chapter 156; Subchapter F.

## **Types of Authorized Investments**

The fund or a portion of the fund may be placed in the Texas Treasury Safekeeping Trust Company (or its successor). Pursuant to ~~Section 404.106 of the~~ Government Code, Section 404.106, funds held by the Texas Treasury Safekeeping Trust Company are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

~~Government Code~~ Section 404.024 ~~of the Government Code~~ specifies those obligations in which the Comptroller is authorized to invest.

According to Texas Finance Code, Section 156.501 (c), the amounts in the fund may be invested and reinvested in the same manner as funds of the Texas State Employees Retirement System (“ERS”), however an investment may not be made if it will impair the necessary liquidity required to satisfy judgment payments awarded to residential mortgage loan applicants from the Fund.

The Department’s investment goals align with the ERS’s investment policy for Cash and Cash equivalents, which states that the cash portfolio is managed to maintain liquidity and preserve principal with a maximum final maturity of 18 months and with a minimum credit quality rating of A. The eligible securities for cash and cash equivalents according to ERS’s investment policy are as follows:

1. Asset Backed Securities
2. Certificates of Deposit
3. Commercial Paper
4. Time Deposits
5. Repurchase Agreements
6. Treasury and Government Agency Securities
7. Bank Notes
8. Institutional Money Market Funds
9. Supranationals/Sovereigns
10. Domestic corporate bonds and floating rate notes (FRNs)
11. Interest-bearing deposit accounts
12. Bonds issued, assumed, or guaranteed by the State of Israel
13. No-load money market mutual fund
14. No-load mutual fund

To provide for more flexibility and obtain a higher rate of return, while still maintaining liquidity and preserve principal the Department increases the allowable maturity period to 36 months (120 months for Asset Backed Securities) and with a minimum credit rating of A. To further limit the investment risk, the Department restricts the eligible securities for investment of funds covered under this policy to:

1. *Certificates of Deposit & Time Deposits* – Deposit accounts in a depository institution that has its main office or a branch office in this state which are: 1) Insured by a federal deposit insurance agency; or its successor; or, 2) 100% secured by securities allowable under the ERS’ investment policy for cash and cash equivalents; and 3) do not have a maturity exceeding 36 months. Bids for certificates of deposit may be solicited orally, in writing, electronically or in any combination of those methods.
2. *Repurchase Agreements* – Direct or reverse security repurchase agreements with the Texas Treasury Safekeeping Trust Company (or its successor) or another authorized entity under this policy, which are: 1) collateralized on a daily basis at a minimum of 102% of market value; 2) 100% secured by securities allowable under the ERS’ investment policy for cash and cash equivalents; 3) are placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

3. *Asset Backed Securities* - Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency or instrumentality of the U.S., provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 120 months from the date the collateralized mortgage obligation is acquired by the Department and expected average life of not more than 60 months.
4. *Treasury and Government Agency Securities* – Obligations, including letters of credit, of the United States or its agencies and instrumentalities (including the Federal Home Loan Banks), direct obligations of this state or its agencies and instrumentalities, and obligations of state or local government agencies and instrumentalities of any state rated as to investment quality by a nationally recognized investment rating firm not less than A with a maximum allowable maturity of 60 months.

Investments that were authorized at the time they were purchased may be retained under this policy until their maturity, even if later revisions of the policy render the investments in noncompliance; unless the reason for noncompliance is that the investment's rating declines to below the minimum rating required by this policy. In such cases, the investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

### **Unauthorized Investments**

Unauthorized Investments under this policy are:

1. All investments in securities not specifically listed in this policy as eligible securities;
2. All investments with maturity and credit rating that do not comply with the requirements of this policy;
3. All investments obtained through an unauthorized entity under this policy;
4. All investments which comply with the policy but through inherent characteristics or external influences and factors could prevent the Department to reach its investment goals under this policy;
5. All Investments in companies doing business in Sudan, Iran, or engaging in business with a foreign terrorist organization.<sup>1</sup>

### **Strategy for Covered Funds**

The investment strategy for funds received into the ~~Mortgage~~ Recovery Fund, is to place funds in either authorized investments set forth in this policy, or in the Texas Treasury Safekeeping Trust Company, with amounts and maturities determined by anticipated liquidity needs.

### **Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Department of Savings and Mortgage Lending and safekeeping receipts will be maintained on file.

### **Reporting**

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

- The investment position of the Fund on the date of the report;
- The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- The maturity date of each separately invested asset that has a maturity date;
- Any non-compliance of the investment portfolio with this policy;
- Income received and expenses incurred in conjunction with investments; and,
- Any other information as required by the Finance Commission or deemed relevant to this policy.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

### **Rates of Return and Market Pricing**

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives.

### **Diversification**

Investments in FDIC-insured deposits, ~~(or~~ in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin), and in direct U.S. Treasury obligations, are not subject to diversification other than maturity considerations.

### **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

### **Investment Officer**

The Director of Administration and Finance will be the designated Investment Officer for the funds held and invested by the Department. The Investment Officer is authorized to:

- Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- Delegate routine business transactions within authorized and established investments; and,
- Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.



## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

Within six months of the end of each Legislative session, the Investment Officer will provide a report to the Finance Commission outlining any amendments made to the Public Funds Investment Act and other statutes, impacting the agency's investments, and provide recommendations to update the Investment Policy, as needed. ~~if amendments have been made to the Public Funds Investment Act, the Investment Officer will provide a report to the Finance Commission outlining the amendments and provide recommendations to update the Investment Policy.~~

### **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, and market risks. Any training conducted or approved by any state or federal agency, independent of the Department, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of Financial Industry Regulatory Authority (FINRA).

### **Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts is exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment (Appendix) that the business organization:

- Has received and reviewed the Investment Policy of the Department; and,
- ~~Acknowledges that the business organization h~~Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except to the extent that this authorization;
  - is dependent on an analysis of the makeup of the Department's entire portfolio;
  - requires an interpretation of subjective investment standards; or
  - relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.

DEPARTMENT OF SAVINGS AND MORTGAGE LENDING  
INVESTMENT POLICY

Appendix

Acknowledgment

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Savings and Mortgage Lending and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

## **Overview**

This policy governs the investment of funds of the Recovery Fund (“the Fund”) administered by the Department of Savings and Mortgage Lending (“the Department”) to the extent the Department has statutory investment authority. The Fund has been established as mandated by the 76<sup>th</sup> Legislature and organized pursuant to the Texas Finance Code, Chapter 156, Subchapter F. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Chapter 2256), efforts are made to closely follow the Act.

This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission reapproved this policy on August 21, 2020. The policy includes changes clarifying content. Previous changes to this policy were approved on August 16, 2019.

It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio; and
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Appropriate diversification of investments will be sought.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

## **Identification of Covered Funds**

Funds covered by this policy include amounts deposited into the Recovery Fund as prescribed in Texas Finance Code Chapter 156 Subchapter F.

## **Types of Authorized Investments**

The fund or a portion of the fund may be placed in the Texas Treasury Safekeeping Trust Company (or its successor). Pursuant to Government Code, Section 404.106, funds held by the Texas Treasury Safekeeping Trust Company are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Government Code Section 404.024 specifies those obligations in which the Comptroller is authorized to invest.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

According to Texas Finance Code Section 156.501 (c), the amounts in the fund may be invested and reinvested in the same manner as funds of the Texas State Employees Retirement System (“ERS”), however an investment may not be made if it will impair the necessary liquidity required to satisfy judgment payments awarded to residential mortgage loan applicants from the Fund.

The Department’s investment goals align with the ERS’s investment policy for Cash and Cash equivalents, which states that the cash portfolio is managed to maintain liquidity and preserve principal with a maximum final maturity of 18 months and with a minimum credit quality rating of A. The eligible securities for cash and cash equivalents according to ERS’s investment policy are as follows:

1. Asset Backed Securities
2. Certificates of Deposit
3. Commercial Paper
4. Time Deposits
5. Repurchase Agreements
6. Treasury and Government Agency Securities
7. Bank Notes
8. Institutional Money Market Funds
9. Supranationals/Sovereigns
10. Domestic corporate bonds and floating rate notes (FRNs)
11. Interest-bearing deposit accounts
12. Bonds issued, assumed, or guaranteed by the State of Israel
13. No-load money market mutual fund
14. No-load mutual fund

To provide for more flexibility and obtain a higher rate of return, while still maintaining liquidity and preserve principal the Department increases the allowable maturity period to 36 months (120 months for Asset Backed Securities) and with a minimum credit rating of A. To further limit the investment risk, the Department restricts the eligible securities for investment of funds covered under this policy to:

1. *Certificates of Deposit & Time Deposits* – Deposit accounts in a depository institution that has its main office or a branch office in this state which are: 1) Insured by a federal deposit insurance agency or its successor; or 2) 100% secured by securities allowable under the ERS’ investment policy for cash and cash equivalents; and 3) do not have a maturity exceeding 36 months. Bids for certificates of deposit may be solicited orally, in writing, electronically or in any combination of those methods.
2. *Repurchase Agreements* – Direct or reverse security repurchase agreements with the Texas Treasury Safekeeping Trust Company (or its successor) or another authorized entity under this policy, which are: 1) collateralized on a daily basis at a minimum of 102% of market value; 2) 100% secured by securities allowable under the ERS’ investment policy for cash and cash equivalents; 3) are placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state.
3. *Asset Backed Securities* - Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

or instrumentality of the U.S., provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 120 months from the date the collateralized mortgage obligation is acquired by the Department and expected average life of not more than 60 months.

4. *Treasury and Government Agency Securities* – Obligations, including letters of credit, of the United States or its agencies and instrumentalities (including the Federal Home Loan Banks), direct obligations of this state or its agencies and instrumentalities, and obligations of state or local government agencies and instrumentalities of any state rated as to investment quality by a nationally recognized investment rating firm not less than A with a maximum allowable maturity of 60 months.

Investments that were authorized at the time they were purchased may be retained under this policy until their maturity, even if later revisions of the policy render the investments in noncompliance; unless the reason for noncompliance is that the investment's rating declines to below the minimum rating required by this policy. In such cases, the investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

### **Unauthorized Investments**

Unauthorized Investments under this policy are:

1. All investments in securities not specifically listed in this policy as eligible securities;
2. All investments with maturity and credit rating that do not comply with the requirements of this policy;
3. All investments obtained through an unauthorized entity under this policy;
4. All investments which comply with the policy but through inherent characteristics or external influences and factors could prevent the Department to reach its investment goals under this policy;
5. All Investments in companies doing business in Sudan, Iran, or engaging in business with a foreign terrorist organization.<sup>1</sup>

### **Strategy for Covered Funds**

The investment strategy for funds received into the Recovery Fund is to place funds in either authorized investments set forth in this policy, or in the Texas Treasury Safekeeping Trust Company, with amounts and maturities determined by anticipated liquidity needs.

### **Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Department of Savings and Mortgage Lending and safekeeping receipts will be maintained on file.

### **Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

- The investment position of the Fund on the date of the report;
- The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- The maturity date of each separately invested asset that has a maturity date;
- Any non-compliance of the investment portfolio with this policy;
- Income received and expenses incurred in conjunction with investments; and,
- Any other information as required by the Finance Commission or deemed relevant to this policy.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

### **Rates of Return and Market Pricing**

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives.

### **Diversification**

Investments in FDIC-insured deposits, in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin, and in direct U.S. Treasury obligations, are not subject to diversification other than maturity considerations.

### **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

### **Investment Officer**

The Director of Administration and Finance will be the designated Investment Officer for the funds held and invested by the Department. The Investment Officer is authorized to:

- Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- Delegate routine business transactions within authorized and established investments; and,
- Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within six months of the end of each Legislative session, the Investment Officer will provide a report to the Finance Commission outlining any amendments made to the Public Funds Investment

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

Act and other statutes, impacting the agency's investments, and provide recommendations to update the Investment Policy, as needed.

### **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, and market risks. Any training conducted or approved by any state or federal agency, independent of the Department, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of Financial Industry Regulatory Authority (FINRA).

### **Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts is exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment (Appendix) that the business organization:

- Has received and reviewed the Investment Policy of the Department; and,
- Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except to the extent that this authorization;
  - is dependent on an analysis of the makeup of the Department's entire portfolio;
  - requires an interpretation of subjective investment standards; or
  - relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.



DEPARTMENT OF SAVINGS AND MORTGAGE LENDING  
INVESTMENT POLICY

Appendix

Acknowledgment

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Savings and Mortgage Lending and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date

DEPARTMENT OF SAVINGS AND MORTGAGE LENDING  
INVESTMENT POLICY

**Investment Training Report**

<b>Name/Designation</b>	<b>Date</b>	<b>Course</b>	<b>Provider</b>	<b>Hours</b>
Antonia Antov – Primary Investment Officer	8/9/2019	Texas Public Funds Investment Act	University of North Texas Center for Public Management	5
Janie Recio – Backup Investment Officer	8/13-14/2020	Texas Public Funds Investment Act	University of North Texas Center for Public Management	10
According to Government Code Sec. 2256.007, investment officer training requirements are on a state fiscal biennium basis.				

OFFICE OF CONSUMER CREDIT COMMISSIONER  
INVESTMENT POLICY STATEMENT  
[Effective August 21, 2020 ~~August 16, 2019~~]

### 1. Overview

This policy governs the investment of funds maintained by the Office of Consumer Credit Commissioner ("Agency"). This policy does not convey investment authority where such does not exist through statute. This policy shall be approved by the Finance Commission of Texas (Finance Commission) as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on August 21, 2020 ~~August 16, 2019~~ to re-approve this policy as revised ~~to include legislation enacted by the 86<sup>th</sup> Legislature and~~ to clarify content within this policy. Previously, this policy was reviewed and approved on August 16, 2019 ~~August 17, 2018~~.

It is the policy of the Agency to invest funds in compliance with the following priorities, in the order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of investment portfolio; and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

### 2. Identification of Covered Funds

Funds covered by this policy are funds authorized to be collected by the Texas Finance Code.

OCCC Operating Fund (TTSTC#2973)	
Enabling Legislation	§16.003, TEX. FIN. CODE

OCCC Residential Mortgage Loan Originator Recovery Fund (TTSTC#3008)	
Enabling Legislation	Sections 341.601 through 341.610, TEX. FIN. CODE
Distribution Policy	The fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a state-licensed residential mortgage loan originator who was licensed under the applicable chapter when the act was

	<del>act was</del> committed. — Recovery <del>is</del> limited by the provisions of §341.606 to an aggregate of \$25,000 per claim.
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Texas Financial Education Endowment Fund (TTSTC #3071)	
Enabling Legislation	§393.628, TEX. FIN. CODE
Distribution Policy	Annual distributions, payable quarterly or annually, are calculated as 3.5% times the twenty-quarter, moving-average value of the Fund as of June 30 for distributions to be made the following fiscal year.

### **3.Types of Authorized Investments**

Each fund (or a portion of one or more funds) may be placed in the Texas Treasury Safekeeping Trust Company (TTSTC) or its successor. Pursuant to Section 404.106 of the Government Code, funds held by the TTSTC are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Government Code specifies those obligations in which the Comptroller is authorized to invest.

In accordance with Section 341.602(f) of the Finance Code, the OCCC Residential Mortgage Loan Originator Recovery Fund may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under Section 341.602(f) if the investment will impair the necessary liquidity required to satisfy payment of judgment awarded under Chapter 341, Subchapter G of the Finance Code.

The Texas Financial Education Endowment Fund is to be invested with the TTSTC. In accordance with Section 393.628(b) of the Finance Code and Title 7, Section 7.105 of the Texas Administrative Code, Texas Financial Education Endowment funds may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas under Texas Government Code Chapter 815, Subchapter D, and interest from those investments will be deposited to the credit of the account. The Investment Policy Statement for Texas Endowment Funds managed by the TTSTC is adopted by reference for the oversight of the Texas Financial Education Endowment Fund.

[See

[https://ttstc.org/reports/investmentpolicies/Endowment%20IPS%20September%202018%20\(FINAL\).pdf](https://ttstc.org/reports/investmentpolicies/Endowment%20IPS%20September%202018%20(FINAL).pdf) ~~[http://ttstc.com/reports/investmentpolicies/Endowment-IPS-September-2018-\(FINAL\).pdf](http://ttstc.com/reports/investmentpolicies/Endowment-IPS-September-2018-(FINAL).pdf)~~.

These policies include:

- An investment return objective of 6%
- A securities lending objective to enhance current income to the extent consistent with the preservation of capital and maintenance of liquidity
- Portfolio rebalancing
- Portfolio hedging and overlays
- Asset allocation targets and performance benchmarks
- Risk management guidelines
- Investment manager expectations
- Fixed income, equity, real estate and all asset strategies

The investment policies of the TTSTC control over any conflict between this policy and the TTSTC investment policy for the Texas Financial Education Endowment Fund.

Insofar as a fund or portion of a fund is deposited in a financial institution, the Agency may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy,

means the remaining time until the final principal payment on the investment, measured from the date of purchase by the Agency.

- Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks, with a maximum allowable maturity of 10 years;
- Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
- Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency or instrumentality of the U.S. provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Agency;
- Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
- Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;
- Bonds issued, assumed, or guaranteed by the State of Israel;
- Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
- Other interest-bearing deposit accounts not described above if:
  - The funds are invested through a broker with a main office or branch office in this state as selected by the Agency from an approved list, or through a depository institution with a main office or branch office in this state;
  - The selected broker or depository institution arranges for the deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - The full amount of principal and accrued interest in such deposit accounts is insured by the U.S. or an instrumentality of the U.S.; and
  - The Agency appoints a custodian of the deposit accounts that is:
    - The depository institution selected to broker the deposits;
    - A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - The Texas Treasury Safekeeping Trust Company
    - A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - A Federal Home Loan Bank;
    - A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as custodian; or
    - A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3 (17 C.F.R. Section 240.15c3-3)

- A certificate of deposit issued by depository institution that has its main office or a branch office in this state, if the certificate :
  - Is guaranteed or fully insured by the FDIC, or its successor; or,
  - Is secured by obligations allowable under Gov't Code § 2256.009(a) for direct investment by the Agency; or
  - Is secured as provided under the Public Funds Collateral Act (Gov't Code Ch. 2257); and
  - Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

- Bids for certificates of deposit may be solicited:
  - Orally;
  - In writing;
  - Electronically; or
  - In any combination of those methods.
- A repurchase agreement , collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement , that:
  - With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
  - Is secured by a combination of cash and obligations allowable under Gov't Code §2256.009(a)(1) or § 2256.013 ;
  - Requires securities being purchased or cash held by the Agency to be pledged to the Agency, held in the Agency's name and deposited at the time the investment is made with the Agency or with a third party selected and approved by the Agency;
  - Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
  - Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.
- A no-load money market mutual fund that:
  - Is registered with and regulated by the SEC ;
  - Provides the Agency with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
  - Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).
- A no-load mutual fund that:
  - Is registered with the SEC ;
  - Has an average weighted maturity of less than two years;
  - Are invested exclusively in obligations authorized in this policy; and,
  - Either:
    - Has a duration of one year or more and is invested exclusively in obligations authorized in this policy; or
    - Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or otherwise obtained may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum

The investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270. These divestiture requirements expire in 2037.

#### **4.Unauthorized Investments**

The following are not authorized investments under this policy:

- Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index; and
- No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code §2256.014(b);
- Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization.<sup>1</sup>

#### **5.Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Office of Consumer Credit Commissioner and safekeeping receipts will be maintained on file.

#### **6.Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

- The investment position of the Agency on the date of the report;
- The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- The maturity date of each separately invested asset that has a maturity date;
- The fund for which each individual investment was acquired;
- Any non-compliance of the investment portfolio with this policy;
- Income received and expenses incurred in conjunction with investments; and,
- Any other information as required by the Finance Commission.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

#### **7.Rates of Return and Market Pricing**

The Agency expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

## **8.Diversification**

Investments in FDIC-insured deposits (~~or~~ in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

- The aggregate investment in no-load mutual funds described in Gov't Code §-2256.014(b) may not exceed 15 % of the monthly average fund balance of a covered investment fund held by the Agency, excluding bond proceeds and reserves and other funds held for debt service;
- No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
- Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

## **9.Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

## **10.Investment Officer**

The ~~Accounting Manager~~ Director of Licensing and Finance will be the designated Investment Officer for the funds held and invested by the Agency. The Investment Officer is authorized to:

- Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- Delegate routine business transactions within authorized and established investments; and,
- Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

If the Investment Officer has a personal business relationship with a business organization offering to engage in an investment transaction with the Agency, the Officer shall file a statement disclosing that personal business interest. For the purposes of this policy, an investment officer has a personal business relationship with a business organization if:

- The investment officer owns 10% or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- Funds received by the investment officer from the business organization exceed 10% of the investment officer's gross income for the previous year; or
- The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Agency, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within 180 days of the end of each Legislative session, the Agency will provide a report to the Finance Commission outlining any recent amendments pertaining to the Public Funds Investment Act and other statutes, and will provide appropriate recommendations to update the Investment Policy as needed.

## **11.Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, and market risks.

Any training conducted or approved by any state or federal agency, independent of the Agency, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by



the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **12. Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the Securities Investor Protection Corporation (SIPC).

### **13. Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Agency**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Agency. A qualified representative of the business organization offering to engage in an investment transaction with the Agency shall execute a written acknowledgment (Appendix #1) that the business organization:

- Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
- ~~Acknowledges that the business organization has~~ Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Agency and the organization that are not authorized by the Agency's investment policy, except to the extent that this authorization:
  - is dependent on an analysis of the makeup of the Agency's entire portfolio;
  - requires an interpretation of subjective investment standards; or
  - relates to investment transactions of the Agency that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a person who has not delivered to the Agency the instrument in substantially the form provided. Appendix #1

### **Acknowledgment**

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Office of Consumer Credit Commissioner and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Office of Consumer Credit Commissioner's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other

contractual arrangements over which the (name of the brokerage

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<sup>2</sup> A “business organization” means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity’s funds.

facility/bank/trust company) has accepted discretionary investment authority.

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Signature of Qualified Representative

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Date

OFFICE OF CONSUMER CREDIT COMMISSIONER  
INVESTMENT POLICY STATEMENT  
[Effective August 21, 2020]

**1. Overview**

This policy governs the investment of funds maintained by the Office of Consumer Credit Commissioner ("Agency"). This policy does not convey investment authority where such does not exist through statute. This policy shall be approved by the Finance Commission of Texas (Finance Commission) as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on August 21, 2020 to re-approve this policy as revised to clarify content within this policy. Previously, this policy was reviewed and approved on August 16, 2019.

It is the policy of the Agency to invest funds in compliance with the following priorities, in the order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of investment portfolio; and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

**2. Identification of Covered Funds**

Funds covered by this policy are funds authorized to be collected by the Texas Finance Code.

OCCC Operating Fund (TTSTC#2973)	
Enabling Legislation	§16.003, TEX. FIN. CODE

OCCC Residential Mortgage Loan Originator Recovery Fund (TTSTC#3008)	
Enabling Legislation	Sections 341.601 through 341.610, TEX. FIN. CODE
Distribution Policy	The fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a state-licensed residential mortgage loan originator who was licensed under the applicable chapter when the act was

	committed. Recovery is limited by the provisions of §341.606 to an aggregate of \$25,000 per claim.
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Texas Financial Education Endowment Fund (TTSTC #3071)	
Enabling Legislation	§393.628, TEX. FIN. CODE
Distribution Policy	Annual distributions, payable quarterly or annually, are calculated as 3.5% times the twenty-quarter, moving-average value of the Fund as of June 30 for distributions to be made the following fiscal year.

### **3.Types of Authorized Investments**

Each fund (or a portion of one or more funds) may be placed in the Texas Treasury Safekeeping Trust Company (TTSTC) or its successor. Pursuant to Section 404.106 of the Government Code, funds held by the TTSTC are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Government Code specifies those obligations in which the Comptroller is authorized to invest.

In accordance with Section 341.602(f) of the Finance Code, the OCCC Residential Mortgage Loan Originator Recovery Fund may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under Section 341.602(f) if the investment will impair the necessary liquidity required to satisfy payment of judgment awarded under Chapter 341, Subchapter G of the Finance Code.

The Texas Financial Education Endowment Fund is to be invested with the TTSTC. In accordance with Section 393.628(b) of the Finance Code and Title 7, Section 7.105 of the Texas Administrative Code, Texas Financial Education Endowment funds may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas under Texas Government Code Chapter 815, Subchapter D, and interest from those investments will be deposited to the credit of the account. The Investment Policy Statement for Texas Endowment Funds managed by the TTSTC is adopted by reference for the oversight of the Texas Financial Education Endowment Fund.

[See

[https://ttstc.org/reports/investmentpolicies/Endowment%20IPS%20September%202018%20\(FINAL\).pdf](https://ttstc.org/reports/investmentpolicies/Endowment%20IPS%20September%202018%20(FINAL).pdf). These policies include:

- An investment return objective of 6%
- A securities lending objective to enhance current income to the extent consistent with the preservation of capital and maintenance of liquidity
- Portfolio rebalancing
- Portfolio hedging and overlays
- Asset allocation targets and performance benchmarks
- Risk management guidelines
- Investment manager expectations
- Fixed income, equity, real estate and all asset strategies

The investment policies of the TTSTC control over any conflict between this policy and the TTSTC investment policy for the Texas Financial Education Endowment Fund.

Insofar as a fund or portion of a fund is deposited in a financial institution, the Agency may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy, means the remaining time until the final principal payment on the investment, measured from

the date of purchase by the Agency.

- Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks, with a maximum allowable maturity of 10 years;
- Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
- Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U. S. , the underlying security for which is guaranteed by an agency or instrumentality of the U.S. provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Agency;
- Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
- Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;
- Bonds issued, assumed, or guaranteed by the State of Israel;
- Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
- Other interest-bearing deposit accounts not described above if:
  - The funds are invested through a broker with a main office or branch office in this state as selected by the Agency from an approved list, or through a depository institution with a main office or branch office in this state;
  - The selected broker or depository institution arranges for the deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - The full amount of principal and accrued interest in such deposit accounts is insured by the U.S. or an instrumentality of the U.S.; and
  - The Agency appoints a custodian of the deposit accounts that is:
    - The depository institution selected to broker the deposits;
    - A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - The Texas Treasury Safekeeping Trust Company
    - A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - A Federal Home Loan Bank;
    - A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as custodian; or
    - A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3 (17 C.F.R. Section 240.15c3-3)

- A certificate of deposit issued by depository institution that has its main office or a branch office in this state, if the certificate :
  - Is guaranteed or fully insured by the FDIC, or its successor; or,
  - Is secured by obligations allowable under Gov't Code § 2256.009(a) for direct investment by the Agency; or
  - Is secured as provided under the Public Funds Collateral Act (Gov't Code Ch. 2257); and
  - Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

- Bids for certificates of deposit may be solicited:
  - Orally;
  - In writing;
  - Electronically; or
  - In any combination of those methods.
- A repurchase agreement , collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement , that:
  - With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
  - Is secured by a combination of cash and obligations allowable under Gov't Code §2256.009(a)(1) or § 2256.013 ;
  - Requires securities being purchased or cash held by the Agency to be pledged to the Agency, held in the Agency's name and deposited at the time the investment is made with the Agency or with a third party selected and approved by the Agency;
  - Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
  - Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.
- A no-load money market mutual fund that:
  - Is registered with and regulated by the SEC ;
  - Provides the Agency with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
  - Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).
- A no-load mutual fund that:
  - Is registered with the SEC ;
  - Has an average weighted maturity of less than two years;
  - Are invested exclusively in obligations authorized in this policy; and,
  - Either:
    - Has a duration of one year or more and is invested exclusively in obligations authorized in this policy; or
    - Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or otherwise obtained may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum

The investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270. These divestiture requirements expire in 2037.

#### **4.Unauthorized Investments**

The following are not authorized investments under this policy:

- Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index; and
- No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code §2256.014(b);
- Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization.<sup>1</sup>

#### **5.Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Office of Consumer Credit Commissioner and safekeeping receipts will be maintained on file.

#### **6.Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

- The investment position of the Agency on the date of the report;
- The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
- The maturity date of each separately invested asset that has a maturity date;
- The fund for which each individual investment was acquired;
- Any non-compliance of the investment portfolio with this policy;
- Income received and expenses incurred in conjunction with investments; and,
- Any other information as required by the Finance Commission.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

#### **7.Rates of Return and Market Pricing**

The Agency expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

## **8.Diversification**

Investments in FDIC-insured deposits (in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

- The aggregate investment in no-load mutual funds described in Gov't Code §2256.014(b) may not exceed 15 % of the monthly average fund balance of a covered investment fund held by the Agency, excluding bond proceeds and reserves and other funds held for debt service;
- No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
- Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

## **9.Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

## **10.Investment Officer**

The Director of Licensing and Finance will be the designated Investment Officer for the funds held and invested by the Agency. The Investment Officer is authorized to:

- Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- Delegate routine business transactions within authorized and established investments; and,
- Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

If the Investment Officer has a personal business relationship with a business organization offering to engage in an investment transaction with the Agency, the Officer shall file a statement disclosing that personal business interest. For the purposes of this policy, an investment officer has a personal business relationship with a business organization if:

- The investment officer owns 10% or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- Funds received by the investment officer from the business organization exceed 10% of the investment officer's gross income for the previous year; or
- The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Agency, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within 180 days of the end of each Legislative session, the Agency will provide a report to the Finance Commission outlining any recent amendments pertaining to the Public Funds Investment Act and other statutes, and will provide appropriate recommendations to update the Investment Policy as needed.

## **11.Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, and market risks.

Any training conducted or approved by any state or federal agency, independent of the Agency, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by



the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **12.Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the Securities Investor Protection Corporation (SIPC).

### **13.Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Agency**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Agency. A qualified representative of the business organization offering to engage in an investment transaction with the Agency shall execute a written acknowledgment (Appendix #1) that the business organization:

- Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
- Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Agency and the organization that are not authorized by the Agency's investment policy, except to the extent that this authorization:
  - is dependent on an analysis of the makeup of the Agency's entire portfolio;
  - requires an interpretation of subjective investment standards; or
  - relates to investment transactions of the Agency that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a person who has not delivered to the Agency the instrument in substantially the form provided. Appendix #1

### **Acknowledgment**

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Office of Consumer Credit Commissioner and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Office of Consumer Credit Commissioner's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage

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<sup>2</sup> A "business organization" means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity's funds.

facility/bank/trust company) has accepted discretionary investment authority.

\_\_\_\_\_  
Signature of Qualified Representative

\_\_\_\_\_  
Date

## OCCC Investment Training

Staff Member	Date	Course	Sponsor	Hours
Mirand Diamond	8/7/2020	PFIA	Univ North Texas	5
Leslie Pettijohn	8/19/2019	PFIA	Texas State Univ	5
Adrian Hernandez	8/7/2020	PFIA	Univ North Texas	5

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# TEXAS DEPARTMENT OF BANKING

★ Dedicated to Excellence in Texas Banking ★

## ADMINISTRATIVE MEMORANDUM – 2027

~~August 16, 2019~~ August 21, 2020

**TO:** Finance Commission Members

**FROM:** Charles G. Cooper, Banking Commissioner

**SUBJECT:** Investment Policy for Funds Under the Oversight of the Finance Commission of Texas

### Overview

This policy governs the investment of funds maintained by the Texas Department of Banking ("Department"), as well as the investment of funds under its control to the extent the Department has either statutory or court-approved investment authority. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Ch. 2256), efforts are made to closely follow the Act. This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on ~~August 16, 2019~~ August 21, 2020 to re-approve this policy as revised ~~to include legislation enacted by the 86<sup>th</sup> Legislature and~~ to clarify content within this memorandum. Previously, this policy was reviewed and approved on ~~August 17, 2018~~ August 16, 2019.

It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio, and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and

the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

### Identification of Covered Funds

Funds covered by this policy include funds acquired through seizure of a trust-funded prepaid funeral contract seller, or liquidation of a trust company or uninsured bank.

### Types of Authorized Investments

The fund or a portion of the fund may be placed in the Texas Treasury Safekeeping Trust Company (or its successor). Pursuant to Section 404.106 of the Government Code [\(Gov't Code\)](#), funds held by the Texas Treasury Safekeeping Trust Company are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Gov't [Code](#) ~~ernment Code~~ specifies those obligations in which the Comptroller is authorized to invest.

Insofar as the fund or a portion of the fund is deposited in a financial institution as authorized by Texas Finance Code Section 154.353, the Department may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy, means the remaining time until the final principal payment on the investment, measured from the date of purchase by the Department.

1. Obligations, including letters of credit, of the United States (U.S.) or its agencies and instrumentalities, including the Federal Home Loan Banks with a maximum allowable maturity of 10 years;
2. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency or instrumentality of the U.S., provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Department;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of

the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;

6. Bonds issued, assumed, or guaranteed by the State of Israel;
7. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
8. Other interest-bearing deposit accounts not described above if:
  - a. The funds are invested through a broker with a main office or branch office in this state as selected by the Department from an approved list, or through a depository institution with a main office or branch office in this state;
  - b. The selected broker or depository institution arranges for deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - c. The full amount of principal and accrued interest in such deposit accounts is insured by the U.S. or an instrumentality of the U.S.; and
  - d. The Department appoints a custodian of the deposit accounts that is:
    - i. The depository institution selected to broker the deposits;
    - ii. A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - iii. The Texas Treasury Safekeeping Trust Company;
    - iv. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - v. A Federal Home Loan Bank;
    - vi. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian; or
    - vii. A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).
9. A certificate of deposit issued by a depository institution that has its main office or a branch office in this state, if the certificate:
  - a. Is guaranteed or insured by the FDIC, or its successor;
  - b. Is secured by obligations ~~allowable under~~ described by Gov't Code § -2256.009(a) for direct investment by the Department; or
  - c. Is secured as provided under the Public Funds Collateral Act (Gov't Code Chapter- 2257); and
  - d. Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

Bids for certificates of deposit may be solicited:

- Orally;
- In writing;
- Electronically; or
- In any combination of those methods.

10. A repurchase agreement, collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement that:

- a. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
- b. Is secured by a combination of cash and obligations ~~allowable under~~ described by Gov't Code § 2256.009(a)(1) or § 2256.013 ~~for direct investment by the Department~~;
- c. Requires securities being purchased or cash held by the Department to be pledged to the Department, held in the Department's name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
- d. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
- e. Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.

11. A no-load money market mutual fund that:

- a. Is registered with and regulated by the SEC;
- b. Provides the Department with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
- c. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).

12. A no-load mutual fund that:

- a. Is registered with the SEC;
- b. Has an average weighted maturity of less than two years; and
- c. Either:



- i. Has a duration of one year or more and are invested exclusively in obligations authorized in this policy; or
- ii. Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or received through liquidation or seizure may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum. The investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

Investments obtained or purchased by court-appointed liquidators acting on behalf of the Banking Commissioner will be reported to the Finance Commission; however, such investments are not subject to the provisions of this policy.

Any noncomplying investments received through liquidation or seizure will be reported by the Investment Officer to the Finance Commission at the next Finance Commission meeting when a quarterly report is presented. At the time they are initially reported, the Finance Commission may either approve a plan for divestiture, or accept an investment as noncomplying under the policy, with a specific rationale for retaining it. If noncomplying investments are retained, the Investment Officer shall present a plan to the Finance Commission to protect the investments from loss to the extent possible. All noncomplying investments will be identified as exceptions in quarterly reports to the Commission.

### **Unauthorized Investments**

The following are not authorized investments under this policy:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index;
5. No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code § 2256.014(b);
6. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist

organization.<sup>1</sup>

### **Strategies for Covered Funds**

The investment strategy for funds acquired through seizure of a trust-funded prepaid funeral contract seller, or trust company or uninsured bank in liquidation is to maintain investments seized in the seized entity's existing investment vehicle until potential legal challenges to the Department's seizure are resolved. Thereafter, if funds are in unauthorized investments, the Investment Officer will reinvest funds into authorized investments as it becomes prudent to do so. If funds are anticipated to be held for less than one year, funds may be placed in the Texas Treasury Safekeeping Trust Company, subject to an agreement with that company. Otherwise, funds will be invested in authorized investments as set forth elsewhere in this policy. Investments will be of a diverse nature, with maturities and cash flows structured to accommodate the anticipated distributions from the seizure or liquidation. Court-appointed liquidators will be used when possible to manage funds under liquidation.

### **Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Texas Department of Banking and safekeeping receipts will be maintained on file.

### **Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

1. The investment position of the Department on the date of the report;
2. The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
3. The maturity date of each separately invested asset that has a maturity date;
4. The fund for which each individual investment was acquired;
5. Any non-compliance of the investment portfolio with this policy;
6. Income received and expenses incurred in conjunction with investments; and,
7. Any other information as required by the Finance Commission.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

### **Rates of Return and Market Pricing**

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives.

### **Diversification**

Investments in FDIC-insured deposits (or in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

1. The aggregate investment in no-load mutual funds described in Gov't Code § 2256.014(b) may not exceed 15% of the monthly average fund balance of a covered investment fund held by the Department, excluding bond proceeds and reserves and other funds held for debt service;
2. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
3. Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

### **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

### **Investment Officer**

The Commissioner will designate a primary investment officer and a secondary investment officer (Investment Officer). The primary investment officer will be responsible for the investment of the funds held and invested by the Department. Should the primary investment officer be unavailable, the secondary investment officer will perform this function. The Investment Officer is authorized to:

1. Obtain external investment expertise if deemed necessary to fulfill investment objectives;
2. Delegate routine business transactions within authorized and established investments; and,
3. Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within six months of the end of each Legislative session, if amendments have been made to the Public Funds Investment Act, the Investment Officer will provide a report to the Finance Commission outlining the amendments and provide recommendations to update the Investment Policy.

### **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, and market risks.

Any training conducted or approved by any state or federal agency, independent of the Department of Banking, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the Securities Investor Protection Corporation (SIPC).

### **Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts that come under the Department's control, through a seizure or liquidation are exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment, as provided in the Appendix, that the business organization:

1. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
2. ~~Acknowledges that the business organization has~~ Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except to the extent that this authorization:
  - a. is dependent on an analysis of the makeup of the Department's entire portfolio;
  - b. requires an interpretation of subjective investment standards; or
  - c. relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.

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<sup>2</sup> A “business organization” means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity’s funds.

## Appendix

### Acknowledgment

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Banking and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

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Signature of Qualified Representative

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Date



# ***TEXAS DEPARTMENT OF BANKING***

***★ Dedicated to Excellence in Texas Banking ★***

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## **ADMINISTRATIVE MEMORANDUM – 2027**

**August 21, 2020**

**TO:** Finance Commission Members

**FROM:** Charles G. Cooper, Banking Commissioner

**SUBJECT:** Investment Policy for Funds Under the Oversight of the Finance Commission of Texas

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### **Overview**

This policy governs the investment of funds maintained by the Texas Department of Banking ("Department"), as well as the investment of funds under its control to the extent the Department has either statutory or court-approved investment authority. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Ch. 2256), efforts are made to closely follow the Act. This policy does not convey investment authority where such does not exist through statute or the courts. This policy shall be approved by the Finance Commission as this policy applies to funds within its purview. The policy will be reviewed annually by the Finance Commission, with said review and any changes made to either the policy or investment strategies recorded in the minutes of the Finance Commission.

The Finance Commission met on August 21, 2020 to re-approve this policy as revised to clarify content within this memorandum. Previously, this policy was reviewed and approved on August 16, 2019.

It is the policy of the Department to invest funds in compliance with the following priorities, in order of importance:

- Preservation of principal;
- Maintenance of liquidity as appropriate to the identified need;
- Procurement of an appropriate yield;
- Diversification of the investment portfolio, and,
- Marketability of the investment if the need arises to liquidate the investment before maturity.

All investments shall be made with the judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's

own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

To the extent that diversification of investment types and maturities assists in the achievement of the above-named priorities, investment strategies for the different funds held will consider the appropriate mix of investments.

### **Identification of Covered Funds**

Funds covered by this policy include funds acquired through seizure of a trust-funded prepaid funeral contract seller, or liquidation of a trust company or uninsured bank.

### **Types of Authorized Investments**

The fund or a portion of the fund may be placed in the Texas Treasury Safekeeping Trust Company (or its successor). Pursuant to Section 404.106 of the Government Code (Gov't Code), funds held by the Texas Treasury Safekeeping Trust Company are to be invested in obligations in which the Texas Comptroller of Public Accounts is authorized to invest. Section 404.024 of the Gov't Code specifies those obligations in which the Comptroller is authorized to invest.

Insofar as the fund or a portion of the fund is deposited in a financial institution as authorized by Texas Finance Code Section 154.353, the Department may utilize the investment securities listed below. "Maximum allowable maturity," when used in this policy, means the remaining time until the final principal payment on the investment, measured from the date of purchase by the Department.

1. Obligations, including letters of credit, of the United States (U.S.) or its agencies and instrumentalities, including the Federal Home Loan Banks with a maximum allowable maturity of 10 years;
2. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the U.S., the underlying security for which is guaranteed by an agency or instrumentality of the U.S., provided that the applicable interest rate is not determined by an index that adjusts opposite to the changes in a market index and the stated final maturity date is not greater than 10 years from the date the collateralized mortgage obligation is acquired by the Department;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the U.S. or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the U.S. with a maximum allowable maturity of 10 years;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state



rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maximum allowable maturity of 10 years. If the rating of the issuing entity is downgraded below investment quality during the time an investment is held from that entity, all prudent measures must be taken to liquidate the investment within a reasonable period of time, consistent with the guidelines in this policy;

6. Bonds issued, assumed, or guaranteed by the State of Israel;
7. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
8. Other interest-bearing deposit accounts not described above if:
  - a. The funds are invested through a broker with a main office or branch office in this state as selected by the Department from an approved list, or through a depository institution with a main office or branch office in this state;
  - b. The selected broker or depository institution arranges for deposit of the funds in deposit accounts in one or more federally insured institutions, regardless of where located;
  - c. The full amount of principal and accrued interest in such deposit accounts is insured by the U.S. or an instrumentality of the U.S.; and
  - d. The Department appoints a custodian of the deposit accounts that is:
    - i. The depository institution selected to broker the deposits;
    - ii. A state or national bank designated by the comptroller as a state depository with its main office or a branch office in this state, that has capital stock and surplus of \$5 million or more;
    - iii. The Texas Treasury Safekeeping Trust Company;
    - iv. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - v. A Federal Home Loan Bank;
    - vi. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian; or
    - vii. A clearing broker dealer registered with the Securities and Exchange Commission (SEC) and operating under SEC Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).
9. A certificate of deposit issued by a depository institution that has its main office or a branch office in this state, if the certificate:
  - a. Is guaranteed or insured by the FDIC, or its successor;
  - b. Is secured by obligations described by Gov't Code § 2256.009(a) for direct investment by the Department; or
  - c. Is secured as provided under the Public Funds Collateral Act (Gov't Code Chapter 2257); and

- d. Does not have a maturity exceeding 36 months.

A certificate of deposit must be fully secured as described above but may be secured by a combination of the listed alternatives.

Bids for certificates of deposit may be solicited:

- Orally;
  - In writing;
  - Electronically; or
  - In any combination of those methods.
10. A repurchase agreement, collateralized on a daily basis at a minimum of 102% of market value, including a direct security repurchase agreement and a reverse security repurchase agreement that:
- a. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
  - b. Is secured by a combination of cash and obligations described by Gov't Code § 2256.009(a)(1) or § 2256.013;
  - c. Requires securities being purchased or cash held by the Department to be pledged to the Department, held in the Department's name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
  - d. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
  - e. Requires that money received under the terms of a reverse security repurchase agreement must be used to acquire additional authorized investments, but the term of the authorized investments required must mature not later than the expiration date stated in the reverse security repurchase agreement.
11. A no-load money market mutual fund that:
- a. Is registered with and regulated by the SEC;
  - b. Provides the Department with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940; and
  - c. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).
12. A no-load mutual fund that:
- a. Is registered with the SEC;
  - b. Has an average weighted maturity of less than two years; and
  - c. Either:

- i. Has a duration of one year or more and are invested exclusively in obligations authorized in this policy; or
- ii. Has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

In general, investments that were authorized at the time they were purchased or received through liquidation or seizure may be retained under this policy even if later revisions of the policy render the investments in noncompliance. One exception is any investment that requires a minimum rating if the rating declines to below the minimum. The investing entity is required to take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. An exception also exists with respect to investments in companies that engage in business in Sudan or Iran, or with a foreign terrorist organization, as set forth in the state's divestiture requirements in Gov't Code Chapter 2270, effective September 1, 2017. These divestiture requirements expire in 2037.

Investments obtained or purchased by court-appointed liquidators acting on behalf of the Banking Commissioner will be reported to the Finance Commission; however, such investments are not subject to the provisions of this policy.

Any noncomplying investments received through liquidation or seizure will be reported by the Investment Officer to the Finance Commission at the next Finance Commission meeting when a quarterly report is presented. At the time they are initially reported, the Finance Commission may either approve a plan for divestiture, or accept an investment as noncomplying under the policy, with a specific rationale for retaining it. If noncomplying investments are retained, the Investment Officer shall present a plan to the Finance Commission to protect the investments from loss to the extent possible. All noncomplying investments will be identified as exceptions in quarterly reports to the Commission.

### **Unauthorized Investments**

The following are not authorized investments under this policy:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index;
5. No portion of bond proceeds, reserves and funds held for debt service may be invested in no-load mutual funds described in Gov't Code § 2256.014(b); and

6. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization.<sup>1</sup>

### **Strategies for Covered Funds**

The investment strategy for funds acquired through seizure of a trust-funded prepaid funeral contract seller, or trust company or uninsured bank in liquidation is to maintain investments seized in the seized entity's existing investment vehicle until potential legal challenges to the Department's seizure are resolved. Thereafter, if funds are in unauthorized investments, the Investment Officer will reinvest funds into authorized investments as it becomes prudent to do so. If funds are anticipated to be held for less than one year, funds may be placed in the Texas Treasury Safekeeping Trust Company, subject to an agreement with that company. Otherwise, funds will be invested in authorized investments as set forth elsewhere in this policy. Investments will be of a diverse nature, with maturities and cash flows structured to accommodate the anticipated distributions from the seizure or liquidation. Court-appointed liquidators will be used when possible to manage funds under liquidation.

### **Safekeeping of Investments**

All funds, securities, etc., held under this policy, where possible, will be placed under the name of the Texas Department of Banking and safekeeping receipts will be maintained on file.

### **Reporting**

Not less than quarterly, the Investment Officer shall prepare a signed, written report of investment transactions for all funds covered by this policy for the preceding reporting period, to include:

1. The investment position of the Department on the date of the report;
2. The book and market values of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested (for demand deposits and certificates of deposit, reports will reflect book value and market value as the same);
3. The maturity date of each separately invested asset that has a maturity date;
4. The fund for which each individual investment was acquired;
5. Any non-compliance of the investment portfolio with this policy;
6. Income received and expenses incurred in conjunction with investments; and,
7. Any other information as required by the Finance Commission.

The reports shall be submitted to the Finance Commission at regularly scheduled meetings.

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<sup>1</sup> Lists of companies with ties to Sudan, Iran and foreign terrorist organizations are published on the Texas Comptroller's website at <https://comptroller.texas.gov/purchasing/publications/divestment.php>.

### **Rates of Return and Market Pricing**

The Department expects to receive market rates of return on all investments authorized under this policy, remembering the need to first, protect principal and second, maintain sufficient liquidity to meet the needs of the specific funds being invested. Higher rates of return will be targeted on the more aggressive and longer term investment products. No rate of return is expected to be earned on any funds in a checking account, and therefore these will be kept to a minimum.

The Investment Officer will periodically review the market pricing and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives.

### **Diversification**

Investments in FDIC-insured deposits (or in deposits not insured by the FDIC but otherwise secured by state or federal government obligations with margin) and in direct U.S. Treasury obligations are not subject to diversification other than maturity considerations. For investments other than those just listed, diversification shall be as follows:

1. The aggregate investment in no-load mutual funds described in Gov't Code § 2256.014(b) may not exceed 15% of the monthly average fund balance of a covered investment fund held by the Department, excluding bond proceeds and reserves and other funds held for debt service;
2. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
3. Investment in any one mutual fund may not exceed 10% of the total assets of the mutual fund.

### **Settlement**

Settlement of all transactions, except investment pool funds and mutual funds, shall be on a delivery versus payment basis.

### **Investment Officer**

The Commissioner will designate a primary investment officer and a secondary investment officer (Investment Officer). The primary investment officer will be responsible for the investment of the funds held and invested by the Department. Should the primary investment officer be unavailable, the secondary investment officer will perform this function. The Investment Officer is authorized to:

1. Obtain external investment expertise if deemed necessary to fulfill investment objectives;

2. Delegate routine business transactions within authorized and established investments; and,
3. Enter into agreements with other parties as necessary to fulfill this policy, make or authorize investments, or notify other parties concerning this policy and its requirements.

The Investment Officer may not have a personal business relationship with a business organization offering to engage in an investment transaction with the Department.

If the Investment Officer is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department, the Officer shall file a statement disclosing that relationship. Any statement filed under this paragraph shall be filed with the Texas Ethics Commission and the Finance Commission.

Within six months of the end of each Legislative session, if amendments have been made to the Public Funds Investment Act, the Investment Officer will provide a report to the Finance Commission outlining the amendments and provide recommendations to update the Investment Policy.

### **Investment Training**

The Investment Officer and other agency employees active in the investment function will attend training relating to their respective responsibilities under this policy, not less than once each state fiscal biennium. Training may include education in investment controls, security risks, strategy risks, and market risks.

Any training conducted or approved by any state or federal agency, independent of the Department of Banking, related to investments, risk management, portfolio diversification, or similar substance, is hereby approved by the Finance Commission as meeting the terms of this requirement.

The Investment Officer shall provide a report to the Finance Commission regarding the status of investment training at the time of the annual review of the policy.

### **Entities Authorized to Engage in Investment Transactions**

Investments may be obtained through licensed securities brokers, commercial banks, state savings banks, and trust companies authorized to do business in Texas. To the extent that deposits and accounts are insured or secured for the full amount of principal and interest, no specific authorization from the Finance Commission is required as long as the individual institution falls under the requirements of this policy. All brokerage activities will be transacted using qualified brokerage firms. Qualified brokerage firms must be regulated by the Securities Exchange Commission and be members of the Financial Industry Regulatory Authority (FINRA) and the Securities Investor Protection Corporation (SIPC).

### **Acknowledgment of the Policy by Business Organizations Seeking to Sell Investments to the Department**

A written copy of this policy must be presented to any business organization<sup>2</sup> offering to engage in an investment transaction with the Department. Any business organization holding federally insured deposit accounts that come under the Department's control, through a seizure or liquidation are exempt from this requirement. A qualified representative of the business organization offering to engage in an investment transaction with the Department shall execute a written acknowledgment, as provided in the Appendix, that the business organization:

1. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
2. Has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the organization that are not authorized by the Department's investment policy, except to the extent that this authorization:
  - a. is dependent on an analysis of the makeup of the Department's entire portfolio;
  - b. requires an interpretation of subjective investment standards; or
  - c. relates to investment transactions of the Department that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The Investment Officer may not acquire or otherwise obtain any authorized investment described in the investment policy, or renew depository or other agreements, from a business organization who has not delivered to the Department the instrument in substantially the form provided.

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<sup>2</sup> A “business organization” means an investment pool or investment management firm that has contractual authority granted by an investing entity to exercise investment discretion in regard to the investing entity’s funds.

## Appendix

### Acknowledgment

I, (broker/banker/trust company officer), a qualified representative of (name of brokerage facility/bank/trust company), hereby make the following statements:

I have received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,

I acknowledge that (name of brokerage facility/bank/trust company) has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department of Banking and (name of the brokerage facility/bank/trust company) that are not authorized by the referenced Investment Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio; requires an interpretation of subjective investment standards; or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the (name of the brokerage facility/bank/trust company) has accepted discretionary investment authority.

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Signature of Qualified Representative

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Date



**Texas Department of Banking Investment Officer Training**

<b>Name of Investment Officer</b>	<b>Date Training Completed</b>	<b>Course Name</b>	<b>Course Sponsor</b>	<b>Hours</b>
Jesse Saucillo	February 8, 2019	Texas Public Funds Investment Act	University of North Texas Center for Public Management	5 hours
Sami Chadli	August 23, 2019	Public Funds Investment Act Training	Texas State University's Office of Distance & Extended Learning	8 hours

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**Department of Savings and Mortgage Lending**  
**Operating Statement and Budget Analysis**  
**For the Quarter Ending May 31, 2020**

	FY 2019 ACTUAL	FY 2020 BUDGET	QUARTER PERFORMANCE				FY 2020 PERFORMANCE			
			3rd Quarter BUDGET	3rd Quarter ACTUAL	(Over)/Under BUDGET	Percent BUDGET	YTD BUDGET	YTD ACTUAL	(Over)/Under BUDGET	Percent BUDGET
<b>REVENUES</b>										
Thrift Industry										
Assessments	\$ 2,517,501	\$ 2,609,638	\$ 658,623	\$ 658,099	\$ 524	0.1%	\$ 1,944,666	\$ 1,958,288	\$ (13,622)	-0.7%
Application Fees	14,600	20,000	2,000	-	2,000	100.0%	18,000	48,000	(30,000)	-166.7%
Mortgage Industry										
Licensing Fees	3,117,153	3,024,935	326,430	418,665	(92,235)	-28.3%	2,852,550	3,218,011	(365,461)	-12.8%
Administrative Penalties	410,869	-	-	51,497	(51,497)	0.0%	-	272,148	(272,148)	0.0%
Misc. Revenues	239,605	203,000	50,100	13,482	36,618	73.1%	150,300	96,965	53,336	35.5%
<b>TOTAL REVENUES</b>	<b>\$ 6,299,727</b>	<b>\$ 5,857,573</b>	<b>\$ 1,037,153</b>	<b>\$ 1,141,743</b>	<b>\$ (104,590)</b>	<b>-10.1%</b>	<b>\$ 4,965,516</b>	<b>\$ 5,593,412</b>	<b>\$ (627,896)</b>	<b>-12.6%</b>
<b>EXPENDITURES</b>										
Personnel Costs										
Employee Compensation	\$ 3,718,849	\$ 4,019,558	\$ 1,013,939	\$ 914,958	\$ 98,981	9.8%	\$ 2,940,098	\$ 2,802,173	\$ 137,925	4.7%
Employee Benefits	1,228,137	1,335,363	342,880	308,916	33,964	9.9%	976,735	931,093	45,642	4.7%
Add'l Health/Retirement	53,983	60,011	14,982	13,581	1,401	9.4%	44,026	41,581	2,445	5.6%
Other Personnel Costs	72,435	78,795	20,940	37,918	(16,978)	-81.1%	60,375	75,240	(14,865)	-24.6%
Subtotal Personnel Costs	\$ 5,073,403	\$ 5,493,727	\$ 1,392,741	\$ 1,275,373	\$ 117,368	8.4%	\$ 4,021,234	\$ 3,850,087	\$ 171,147	4.3%
Travel										
In-State	\$ 209,785	\$ 213,500	\$ 53,375	\$ 7,406	\$ 45,969	86.1%	\$ 160,125	\$ 101,925	\$ 58,200	36.3%
Out-of-State	46,827	72,700	18,425	676	17,749	96.3%	54,275	40,712	13,563	25.0%
Subtotal Travel	\$ 256,612	\$ 286,200	\$ 71,800	\$ 8,081	\$ 63,719	88.7%	\$ 214,400	\$ 142,637	\$ 71,763	33.5%
Operating Costs										
Professional Fees	\$ 75,959	\$ 83,500	\$ 10,500	\$ 4,785	\$ 5,715	54.4%	\$ 56,500	\$ 23,054	\$ 33,446	59.2%
Consumables	10,785	11,000	3,150	3,133	17	0.5%	8,650	6,827	1,823	21.1%
Office Utilities	15,401	16,761	3,887	2,985	902	23.2%	12,030	10,041	1,989	16.5%
Rent - Building/Space	2,690	6,050	225	172	53	23.5%	5,825	4,999	826	14.2%
Rent - Equipment/Other	1,085	1,250	-	-	-	0.0%	1,250	1,223	27	2.2%
Communications	56,364	74,566	13,255	14,585	(1,330)	-10.0%	61,561	60,664	897	1.5%
Information Technology	110,597	128,183	40,740	54,891	(14,151)	-34.7%	81,658	94,560	(12,902)	-15.8%
Employee Training	47,550	54,000	12,150	1,934	10,216	84.1%	34,000	22,731	11,269	33.1%
Misc. Operating Costs	224,875	159,740	46,013	28,376	17,637	38.3%	120,346	98,525	21,821	18.1%
Subtotal Operating Costs	\$ 545,305	\$ 535,050	\$ 129,920	\$ 110,861	\$ 19,059	14.7%	\$ 381,820	\$ 322,626	\$ 59,194	15.5%
<b>TOTAL EXPENDITURES</b>	<b>\$ 5,875,320</b>	<b>\$ 6,314,977</b>	<b>\$ 1,594,461</b>	<b>\$ 1,394,315</b>	<b>\$ 200,146</b>	<b>12.6%</b>	<b>\$ 4,617,454</b>	<b>\$ 4,315,349</b>	<b>\$ 302,105</b>	<b>6.5%</b>
<b>EXPENDITURES (OVER)/ UNDER REVENUES</b>	<b>\$ 424,407</b>	<b>\$ (457,404)</b>	<b>\$ (557,308)</b>	<b>\$ (252,571.80)</b>	<b>\$ (304,736)</b>	<b>54.7%</b>	<b>\$ 348,062</b>	<b>\$ 1,278,062</b>	<b>\$ (930,000)</b>	<b>-267.2%</b>

## Department of Savings and Mortgage Lending

### Budget Variance Analysis

#### For the Quarter Ending May 31, 2020

Revenues: Overall revenues are at 12.6% over budget.

Thrift Industry:

Application Fees – This category is significantly over budget due to application fees received related to the conversions of Charles Schwab SSBs.

Mortgage Industry:

Licensing Revenues – Overall licensing revenues are 12.8% over budget due to higher than budgeted RMLO license new and renewal applications received.

Fines and Penalties – No amount was budgeted.

Misc. Revenues – This category is 35.5% under budget, due to lower than budgeted depository interest received.

Expenditures: Overall expenditures are at 6.5% under budget.

Other Personnel Costs – Two lump sum payments to separating employees caused this category to go 24.6% over budget.

Travel – Due to the travel restrictions imposed in response to COVID-19 pandemic, this category is 37.2% under budget.

Travel Breakdown 3rd Qtr FY20			
Category	In-State	Out-of-State	Total
Regulation and Supervision	\$89,483	\$13,216	\$102,699
Development and Training	11,158	25,476	36,634
Other Regulatory Activities	0	2,019	2,019
Non-Employee Travel	1,285	0	1,285
Total	\$101,926	\$40,711	\$142,637

Professional Fees – This category is under budget due to lower than budgeted expenditures for legal services performed by Office of Attorney General.

Information Technology – Additional expenses related to remote work caused this category to exceed the budgeted amounts by 15.8%.

Training – Due to the travel restrictions imposed in response to COVID-19 pandemic, this category is 33.1% under budget.

**Department of Savings and Mortgage Lending**  
**Liquidity Report**  
**For the Quarter Ending May 31, 2020**

	<b>ACTUAL</b>
Cash at Beginning of Period	\$ 11,656,059
Revenues Over (Under) Expenditures CY	(252,572)
Revenues Over (Under) Expenditures PY	33
Increase (Decrease) in Payables	(20,388)
(Increase) Decrease in Receivables	(7,099)
<b>Cash at End of Period</b>	<b>\$ 11,376,033</b>
Reserved Cash Balance:	
Bldg. maintenance/IT	\$ -
Long-term facilities planning	6,276,940
Payables (net of receivables)	455,388
Lump Sums for Retirements	200,900
Program Funds	-
Other	-
<b>Total Reserved Cash Balance</b>	<b>\$ 6,933,228</b>
Unreserved Cash Balance:	
Future Operations	\$ 4,442,805
<b>Total Unreserved Cash Balance</b>	<b>\$ 4,442,805</b>
<b>Total Cash Balance</b>	<b>\$ 11,376,033</b>
Unreserved Cash/FY2020 Monthly Budget	8.4 months

**Office of Consumer Credit Commissioner**  
**Operating Statement and Budget Analysis**  
**For the Quarter Ending May 31, 2020**

	FY 2019 ACTUAL	FY 2020 BUDGET	QUARTER PERFORMANCE				FY 2020 PERFORMANCE			
			3rd Quarter BUDGET	3rd Quarter ACTUAL	(Over)/Under BUDGET	Percent BUDGET	YTD BUDGET	YTD ACTUAL	(Over)/Under BUDGET	Percent BUDGET
<b>REVENUES</b>										
Industry										
Consumer Lending Industry	\$2,072,126	\$2,140,633	\$50,890	\$47,411	\$3,479	93.2%	\$2,100,855	\$2,143,729	(\$42,873)	102.0%
Credit Access Industry	1,181,425	1,166,200	\$9,119	\$4,325	4,794	47.4%	1,157,708	1,109,500	48,208	95.8%
MVSF Industry	4,397,417	933,300	\$237,726	\$237,761	(35)	100.0%	695,173	895,501	(200,328)	128.8%
Pawn	1,059,100	925,632	\$840,000	\$50,817	789,183	6.0%	416,971	76,765	340,206	18.4%
Registered Industry of Entities	315,676	293,760	\$20,594	\$14,785	5,809	71.8%	266,068	323,130	(57,062)	121.4%
Penalties	143,500	0	\$0	\$21,500	(21,500)	0.0%	0	59,200	(59,200)	0.0%
Miscellaneous Revenue	262,431	210,000	\$53,489	\$7,776	45,713	14.5%	154,921	113,350	41,571	73.2%
<b>TOTAL REVENUES</b>	<b>\$9,431,675</b>	<b>\$5,669,525</b>	<b>\$1,211,818</b>	<b>\$384,374</b>	<b>\$827,443</b>	<b>31.7%</b>	<b>\$4,791,697</b>	<b>\$4,721,175</b>	<b>\$70,522</b>	<b>98.5%</b>
<b>EXPENDITURES</b>										
Personnel Costs										
Employee Compensation	\$5,084,961	\$5,247,775	\$1,311,944	\$1,169,804	\$142,140	89.2%	\$3,913,428	\$3,558,689	\$354,739	90.9%
Employee Benefits	1,787,102	1,608,490	\$402,123	\$400,644	\$1,479	99.6%	1,203,280	1,160,274	43,007	96.4%
Add'l Health/Retirement	74,870	308,745	\$77,186	\$18,058	\$59,128	23.4%	231,411	157,464	73,947	68.0%
Other Personnel Costs	174,451	113,870	\$28,467	\$31,958	(\$3,491)	112.3%	84,412	78,281	6,132	92.7%
Subtotal Personnel Costs	\$7,121,384	\$7,278,880	\$1,819,720	\$1,620,463	\$199,257	89.1%	\$5,432,532	\$4,954,708	\$477,824	91.2%
Travel										
In-State	\$771,680	\$769,500	\$192,375	\$35,172	\$157,204	18.3%	\$577,125	\$384,477	\$192,648	66.6%
Out-of-State	7,834	8,500	\$2,125	\$2,839	(714)	133.6%	6,375	16,310	(9,935)	255.8%
Subtotal Travel	\$779,513	\$778,000	\$194,500	\$38,010	\$156,490	19.5%	\$583,500	\$400,787	\$182,713	68.7%
Operating Costs										
Professional Fees	\$101,035	\$226,450	\$56,613	\$15,575	\$41,038	27.5%	\$169,838	\$130,515	\$39,323	76.8%
Consumables	12,190	16,000	\$4,000	\$1,352	2,648	33.8%	12,000	8,169	\$3,831	68.1%
Office Utilities	18,732	21,400	\$5,350	\$234	5,116	4.4%	16,050	8,922	\$7,128	55.6%
Rent - Building/Space	23,908	24,750	\$6,187	\$6,376	(189)	103.1%	18,563	21,061	(\$2,499)	113.5%
Rent - Equipment/Other	2,995	3,300	\$825	\$700	125	84.8%	2,475	2,681	(\$206)	108.3%
Communications	69,932	69,775	\$17,444	\$19,072	(1,628)	109.3%	52,331	52,286	\$45	99.9%
Information Technology	274,972	237,699	\$59,425	\$45,134	14,291	76.0%	178,274	98,652	\$79,623	55.3%
Employee Training	13,553	13,500	\$3,375	\$0	3,375	0.0%	10,125	3,094	\$7,031	30.6%
Misc. Operating Costs	340,929	330,187	\$82,546	\$32,156	50,390	39.0%	247,640	168,202	\$79,439	67.9%
Subtotal Operating Costs	\$858,245	\$943,061	\$235,765	\$120,598	\$115,167	51.2%	\$707,297	\$493,583	\$213,713	69.8%
<b>TOTAL EXPENDITURES</b>	<b>\$8,759,143</b>	<b>\$8,999,941</b>	<b>\$2,249,985</b>	<b>\$1,779,071</b>	<b>\$470,914</b>	<b>79.1%</b>	<b>\$6,723,329</b>	<b>\$5,849,078</b>	<b>\$874,251</b>	<b>87.0%</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$672,532</b>	<b>(\$3,330,416)</b>	<b>(\$1,038,167)</b>	<b>(\$1,394,697)</b>	<b>\$356,530</b>		<b>(\$1,931,632)</b>	<b>(\$1,127,904)</b>	<b>(\$803,728)</b>	

## Office of Consumer Credit Commissioner

### Overview of Budget Variances for 3rd Quarter FY 2020

#### **Revenues**- 98.5% of YTD budget

**MVSF Industry** - The revenue variance for the MVSF industry relates to a higher than expected rate of reinstatements (late renewals) and for new license applications with late filing fees, generally for retroactive effect to cover unlicensed activity. Most of this revenue variance was reported in the first quarter.

**Pawn** - Pawn revenue is currently low, however renewal began in late May and ran through the end of July so this number will increase substantially in Q4.

**Registered Entities** - The revenue variance for the registered entities relates to the timing differences in renewal cycles especially for crafted metal dealers transitioning to a December renewal time frame. Additionally registered creditors experienced a higher than expected rate of reinstatements (late renewals) and for new registration applications with late filing fees, generally for retroactive effect to cover unregistered activity.

**Misc Rev** - This variance is primarily due to decreased interest revenue due to significant declines in interest rates in Q3. This will likely continue in Q4 of FY 2020.

#### **Expenditures**- 85.8% of YTD budget

**Salaries and Wages** - Expenditures are 91% of the projected budget. The variance is primarily due to vacancies, as the agency has delayed filling vacancies during the pandemic.

**Additional Health & Retirement** - Certain reclassifications of employee retirement expenditures have created some variances in reporting expenditures in this category and the employee benefits category. Some of these changes were delayed but will be completed, and this number will adjust accordingly in Q4.

**Other Personnel Costs** - Other personnel costs are below budget consistent with the variance for salaries and wages related to vacancies.

**Travel** - Expenditures are currently 69% of the YTD budget due to extremely limited travel for financial examiners and other staff due to Covid-19. Additionally out-of-state travel is high due to a pending reimbursement for out-of-state examination costs and for financial examiners and investigators attending training in Q1 and Q2.

	In-State	Out-State
Regulatory Supervision	\$314,621.70	\$6,445.51
Development & Training	\$68,210.52	\$9,864.79
Other Reg Activities	-	-
Non-Employee	\$1,644.70	-
<b>Total</b>	<b>\$384,476.92</b>	<b>\$16,310.30</b>

**Professional Fees** - Professional Services & Fees are under budget due to costs for legal services and for architectural & engineering services being lower than expected. Additionally costs for auditing services have not been paid yet and a significant imaging project has been delayed until FY 2021 due to Covid-19.

**Office Utilities**- Overall, utility costs are lower because of reduced occupancy at headquarters during COVID-19.

**Information Technology** - Information Technology is under budget. Part of the reason for this is due to a misclassification when the accruals were being done in FY 19. The reversal of the accrual had an impact in FY 20, because the accrual does not offset the payment of the invoice in the same category. Several budgeted projects have not being initiated as well.

**Employee Training** - Employee Training is under budget due an inability of staff to attend certain trainings because of COVID-19.

**Misc. Operating Costs** - Fees for receiving electronic payments have been lower than in the previous year, which is likely due to motor vehicle sales finance renewals not occurring this year as the agency has transitioned to October renewal.

**Office of Consumer Credit Commissioner**  
**Liquidity Report**  
**For the Quarter Ending May 31, 2020**

	<b>Actual</b>
Cash at Beginning of Period	\$ 13,701,117.26
Revenues Over (Under) Expenditures	(1,394,697.37)
Increase (Decrease) in Payables/Encumbrances	(85,645.05)
(Increase) Decrease in Receivables	(31,851.43)
<b>Cash at End of Period</b>	<u><u>\$ 12,188,923.41</u></u>

Reserved Cash Balance:	
Building Maintenance/IT	\$ -
Long-term facilities planning	6,275,747.92
Payables (net of receivables)	600,946.00
Lump sums for Retirements	202,642.84
Program Funds	-
Other	-
<b>Total Reserved Cash Balance</b>	<u><u>7,079,336.76</u></u>
Unreserved Cash Balance:	
Future Operations	<u>5,109,586.65</u>
<b>Total Unreserved Cash Balance</b>	<u><u>5,109,586.65</u></u>
 <b>Total Cash Balance</b>	 <u><u><b>\$ 12,188,923.41</b></u></u>
 Unreserved Cash / FY 2020 Monthly Budget	 6.8



**Texas Department of Banking**  
**Operating Statement and Budget Analysis**  
**For the Quarter Ending May 31, 2020**

	FY 2019 ACTUAL	FY 2020 BUDGET	QUARTER PERFORMANCE				FY 2020 PERFORMANCE			
			3rd Quarter BUDGET	3rd Quarter ACTUAL	(Over)/Under BUDGET	Percent BUDGET	YTD BUDGET	YTD ACTUAL	(Over)/Under BUDGET	Percent BUDGET
<b>REVENUES</b>										
Bank & Trust Regulation	\$22,740,931	\$25,521,034	\$6,592,222	\$6,264,804	\$327,419	95.0%	\$19,846,416	\$19,546,306	\$300,110	98.5%
Penalties - Bank & Trust Regulation	140,000	0	0	0	0	0.0%	0	10,000	(10,000)	0.0%
Non-Depository Supervision	2,562,127	3,604,957	908,789	505,116	403,673	55.6%	2,713,568	2,381,178	332,390	87.8%
Penalties - Non-Depository Supervision	1,097,740	82,600	18,200	400,755	(382,555)	2202.0%	63,700	499,031	(435,331)	783.4%
Miscellaneous Revenues	492,200	404,800	101,200	7,183	94,017	7.1%	303,600	120,699	182,901	39.8%
<b>TOTAL REVENUES</b>	<b>\$27,032,998</b>	<b>\$29,613,391</b>	<b>\$7,620,412</b>	<b>\$7,177,858</b>	<b>\$442,554</b>	<b>94.2%</b>	<b>\$22,927,284</b>	<b>\$22,557,214</b>	<b>\$370,069</b>	<b>98.4%</b>
<b>EXPENDITURES</b>										
Personnel Costs										
Employee Compensation	\$16,952,793	\$18,890,947	\$4,792,258	\$4,314,399	\$477,859	90.0%	\$13,857,304	\$12,835,610	\$1,021,694	92.6%
Employee Benefits	4,905,696	5,545,899	1,392,674	1,256,850	135,824	90.2%	4,031,331	3,709,110	\$322,220	92.0%
Add'l Health/Retirement	241,770	279,995	71,689	62,261	9,428	86.8%	207,274	185,001	\$22,273	89.3%
Other Personnel Costs	578,444	406,089	60,266	62,758	(2,492)	104.1%	189,145	231,906	(\$42,761)	122.6%
Subtotal Personnel Costs	\$22,678,703	\$25,122,930	\$6,316,887	\$5,696,268	\$620,619	90.2%	\$18,285,053	\$16,961,626	\$1,323,426	92.8%
Travel										
In-State	\$1,367,830	\$1,513,093	\$336,533	\$67,210	\$269,323	20.0%	\$1,117,549	\$777,381	\$340,168	69.6%
Out-of-State	658,574	709,330	120,267	36,202	84,065	30.1%	412,227	330,646	81,581	80.2%
Subtotal Travel	\$2,026,404	\$2,222,423	\$456,800	\$103,413	\$353,388	22.6%	\$1,529,776	\$1,108,026	421,750	72.4%
Operating Costs										
Professional Fees	\$300,071	\$321,504	\$59,621	\$90,032	(\$30,411)	151.0%	\$113,808	\$156,507	(\$42,699)	137.5%
Consumables	37,249	38,000	9,500	10,702	(1,202)	112.7%	28,500	34,021	(5,521)	119.4%
Office Utilities	41,717	46,022	7,753	7,053	700	91.0%	34,512	33,722	790	97.7%
Rent - Building/Space	388,330	426,635	99,684	101,247	(1,563)	101.6%	352,034	354,359	(2,325)	100.7%
Rent - Equipment/Other	25,179	35,178	6,632	5,924	708	89.3%	23,617	22,177	1,440	93.9%
Communications	298,025	303,074	70,734	68,885	1,849	97.4%	236,095	189,153	46,942	80.1%
Information Technology	165,118	334,818	82,317	79,291	3,026	96.3%	231,706	228,681	3,026	98.7%
Employee Training	282,911	329,264	41,324	26,004	15,321	62.9%	157,366	137,099	20,267	87.1%
Misc. Operating Costs	425,321	433,543	98,548	83,480	15,068	84.7%	228,347	241,382	(13,035)	105.7%
Subtotal Operating Costs	\$1,963,921	\$2,268,038	\$476,114	\$472,619	\$3,495	99.3%	\$1,405,985	\$1,397,101	\$8,884	99.4%
<b>TOTAL EXPENDITURES</b>	<b>\$26,669,028</b>	<b>\$29,613,391</b>	<b>\$7,249,800</b>	<b>\$6,272,299</b>	<b>\$977,501</b>	<b>86.5%</b>	<b>\$21,220,814</b>	<b>\$19,466,754</b>	<b>\$1,754,060</b>	<b>91.7%</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$363,970</b>	<b>\$0</b>	<b>\$370,611</b>	<b>\$905,559</b>	<b>(\$534,947)</b>		<b>\$1,706,470</b>	<b>\$3,090,461</b>	<b>(\$1,383,990)</b>	

## Texas Department of Banking

**Overview of Budget Variances for the Third Quarter of Fiscal Year 2020** - (Variances in excess of \$1,000 and 5% from budget are reported).

**Non-Depository Supervision** – The variance for the quarter is related to assessment reductions due to the higher collection of penalties than were anticipated.

**Penalties - Non-Depository Supervision** – The variance is due to the higher than anticipated collected penalties from unlicensed money service businesses, perpetual care cemetery certificate holders and prepaid funeral contract permit holders.

**Miscellaneous Revenues** – The variance for the quarter relates to lower than budgeted interest payments from the Texas Treasury Safekeeping Trust Company (TTSTC) than budgeted. Due to current market conditions, funds on deposit with TTSTC that are invested in repurchase agreements (repo) may not be fully invested due to negative repo interest rates.

**Employee Compensation and Benefits** – The positive variance relates to vacant staff positions. Vacancies in terms of FTEs as of May 31, 2020 are listed below:

Administrative	6
Examiners	18

### Travel Breakdown

	In-State Travel	Out-of-State Travel
Regulatory Supervision	\$54,628.18	\$,15,804.49
Development and Training	\$11,938.93	\$19,239.26
Other Regulatory Activities	\$883.32	\$1,158.70
Non-Employee	(\$240.38)	\$0.00
Total	<b>\$67,210.05</b>	<b>\$36,202.45</b>

**In-State Travel** – The positive variance is due to the COVID-19 pandemic hold on virtually all travel effective March 13, 2020.

**Out-of-State Travel** – The positive variance is due to the COVID-19 pandemic hold on virtually all travel effective March 13, 2020.

**Professional Fees** – The negative variance is due to the hiring of a temporary help desk contractor to support IT needs and unbudgeted information technology services for the Department's imaging system. These variances were approved by the Commissioner.

**Consumables** – The negative variance is due to COVID-19 protective personal equipment and related supplies purchases.

**Employee Training** – The positive variance is due to training cancellations due to COVID-19.

**Misc. Operating Costs** – The positive variance is mainly related to a lower than anticipated Statewide Cost Allocation Plan assessment by the Texas Comptroller of Public Accounts.

**TEXAS DEPARTMENT OF BANKING**  
**Liquidity Report**  
**For the Quarter Ending May 31, 2020**

	<b>Actual</b>
Cash at Beginning of Period	\$ 17,134,084
Revenues Over (Under) Expenditures	\$ 905,559
Increase (Decrease) in Payables/Encumbrances	\$ (43,918)
(Increase) Decrease in Receivables	\$ (102,186)
<b>Cash at End of Period</b>	<b><u>\$ 17,893,538</u></b>
Reserved Cash Balance:	
Bldg. maintenance/IT	\$ -
Long-term facilities planning	\$ 6,276,235
Payables (net of receivables)	\$ 1,888,432
Lump Sums for Retirements	\$ 629,542
Program Funds	\$ -
Other	\$ -
<b>Total Reserved Cash Balance</b>	<b><u>\$ 8,794,209</u></b>
Unreserved Cash Balance:	
Future Operations	\$ 9,099,329
<b>Total Unreserved Cash Balance</b>	<b><u>\$ 9,099,329</u></b>
<b>Total Cash Balance</b>	<b><u>\$ 17,893,538</u></b>
Unreserved Cash/FY2020 Monthly Budget	3.69 months

**Department of Savings and Mortgage Lending**  
**Budget Information**  
**FY2020-FY2021**

	<b>FY 2020 Approved Budget</b>	<b>FY 2021 Proposed Budget</b>
<b>REVENUES</b>		
Thrift Industry		
Assessments	\$ 2,609,638	\$ 3,770,930
Application Fees	20,000	20,000
Mortgage Industry		
Licensing Fees	3,024,935	3,229,865
Administrative Penalties	-	-
Misc. Revenues	203,000	49,000
<b>TOTAL REVENUES</b>	<b>\$ 5,857,573</b>	<b>\$ 7,069,795</b>
<b>EXPENDITURES</b>		
Personnel Costs		
Employee Compensation	\$ 4,019,558	\$ 5,235,338
Employee Benefits	1,335,363	1,608,639
Add'l Health/Retirement	60,011	78,507
Other Personnel Costs	78,795	88,174
Subtotal Personnel Costs	<b>\$ 5,493,727</b>	<b>\$ 7,010,658</b>
Travel		
In-State	\$ 213,500	\$ 131,691
Out-of-State	72,700	45,500
Subtotal Travel	<b>\$ 286,200</b>	<b>\$ 177,191</b>
Operating Costs		
Professional Fees	\$ 83,500	\$ 110,196
Consumables	11,000	12,000
Office Utilities	16,761	14,244
Rent - Space & Equipment	7,300	2,800
Communications	74,566	94,726
Information Technology	128,183	126,537
Employee Training	54,000	69,820
Misc. Operating Costs	159,740	142,023
Subtotal Operating Costs	<b>\$ 535,050</b>	<b>\$ 572,346</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 6,314,977</b>	<b>\$ 7,760,195</b>
<b>EXPENDITURES (OVER)/ UNDER REVENUES</b>	<b>\$ (457,404)</b>	<b>\$ (690,400)</b>

FTEs

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**Department of Savings and Mortgage Lending**  
**Budget Information**  
**FY2020-FY2021**

	<b>FY 2020</b>	<b>FY 2020</b>	<b>% of FY2020</b>	<b>FY2021</b>	<b>\$ Change</b>	<b>% Change</b>
	<b>BUDGET</b>	<b>ESTIMATED</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>FY20 Budget to FY21 Budget</b>	<b>FY20 Budget to FY21 Budget</b>
<b>REVENUES</b>						
Thrift Industry						
Assessments	\$ 2,609,638	\$ 2,765,352	106.0%	\$ 3,770,930	\$ 1,161,292	44.5%
Application Fees	20,000	55,100	275.5%	20,000	-	0.0%
Mortgage Industry						
Licensing Fees	3,024,935	3,655,322	120.8%	3,229,865	204,930	6.8%
Administrative Penalties	-	297,148	0.0%	-	-	-
Misc. Revenues	203,000	99,503	49.0%	49,000	(154,000)	-75.9%
<b>TOTAL REVENUES</b>	<b>\$ 5,857,573</b>	<b>\$ 6,872,425</b>	<b>117.3%</b>	<b>\$ 7,069,795</b>	<b>\$ 1,212,222</b>	<b>20.7%</b>
<b>EXPENDITURES</b>						
Personnel Costs						
Employee Compensation	\$ 4,019,558	\$ 3,843,704	95.6%	\$ 5,235,338	\$ 1,215,780	30.2%
Employee Benefits	1,335,363	1,240,502	92.9%	1,608,639	273,276	20.5%
Add'l Health/Retirement	60,011	55,551	92.6%	78,507	18,496	30.8%
Other Personnel Costs	78,795	92,640	117.6%	88,174	9,379	11.9%
Subtotal Personnel Costs	\$ 5,493,727	\$ 5,232,396	95.2%	\$ 7,010,658	\$ 1,516,931	27.6%
Travel						
In-State	\$ 213,500	\$ 102,425	48.0%	\$ 131,691	\$ (81,809)	-38.3%
Out-of-State	72,700	40,712	56.0%	45,500	(27,200)	-37.4%
Subtotal Travel	\$ 286,200	\$ 143,137	50.0%	\$ 177,191	\$ (109,009)	-38.1%
Operating Costs						
Professional Fees	\$ 83,500	\$ 48,354	57.9%	\$ 110,196	\$ 26,696	32.0%
Consumables	11,000	7,827	71.2%	12,000	1,000	9.1%
Office Utilities	16,761	13,016	77.7%	14,244	(2,517)	-15.0%
Rent - Space & Equipment	7,300	6,822	93.5%	2,800	(4,500)	-61.6%
Communications	74,566	75,080	100.7%	94,726	20,160	27.0%
Information Technology	128,183	186,216	145.3%	126,537	(1,646)	-1.3%
Employee Training	54,000	23,731	43.9%	69,820	15,820	29.3%
Misc. Operating Costs	159,740	127,115	79.6%	142,023	(17,717)	-11.1%
Subtotal Operating Costs	\$ 535,050	\$ 488,162	91.2%	\$ 572,346	\$ 37,296	7.0%
<b>TOTAL EXPENDITURES</b>	<b>\$ 6,314,977</b>	<b>\$ 5,863,696</b>	<b>92.9%</b>	<b>\$ 7,760,195</b>	<b>\$ 1,445,218</b>	<b>22.9%</b>
<b>EXPENDITURES (OVER)/ UNDER REVENUES</b>	<b>\$ (457,404)</b>	<b>\$ 1,008,729</b>		<b>\$ (690,400)</b>	<b>\$ (232,996)</b>	
FTEs	58			67		



## Independent Bankers Association of Texas

Richard F. Scanio  
IBAT Chairman  
American Bank, Corpus Christi

Bradley H. Tidwell  
IBAT Chairman-Elect  
VeraBank, Henderson

Thomas C. Sellers  
IBAT Secretary-Treasurer  
Alliance Bank, Sulphur Springs

Marty Rivers  
Leadership Division Chairman  
American National Bank & Trust, Denton

Glen C. Thurman  
IBAT Education Foundation Chairman  
First National Bank of Moody

Ronnie Miller  
Immediate Past Chairman  
Community National Bank, Hondo

Christopher L. Williston VI, CAE  
President and CEO  
IBAT, Austin

Ursula L. Jimenez, CAE  
Chief Operating Officer  
IBAT, Austin

Stephen Y. Scurlock  
Director of Government Relations  
IBAT, Austin

Curt Nelson  
Director of Membership  
IBAT, Austin

Christy Hester  
Director of Growth and Development  
IBAT, Austin

Julie Courtney, CAE, CMP  
IBAT Services Inc. President  
IBAT, Austin

Esmeralda Gonzalez, CAE  
IBAT Education Foundation President  
IBAT, Austin

Karen Neeley  
General Counsel  
IBAT, Austin

August 5, 2020

The Honorable Phillip Holt  
Chairman  
Finance Commission of Texas  
2601 North Lamar Blvd.  
Austin, TX 78705

RE: Savings and Mortgage Lending Department FY 2021 Budget

Dear Chairman Holt:

The Independent Bankers Association of Texas (IBAT) is pleased to offer our comments and observations on the Texas Savings and Mortgage Lending Department's FY 2021 budget on behalf of our state savings bank members in Texas.

We have reviewed the budget information posted on the Finance Commission website along with additional backup information provided by the Department.

IBAT is supportive of this budget, which reflects an increase in expenditures when compared to the last fiscal year. This is obviously to absorb the increased costs from the significant increase in assets under supervision subsequent to the conversion of the Schwab institutions. The Department continues to focus resources on retention of tenured staff, which we believe to be a most appropriate expenditure of funds. Further, we are advised that a projected deficit will be absorbed by existing reserves.

The Department continues to operate in an efficient manner and has been a good steward of the funds provided by the state savings banks under their regulation. IBAT is fully supportive of appropriate funding of this agency to allow it to carry out its mission.

IBAT very much appreciates the excellent working relationship and ongoing open communication we have with the Texas Department of Savings and Mortgage Lending.

Thank you for considering our comments and for your service to Texas.

Sincerely,

Stephen Y. Scurlock  
Director – Government Relations

Meredyth Fowler  
Legislative Counsel

**Office of Consumer Credit Commissioner  
Proposed Budget Fiscal Year 2021**

	Budget 2020	Budget 2021
<b>REVENUE:</b>		
Regulated Lenders	\$ 2,100,633	\$ 2,230,185
Credit Access Industry	1,166,200	1,084,540
MV Industry	793,300	3,987,339
Pawn Industry	905,632	738,157
Registered Industry	293,760	314,070
Miscellaneous Revenues	410,000	58,000
<b>TOTAL REVENUES:</b>	<b>\$ 5,669,525</b>	<b>\$ 8,412,291</b>
<b>EXPENDITURES:</b>		
Personnel Costs		
Employee Compensation	\$ 5,282,775	\$ 5,121,433
Employee Benefits	1,837,994	1,807,730
Add'l Health/Retirement	79,242	76,821
Other Personnel Costs	78,870	71,911
Subtotal Personnel Costs	7,278,881	7,077,896
Travel		
In-State	769,500	633,045
Out-of-State	46,000	10,000
Out-of-State Reimbursements	(37,500)	(8,000)
Subtotal Travel	778,000	635,045
Other Expenditures		
Professional Fees & Services	222,450	263,351
Consumable Supplies	16,000	13,000
Office Utilities	21,400	18,500
Rent - Buildings/Space	24,750	26,829
Rent - Equipment/Other	3,300	3,500
Communications	69,275	85,400
Information Technology	238,199	373,016
Employee Training	17,500	15,000
Misc. Operating Costs	330,187	332,141
Subtotal Operating Costs	943,061	1,130,737
<b>TOTAL EXPENDITURES:</b>	<b>\$ 8,999,942</b>	<b>\$ 8,843,678</b>
<b>EXPENDITURES (OVER)/UNDER REVENUE:</b>	<b>\$ (3,330,417)</b>	<b>\$ (431,387)</b>

FTE's

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**Office of Consumer Credit Commissioner  
Proposed Budget Fiscal Year 2021**

	Budget 2020	Estimated FY 2020	% of 2020 Budget	Budget 2021	\$ Change Budget 2020 to Budget 2021	% Change Budget 2020 to Budget 2021
<b>REVENUE:</b>						
Regulated Lenders	\$ 2,140,633	\$ 2,115,161	98.8%	\$ 2,230,185	\$ 89,552	4.2%
Credit Access Industry	1,166,200	1,111,375	95.3%	1,084,540	(81,660)	-7.0%
MV Industry	933,300	1,063,474	113.9%	3,987,339	3,054,039	327.2%
Pawn Industry	925,632	904,900	97.8%	738,157	(187,475)	-20.3%
Registered Industry	293,760	339,365	115.5%	314,070	20,310	6.9%
Miscellaneous Revenues	210,000	112,952	53.8%	58,000	(152,000)	-72.4%
<b>TOTAL REVENUES:</b>	<b>\$ 5,669,525</b>	<b>\$ 5,647,227</b>	<b>99.6%</b>	<b>\$ 8,412,291</b>	<b>\$ 2,742,766</b>	<b>48.4%</b>
<b>EXPENDITURES:</b>						
Personnel Costs						
Employee Compensation	\$ 5,282,775	\$ 4,775,394	90.4%	\$ 5,121,433	\$ (161,342)	-3.1%
Employee Benefits	1,837,994	1,690,289	92.0%	1,807,730	(30,264)	-1.6%
Add'l Health/Retirement	79,242	70,375	88.8%	76,821	(2,421)	-3.1%
Other Personnel Costs	78,870	69,824	88.5%	71,911	(6,959)	-8.8%
Subtotal Personnel Costs	<b>\$ 7,278,881</b>	<b>\$ 6,605,882</b>	<b>90.8%</b>	<b>7,077,896</b>	<b>(200,985)</b>	<b>-2.8%</b>
Travel						
In-State	769,500	570,000	74.1%	633,045	(136,455)	-17.7%
Out-of-State	46,000	20,000	43.5%	10,000	(36,000)	-78.3%
Out-of-State Reimbursements	(37,500)	(18,000)	48.0%	(8,000)	29,500	-78.7%
Subtotal Travel	<b>778,000</b>	<b>572,000</b>	<b>73.5%</b>	<b>635,045</b>	<b>(142,955)</b>	<b>-18.4%</b>
Other Expenditures						
Professional Fees & Services	222,450	91,666	41.2%	263,351	40,901	18.4%
Consumable Supplies	16,000	11,812	73.8%	13,000	(3,000)	-18.8%
Office Utilities	21,400	16,357	76.4%	18,500	(2,900)	-13.6%
Rent - Buildings/Space	24,750	25,433	102.8%	26,829	2,079	8.4%
Rent - Equipment/Other	3,300	3,106	94.1%	3,500	200	6.1%
Communications	69,275	70,847	102.3%	85,400	16,125	23.3%
Information Technology	238,199	206,448	86.7%	373,016	134,817	56.6%
Employee Training	17,500	10,146	58.0%	15,000	(2,500)	-14.3%
Misc. Operating Costs	330,187	261,357	79.2%	332,141	1,954	0.6%
Subtotal Operating Costs	<b>943,061</b>	<b>697,173</b>	<b>73.9%</b>	<b>1,130,737</b>	<b>187,676</b>	<b>19.9%</b>
<b>TOTAL EXPENDITURES:</b>	<b>\$ 8,999,942</b>	<b>\$ 7,875,055</b>	<b>87.5%</b>	<b>\$ 8,843,678</b>	<b>\$ (156,264)</b>	<b>-1.7%</b>
<b>EXPENDITURES (OVER)/UNDER REVENUE:</b>	<b>\$ (3,330,417)</b>	<b>\$ (2,227,828)</b>		<b>\$ (431,387)</b>	<b>\$ 2,899,030</b>	

FTE's

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**Texas Department of Banking  
Proposed Budget - FY 2021**

	Budget 2020	Budget 2021*
<b>REVENUE</b>		
Bank & Trust Regulation	\$25,521,034	\$25,888,937
Penalties - Bank & Trust Regulation	0	0
Non-Depository Supervision	3,604,957	3,347,565
Penalties - Non-Depository Supervision	82,600	404,900
Miscellaneous Revenues	404,800	206,000
<b>TOTAL REVENUES</b>	<b>\$29,613,391</b>	<b>\$29,847,402</b>
<b>EXPENDITURES</b>		
Personnel Costs		
Employee Compensation	\$18,890,947	\$19,557,429
Employee Benefits	5,545,899	5,707,592
Add'l Health/Retirement	279,995	290,645
Other Personnel Costs	406,089	570,194
Subtotal Personnel Costs	<b>\$25,122,930</b>	<b>\$26,125,860</b>
Travel		
In-State	\$1,513,093	\$968,704
Out-of-State	709,330	431,616
Subtotal Travel	<b>\$2,222,423</b>	<b>\$1,400,320</b>
Operating Costs		
Professional Fees	\$321,504	\$331,580
Consumables	38,000	40,100
Office Utilities	46,022	42,025
Rent - Building/Space	426,635	421,077
Rent - Equipment/Other	35,178	29,398
Communications	303,074	324,025
Information Technology	334,818	495,557
Employee Training	329,264	244,466
Misc. Operating Costs	433,543	392,994
Subtotal Operating Costs	<b>\$2,268,038</b>	<b>\$2,321,222</b>
<b>TOTAL EXPENDITURES</b>	<b>\$29,613,391</b>	<b>\$29,847,402</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$0</b>	<b>\$0</b>

FTEs

194

198

\* FY 2021 budgeted assessments are net approximately \$5.1 million in Bank and Trust that are not expected to be assessed to operate the Department.

**Texas Department of Banking  
Proposed Budget - FY 2021**

	Budget 2020	Estimated FY 2020*	% of 2020 Budget	Budget 2021**	\$ Change Budget 2020 to Budget 2021	% Change Budget 2020 to Budget 2021
<b>REVENUE</b>						
Bank & Trust Regulation	\$25,521,034	\$22,653,556	88.76%	\$25,888,937	\$367,903	1.44%
Penalties - Bank & Trust Regulation	0	10,000	0.00%	0	0	0.00%
Non-Depository Supervision	3,604,957	2,814,101	78.06%	3,347,565	(257,392)	-7.14%
Penalties - Non-Depository Supervision	82,600	658,831	797.62%	404,900	322,300	390.19%
Miscellaneous Revenues	404,800	122,196	30.19%	206,000	(198,800)	-49.11%
<b>TOTAL REVENUES</b>	<b>\$29,613,391</b>	<b>\$26,258,684</b>	<b>88.67%</b>	<b>\$29,847,402</b>	<b>\$234,011</b>	<b>0.79%</b>
<b>EXPENDITURES</b>						
Personnel Costs						
Employee Compensation	\$18,890,947	\$17,387,304	92.04%	\$19,557,429	\$666,482	3.53%
Employee Benefits	5,545,899	5,031,251	90.72%	5,707,592	161,693	2.92%
Add'l Health/Retirement	279,995	251,460	89.81%	290,645	10,650	3.80%
Other Personnel Costs	406,089	322,080	79.31%	570,194	164,105	40.41%
Subtotal Personnel Costs	<b>\$25,122,930</b>	<b>\$22,992,095</b>	<b>91.52%</b>	<b>\$26,125,860</b>	<b>\$1,002,930</b>	<b>3.99%</b>
Travel						
In-State	\$1,513,093	\$784,631	51.86%	\$968,704	(\$544,389)	-35.98%
Out-of-State	709,330	330,646	46.61%	431,616	(277,714)	-39.15%
Subtotal Travel	<b>\$2,222,423</b>	<b>\$1,115,276</b>	<b>50.18%</b>	<b>\$1,400,320</b>	<b>(\$822,103)</b>	<b>-36.99%</b>
Operating Costs						
Professional Fees	\$321,504	\$301,387	93.74%	\$331,580	\$10,076	3.13%
Consumables	38,000	43,500	114.47%	40,100	2,100	5.53%
Office Utilities	46,022	39,782	86.44%	42,025	(3,997)	-8.68%
Rent - Building/Space	426,635	420,994	98.68%	421,077	(5,558)	-1.30%
Rent - Equipment/Other	35,178	29,299	83.29%	29,398	(5,780)	-16.43%
Communications	303,074	237,348	78.31%	324,025	20,951	6.91%
Information Technology	334,818	500,731	149.55%	495,557	160,739	48.01%
Employee Training	329,264	149,895	45.52%	244,466	(84,798)	-25.75%
Misc. Operating Costs	433,543	461,420	106.43%	392,994	(40,549)	-9.35%
Subtotal Operating Costs	<b>\$2,268,038</b>	<b>\$2,184,355</b>	<b>96.31%</b>	<b>\$2,321,222</b>	<b>\$53,184</b>	<b>2.34%</b>
<b>TOTAL EXPENDITURES</b>	<b>\$29,613,391</b>	<b>\$26,291,726</b>	<b>88.78%</b>	<b>\$29,847,402</b>	<b>\$234,011</b>	<b>0.79%</b>
<b>EXPENDITURES (OVER) / UNDER REVENUES</b>	<b>\$0</b>	<b>(\$33,042)</b>		<b>\$0</b>		

FTEs

194

198

4

\* FY 2020 forecast using a combination of estimated projections and annualized June 30, 2020 actuals. To only collect funds needed to operate the Department, FY 2020 Bank and Trust assessments and Non-Depository Supervision assessments were reduced approximately by \$5.9 million and \$735,000, respectively.

\*\* FY 2021 budgeted assessments are net approximately \$5.1 million in Bank and Trust that are not expected to be assessed to operate the Department.



August 7, 2020

Philip A. Holt, Chair  
Texas Finance Commission  
2601 North Lamar Boulevard  
Austin, TX 78705

Dear Mr. Chairman:

The Texas Bankers Association is pleased to support the Texas Department of Banking's proposed Fiscal Year 2021 budget. The banks under the Department's regulatory oversight compose over half of our membership, and TBA believes the Department is a prudent steward of their financial resources. We appreciate Commissioner Cooper's dedication to the safety and soundness of Texas' state-chartered banks.

In particular, we applaud Commissioner Cooper and his dedicated staff for their work during the COVID-19 emergency. Even in these exigent times, the Department is proposing a budget that is less than one percent greater than the its FY2020 budget. Given the counter-cyclical nature of the Department's budgetary needs, this modest increase is warranted to ensure the Department has the resources it needs to oversee Texas state-chartered banks in the current economic environment.

The Department's approach to staffing has been thoughtfully prepared. Furthermore, the Department's Self-Directed, Semi-Independent status ensures that it has the budgetary flexibility it needs should additional FTEs need to be added during FY 2021.

We are especially pleased to see that the proposed budget includes a considerable additional investment in information technology. Our members have reported a substantial increase in attempts to compromise their systems, and Commissioner Cooper is wise to invest in this critically important function. Commissioner Cooper has been a leader among state bank supervisors on cybersecurity. TBA has been pleased to collaborate with the Commissioner and Department on initiatives to enhance bank and bank customer cybersecurity and we look forward to continuing these efforts to make Texas a national model.

I hope you will not hesitate to contact me if you would like to discuss the above in further detail. Thank you in advance for your consideration of these perspectives.

Sincerely,

Chris Furlow  
President & CEO



## Independent Bankers Association of Texas

August 12, 2020

Members of the Finance Commission  
State of Texas  
2601 North Lamar Blvd.  
Austin, TX 78705

RE: Banking Department FY 2021 Budget

Ladies and Gentlemen:

The Independent Bankers Association of Texas (IBAT) is pleased to offer our comments and observations on the Texas Banking Department's FY 2021 budget on behalf of the state-chartered community banks in Texas.

We have reviewed the budget posted on the Finance Commission website along with additional and more detailed projections and backup information provided by the Department.

IBAT is supportive of this budget, which reflects a very modest increase in budgeted revenues and expenditures when compared to the last fiscal year. Compensation increases to maintain "close to parity" with the FDIC and several new positions account for the increase in year over year expenditures. As the full economic impact of the pandemic is manifested, it is critical for this agency to be appropriately staffed to fairly and thoughtfully address challenges in the banking sector.

We believe the leadership of the Department remains committed to effective and responsive regulatory oversight of our industry and has a proven track record for judiciously expending the funding derived from the state-chartered banks in Texas. Appropriate resources are necessary to maintain the outstanding level of regulatory oversight to which our state-chartered member banks and citizens of Texas have become accustomed. This is always important, but becomes critical in more challenging economic environments. Further, the flexibility afforded the Banking Department through SDSI status allows for adjustments if necessary to appropriately regulate the state-chartered banking industry.

IBAT appreciates the exemplary efforts of the Department as well as the excellent working relationship and ongoing open communication we enjoy with this agency.

Thank you for considering our comments and for your ongoing service to Texas.

Sincerely,

Stephen Y. Scurlock  
Director – Government Relations

Meredyth Fowler  
Legislative Counsel

Richard F. Scanio  
IBAT Chairman  
American Bank, Corpus Christi

Bradley H. Tidwell  
IBAT Chairman-Elect  
VeraBank, Henderson

Thomas C. Sellers  
IBAT Secretary-Treasurer  
Alliance Bank, Sulphur Springs

Marty Rivers  
Leadership Division Chairman  
American National Bank & Trust, Denton

Glen C. Thurman  
IBAT Education Foundation Chairman  
First National Bank of Moody

Ronnie Miller  
Immediate Past Chairman  
Community National Bank, Hondo

Christopher L. Williston VI, CAE  
President and CEO  
IBAT, Austin

Ursula L. Jimenez, CAE  
Chief Operating Officer  
IBAT, Austin

Stephen Y. Scurlock  
Director of Government Relations  
IBAT, Austin

Curt Nelson  
Director of Membership  
IBAT, Austin

Christy Hester  
Director of Growth and Development  
IBAT, Austin

Julie Courtney, CAE, CMP  
IBAT Services Inc. President  
IBAT, Austin

Esmeralda Gonzalez, CAE  
IBAT Education Foundation President  
IBAT, Austin

Karen Neeley  
General Counsel  
IBAT, Austin

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**  
Austin, Texas

**ANNUAL INTERNAL AUDIT REPORT**

Fiscal Year 2020



DEPARTMENT OF SAVINGS AND MORTGAGE LENDING  
Austin, Texas

Annual Internal Audit Report  
Fiscal Year 2020

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# Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

Finance Commission Members and  
Audit Committee Members  
Department of Savings and Mortgage Lending  
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the Texas Department of Savings and Mortgage Lending's (SML) internal control structure over the Records Management Area (Area) and its established policies and procedures, as applicable to the Area, for the purpose of determining SML's compliance with applicable laws and regulations provided in the Texas Finance Code; the Texas Government Code Chapter 441, Subchapter L; and, the Texas Administrative Code Title 13, Chapter 6, for the 9 months ended May 31, 2020.

The results of our tests disclosed that SML's internal control structure over the Area and its established policies and procedures, were generally adequate and no material instances of noncompliance were noted; however, we did identify certain matters that are included in this report, that are opportunities for strengthening internal controls and ensuring compliance with state requirements and SML's established policies and procedures. Based on the degree of risk or effect of these matters in relation to the audit objective(s), these matters were rated as either Priority, High, Medium, or Low, which is further described in the "Summary and Related Rating of Observations/Findings and Recommendations", which is included in page 13 of this report.

This report also includes all the information required for compliance with the State of Texas Internal Audit Annual Report requirements.

We have discussed the comments and recommendations from the audit of the Area with various SML personnel; and, will be pleased to discuss them in further detail; to perform an additional study of these matters; or, to assist you in implementing the recommendations made.



July 10, 2020

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2020

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## INTRODUCTION

The Department of Savings and Mortgage Lending (SML) was originally established as the Savings and Loan Department, a regulatory body, to regulate the state's thrift industry. The 58th and 73rd Legislatures enacted the Texas Savings and Loan Act; and, the Texas Savings Bank Act, respectively, for the chartering, regulation, examination and supervision of state-chartered savings banks and savings and loan associations. With the enactment of the Mortgage Broker License Act by the 76th Legislature, in the late 1990s, SML was also tasked with regulating the state's mortgage industry. SML's regulatory authority over the state's mortgage industry has expanded with a series of additional acts that were enacted by subsequent Legislatures.

The Finance Commission appoints the SML Commissioner, who serves as the chief executive officer of the agency; and, executes the Finance Commission's orders and direction.

SML was granted Self-Directed, Semi-Independent (SDSI) status in the 81st Legislative Session. As an SDSI agency, SML is not required to have its budget approved by the Legislature; instead, the Finance Commission is responsible for setting SML's spending authority or limits. SML's entire operating funds are generated from fees assessed to regulated entities and are used to fund both, direct and indirect costs. General revenue funds are not used to support SML's operations.

SML's mission is "to supervise and regulate the residential mortgage lending and state savings industries in order to protect Texans, provide a healthy residential mortgage lending environment, and maintain safe and sound savings banks and savings associations."

SML's primary goals and activities are as follows:

1. Thrift Safety and Soundness
  - Perform full and limited scope examinations and participate with federal regulators in joint examinations.
  - Monitor and enforce the safe and sound operation and compliance with applicable laws and regulations.
2. Mortgage Regulation
  - Process mortgage license applications and registrations for entities and individuals and enforce licensing standards of conduct.
  - Perform examination of mortgage licensees and registrants and enforce regulatory requirements.
3. Consumer Responsiveness
  - Provide a means for consumers to report complaints regarding thrift institutions; and, mortgage entities and individuals.
  - Review and investigate complaints and inquiries as appropriate; and, take appropriate supervisory action when warranted.



## **DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

Annual Internal Audit Report

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### **2020 Internal Audit Plan**

Following are the internal audits and other functions performed, as identified in SML's Internal Audit Plan for Fiscal Year 2020, dated April 2, 2020 and approved by the Audit Committee and Finance Commission on April 17, 2020:

- Records Management
- Follow-up of Prior Year Internal Audits
- Other Tasks

This report contains the results of our audit of the Records Management Area; and, meets the State of Texas Internal Audit Annual Report requirements.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

Annual Internal Audit Report

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### INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of SML's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope included the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations, and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts which could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2020

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#### I. Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information

To comply with the provisions of Texas Government Code, 2102.015 and the State Auditor's Office guidelines, within 30 days after approval by the Finance Commission, SML will post the following information on its website:

- An approved fiscal year 2021 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2020 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The annual internal audit report includes any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by SML to address such concerns.

#### II. Consulting and Nonaudit Services Completed

The internal auditor did not perform any consulting services, as defined in the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* or any non-audit services, as defined in the *Government Auditing Standards, 2018 Revision*, Sections 3.64-3.106.

#### III. External Quality Assurance Review

The internal audit department's most recent *System Review Report*, dated November 16, 2018, indicates that its system of quality control has been suitably designed and conforms to applicable professional standards in all material respects.

#### IV. Internal Audit Plan for Fiscal Year 2020

The approved Internal Audit Plan (Plan) included one audit to be performed during the 2020 fiscal year. The Plan also included other tasks as may have been assigned by the Finance Commission, and preparation of the Annual Internal Audit Report for fiscal year 2020.

##### Risk Assessment

Utilizing information obtained through the completed questionnaires received and background information reviewed, 12 audit areas were identified as potential audit topics. A risk analysis utilizing 8 risk factors, was completed for each of the 12 potential audit topics and then compiled to develop an overall risk assessment.

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

## Annual Internal Audit Report

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Following are the results of the risk assessment performed for the 12 potential audit topics identified:

HIGH RISK	MODERATE RISK	LOW RISK
Management Information Systems	Legal and Enforcement	Procurement/Contract Management/HUB & Travel
Payroll and Human Resources	Mortgage Examinations (Includes Training)	Revenue Accounting Process
Records Management	Thrift Examinations	Mortgage Licensing and Registration
	Thrift Supervision and Compliance	Consumer Protection
		Financial Reporting (Includes Fixed Assets)

In the prior 3 years, internal audits were performed in the following areas:

Fiscal Year 2019<sup>1</sup>:

- Information Technology Change Management
- Follow-Up of the Prior Year Internal Audits

Fiscal Year 2018:

- Thrift Supervision and Compliance
- Follow-Up of the Prior Year Internal Audits

Fiscal Year 2017:

- Thrift Examinations
- Follow-Up of the Prior Year Internal Audits

The internal audit and other tasks performed for fiscal year 2020 were as follows:

Report No.	Audits/Report Titles	Report Date
1.	Records Management <i>Objective:</i> To determine whether SML's policies and procedures and internal processes in place over the Records Management Area (Area) provide reasonable assurance of compliance with state requirements; and, whether established internal controls are operating effectively.	7/10/2020
1.	Annual Internal Audit Report	7/10/2020
-	Other Tasks Assigned by the Finance Commission	None

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<sup>1</sup> Performed by McConnell & Jones LLP

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

Annual Internal Audit Report

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### V. Executive Summary

#### Records Management

##### **Background**

The Records Management Area (Area) is responsible for ensuring state records are retained in accordance with applicable laws and regulations, as outlined in Chapter 441, Subchapter L of the Texas Government Code and Title 13, Part 1, Chapter 6 of the Texas Administrative Code; SML's established policies and procedures; and, its current records retention schedule (RRS) approved by the Texas State Library and Archives Commission (TSLAC).

##### Records Management Program

Under state law, each state agency head must establish and maintain a records management program, create and maintain adequate state records, and identify and protect confidential and vital state records.

The Director of Administration and Finance, who reports directly to the Commissioner, has been designated as SML's Records Management Officer (RMO), whose legal responsibilities include the following:

- a) administering the agency's records management program;
- b) assisting the agency head in fulfilling his/her duties;
- c) preparing and submitting an RRS to TSLAC for (re)certification; and,
- d) communicating to employees, the agency's policies and procedures relating to records management.

In an effort to implement the records management program, SML has designated the division directors as records custodians who are responsible for (a) identifying state records for their division; (b) establishing specific departmental records management procedures, including safeguarding and disposing of records; and, (c) communicating with the RMO of any changes that may affect the records management program. Information Technology (IT) staff are also involved in the implementation of the records management program.

TAC §6.8 requires state agencies to establish policies and procedures to ensure state records are retained through the expiration of their respective retention period, as established in its RRS; TAC §6.93 requires state agency heads or designees to approve and institute written policies and procedures that communicate an enterprise-wide approach for the management practice of electronic state records; and, TAC §6.95 further requires vital electronic state records to be addressed in such policies and procedures.

SML has established a Data Classification Policy, which defines and provides examples of 3 classification levels: (1) Public, (2) Sensitive; and, (3) Confidential. For each classification level, proper data controls in such areas as access, external distribution, and storage, have been implemented.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

Fiscal Year 2020

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#### Records Retention Schedule (RRS)

The RMO is responsible for keeping the RRS current by submitting, to TSLAC, amendments to (a) add a record series; (b) propose an amended retention period; and/or, (c) update other information in the RRS.

SML's current RRS was recertified by TSLAC on April 15, 2014. In accordance with TAC §6.3(b), a state agency's RRS is generally required to be recertified by TSLAC every 5 years from the date of the last recertification. Therefore, the next recertification for SML's RRS was due in April 2019; however, TSLAC granted SML an extension for its recertification. In accordance with the approved extension, the RMO submitted the RRS to TSLAC for recertification on July 31, 2019; and, as of June 2020, SML is pending receipt of TSLAC's approval of its recertified RRS.

Certain records in the RRS are identified with an "A" for designation as an archival record; while, others may be identified with an "R", which indicates that an agency must contact TSLAC's Archives and Information Services (ARIS) division for an archival review of such records. Records identified with an "A" must be transferred to TSLAC's ARIS division, where they are preserved until the ARIS division determines the record no longer merits further retention. Upon review of records identified with an "R", TSLAC's ARIS division will determine if the record should be archived; and, if non-archival, it will instruct the agency to destroy the record. SML utilizes the Texas State RRS, as prepared by TSLAC, to identify records requiring archiving and a review.

#### Records Storage

The RMO maintains a comprehensive inventory spreadsheet, which is a list of SML's state records; and, used to track the inventory and disposition of such records.

#### *Electronic Records*

Electronic state records are stored in SML's shared network drive; and, in ApplicationXtender, which is an enterprise document management system administered by SML's sister agency, the Texas Department of Banking (DOB).

Electronic records in ApplicationXtender are backed up nightly by DOB and a duplicate copy of the backup is stored at DOB's alternate site, in accordance with its disaster recovery plan.

#### *Physical Records*

SML's physical state records are stored onsite in filing cabinets located throughout its office. As of May 31, 2020, SML also had 106 boxes of Thrift master files (M-1) stored at TSLAC's state records center (SRC).

#### Imaging

Each division is responsible for imaging and indexing records for their respective divisions. Records are either scanned into ApplicationXtender or uploaded by each division through the following applications: Thrift, NMLS, or Brokers. A record in ApplicationXtender consists of two parts: the index and the imaged record. The index is utilized to search and locate records based on information documented in the various index fields for each record. During the audit period, SML imaged a total of 4,786 records.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

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#### Record Disposition

Records listed in the certified RRS and exceeding the retention period are eligible for disposition. SML utilizes a Disposition Log as documentation for the disposition of records. The RMO is responsible for ensuring that the records, as entered in the Disposition Logs, are not subject to a hold under Government Code Sec. 441.187(b), that prohibits destruction of records under certain circumstances; such as, litigation and open records requests. Disposition Logs are retained by the RMO for 10 years, as required by the RRS.

The disposition process and frequency vary for each record series depending on the volume and record type. SML has developed specific disposition procedures for certain agency record series. The general disposition process is as follows:

- RMO reviews a record series; determines which records are eligible for disposition; completes a disposition log; and, provides the disposition log to the division responsible for the records;
- Division staff verifies the records eligible for disposition, as identified in the disposition log; disposes the records; completes the disposition log by documenting the disposition information (method, date, on/off site); and, returns the disposition log to the RMO;
- RMO enters disposition in the records inventory spreadsheet.

Physical records are either shredded onsite by SML staff, or offsite by a third-party contractor, depending on the volume of records requiring disposal. The RMO recalls records stored at the SRC that have met their retention period using the TexLinx system, which is TSLAC's cloud-based records management software used to request boxes stored at SRC; verifies records; and, disposes of them in the same manner as other physical records.

Electronic records are deleted onsite by an authorized staff member who is provided temporary access to delete records. The disposition process, as documented above, is also used for the disposition of electronic records.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

Annual Internal Audit Report

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### **Audit Objective, Scope, and Methodology**

#### **Objective**

The objective of our audit was to determine whether SML's policies and procedures and internal processes in place over the Records Management area (Area), provide reasonable assurance of compliance with state requirement; and, whether established internal controls are operating effectively.

#### **Scope**

The scope of our audit was for the 9-month period from September 1, 2019 through May 31, 2021.

#### **Methodology**

The audit methodology included a review of applicable laws and regulations, SML's established policies and procedures, and other internal and external documentation; interviewing and corresponding with the RMO; and, virtual observation of the document management system and a sample of electronic records.

We obtained and/or reviewed the following internal and external documentation:

- A. Texas Government Code Chapter 441, Subchapter L. Preservation and Management of State Records and Other Historical Resources.
- B. Title 13 of the Texas Administrative Code Chapter 6, Subchapter A. *Records Retention Scheduling*, and Subchapter C. *Standards and Procedures for Management of Electronic Records*, as compiled by the Texas State Library and Archives Commission (TSLAC) as Bulletin 3 and Bulletin 1, respectively.
- C. Texas State Records Retention Schedule, revised 4th edition.
- D. SML's Records Retention Schedule and correspondence with TSLAC regarding recertification process.
- E. SML's Records Management Policies and Procedures.
- F. TSLAC's State Records Center Procedures.
- G. Organizational chart.
- H. Designation of State Agency Records Management Officer.
- I. RMO training records.
- J. Continuity of Operations Plan.
- K. Disposition Logs for records that were deleted or destroyed during the audit period.



## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### Annual Internal Audit Report

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- L. List of records imaged/scanned to ApplicationXtender during the audit period.
- M. List of boxes stored at the SRC.
- N. List of internal ApplicationXtender users and their access rights.
- O. TSLAC's appraisal decision regarding SML records.
- P. TSLAC's *State Records Transaction Receipt* for records transferred to the SRC during the audit period.

We performed various procedures to achieve the objective of our audit, to include the following:

1. Reviewed and obtained an understanding of state laws and regulations, and other requirements established by TSLAC, as applicable to the Area.
2. Obtained and reviewed SML's written policies and procedures; and, conducted interviews, to obtain an understanding of controls, processes, and current practices in place over the Area, and to evaluate whether such controls adequately ensure compliance with applicable requirements.
3. Reviewed SML's organizational structure to assess whether the design is adequate in implementing the records management program.
4. Reviewed SML's certified records retention schedule (RRS) and Form SLR 104, *Designation of State Agency Records Management Officer (RMO)*, to verify proper and timely submission.
5. Reviewed the list of access levels for all ApplicationXtender users to determine if access was warranted based on job title/description.
6. Selected a sample of 25 records imaged during the audit period, and tested for the following attributes:
  - a. Record is available and readable.
  - b. Record is indexed properly.
  - c. Record is retained at the security level appropriate for the record type.
7. Selected a sample of 25 records deleted during the audit period and tested for the following attributes:
  - a. Compliance with TAC 6.8(b) relating to final disposition of state records, including archival records.
  - b. Record exceeded the retention period, as listed in the RRS.
  - c. Disposition Log is complete and accurate; and, properly approved by the RMO.

## **DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

Annual Internal Audit Report

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8. Selected a sample of 2 SML contracts to ensure contracts and solicitation documents are retained in an electronic format in accordance with Texas Government Code 441.1855.
9. Selected a sample of 10 boxes stored at the State Records Center to ensure boxes were retained in accordance with the RRS.
10. Obtained the State Records Transaction Receipt listing for the boxes that were transferred to the SRC in May 2020 and ensured records were transferred in accordance with the RRS; were included in the inventory listing of records stored at the SRC; and, were properly imaged prior to being transferred.

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

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**VI. Observations/Findings and Recommendations****SUMMARY and RELATED RATING of OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

As SML's internal auditors, we used our professional judgment in rating the audit observations identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the finding and observations in this report and the related rating.

<b>Summary of Observations/Findings &amp; Recommendations and Related Ratings</b>		
<b>Finding No.</b>	<b>Title</b>	<b>Rating</b>
-	None	--
<b>Observation No.</b>	<b>Title</b>	<b>Rating</b>
1	Records Stored at the State Records Center (SRC)	--
2	Records Retention Periods	--
	<p style="text-align: center;"><u>Description of Rating</u></p> <p>A finding is rated <i>Priority</i> if the issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>High</i> if the issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>Medium</i> if the issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.</p> <p>A finding is rated <i>Low</i> if the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.</p>	

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**OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

<b>Report No.</b>	<b>Report Date</b>	<b>Name of Report</b>	<b>Observations/Findings and Recommendations</b>	<b>Fiscal Impact/Other Impact</b>
1	7/10/2020	Records Management	<p><u>Observations</u></p> <p><b>1. Records Stored at State Records Center (SRC)</b></p> <p>State agencies are required to enter an AC (After Closed) date in TexLinx, which is used to calculate the disposition date, for each box transferred and stored at the SRC. However, since Master Files for Savings &amp; Loan Associations &amp; State Savings Bank Charters (M-1) are considered active for the existence of the bank, the AC date is unknown at the time of the transfer. Therefore, SML enters a generic date of 12/31 and the prior calendar year in TexLinx, as the AC date, as recommended by TSLAC and in accordance with SML's Records Management Procedures. The disposition date in TexLinx is then calculated to be 25 years from the generic AC date.</p> <p>At the time a bank ceases to exist, the RMO will enter the actual AC date into TexLinx to ensure the disposition date is accurately computed.</p> <p>Our virtual review of the TexLinx records for 10 boxes stored at the SRC disclosed an instance where the AC date for 1 box containing M-1 records of an inactive bank was not properly updated to reflect its AC date of June 19, 2017; therefore, the TexLinx calculated disposition date was incorrect. However, the AC date was corrected by the RMO while facilitating the virtual review.</p> <p><b>Recommendation</b></p> <p>We recommend that SML assign a person other than the RMO to conduct a quality review of the AC dates reflected in TexLinx for all boxes stored at the SRC to ensure (1) the dates for inactive banks are correct; and, (2) active records do not reflect an expired disposition date.</p> <p><b>Management's Response</b></p> <p>The Department has an annual review process in place to verify and update the Drive Dates (AC Dates) in the TexLinx system; however, the review process has been updated to ensure that a staff member other than the RMO conducts the review.</p>	To ensure records are retained in accordance with SML's RRS.

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

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Report No.				
1	7/10/2020	Records Management	<p><b>2. Records Retention Periods</b></p> <p>TexLinx, which is a TSLAC web application that allows the RMO of each state agency to view and manage their records stored at TSLAC's SRC, automatically assigns the retention period and calculates the disposition date for records stored at the SRC based on the records series entered by the agency. SML stores M-1 records (Master Files for Savings &amp; Loan Associations &amp; State Savings Bank Charters) at the SRC, whose entire retention period is 25 years, comprised of AC+5 years for the physical records stored at the SRC; and, 20 years stored onsite after the physical records are destroyed for the electronic version of these records. Our testing indicated that boxes with M-1 physical records stored at the SRC have retention periods of 25 years, as assigned by TexLinx, which is the entire retention period, instead of AC+5 years, as reflected in SML's Records Management Procedures. Because the retention period for these physical records in TexLinx is much longer than what is required, the RMO independently calculates and monitors the disposition dates for these records to ensure they are timely destroyed.</p> <p><b>Recommendation</b></p> <p>We recommend that SML contact TSLAC to request that the retention period be revised in TexLinx, to be in alignment with the in SML's Records Management Procedures, which will allow the RMO to rely on and utilize the date when identifying records available for destruction.</p> <p><b>Management's Response</b></p> <p>The Department has contacted the TSLAC's staff with the above-mentioned request and will work with them to align the information appearing in the TexLinx system with the SML's Record Retention Schedule and Records Management Procedures.</p>	To ensure TexLinx reflects accurate records retention periods.

## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

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### VII. External Audit Services Procured in Fiscal Year 2020

SML procured the internal audit services documented in the approved Internal Audit Plan for fiscal year 2020. No other external audit services were performed.

### VIII. Reporting Suspected Fraud and Abuse

SML has provided information on their website homepage on how to report suspected fraud, waste, and abuse to the State Auditor's Office (SAO) by posting a link to the SAO's fraud hotline. SML has also developed a Fraud Prevention Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

### IX. Proposed Internal Audit Plan for Fiscal Year 2021

The risk assessment performed during the 2020 fiscal year was used to identify the following *proposed* area that is recommended for internal audit and other tasks to be performed for fiscal year 2021. The Internal Audit Plan for Fiscal Year 2021 will be developed and presented to the Audit Committee and Finance Commission, for acceptance and approval, at a meeting to be determined at a later date.

- Payroll and Human Resources
- Follow-up of Prior Year Internal Audits
- Other Tasks Assigned by the Finance Commission

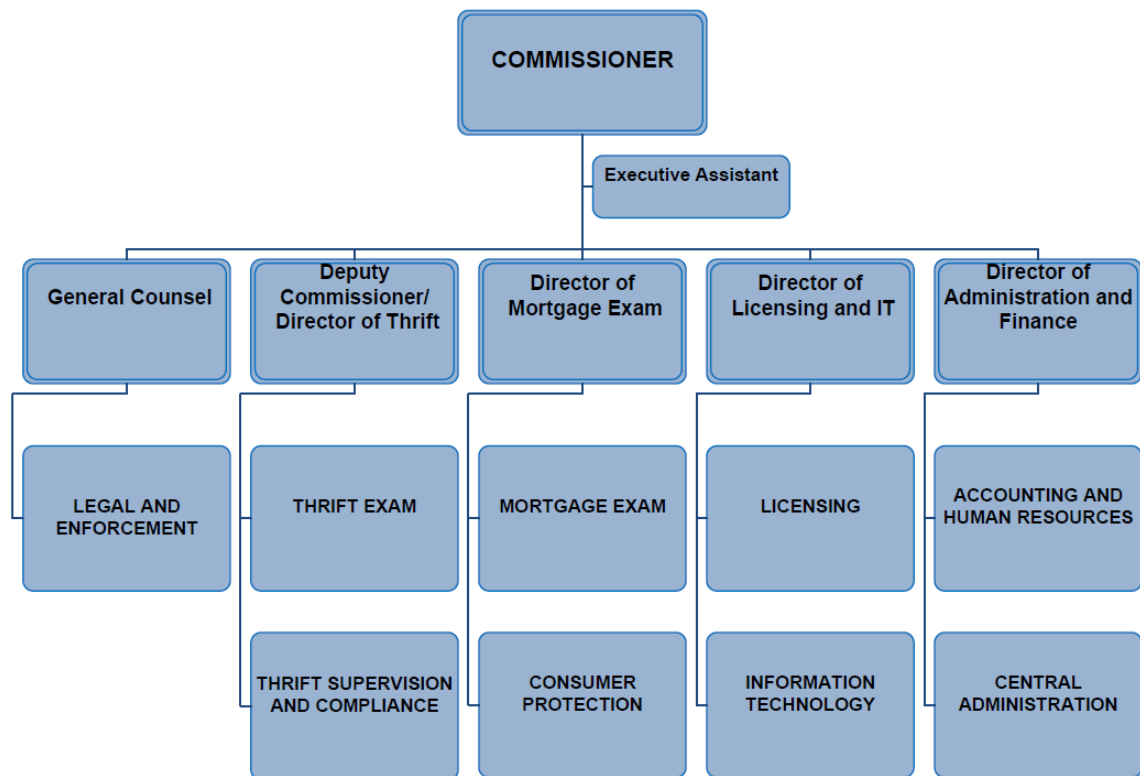
## DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

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### X. Organizational Chart



Source: SML

**DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**  
**History of Areas Audited**  
**For Fiscal Year 2020**

<b>POTENTIAL AUDIT TOPIC</b>		2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1	Consumer Protection					A			B*	D		
2	Financial Reporting (Includes Fixed Assets)	E*				E*			B	D*/E*		
3	Legal and Enforcement		A						B	D		
4	Management Information Systems	C*	C*	C*	C*	C*	C*	A/C*	B*/C*	C/C*/D*	A1*	
5	Mortgage Examinations (Includes Training)						A		B*	D		
6	Mortgage Licensing and Registration			A/G*					B*	D		
7	Payroll and Human Resources	E*			F*	E				E*	F*	
8	Procurement/Contract Management/HUB & Travel	E*				E			B	D*/E*		
9	Records Management											A
10	Revenue Accounting Process		A						B	D*		
11	Thrift Examinations	A*/B							A	D		
12	Thrift Supervision and Compliance				A				B*	A/D		

**Note:** Performance Measures is included in the scope of the applicable audit area(s).

**Legend (audits/reviews with asterisk are considered limited scope for the audit area)**

- A** Internal audit performed by Garza/Gonzalez & Associates, CPAs.
- A1** Internal audit performed by McConnell & Jones LLP.
- B** Audit performed by the State Auditor's Office (SAO).
- C** IT assessment performed by the Department of Information Resources (DIR) or a third-party vendor procured through the DIR.
- D** Sunset Review performed by the Sunset Advisory Commission.
- E** Post Payment Audit performed by the Comptroller of Public Accounts.
- F** EEO Policy Review performed by the Texas Workforce Commission.
- G** Review performed by the Department of Public Safety.



**OFFICE OF CONSUMER CREDIT COMMISSIONER**  
Austin, Texas

**ANNUAL INTERNAL AUDIT REPORT**

Fiscal Year 2020



OFFICE OF CONSUMER CREDIT COMMISSIONER  
Austin, Texas

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# Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

Finance Commission Members and Audit Committee Members  
Office of Consumer Credit Commissioner  
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the Office of Consumer Credit Commissioner's (OCCC) internal control structure over the Records Management (Area) and its established policies and procedures, as applicable to the Area, for the purpose of determining OCCC's compliance with applicable laws and regulations provided in the Texas Finance Code; the Texas Government Code Chapter 441, Subchapter L; and, the Texas Administrative Code Title 13, Chapter 6 for the 8 months ended April 30, 2020.

The results of our tests disclosed that OCCC's internal control structure over the Area and its established policies and procedures, were generally adequate and no material instances of noncompliance were noted; however, we did identify certain matters that are included in this report, that are opportunities for strengthening internal controls and ensuring compliance with state requirements and OCCC's established policies and procedures. Based on the degree of risk or effect of these matters in relation to the audit objective(s), these matters were rated as either Priority, High, Medium, or Low, which is further described in the "Summary and Related Rating of Observations/Findings and Recommendations", which is included in page 13 of this report.

We also performed a follow-up of the findings and recommendations that were presented in the prior year internal audit reports, as prepared by other auditors, and this report reflects the results and implementation status of our follow-up procedures performed; and, includes all information required for compliance with the State of Texas Internal Audit Annual Report requirements.

We have discussed the comments and recommendations from the audit of the Area; and, the implementation status from the follow-up performed, with various OCCC personnel; and, will be pleased to discuss them in further detail; to perform an additional study of these matters; or, to assist you in implementing the recommendations made.



June 19, 2020

## OFFICE OF CONSUMER CREDIT COMMISSIONER

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### INTRODUCTION

The Office of Consumer Credit Commissioner (OCCC) operates pursuant to Chapter 14 of the Texas Finance Code, and under the oversight of the Texas Finance Commission, who appoints the consumer credit commissioner. OCCC has authority to regulate consumer credit transactions and interest rates in Texas, offers protection to consumers, coordinates educational efforts aimed at consumers and industry alike, and advises lenders on compliance issues.

OCCC's primary task is to license and perform examination of licensed industries; such as, motor vehicle sales finance companies, regulated lenders, payday/title loan lenders, and pawnshops/pawn employees; and, oversee registered industries such as debt management and settlement providers and registered creditors.

OCCC was granted Self-Directed, Semi Independent (SDSI) status in the 81st Legislative Session. As an SDSI agency, OCCC is not required to have their budget approved by the Legislature; however, the Finance Commission is responsible for setting OCCC's spending authority or limits. OCCC's entire operating funds are generated from fees assessed to the businesses it supervises and are used to fund both direct and indirect costs. General revenue funds are not used to support OCCC's operations.

### 2020 Internal Audit Plan

Following are the internal audits and other functions performed, as identified in OCCC's Internal Audit Plan for Fiscal Year 2020, dated April 2, 2020 and approved by the Audit Committee and Finance Commission on April 17, 2020:

- Records Management (Area)
- Follow-up of Prior Year Internal Audits
- Other Tasks

This report contains the results of our audit of the Records Management Area; reflects the results of the follow-up procedures performed in the current year of the findings that were presented in the prior year internal audit reports; and, meets the State of Texas Internal Audit Annual Report requirements.

## INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of OCC's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope included the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations, and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts which could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

## OFFICE OF CONSUMER CREDIT COMMISSIONER

### Annual Internal Audit Report

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#### I. **Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information**

To comply with the provisions of Texas Government Code, 2102.015 and the State Auditor's Office, within 30 days after approval by the Finance Commission, OCCC will post the following information on its website:

- An approved fiscal year 2021 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2020 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The annual internal audit report includes any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by OCCC to address such concerns.

#### II. **Consulting and Nonaudit Services Completed**

The internal auditor did not perform any consulting services, as defined in the Institute of Internal Audit Auditors' *International Standards for the Professional Practice of Internal Auditing* or any non-audit services, as defined in the *Government Auditing Standards, 2018 Revision*, Sections 3.64-3.106.

#### III. **External Quality Assurance Review**

The internal audit department's most recent *System Review Report*, dated November 16, 2018, indicates that its system of quality control has been suitably designed and conforms to applicable professional standards in all material respects.

#### IV. **Internal Audit Plan for Fiscal Year 2020**

The approved Internal Audit Plan (Plan) included one audit to be performed during the 2020 fiscal year. The Plan also included a follow-up of the prior year internal audit recommendations, other tasks as may have been assigned by the Finance Commission, and preparation of the Annual Internal Audit Report for fiscal year 2020.

##### **Risk Assessment**

Utilizing information obtained through the completed questionnaires received and background information reviewed, 17 audit areas were identified as potential audit topics. A risk analysis, utilizing 8 risk factors, was completed for each of the 17 potential audit topics and then compiled to develop an overall risk assessment.

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Following are the results of the risk assessment performed for the 17 potential audit topics identified:

HIGH RISK	MODERATE RISK	LOW RISK
TFEE Fund Investment Portfolio Administration	Billing and Collection of Fees	Property Tax Lender Examinations
Fiscal Division (Includes Purchasing, Travel, Payroll and Fixed Assets)	Legal and Enforcement	Human Resources
Management Information Systems	Complaint Intake and Investigation	Business Licensing
	TFEE Fund Grants Management	Business Registration
	Motor Vehicle Sales Finance Examinations	Professional Licensing (Pawnshop Employees & RMLO)
	Regulated Lenders Examinations	
	Records Management	
	Credit Access Business Examinations	
	Pawn Examinations	

In the prior 3 years, internal audits were performed in the following areas:

Fiscal Year 2019<sup>1</sup>:

- Investment Administration Controls
- Information Technology Change Management Program
- Follow-up of the Prior Year Internal Audits

Fiscal Year 2018:

- Property Tax Lender Examinations
- Follow-up of the Prior Year Internal Audits

Fiscal Year 2017:

- Registration
- Texas Financial Education Endowment Fund
- Follow-up of the Prior Year Internal Audits

The internal audit and other tasks performed for fiscal year 2020 were as follows:

Report No.	Audits/Report Titles	Report Date
1.	Records Management <i>Objective:</i> To determine whether OCCC's policies and procedures and internal processes in place over the Records Management Area (Area) provide reasonable assurance of compliance with state requirements; and, whether established internal controls are operating effectively.	6/19/2020
1.	Annual Internal Audit Report – Follow-up of Prior Year Internal Audits	6/19/2020
-	Other Tasks Assigned by the Finance Commission	None

<sup>1</sup> Performed by McConnell & Jones LLP.

## V. Executive Summary

### Records Management

#### **Background**

The Records Management Area (Area) is responsible for ensuring state records are retained in accordance with applicable laws and regulations, as outlined in Chapter 441, Subchapter L of the Texas Government Code and Title 13, Part 1, Chapter 6 of the Texas Administrative Code; OCCC's established policies, procedures, and/or practices; and, its current records retention schedule (RRS) approved by the Texas State Library and Archives Commission (TSLAC).

#### Records Management Program

Under state law, each state agency head must establish and maintain a records management program, create and maintain adequate state records, and identify and protect confidential and vital state records.

An Executive Assistant, who reports directly to the Commissioner, has been designated as OCCC's Records Management Officer (RMO), whose legal responsibilities include the following:

- a) administering the agency's records management program;
- b) assisting the agency head in fulfilling his/her duties;
- c) preparing and submitting an RRS to TSLAC for (re)certification; and,
- d) communicating to employees, the agency's policies and procedures relating to records management.

In an effort to implement the records management program, OCCC has designated department managers as records custodians who are responsible for (a) identifying state records for their department; (b) establishing specific departmental records management procedures, including safeguarding and disposing of records; and, (c) communicating with the RMO of any changes that may affect the records management program. Each department manager designates a Records Management Liaison within their respective department, who is responsible for the execution of tasks related to records management. Information Technology (IT) staff are also involved in the implementation of the records management program.

TAC §6.8 requires state agencies to establish policies and procedures to ensure state records are retained through the expiration of their respective retention period, as established in its RRS; TAC §6.93 requires state agency heads or designees to approve and institute written policies and procedures that communicate an enterprise-wide approach for the management practice of electronic state records; and, TAC §6.95 further requires vital electronic state records to be addressed in such policies and procedures. OCCC's records management policies and procedures are developed by the Legal department; reviewed by the Security, Policy, and Compliance Committee, which consists of all department heads or their designee; and, approved by the Commissioner.



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OCCC has established a Data Classification Policy, which defines and provides examples of 3 classification levels: (1) Public, (2) Sensitive; and, (3) Confidential. For each classification level, proper data controls in such areas as access, external distribution, and storage, have been implemented. OCCC also has a records inventory listing, which reflects the classification level for each record and identifies records that are vital (critical). The records inventory listing is reviewed and updated annually by department managers.

#### Records Retention Schedule (RRS)

OCCC's current RRS was recertified by TSLAC in January 2018. Subsequent to the recertification, OCCC submitted an amendment, which was approved by TSLAC with an effective date of May 2018. In accordance with TAC §6.3(b), a state agency's RRS is generally required to be recertified by TSLAC every 5 years from the date of the last recertification. Therefore, the next recertification for OCCC's RRS is January 2023. The RMO is responsible for keeping the RRS current by submitting, to TSLAC, amendments to (a) add a record series; (b) propose an amended retention period; and/or, (c) update other information in the RRS.

Certain records in the RRS are identified with an "A" for designation as an archival record; while, others may be identified with an "R", which indicates that an agency must contact TSLAC's Archives and Information Services (ARIS) division for an archival review of such records. Records identified with an "A" must be transferred to TSLAC's ARIS division, where they are preserved until the ARIS division determines the record no longer merits further retention. Upon review of records identified with an "R", TSLAC's ARIS division will determine if the record should be archived; and, if non-archival, it will instruct the agency to destroy the record. OCCC utilizes the Texas State RRS, as prepared by TSLAC, to identify records requiring archiving and a review.

#### Records Storage

OCCC's state records, the majority being electronic, are retained in the following locations:

a) Application, Licensing, Examination, Compliance System (ALECS)

ALECS is an online enterprise resource management system that manages licensing, examinations, and other records for licensed and regulated entities. An employee is provided access levels sufficient to perform their job duties, as determined by the respective supervisor, and managed by the IT Support Services department. Documents can be uploaded to ALECS by OCCC employees or a third-party entity; such as, an applicant, a licensee, or a registrant. A third-party entity is able to upload documents only after creating an ALECS account through OCCC's website.

b) OCCC Network Folders

Records of large examination files; and, those related to agency administration, legal, financial, payroll, and HR, are stored in folders on OCCC's network drives, which are partitioned to limit access only to authorized personnel. OCCC's IT Support Services department is responsible for the administration of OCCC's network folders; including, data backup, security, and system maintenance.

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#### c) ApplicationXtender

ApplicationXtender is an enterprise document management system administered by OCCC's sister agency, DOB. This system is primarily used by the Licensing department to image and electronically store current hard copy records; such as, applications and checklists that are not uploaded to ALECS. Historical records imaged prior to the implementation of ALECS, which include various types of records from all divisions/departments, are still retained in ApplicationXtender since they were not migrated to ALECS.

#### d) Email Archive

Email with no activity for over 90 days are automatically transferred and archived in "Retain", OCCC's email archiving system. Email records in Retain are maintained for 3 years before an automatic deletion takes place, and cannot be manually deleted. Email records determined to have longer retention periods are manually saved in an appropriate network drive folder or ALECS.

#### e) Physical records

Certain highly sensitive HR records; such as, medical and workers' compensation files, are retained as a hard copy in HR's locked file cabinets. OCCC also maintains, in its server room, 270 reels of microfilm that contain various historical (pre-1989) records; including, those of entities that remain active.

### Records Disposition

OCCC utilizes a Records Disposition Log (RDL) for documentation of its disposition process. An RDL is completed by an employee (preparer) who, by entering required information into the RDL, ensures the records to be disposed are listed and have exceeded the retention period in the RRS. The preparer must obtain approval signatures on the RDL from his/her supervisor and the RMO before the records can be processed for disposition. The department manager is responsible for ensuring the records, as entered in the RDL, are not subject to a hold under Government Code Sec. 441.187(b), that prohibits destruction of records under certain circumstances; such as, litigation and open records requests. RDLs must be retained for 10 years.

### Records Imaging and Verification

Records received by OCCC through channels other than ALECS (mail, fax, etc.), are generally scanned to an electronic image and retained in appropriate locations, as determined by the various departments. OCCC's internal policy requires all imaged records to be reviewed by an employee, other than the one who performed the imaging, to ensure all manual pages are imaged and imaged records are legible before the original document can be destroyed. The majority of hard copy documents are received by the Licensing, Examination, and Consumer Assistance Services (CAS) departments. For accountability purposes, each of these departments has developed the following departmental imaging/verification tracking procedures:

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- (a) **Licensing:** Hard copy documents; such as, paper applications and “checklists”, submitted by applicants to the Licensing department are imaged into ApplicationXtender. However, confidential information; such as, criminal history reports and fingerprints are not imaged; but, are instead destroyed once they have been reviewed for their intended purpose. Upon completion of the imaging, an employee of the Licensing department (Imager) enters an applicable Masterfile number, license number, imaged date and his/her initials into the *Image & Verify* Excel spreadsheet. The Imager will then place the original document in the department’s designated area to be verified by another person (Verifier). Upon completion of verification, the Verifier adds the verification date and his/her initials for the applicable record in the *Image & Verify* Excel spreadsheet. During the audit period, the Licensing department imaged 1,567 records totaling 9,010 pages into ApplicationXtender.
- (b) **Examination:** An *Incoming Records Log* Excel spreadsheet is used by the Examination department to track documents it receives. An Administrative Support staff (Imager) scans and either uploads the document to an appropriate location in ALECS or a network folder. Certain documents received; such as, complaints, debt cancellation agreements, returned mail, and examination vouchers, which are not imaged by an Administrative Support staff, are forwarded to CAS or an appropriate Examination employee. Upon receipt by CAS, their departmental imaging process, as documented below, is followed. The Imager and another Administrative Support staff (Verifier) date and initial the *Incoming Records Log* for the applicable record upon completion of their respective tasks. According to the *Incoming Records Log*, during the audit period, the Examination department logged 1,362 incoming hard-copy records, of which 570 were sent to the Administrative Support staff for imaging, 515 were forwarded to the CAS department, and the remaining 277 were forwarded to other Examination staff.
- (c) **CAS:** Hard copies of complaints and correspondence received by the Examination department and forwarded to CAS are imaged and uploaded to ALECS, or saved in designated network folder if they do not pertain to an OCCC licensee/registrant. Upon closing of a complaint, the Investigator who closed the complaint (Imager) images all documents related to the complaint, and places the original documents in the designated area in the department to be verified by another investigator (Verifier). The department generates a monthly *Written Complaints Processed* report from ALECS which lists written complaints closed during the month along with the names of investigators who closed them. Upon completion of verification, the Verifier enters his/her initials next to the complaint for which imaged documents were verified.

## OFFICE OF CONSUMER CREDIT COMMISSIONER

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### **Audit Objective, Scope, and Methodology**

#### **Objective**

The objective of our audit was to determine whether OCCC's policies and procedures and internal processes in place over the Records Management Area (Area) provide reasonable assurance of compliance with state requirements; and, whether established internal controls are operating effectively.

#### **Scope**

The scope of the audit was for the 8-month period from September 1, 2019 to April 30, 2020 (audit period).

#### **Methodology**

The audit methodology included a review of applicable laws and regulations, OCCC's established policies and procedures, and other internal and external documentation; interviewing and corresponding with selected OCCC employees; and, virtual observation of a sample of physical and electronic records.

We obtained and/or reviewed the following internal and external documentation:

- A. Texas Government Code Chapter 441, Subchapter L. *Preservation and Management of State Records and Other Historical Resources*.
- B. Title 13 of the Texas Administrative Code Chapter 6, Subchapter A. *Records Retention Scheduling*; Subchapter B. *Microfilming Standards for State Agencies*; and, Subchapter C. *Standards and Procedures for Management of Electronic Records*, as compiled by the Texas State Library and Archives Commission (TSLAC) as Bulletin 3, Bulletin 2, and Bulletin 1, respectively.
- C. Organizational chart applicable to the Area.
- D. OCCC Designation of State Agency Records Management Officer.
- E. Texas State Records Retention Schedule, revised 4th edition.
- F. OCCC Records Retention Schedule, certification #6.
- G. OCCC records management policies and procedures, to include:
  - (1) Records Management Manual, June 2020.
  - (2) Licensing Procedures: Imaging, Verifying, & Destruction.
  - (3) Human Resources Standard Operating Procedures, Chapter VI, Subchapter C. File Management, updated January 2020.
  - (4) Policy and Procedures Manual: Examination – Imaging and Uploading Procedure, March 2020.

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- (5) Other agency-wide records management policies and procedures: Email Management Guidelines; Retain and GroupWise FAQs; and Server File Structure and File Naming Conventions Update.
- H. OCCC Records Inventory, Data Classification and Controls, June 2019.
- I. Records Disposition Logs for records destroyed during the audit period.
- J. OCCC's imaging log/report/listing, to include:
  - (1) Licensing department's scanned records report for the audit period, as generated from ApplicationXtender.
  - (2) Examination/CAS department *Incoming Records Log* Excel spreadsheet for the audit period, as maintained by the department.
  - (3) Licensing department's *Image & Verify* Excel spreadsheet, as maintained by the department.
  - (4) CAS department Written Complaints Processed report for the months of September through November 2019, as generated from ALECS.
- K. ApplicationXtender User Permission Report generated on May 14, 2020.

We performed various procedures to achieve the objective of our audit, to include the following:

- 1. Reviewed and obtained an understanding of state laws and regulations, and other requirements established by TSLAC, as applicable to the Area.
- 2. Obtained and reviewed OCCC's written policies and procedures; and, conducted interviews, to obtain an understanding of controls, processes and current practices in place over the Area, and to evaluate whether such controls adequately ensure compliance with applicable requirements identified in procedure 1 above.
- 3. Reviewed OCCC's organizational structure to assess whether the design is adequate in implementing the records management program.
- 4. Reviewed OCCC's certified RRS and Form SLR 104, *Designation of State Agency Records Management Officer (RMO)*, to verify proper and timely submission.
- 5. Reviewed the list of access levels for all ApplicationXtender users to determine if access was warranted based on job title.
- 6. Selected a sample of 10 Licensing records imaged to ApplicationXtender, and 10 Examination/CAS records received for imaging, as listed in the Examination/CAS Incoming Records Log, for the audit period; and, tested for the following attributes:
  - a. Record is available and readable.

**OFFICE OF CONSUMER CREDIT COMMISSIONER**

## Annual Internal Audit Report

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- b. Record is retained in the correct location (or properly indexed) and follows proper folder/file naming convention.
  - c. For Licensing records, confidential information; such as, fingerprints and criminal reports, are not imaged.
  - d. Completion of imaging and verification were properly documented.
  - e. Quality assurance was performed by a person other than the imager.
- 7. Selected a sample of 10 records destroyed during the audit period, and tested for the following attributes:
  - a. Compliance with TAC 6.8(b) relating to final disposition of state records, including archival records.
  - b. The record exceeded the retention period, as listed in the RRS.
  - c. RDL is complete and accurate.
  - d. Proper internal approval was obtained.
- 8. Selected a sample of 20 records from OCCC's RRS, and tested for the following attributes:
  - a. Record is available and readable.
  - b. Record is retained at the security level appropriate for the record type.

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**VI. Observations/Findings and Recommendations****SUMMARY and RELATED RATING of OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

As OCCC's internal auditors, we used our professional judgment in rating the audit findings identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the findings in this report and the related rating.

<b>Summary of Observations/Findings &amp; Recommendations and Related Ratings</b>		
<b>Finding No.</b>	<b>Title</b>	<b>Rating</b>
1	Records Disposition	Medium
<b>Observation No.</b>	<b>Observation</b>	
1	Imaged Record Verification	-
<p><u>Description of Rating</u></p> <p>A finding is rated <i>Priority</i> if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>High</i> if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.</p> <p>A finding is rated <i>Medium</i> if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.</p> <p>A finding is rated <i>Low</i> if the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.</p>		

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**OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

Report No.				
1	6/19/2020	Records Management	<p><b>1. Records Disposition</b></p> <p>Government Code Sec. 441.187 allows state agencies to destroy a state record if the record's retention period, as listed in the state agency's approved records retention schedule, has expired. Our testing of 10 record series destroyed during the audit period, as documented in the records disposition logs (RDL) prepared by various departments, disclosed an instance where 2 boxes of records were destroyed more than 9 months before the retention period expired. This exception was caused by the incorrect retention period being entered in the RDL by the employee who prepared the RDL, and not detected by the supervisor or the RMO during the RDL review and approval process.</p> <p><b>Recommendation</b></p> <p>We recommend that OCCC assess, and revise if appropriate, its current RDL review procedures to ensure any errors in the completed RDL are detected timely to ensure state records are not improperly destroyed.</p> <p><b>Management's Response</b></p> <p>The OCCC will analyze and revise records disposition log review procedures to allow for review on multiple levels and allow ample time for review and verification to ensure compliance with OCCC RRS. Additionally the OCCC will add a step to the process that RML must receive a scanned copy of approved log before disposition can begin. Staff will be trained on the new procedures. The new procedures and training will be implemented by October 1, 2020.</p> <p><b>Observation</b></p> <p><b>1. Imaged Record Verification</b></p> <p>To ensure that an imaged state record is a complete representation of the original document, OCCC has developed and implemented, at departmental levels, procedures requiring all hard copy documents to be imaged by one employee (the Imager), and then visually verified for completeness and image quality by a different employee (the Verifier). The original documents can be destroyed only after the verification is performed. For accountability purposes, the departments have developed logging procedures for documentation of the Imager and the Verifier, along with the dates the record was imaged and verified.</p>	<p>To ensure state records are retained for the duration of retention period.</p> <p>To ensure the imaged state record is a complete representation of the original.</p>



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Report No.																		
			<p>Our testing of 20 imaged records, consisting of 10 from Licensing, 7 from Examination, and 3 from Consumer Assistance Services (CAS), disclosed that the 10 imaged Licensing records were not logged in the <i>Image &amp; Verify</i> Excel spreadsheet (the Spreadsheet), which is utilized by the Licensing department to log imaging and verification. Since the records were not logged in the Spreadsheet, we were unable to determine whether these records were verified. We were subsequently informed that verification by the Licensing department was not performed during fiscal year 2020. A further review of the Spreadsheet disclosed that, although the department properly retains original documents until verification is complete, the number of verified records logged in the Spreadsheet has declined in the last 3 years, as shown below:</p> <table><tr><th>Fiscal Year</th><th>Number of Records Verified</th></tr><tr><td>2016</td><td>176</td></tr><tr><td>2017</td><td>3,620</td></tr><tr><td>2018</td><td>470</td></tr><tr><td>2019</td><td>34</td></tr><tr><td>2020</td><td>5</td></tr><tr><td>Total</td><td>4,305</td></tr></table>	Fiscal Year	Number of Records Verified	2016	176	2017	3,620	2018	470	2019	34	2020	5	Total	4,305	
Fiscal Year	Number of Records Verified																	
2016	176																	
2017	3,620																	
2018	470																	
2019	34																	
2020	5																	
Total	4,305																	
			<p><b>Recommendation</b></p> <p>We recommend that the Licensing department evaluate and revise, as considered necessary, the current imaging and verification logging procedures; and, ensure Licensing staff consistently follow the established procedures.</p> <p><b>Management's Response</b></p> <p>The Licensing department has determined that the current imaging, verification, and logging procedures for digital records stored in Application Xtender are appropriate and adequate. The department will ensure that staff are re-trained to ensure the procedures are consistently followed. The training will occur by October 1, 2020.</p>															

# OFFICE OF CONSUMER CREDIT COMMISSIONER

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Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Status (Fully
1	6/19/2020	2020 Follow-Up	<p><b>Follow-Up of Prior Year Internal Audits</b></p> <p><i>Following is the status of the recommendations made during fiscal year 2019 by the predecessor auditors that had not been fully implemented.</i></p> <p><u>Investment Administration Controls (Report date 3/27/2019)</u></p> <p><b>1. Investment Officer Training Requirement Documentation</b></p> <p>OCCC should update its Investment Policy Statement training section to include the training requirements for members of the Texas Finance Commission.</p> <p><u>IT Change Management Program (Report date 7/5/2019)</u></p> <p><b>1. IT Change Management Framework</b></p> <p>#1A. OCCC should develop a process to ensure that action plans are created for all builds and changes.</p> <p><i>Explanation of FY20 Status</i></p> <p>Various change management forms have been developed but are not yet consistently utilized, as OCCC's limited resources must be often directed to other higher-priority activities.</p> <p>#1B. Create an information technology change request form that includes relevant information about a change, including the description of the change, initial change requirements, date of change and authorization.</p> <p>#1C. Document the information technology change date in the change request form.</p> <p><i>Explanation of FY20 Status</i></p> <p>Various change management forms have been developed but are not yet consistently utilized, as OCCC's limited resources must be often directed to other higher-priority activities.</p> <p>#1D. Document the information technology change implementation dates with the change test results and filed for future operation efficiency test of IT department.</p> <p><i>Explanation of FY20 Status</i></p> <p>Various change management forms have been developed but are not yet consistently utilized, as OCCC's limited resources must be often directed to other higher-priority activities.</p> <p>#1E. Authorization/approval of the information technology change request should be granted and documented with approver's name and title before commencing any work related to the change.</p>	<p><b>Fully Implemented</b></p> <p><b>Substantially Implemented</b></p> <p><b>Fully Implemented</b></p> <p><b>Substantially Implemented</b></p> <p><b>Substantially Implemented</b></p> <p><b>Fully Implemented</b></p>

**OFFICE OF CONSUMER CREDIT COMMISSIONER**

## Annual Internal Audit Report

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Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Status (Fully Implemented, Substantially Implemented, Incomplete/ Ongoing, or Not Implemented) with explanation if not yet fully implemented
1	6/19/2020	2020 Follow-Up	<p>#1F. Implement a process to capture, record and retain information on the total number of hours expended on implementing each change.</p> <p><i>Explanation for FY20 Status</i></p> <p>OCCC has evaluated this recommendation and concluded it is impractical to implement the recommendation.</p> <p><b>2. IT Change Risk Assessment Process</b></p> <p>OCCC should develop a formal risk assessment process for information technology changes with a defined risk tolerance that is divided into high, medium and low categories.</p> <p><b>3. Segregation of Duties</b></p> <p>The agency should consider the implementation of formal segregation of duties to ensure all IT changes are reviewed prior to implementation. If this is not feasible then the agency should ensure changes with a high risk are reviewed, approved and documented before the implementation of the change. Changes that are not rated as a high risk can be assessed and approved at the user acceptance level.</p>	<p><b>Not Implemented</b></p> <p><b>Fully Implemented</b></p> <p><b>Fully Implemented</b></p>

## OFFICE OF CONSUMER CREDIT COMMISSIONER

### Annual Internal Audit Report

Fiscal Year 2020

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#### **VII. External Audit Services Procured in Fiscal Year 2020**

OCCC procured the internal audit services documented in the approved Internal Audit Plan for fiscal year 2020. No other external audit services were performed.

#### **VIII. Reporting Suspected Fraud and Abuse**

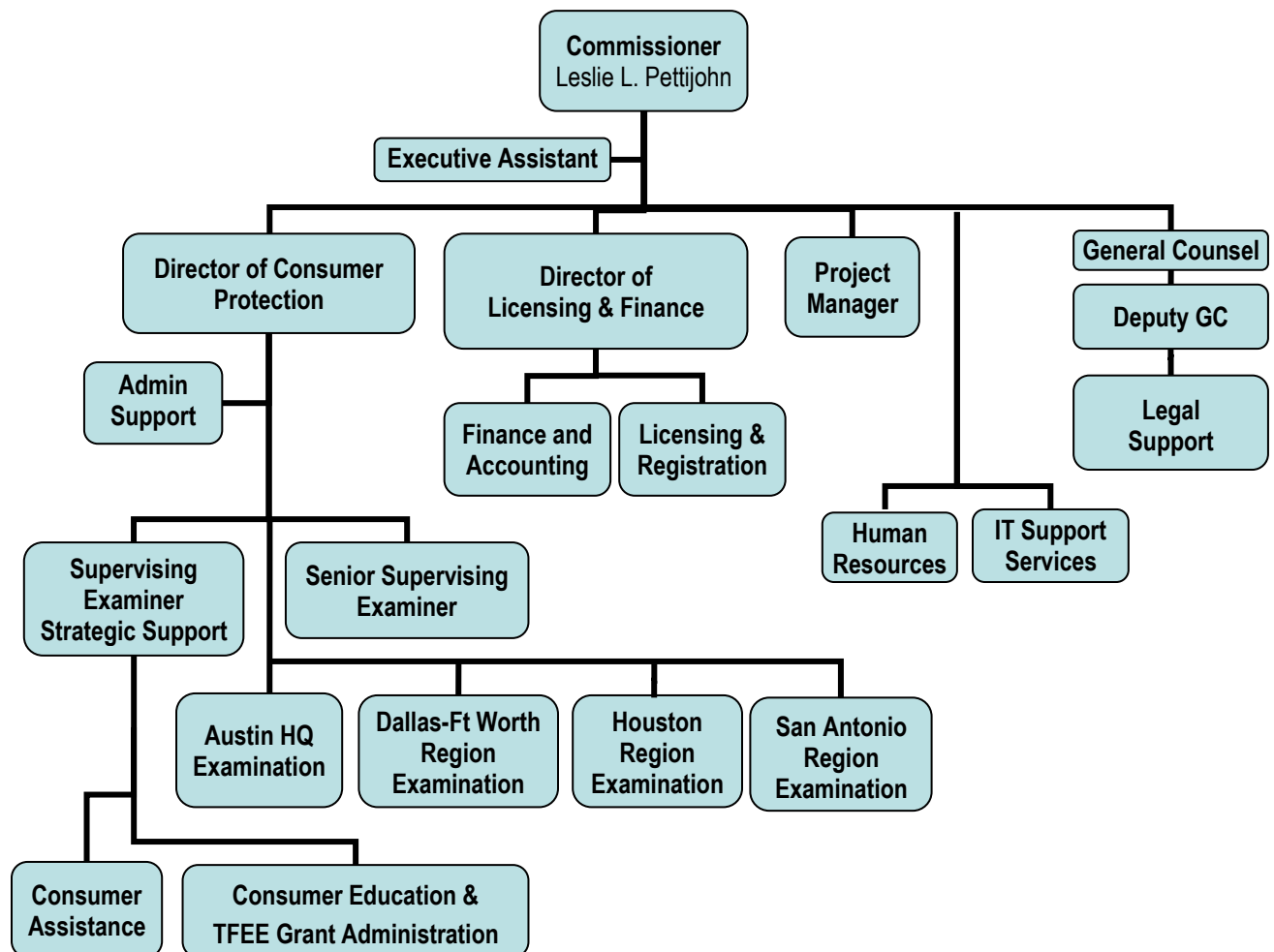
OCCC has provided information on their home page on how to report suspected fraud, waste, and abuse to the State Auditor's Office (SAO) by posting a link to the SAO's fraud hotline. OCCC has also developed a Fraud Prevention Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

#### **IX. Proposed Internal Audit Plan for Fiscal Year 2021**

The risk assessment performed during the 2020 fiscal year was used to identify the following *proposed* area that is recommended for internal audit and other tasks to be performed for fiscal year 2021. The Internal Audit Plan for Fiscal Year 2021 will be developed and presented to the Audit Committee and Finance Commission, for acceptance and approval, at a meeting to be determined at a later date.

- Fiscal Division – Vendor Payments, Procurement, Contract Management
- Follow-up of Prior Year Internal Audits
- Other Tasks Assigned by the Finance Commission

## X. Organizational Chart



Source: OCCC

**OFFICE OF CONSUMER CREDIT COMMISSIONER**  
Annual Internal Audit Report  
Fiscal Year 2020

Attachment

**OFFICE OF CONSUMER CREDIT COMMISSIONER**  
**History of Areas Audited**  
**For Fiscal Year 2020**

POTENTIAL AUDIT TOPIC		2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1	Billing and Collection of Fees							B	D		
2	Business Licensing	A					F*	B*	D/F*		
3	Business Registration							A	D		
4	Complaint Intake and Investigation		A						D		
5	Credit Access Business Examinations			A					D		
6	Fiscal Division (includes Purchasing, Travel, Payroll, & Fixed Assets)			C				B	C*/D*		
7	Human Resources			C/G*					C*	G*	
8	Legal and Enforcement							B*	D		
9	Management Information Systems	A	E*	E*	E	E*	E*	B*/E	D*/E*	A1*/E	E*
10	Motor Vehicle Sales Finance Examinations						A		D		
11	Pawn Examinations								D		
12	Professional Licensing (Pawnshop Employees & RMLLO)				A		F*	B*	D/F*		
13	Property Tax Lender Examinations								A/D		
14	Records Management										A
15	Regulated Lenders Examinations								D		
16	TFEE Fund Grant Administration					A		A*	D		
17	TFEE Fund Investment Portfolio Administration							A	D	A1	

**Note:** Performance Measures is included in the scope of the applicable audit area(s).

**Legend (audits/reviews with asterisk are considered limited scope for the audit area)**

- A** Internal audit performed by Garza/Gonzalez & Associates, CPAs.
- A1** Internal audit performed by McConnell & Jones LLP.
- B** Audit performed by the State Auditor's Office.
- C** Post-Payment audit performed by the Comptroller of Public Accounts.
- D** Sunset Review performed by the Sunset Advisory Commission.
- E** IT assessment performed by the Department of Information Resources (DIR) or a third-party vendor procured through the DIR.
- F** Review performed by the Department of Public Safety.
- G** Review performed by the Texas Workforce Commission.

**TEXAS DEPARTMENT OF BANKING**  
Austin, Texas

**INTERNAL AUDIT REPORT**

on

Revenue Accounting Process

Fiscal Year 2020



TEXAS DEPARTMENT OF BANKING  
Austin, Texas

Internal Audit Report  
on  
Revenue Accounting Process

Fiscal Year 2020

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# Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

Finance Commission Members and  
Audit Committee Members  
Texas Department of Banking  
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the internal control structure over DOB's Revenue Accounting Process Area (Area) – Assessment, Collection, and Accounting for Various Fees, Fines, Penalties, and Restitutions; and, its compliance with the Texas Finance Code, the Texas Administrative Code, and DOB's established policies and procedures, as applicable to the Area, for the 7 months ended March 31, 2020. The results of our tests disclosed that such controls were adequate and no instances of noncompliance were noted. The report that accompanies this letter provides a summary of the Area; summarizes the audit objective, scope, and methodology; and, the procedures performed to achieve the objective of our audit.



May 15, 2020

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

### Internal Audit Report

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## INTRODUCTION

The Texas Department of Banking (DOB) operates under the oversight of the Texas Finance Commission and is an agency of the State of Texas that performs functions designed to maintain a financial regulatory system for Texas that promotes a consistent banking environment, provides the public with convenient, safe, competitive banking and other legislative financial services.

DOB operates pursuant to the authority of various provisions of the Texas Finance Code; the Texas Health and Safety Code; and, the Texas Administrative Code.

DOB's primary functions are to:

- Charter, regulate, and examine all state banks, foreign bank branches, agencies, and representative offices;
- Charter, regulate, and examine trust departments of commercial banks and trust companies;
- License, regulate, and examine prepaid funeral contract sellers (PFC) and perpetual care cemeteries (PCC);
- License, regulate, and examine money services businesses (MSB); and,
- Register check verification entities.

DOB was granted Self-Directed, Semi-Independent (SDSI) status in the 81<sup>st</sup> Legislative Session. As an SDSI agency, DOB is not required to have their budget approved by the Legislature; however, the Finance Commission is responsible for setting their spending authority or limits. DOB's entire operating funds are generated from fees assessed to the businesses it regulates and are used to fund both, direct and indirect costs. General revenue funds are not used to support DOB's operations.

## 2020 Internal Audit Plan

Following are the internal audits and other functions to be performed, as identified in DOB's 2020 Internal Audit Plan, dated April 2, 2020 and approved by the Audit Committee and Finance Commission on April 17, 2020:

- Revenue Accounting Process
- Imaging & Records Management
- Follow-up of Prior Year Internal Audits
- Other Tasks

This report contains the results of our audit of the Revenue Accounting Process Area. The reports for the remaining internal audit area and other functions to be performed will be issued upon completion.

## INTERNAL AUDIT SCOPE and OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of the audit area's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope includes the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Laws, Regulations, Policies, Procedures, and Contracts** – Review the systems established to ensure compliance with those laws, regulations, policies, procedures, and contracts that could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

#### Internal Audit Report

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## EXECUTIVE SUMMARY

### Revenue Accounting Process

#### Background

Various chapters of the Finance Code and the Health and Safety Code authorize DOB to assess and collect various fees, fines, penalties, and restitutions (collectively referred to as “fees”) from the entities it regulates; and, to assess and collect fines and penalties for unlicensed activity. These fees are used to support DOB’s direct and indirect costs for its operations. The various types and amounts of fees that DOB is authorized to assess and collect are provided in the following TAC rules, as adopted by the Finance Commission:

DOB Responsible Division	Entity Type	Applicable TAC Rules
Bank & Trust Supervision (B&T)	Banks (to include foreign banks)	Title 7, Part 2 §15.2; Title 7, Part 1 §3.36, §3.37, §3.38
	Trust Companies	Title 7, Part 2 §17.22 and §21.2
Non-Depository Supervision (NDS)	Prepaid Funeral Contracts (PFC)	Title 7, Part 2 §25.23 and §25.24
	Perpetual Care Cemeteries (PCC)	Title 7, Part 2 §26.1
	Money Services Businesses (MSB)	Title 7, Part 2 §33.27
	Check Verification Entities (CVE)	Title 7, Part 2 §35.14

*Revenue Accounting Process Area (Area)* – Assessment, Collection, and Accounting for Various Fees is a process coordinated primarily among 3 departments/divisions: Accounting department of the Administrative Services division, B&T division, and NDS division. The B&T and NDS divisions are responsible for billing and monitoring the collection of the assessed fees; while, the Accounting department is responsible for processing and recording the collection of fees. The following is the staff in the respective department/division that are key to the Area’s processes and a brief description of the functions performed by them, with a more detailed description provided in the remaining sections of this report:

- The Accounting department is managed by the Director of Administrative Services, who reports to the Chief Operating Officer. The Chief Accountant is responsible for approving deposit processing as well as performing monthly deposit reconciliations; an Accountant is responsible for daily accounting tasks related to collections; and, the Inventory and Store Specialist processes incoming mail.
- The B&T division is managed by a Director, and 2 Financial Analysts are responsible for preparing quarterly assessments for charter holders, and coordinating various tasks and functions with the Accounting department.
- The NDS division is managed by a Director, and an MSB Administrative Assistant and 2 PFC/PCC Administrative Assistants are responsible for preparing quarterly assessments for licensees and certificate holders, coordinating various tasks and functions with the Accounting department, and following up on returned payments. A Review Examiner is responsible for monitoring and reconciling the collection of fines, penalties, and restitutions.

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

#### Internal Audit Report

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Below are DOB's applications that are significant to the Area:

- a) **Micro Information Products (MIP)** is utilized by DOB as its accounting and general ledger system. It is used for recording accounting transactions, and for internal/external reporting of accounting activities; including, the Annual Financial Report and financial reports presented to the Finance Commission.
- b) **Uniform Statewide Accounting System (USAS)** is the financial system of record for the State of Texas. USAS is designed to process, record, and report the financial activities of each state agency. However, various state agencies utilize software; such as, MIP to facilitate financial accounting and reporting on a more comprehensive basis.
- c) **MIP USAS Systems Link (MUSL)** is an internally developed system used to record accounting transactions in MIP and USAS. Accounting staff enter financial data into MUSL, which is then simultaneously interfaced into MIP and USAS, eliminating the need for duplicating data entry into the two systems.
- d) **Examination Database Information System on the Network (EDISON)** is the B&T division's examination and supervision management software. It computes assessments for its charter holders based on the integrated internal assessment table and entity information entered into the system.
- e) **Supervisory Administrative Regulation Application (SARA)** is the NDS division's examination and supervision management software. It computes assessments based on the integrated internal assessment table and entity information entered into the system.

### Revenue Collection Methods

Fees collected by or on behalf of DOB, are deposited in its account with the Texas Treasury Safekeeping Trust Company (TTSTC). Fees are collected using the following methods:

- Automated Clearing House (ACH) debits,
- ACH through the Nationwide Multistate Licensing System (NMLS);
- Checks mailed to DOB's Lockbox at the Texas Comptroller of Public Accounts (CPA);
- Checks mailed or delivered to DOB; and,
- Wire Transfers.

#### *Automated Clearing House (ACH)*

Certain regulated entities are required, and others may elect, to pay quarterly assessments via ACH by submitting an ACH debit authorization form to DOB's B&T or NDS divisions, as applicable. Upon receipt, the forms are filed with the entity's profile, and used to enter the bank information, in EDISON by the B&T division, or SARA by the NDS division. On a quarterly basis, the B&T and NDS divisions generate assessments in EDISON and SARA, respectively, and notify regulated entities, by mail or email, of the exact amount of their quarterly assessment and the date the funds will be debited from their bank account (settlement date). As part of the quarterly assessment process, the B&T division, using EDISON; and, the NDS division, using SARA, prepare an ACH file, which contains debit information for all entities within their respective division. When a final ACH file is available, the B&T and NDS divisions

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

#### Internal Audit Report

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notify the Chief Accountant, who will transmit the file to the CPA via a secure file transmission application, since the CPA's Treasury Operations receives ACH payments on behalf of DOB. For B&T assessments, an automated email notification is sent from EDISON to the CPA and TTSTC, with a copy to the Chief Accountant and Accountant. For NDS assessments, an NDS Administrative Assistant emails a notification to the Chief Accountant who then emails a notification to the CPA and TTSTC, with a copy to the NDS division's Administrative Assistant and Director, and the Assistant Deputy Commissioner. All notification emails include the purpose of the draw, settlement date, item (ACH) count, and total amount of the ACH file. On the settlement date, the CPA draws assessments and applies the collected funds to DOB's local operating account held at the TTSTC. The Accounting department records the revenue in the general ledger when the assessments are posted to the TTSTC account.

#### *ACH through the NMLS*

DOB requires all applications for a new MSB Money Transmission license to be electronically filed via the NMLS, where regulators process, and either approve or deny applications. As part of the application process, an applicant must electronically submit a non-refundable filing fee through NMLS, which is deposited directly to DOB's TTSTC local operating account, via ACH, the first business day after receipt. On a daily basis, the Accounting department reconciles collections from the NMLS reports to deposits recorded in the TTSTC local operating account.

#### *Lockbox at the CPA*

DOB subscribes to the CPA's lockbox service, which allows 3<sup>rd</sup> parties to send check payments directly to the CPA. The CPA collects the checks from the lockbox and deposits them into DOB's TTSTC local operating account on a daily basis. The CPA prepares a pre-encoded deposit ticket and provides it to DOB along with payment remittance, the envelopes the checks were mailed in, and any additional correspondence that was provided with the payment. The Accounting department verifies that the documents agree, support, and reconcile to the amount deposited in the TTSTC local operating account.

#### *Checks mailed or delivered to DOB*

Corporate filing fees and penalties are generally paid by check and mailed to DOB, where they are received by the Inventory and Store Specialist (Specialist) in DOB's Mailroom. Upon receipt, the Specialist logs the check details into the Daily Check Log, delivers the checks to the Accounting department, and requires that a staff member from the Accounting department, generally the Accountant, initial the log for indication that the check(s) were delivered. The Accountant prepares a deposit voucher and deposit ticket for the checks received and stores them in a locked cabinet in the accounting office until they are picked up by an authorized carrier for daily deposit to the TTSTC. The delivery carrier will deposit the checks in DOB's TTSTC local operating account and return the validated deposit ticket to the Accounting department. The Accounting department is responsible for ensuring that all checks received are properly recorded in the general ledger and deposited in its TTSTC local operating account within 3 days of receipt, in accordance with the Texas Government Code (GV) Sec. 404.094.

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

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#### *Wire Transfers*

DOB allows regulated entities to pay filing fees via wire transfer directly to DOB's TTSTC local operating account in lieu of checks or other forms of payment.

#### **Recording Revenue**

Revenue is recorded by journal entry into MUSL for all types of collections, other than restitutions, received and deposits made. The journal entry is prepared by the Accountant, using payment data, and must be approved by the Chief Accountant. When checks/ACHs are returned, the Accountant will reverse the original journal entry in MUSL by preparing a reversing journal entry, which must also be approved by the Chief Accountant; and, notify the B&T or NDS divisions, who follows up with the regulated entity. The Chief Accountant is responsible for performing monthly cash and revenue reconciliations to reconcile balances in MIP, USAS, financial statements, and TTSTC deposit balances.

According to an MIP Revenue report for the 7-month period from September 1, 2019 to March 31, 2020, DOB received, processed, and accounted for deposits as follows:

Deposit Method	Deposit Totals	Chargebacks/Returned Items
ACH/NMLS	\$ 19,612,319	\$ 74,097
Lockbox	107,343	-
Checks	1,813,199	1,839
Wires	114,275	-
Total	<u>\$ 21,647,136</u>	<u>\$ 75,936</u>

#### **B&T Assessments**

Bank assessments are the largest component of DOB's revenues. For the first 2 quarters (as of February 29, 2020) of fiscal year 2020, per the Schedule of Revenues on page 9 of this report, bank assessments totaled \$11,599,724, or 75% of DOB's total revenues of \$15,379,356. State banks and foreign bank agencies/branches (collectively "banks") must pay quarterly assessments billed at the beginning of each state fiscal quarter. Assessments are calculated based on the bank's assessable assets. For foreign bank representative offices, an annual assessment fee of \$2,500 is due by September 15 of each year. DOB's Commissioner may approve a reduction in assessments on an annual or quarterly basis if projected revenue sufficiently supports DOB's direct and indirect costs. B&T assessment notification and due dates are as follows:

Notification	September 1	December 1	March 1	June 1
ACH Settlement Date <sup>1</sup>	September 15	December 15	March 15	June 15

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<sup>1</sup> If the settlement date falls on a weekend or a holiday, the settlement date is the first business day after the date noted.

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

#### Internal Audit Report

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Assessments are system-generated by EDISON based on applicable assessment schedules. To ensure the accuracy of assessments, a Financial Analyst will review the Corporate Structure Change Report to identify recent transactions that may affect the assessments, review for examination ratings that may change the multiplier, and adjust assessments in EDISON accordingly. The Financial Analyst also exports bank data from EDISON to a spreadsheet, recalculates adjustments, and compares them to EDISON to ensure accuracy. Upon completion of these functions, the B&T Senior Financial Analyst reviews and verifies the assessments; and, notifications are then emailed to the banks.

All banks and some foreign banks pay their assessments by ACH; while, other foreign banks pay by check. For the foreign banks that pay by check, the Financial Analyst monitors for returned items and late payments by obtaining a report from the Accounting department of payments received, and reconciles foreign bank assessments in EDISON to the general ledger.

### NDS Assessments

Entities regulated by the NDS division also pay assessments generally in quarterly equal installments at the beginning of each state fiscal quarter. For the first quarter; however, if 25% of the annual assessment is less than the “minimum” assessment, as determined in the assessment schedule, the minimum assessment amount is due. In such instances, the payment in excess of the 25% is applied toward the subsequent quarter(s). The basis for assessment calculation varies depending on the NDS entity type, which along with the fiscal year 2020 minimum assessment amount, is displayed in the table below:

Entity Type	MSB (Money Transmission)	MSB (Currency Exchange)	PCC	PFC
Minimum Assessment	\$ 3,950	\$ 2,750	\$ 250	\$ 260
Basis	Annual Transaction Amount	Annual Transaction Amount	Required Fund Balance	Number of Outstanding Contracts

Similar to the B&T assessments, DOB’s Commissioner may approve a reduction to the assessments on an annual or quarterly basis if projected revenue sufficiently supports DOB’s direct and indirect costs. Assessments are system-generated by SARA based on the applicable assessment schedules. Before an Administrative Assistant mails assessment notification to the regulated entities, the Review Examiner will select a random sample of at least 5 entities, manually calculate the assessments, and compare them to the system-generated assessments to ensure accuracy. Returned payments, as submitted from the Accounting department, are followed up on by the Administrative Assistant assigned to the respective entity type(s). The Review Examiner reconciles assessments in SARA to the general ledger on a quarterly basis.

### Other Fees

DOB is authorized to collect filing fees for various applications and notices, which are generally due at the time of the filing. Examination or investigation costs not included in the annual assessments are also billed to the entity upon completion of the examination.



## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

### Internal Audit Report

#### Fines, Penalties, and Restitutions

Fines, penalties, and restitutions are collected in accordance with the terms specified in the respective enforcement orders, and are generally mailed or delivered to DOB. The majority of fines, penalties, and restitutions are related to unlicensed activities. Fines and penalties are processed and recorded as revenue in the same manner as the receipts of other types of payments. Restitutions are deposited into DOB's applicable fiduciary account (Prepaid Funeral Guaranty Fund) at TTSTC, by the NDS Administrative Assistant who is responsible for preparing and maintaining all relevant records. Since restitutions are not DOB's revenues, the Accounting staff are not involved in the deposit processing.

The Review Examiner is responsible for tracking and monitoring fines, penalties, and restitutions owed by NDS regulated entities. The Review Examiner maintains a *Monitoring Report* which lists the orders and payment terms, and updates it as payments are received. No less than quarterly, the Review Examiner reconciles the Monitoring Report to DOB's general ledger and to TTSTC's fiduciary account statements. Delinquent payments are referred to the NDS Director; and, if necessary, to the Legal division.

DOB's actual and budgeted revenues for the first 2 quarters of fiscal year 2020 were as follows:

SCHEDULE OF REVENUES  
Actual and Budget  
As of February 29, 2020

Revenue	Actual	Budget
<b><i>Bank &amp; Trust Regulation</i></b>		
Assessment Fees	\$ 11,599,724	\$ 11,735,338
Special B&T Examination Fees	64,158	-
Application Processing	486,900	343,200
Foreign Bank Activity	372,626	374,876
Trust Examination Fees	714,613	809,740
IT Examination Fees	42,481	72,840
Other Trust Fees	1,000	500
B&T Fines & Penalties	10,000	-
<b>Total Bank &amp; Trust Regulation</b>	<b>13,291,502</b>	<b>13,336,494</b>
<b><i>Non-Depository Supervision</i></b>		
Prepaid Funeral Contracts	548,257	547,578
Perpetual Care Cemeteries	453,200	431,420
Money Services Businesses	972,881	871,280
<b>Total Non-Depository Supervision</b>	<b>1,974,338</b>	<b>1,850,278</b>
<b><i>Miscellaneous Revenues</i></b>		
Sale of Publications	1,301	1,000
Fees for Copies	2,387	1,400
Other Revenue	438	-
Interest on Local Deposits	109,390	200,000
<b>Total Miscellaneous Revenues</b>	<b>113,516</b>	<b>202,400</b>
<b>Total Revenue</b>	<b>\$ 15,379,356</b>	<b>\$ 15,389,172</b>

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

### Internal Audit Report

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## AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY

### Objective

The objective of our audit was to determine whether DOB's policies and procedures and internal processes in place over the Revenue Accounting Process Area (Area) – Assessment, Collection, and Accounting for Various Fees, Fines, Penalties, and Restitutions provide reasonable assurance of compliance with state requirements; and, whether such internal controls are operating effectively.

### Scope

The scope of this audit was for the 7-month period from September 1, 2019 through March 31, 2020 (audit period).

### Methodology

The audit methodology included a review of applicable laws and regulations; DOB's established policies and procedures, and other internal and external documentation; and, correspondence with selected DOB employees.

We obtained and/or reviewed the following internal and external documentation:

- a. Various chapters of the Finance Code, the Health and Safety Code, and the Government Code; and, various sections of the Texas Administrative Code, related to fees.
- b. Organizational charts applicable to the Area.
- c. Various internal procedures for Accounting, B&T, and NDS, relating to revenue collection, to include:
  - Assessment preparation
  - Cash receipts processing
  - Restitution and fines monitoring
- d. MIP Revenue Report for the audit period.
- e. Corporate Activities listing for the audit period, from DOB website.
- f. Budgeted revenue by object code for fiscal year 2020.
- g. Deposit reconciliation between MIP and TTSTC for the audit period.
- h. Year-to-date assessments reconciliations for:
  - Foreign banks and MSBs: Q1 through Q3
  - PCCs and PFCs: Q1 and Q2
- i. NDS Fines and Penalties Monitoring Report for the audit period.

## TEXAS DEPARTMENT OF BANKING

### Revenue Accounting Process

#### Internal Audit Report

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We performed various procedures to achieve the objective of our audit; to include, the following:

1. Reviewed and obtained an understanding of the applicable rules and laws of the Texas Administrative Code, Texas Finance Code, Texas Health and Safety Code, and Texas Government Code.
2. Obtained and reviewed DOB's written policies and procedures; and, inquired of DOB staff, to obtain an understanding of controls, processes, and current practices in place over the Area, and to evaluate whether such controls adequately ensure compliance with applicable requirements identified in procedure 1 above.
3. Selected a sample of 21 transactions, consisting of the following:
  - (a) All of the 7 penalties and 1 restitution ordered during the audit period.
  - (b) 5 transactions selected from the Corporate Activities listing.
  - (c) 8 transactions selected from the MIP Revenue Report.

For each of these transactions, tested for the following attributes:

- (a) Deposit information (batch identifier, batch total, document number, transaction amount) in the general ledger matches supporting documentation; to include, Daily Check Log, validated deposit ticket, deposit voucher or journal voucher, NMLS reports, and the MIP Posted Revenues report.
- (b) Revenue was recorded with proper account code (revenue object and "PCA" code).
- (c) Deposit was included in the TTSTC monthly statement.
- (d) Internal control procedures, as applicable to the deposit type, were followed:
  - i. DOB check deposit – (1) Daily Check Log reflected accurate information for the check and was initialed by a staff member of the Accounting department who received the check from the Inventory and Store Specialist; and, (2) Deposit slip was validated by TTSTC.
  - ii. ACH – Item count and total amount in the notification email agree to MIP Posted Revenue report and MIP Element Report.
  - iii. Lockbox – Remittance advice was retained and agrees to the journal voucher.
  - iv. NMLS – TTSTC approval screen was printed, and agrees to NMLS Control Total and Disbursement Ledger reports.
  - v. NDS assessments – A random sample of at least 5 entities was selected and reviewed by the Review Examiner, as documented in the assessment report for the respective quarter of the NDS assessment selected for testing.

**TEXAS DEPARTMENT OF BANKING**

## Revenue Accounting Process

Internal Audit Report

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- (e) Deposit/Journal voucher is signed by the Chief of Accountant, denoting proper approval.
  - (f) For each NDS penalty or restitution order:
    - i. The order is included in the Monitoring Report, with accurate payment term information.
    - ii. Penalty collections during the audit period, as shown in the Monitoring Report, agree to the MIP Revenue Report.
    - iii. Nonpayment and/or past-due payment was identified and followed upon.
  - (g) Check payment was deposited in the TTSTC account within 3 business days of receipt.
  - (h) Fee collection was proper and amount was accurate in accordance with applicable section of the Texas Administrative Code.
  - (i) Assessment was accurately computed.
- 4. Performed analytical procedures by comparing actual and budgeted detailed revenue for the first 2 quarters of fiscal year 2020.
  - 5. Obtained and reviewed most recent reconciliations related to collections from the Accounting department; and, the B&T and NDS divisions, and performed the following procedures:
    - (a) Verified that Accounting, B&T, and NDS perform reconciliations, as required by their respective internal procedures.
    - (b) Scanned the reconciliations for unusual reconciling items.
    - (c) Traced amounts in the reconciliations to original source documents/reports.

**TEXAS DEPARTMENT OF BANKING**

Revenue Accounting Process

Internal Audit Report

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**Summary and Related Rating of Findings and Recommendations**

As DOB's internal auditors, we used our professional judgment in rating the audit findings identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the observations/findings in this report and the related rating.

Summary of Findings & Recommendations and Related Ratings		
Finding No.	Title	Rating
	None	
<u>Description of Rating</u>  A finding is rated <i>Priority</i> if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.  A finding is rated <i>High</i> if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.  A finding is rated <i>Medium</i> if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.  A finding is rated <i>Low</i> if the audit identified strengths that support the audited entity's ability to administer the program(s)/ functions(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.		

**TEXAS DEPARTMENT OF BANKING**

Revenue Accounting Process

Internal Audit Report

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**Observations/Findings and Recommendations**

<b>Report No.</b>	<b>Report Date</b>	<b>Name of Report</b>	<b>Observations/Findings and Recommendations</b>	<b>Fiscal Impact/ Other Impact</b>
1	5/15/2020	Revenue Accounting Process	None	

**TEXAS DEPARTMENT OF BANKING**  
Austin, Texas

**ANNUAL INTERNAL AUDIT REPORT**

Fiscal Year 2020



Garza/Gonzalez & Associates  
CERTIFIED PUBLIC ACCOUNTANTS

TEXAS DEPARTMENT OF BANKING  
Austin, Texas

Annual Internal Audit Report  
Fiscal Year 2020

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# Garza/Gonzalez & Associates

CERTIFIED PUBLIC ACCOUNTANTS

Finance Commission Members and  
Audit Committee Members  
Texas Department of Banking  
Austin, Texas

We performed tests of management's assertion about the effectiveness and efficiency of the Texas Department of Banking's (DOB) internal control structure over the imaging and Records Management (Area) and its established policies and procedures, as applicable to the Area, for the purpose of determining DOB's compliance with applicable laws and regulations provided in the Texas Finance Code; the Texas Government Code Chapter 441, Subchapter L; and, the Texas Administrative Code Title 13, Chapter 6, for the 8 months ended April 30, 2020.

The results of our tests disclosed that DOB's internal control structure over the Area and its established policies and procedures, were generally adequate and no material instances of noncompliance were noted; however, we did identify certain matters that are included in this report, that are opportunities for strengthening internal controls and ensuring compliance with state requirements and DOB's established policies and procedures. Based on the degree of risk or effect of these matters in relation to the audit objective(s), these matters were rated as either Priority, High, Medium, or Low, which is further described in the "Summary and Related Rating of Observations/Findings and Recommendations", which is included in page 12 of this report.

We also performed a follow-up of findings and recommendations that were presented in the prior year internal audit reports, as prepared by other auditors, and this report reflects the results and implementation status of our follow-up procedures performed; and, includes all information required for compliance with State of Texas Internal Audit Annual Report requirements.

We have discussed the findings and recommendations from the audit of the Area; and, the implementation status from the follow-up performed, with various DOB personnel; and, will be pleased to discuss them in further detail; to perform an additional study of these matters; or, to assist you in implementing the recommendations made.



June 12, 2020 – Imaging & Records Management  
June 24, 2020 – 2020 Follow-up

## TEXAS DEPARTMENT OF BANKING

### Annual Internal Audit Report

Fiscal Year 2018

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## INTRODUCTION

The Texas Department of Banking (DOB) operates under the oversight of the Texas Finance Commission and is an agency of the State of Texas that performs functions designed to maintain a financial regulatory system for Texas that promotes a consistent banking environment, provides the public with convenient, safe, competitive banking and other legislative financial services.

DOB operates pursuant to the authority of various provisions of the Texas Finance Code; the Texas Health and Safety Code; and, the Texas Administrative Code.

DOB's primary functions are to:

- Charter, regulate, and examine all state banks, foreign bank branches, agencies, and representative offices;
- Charter, regulate, and examine trust departments of commercial banks and trust companies;
- License, regulate, and examine prepaid funeral contract sellers (PFC) and perpetual care cemeteries (PCC);
- License, regulate, and examine money services businesses (MSB); and,
- Register check verification entities.

DOB was granted Self-Directed, Semi-Independent (SDSI) status in the 81<sup>st</sup> Legislative Session. As an SDSI agency, DOB is not required to have their budget approved by the Legislature; however, the Finance Commission is responsible for setting their spending authority or limits. DOB's operating funds are generated from fees assessed to the businesses it regulates and are used to fund both, direct and indirect costs. General revenue funds are not used to support DOB's operations.

## 2020 Internal Audit Plan

Following are the internal audits and other functions performed, as identified in DOB's Internal Audit Plan for Fiscal Year 2020, dated April 2, 2020 and approved by the Audit Committee and Finance Commission on April 17, 2020:

- Revenue Accounting Process
- Imaging & Records Management Area
- Follow-up of Prior Year Internal Audits
- Other Tasks

This report contains the results of our audit of the Imaging & Records Management Area; reflects the results of the follow-up procedures performed in the current year of the findings that were presented in the prior year internal audit reports, as prepared by other auditors; and, meets the State of Texas Internal Audit Annual Report requirements. The report of the Revenue Accounting Process, dated May 15, 2020, will be presented to the Audit Committee and Finance Commission at a meeting in August 2020.

## INTERNAL AUDIT OBJECTIVES

In accordance with the **International Standards for the Professional Practice of Internal Auditing**, the audit scope encompassed the examination and evaluation of the adequacy and effectiveness of DOB's system of internal control and the quality of performance in carrying out assigned responsibilities. The audit scope included the following objectives:

- **Reliability and Integrity of Financial and Operational Information** – Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.
- **Compliance with Policies, Procedures, Laws, Regulations and Contracts** – Review the systems established to ensure compliance with those policies, procedures, laws, regulations, and contracts which could have a significant impact on operations and reports, and determine whether the organization is in compliance.
- **Safeguarding of Assets** – Review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
- **Effectiveness and Efficiency of Operations and Programs** – Appraise the effectiveness and efficiency with which resources are employed.
- **Achievement of the Organization's Strategic Objectives** – Review operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.

## TEXAS DEPARTMENT OF BANKING

### Annual Internal Audit Report

Fiscal Year 2020

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#### **I. Compliance with Texas Government Code 2102: Required Posting of Internal Audit Information**

To comply with the provisions of Texas Government Code, 2102.015 and the State Auditor's Office guidelines, within 30 days after approval by the Finance Commission, DOB will post the following information on its website:

- An approved fiscal year 2021 audit plan, as provided by Texas Government Code, Section 2102.008.
- A fiscal year 2020 internal audit annual report, as required by Texas Government Code, Section 2102.009.

The periodic and annual internal audit reports include any weaknesses, deficiencies, wrongdoings, or other concerns raised by internal audits and other functions performed by the internal auditor as well as the summary of the action taken by DOB to address such concerns.

#### **II. Consulting and Nonaudit Services Completed**

The internal auditor did not perform any consulting services, as defined in the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* or any non-audit services, as defined in the *Government Auditing Standards, 2018 Revision*, Sections 3.64-3.106.

#### **III. External Quality Assurance Review**

The internal audit department's most recent *System Review Report*, dated November 16, 2018, indicates that its system of quality control has been suitably designed and conforms to applicable professional standards in all material respects.

#### **IV. Internal Audit Plan for Fiscal Year 2020**

The approved Internal Audit Plan (Plan) included two audits to be performed during the 2020 fiscal year. The Plan also included a follow-up of the prior year internal audit recommendations, other tasks as may have been assigned by the Finance Commission, and preparation of the Annual Internal Audit Report for fiscal year 2020.

## TEXAS DEPARTMENT OF BANKING

### Annual Internal Audit Report

Fiscal Year 2020

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#### Risk Assessment

Utilizing information obtained through the completed questionnaires received and background information reviewed, 16 audit areas were identified as potential audit topics. A risk analysis utilizing 8 risk factors, was completed for each of the 16 potential audit topics and then compiled to develop an overall risk assessment.

Following are the results of the risk assessment performed for the 16 potential audit topics identified:

HIGH RISK	MODERATE RISK	LOW RISK
Management Information Systems	Revenue Accounting Process IT Examinations Payroll & Human Resources Prepaid Funeral Guaranty Funds Procurement/Contract Management/HUB Bank Examinations Fixed Asset Management	Travel Trust Examinations Corporate Activities Imaging & Records Management Money Service Businesses Financial Reporting Perpetual Care Cemeteries Prepaid Funeral Contracts

In the prior 3 years, internal audits were performed in the following areas:

#### Fiscal Year 2019<sup>1</sup>:

- Information Technology Change Management Program
- Fines, Penalties, and Restitution Processes
- Follow-Up of the Prior Year Internal Audits

#### Fiscal Year 2018:

- Prepaid Funeral Guaranty Fund
- Trust Examinations
- Follow-Up of the Prior Year Internal Audits

#### Fiscal Year 2017:

- Fixed Asset Management
- Bank Examinations
- Follow-Up of the Prior Year Internal Audits

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<sup>1</sup> Performed by McConnell & Jones LLP.

**TEXAS DEPARTMENT OF BANKING**  
Annual Internal Audit Report  
Fiscal Year 2020

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The internal audits and other tasks performed for fiscal year 2020 were as follows:

<b>Report No.</b>	<b>Audits/Report Titles</b>	<b>Report Date</b>
1.	Revenue Accounting Process <i>Objective:</i> To determine whether DOB's policies and procedures and internal processes in place over the Revenue Accounting Process Area (Area) – Assessment, Collection, and Accounting for Various Fees, Fines, Penalties, and Restitutions provide reasonable assurance of compliance with state requirements; and, whether such internal controls are operating effectively.	5/15/2020
2.	Imaging & Records Management <i>Objective:</i> To determine whether DOB's policies and procedures and internal processes in place over the Imaging and Records Management Area (Area) provide reasonable assurance of compliance with state requirements; and, whether established internal controls are operating effectively.	6/12/2020
2.	Annual Internal Audit Report – Follow-Up of Prior Year Internal Audits	6/24/2020
-	Other Tasks Assigned by the Finance Commission	None

## **V. Executive Summary**

### **Imaging & Records Management**

#### **Background**

The Imaging and Records Management Area (Area) is responsible for ensuring state records are retained in accordance with applicable laws and regulations, as outlined in Chapter 441, Subchapter L of the Texas Government Code and Title 13, Part 1, Chapter 6 of the Texas Administrative Code; DOB's established policies and procedures; and, its current records retention schedule (RRS) approved by the Texas State Library and Archives Commission (TSLAC).

#### **Records Management Program**

Under state law, each state agency head must establish and maintain a records management program, create and maintain adequate state records, and identify and protect confidential and vital state records.

The Division of Strategic Support's (DSS) Financial Analyst has been designated as DOB's Records Management Officer (RMO), whose legal responsibilities include the following:

- a) administering the agency's records management program;
- b) assisting the agency head in fulfilling his/her duties;
- c) preparing and submitting an RRS to TSLAC for (re)certification; and,
- d) communicating to employees, the agency's policies and procedures relating to records management.

In an effort to implement the records management program, division directors and supervisors have been designated as custodians of their respective division's records. As custodians, they are responsible for safeguarding records, identifying records that are eligible for disposition, and communicating with the RMO of any changes that may affect the records management program.

TAC §6.8 requires state agencies to establish policies and procedures to ensure state records are retained through the expiration of their respective retention period, as established in its RRS; TAC §6.93 requires state agency heads or designees to approve and institute written policies and procedures that communicate an enterprise-wide approach for the management practice of electronic state records; and, TAC §6.95 further requires vital electronic state records to be addressed in such policies and procedures. DOB has identified their vital electronic state records and has addressed disaster recovery procedures for their vital electronic state records in their Continuity of Operations Plan (COOP), last updated and approved by a Deputy Commissioner in January 2019; and, subsequently reviewed and validated by the State Office of Risk Management (SORM) on March 7, 2019.

### Records Retention Schedule (RRS)

DOB's current RRS was recertified by TSLAC on July 15, 2019. In accordance with TAC §6.3(b), a state agency's RRS is generally required to be recertified by TSLAC every 5 years from the date of the last recertification. Therefore, the next recertification for DOB's RRS is July 2024. The RMO is responsible for keeping the RRS current by submitting, to TSLAC, amendments to (a) add a record series; (b) propose an amended retention period; and/or, (c) update other information in the RRS.

Certain records in the RRS are identified with an "A" for designation as an archival record; while, others may be identified with an "R", which indicates that an agency must contact TSLAC's Archives and Information Services (ARIS) division for an archival review of such records. Records identified with an "A" must be transferred to TSLAC's ARIS division, where they are preserved until the ARIS division determine the record no longer merits further retention. Upon review of records identified with an "R", TSLAC's ARIS division will determine if the record should be archived; and, if non-archival, it will instruct the agency to destroy the record. DOB utilizes TSLAC's model RRS to identify records requiring archiving and a review.

DOB has established a Data Classification Policy, which defines and provides examples of 4 classification levels: (1) Public, (2) Sensitive, (3) Confidential; and, (4) Restricted. For each classification, proper data controls in such areas as access, and external distribution, have been implemented.

### Records Storage

DOB's state records are stored electronically in Document Manager, an enterprise document management system. Some records, such as Human Resources records, are retained both electronically and in hard copies however, DOB considers the electronic version as the official state record.

To ensure that DOB is able to access and recover electronic records, a backup is performed nightly, with a duplicate copy of the backup stored at DOB's alternate site, in accordance with its disaster recovery plan.

### Imaging

Records can be scanned into Document Manager or uploaded through each division's respective application(s). A record in Document Manager consists of two parts: the index and the imaged record. A record can be searched and located using information entered in various fields of the respective record's index. DOB requires, at a minimum, that the following fields for each record index be completed:

- Document Date
- Division Name
- Retention Schedule (Period)
- Confidential Records
- Scan date (automatically generated by Document Manager)



## TEXAS DEPARTMENT OF BANKING

### Annual Internal Audit Report

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The following fields are automatically generated by Document Manager: DOB NBR, and Time Stamp.

The DSS is responsible for imaging and indexing paper documents for their division; and, for the Bank & Trust, Legal, and Corporate divisions. All other divisions image and index documents for their respective division. An Imaging Control Sheet is completed by a division employee and attached to the paper document to be imaged. The Imaging Control Sheet is used to document information (index fields) required by the respective division for indexing. During the audit period, DOB imaged a total of 5,310 records.

DOB also requires that each division to perform, at a minimum, a monthly quality control (QC) check on 10% of the documents imaged, with a majority of divisions performing 100%. The QC check consists of verifying that the document was properly indexed, all pages were scanned, and the scanned documents are of acceptable quality. The results of the QC checks are reported to the RMO on a monthly basis, who uses them as confirmation that errors were identified and addressed in a timely manner.

#### Record Disposition

Records listed in the certified RRS and exceeding the retention period are eligible for disposition. Semiannually, each division director identifies records that have exceeded the retention period and sends a list to the RMO authorizing the deletion of the records from Document Manager. The division directors are responsible for ensuring records identified for disposition are not subject to a hold under Government Code, Sec. 441.187(b), that prohibits destruction of records under circumstances; such as, litigation and open records requests. The RMO also ensures records are not subject to a hold before records are deleted.

Before physical records are disposed, a Records Disposal Request and Approval Form must be completed and approved by the respective division director, which is then submitted to the RMO for retention.

## TEXAS DEPARTMENT OF BANKING

Annual Internal Audit Report

Fiscal Year 2020

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### **Audit Objective, Scope, and Methodology**

#### **Objective**

The objective of our audit was to determine whether DOB's policies and procedures and internal processes in place over the Imaging and Records Management Area (Area) provide reasonable assurance of compliance with state requirements; and, whether established internal controls are operating effectively.

#### **Scope**

The scope of the audit was for the 8-month period from September 1, 2019 to April 30, 2020 (audit period).

#### **Methodology**

The audit methodology included a review of applicable laws and regulations, DOB's established policies and procedures, and other internal and external documentation; interviewing and corresponding with selected DOB employees; and, virtual observation of a sample of physical and electronic records.

We obtained and/or reviewed the following internal and external documentation:

- A. Texas Government Code Chapter 441, Subchapter L. *Preservation and Management of State Records and Other Historical Resources*.
- B. Title 13 of the Texas Administrative Code Chapter 6, Subchapter A. *Records Retention Scheduling* and Subchapter C. *Standards and Procedures for Management of Electronic Records*, as compiled by the Texas State Library and Archives Commission (TSLAC) as Bulletin 3 and Bulletin 1, respectively.
- C. Texas State Records Retention Schedule, revised 4<sup>th</sup> edition.
- D. DOB Records Retention Schedule.
- E. DOB Records Management policies and procedures; Document Manger User Guide; and DOB Data Classification & Mitigation policy and procedures.
- F. DOB Division of Strategic Support organizational chart.
- G. DOB Designation of State Agency Records Management Officer.
- H. DOB Continuity of Operations Plan.
- I. List of records deleted or destroyed during the audit period.
- J. List of records imaged/scanned to Document Manager during the audit period.
- K. Sample of Quality Control Report for March 2020.
- L. Samples of division Imaging Control Sheets.
- M. List of internal Document Manager users and their respective access rights.

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We performed various procedures to achieve the objective of our audit, to include the following:

1. Reviewed and obtained an understanding of state laws and regulations, and other requirements established by TSLAC, as applicable to the Area.
2. Obtained and reviewed DOB's written policies and procedures; and, conducted interviews, to obtain an understanding of controls, processes, and current practices in place over the Area. Then, evaluated whether such controls adequately ensure compliance with applicable requirements.
3. Reviewed DOB's organizational structure to assess whether the design is adequate in implementing the records management program.
4. Reviewed DOB's certified records retention schedule (RRS) and Form SLR 104, *Designation of State Agency Records Management Officer (RMO)*, to verify proper and timely submission.
5. Reviewed the list of access levels for all Document Manager users to determine if access was warranted based on job title/description.
6. Reviewed the Quality Control Reports for March 2020 sent to the RMO, to verify that each division performs the required quality control checks of at least 10% of documents that were imaged to ensure records were properly indexed, and all pages were scanned of acceptable quality.
7. Selected a sample of 25 records imaged during the audit period, and tested for the following attributes:
  - a. Record is available and readable.
  - b. Record is indexed properly (document type, document date, and retention period).
  - c. Record is retained at the security level appropriate for the record type and appropriately identified as confidential, when applicable.
8. Selected a sample of 25 records deleted during the audit period and tested for the following attributes:
  - a. Compliance with TAC §6.8(b) relating to final disposition of state records, including archival records.
  - b. Record exceeded the retention period, as listed in the RRS.
  - c. Completion of a Records Disposal Request and Approval Form for disposition of physical records.
9. Selected a sample of 5 DOB contracts to ensure the contract and related solicitation documents are retained in an electronic format in accordance with Texas Government Code 441.1855.

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**VI. Observations/Findings and Recommendations****SUMMARY and RELATED RATING of OBSERVATIONS/FINDINGS and RECOMMENDATIONS**

As DOB's internal auditors, we used our professional judgment in rating the audit findings identified in this report. The rating system used was developed by the Texas State Auditor's Office and is based on the degree of risk or effect of the findings in relation to the audit objective(s). The table below presents a summary of the findings in this report and the related rating.

<b>Summary of Observations/Findings &amp; Recommendations and Related Ratings</b>		
<b>Finding No.</b>	<b>Title</b>	<b>Rating</b>
1	Record Retention Periods	Medium
2	Archival Records	Medium
<b>Observation No.</b>	<b>Title</b>	
	None	
	<p style="text-align: center;"><u>Description of Rating</u></p> <p>A finding is rated <i>Priority</i> if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.</p> <p>A finding is rated <i>High</i> if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.</p> <p>A finding is rated <i>Medium</i> if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.</p> <p>A finding is rated <i>Low</i> if the audit identified strengths that support the audited entity's ability to administer the program(s)/functions(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.</p>	

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### OBSERVATIONS/FINDINGS and RECOMMENDATIONS

Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Fiscal Impact/Other Impact
2	6/12/2020	Imaging & Records Management	<p>1. Record Retention Periods</p> <p>Our testing of 25 records imaged into Document Manager during the audit period disclosed 4 instances where the retention period, as reflected in the record's index, differed from that of the RRS, as follows:</p> <ul style="list-style-type: none"> <li>In 2 instances, the retention period for <i>approval letters</i> was listed in the index as AC+25 instead of CE+25, as reflected in the RRS. (AC-After Completion; CE-Calendar Year-End)</li> <li>In 1 instance, the retention period for <i>public information requests (exempted)</i> was listed in the index as AC+15 instead of AC+2, as reflected in the RRS.</li> <li>In 1 instance the retention period for <i>legal opinions and advice</i> was listed in the index as AC+15 instead of US+3, as reflected in the RRS. (US-Until Superseded)</li> </ul> <p><b>Recommendation</b> We recommend that DOB strengthen their controls to ensure the record retention period entered in the record index is accurate and agrees to the RRS since the record index date is used by the division directors and managers when identifying records for deletion.</p> <p><b>Management's Response</b> The first two instances were caused by a programming error that was fixed during the audit. The next two items were errors by the person in the legal department responsible for imaging their records. It was an oversight. Additional training has already been provided and this error should not occur again.</p> <p>2. Archival Records</p> <p>The Area currently does not transfer archival records to TSLAC's ARIS division, or contact the ARIS division for archival review of records, as required by TAC §6.8(b)(1). Our testing of 25 records, which were deleted during the audit period, disclosed 14 instances where the records were identified with an "R" on the RRS, requiring archival review by the ARIS division. However, since the ARIS division was not contacted, the review was not performed.</p> <p><b>Recommendation</b> We recommend that DOB establish procedures for compliance with TAC §6.8(b)(1) to ensure records are transferred to TSLAC's ARIS division or reviewed by the ARIS division, if required per the RRS, to confirm that the record is properly archived or deleted.</p> <p><b>Management's Response</b> The Texas State Library Archivist is in the process of reviewing sample records to determine if the series is archival or not. They stated that they may treat the records in the same fashion they treat SML's records, where the records have value to the department, but are of little archival value. If their review determines that the records have little archival value then the records retention schedule would be updated to remove the code for "archival review".</p> <p>Either way, we have updated our procedures to ensure records are transferred to TSLAC's ARIS division, if required.</p>	<p>To ensure records are being retained in accordance with DOB's record retention schedule.</p> <p>Compliance with TAC §6.8(b)(1).</p>

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Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/Ongoing, or Not Implemented) with brief description if not yet implemented
2	6/24/2020	2020 Follow-Up	<p>Follow-Up of Prior Year Audits</p> <p>Following is the status of the recommendations made by other auditors during fiscal year 2019 that had not been fully implemented.</p> <p><b>1. Information Technology (IT) Change Management Framework</b></p> <p>DOB should continue developing its IT change management framework. This framework should incorporate roles, responsibilities, authorities and documentation requirements.</p> <p><b>Management's Response</b></p> <p>IT has developed independent change management SOPs for code management and project/program management. A consolidated SOP is being drafted. The change management SOP for projects is published on DOBIE along with the related template for use.</p> <p><b>2. Risk Assessment Process</b></p> <p>DOB should develop a formal risk assessment process to ensure the risk associated with IT changes are effectively managed, with high-risk changes being communicated to key individuals within the agency.</p> <p><b>Management's Response</b></p> <p>IT has implemented a risk rating system for program/project level changes; however, a consolidated change management SOP, inclusive of risk management, is still being drafted, and is expected to be completed by the end of October 2020.</p> <p><b>3. Approval Authority Based on Risk Rating</b></p> <p>DOB should update the written information technology change management process policy and procedures to reflect the approval authority based on the risk rating to ensure proper communication of risk so that interested parties can be prepared if a change directly affects a function that is critical to the agency's ability to conduct business.</p> <p><b>Management's Response</b></p> <p>The designation of data/application owners and their delegates is informal currently. IT is currently working on drafting a data/application owner SOP and will publish the information along with authorized delegates on DOBIE, and is expected to be completed by the end of October 2020.</p> <p><b>4. Software Application Updates</b></p> <p>DOB should review how software application updates and changes will be communicated and tracked when updating the IT change management process.</p>	<p><b>Substantially Implemented</b></p> <p><b>Incomplete/Ongoing</b></p> <p><b>Incomplete/Ongoing</b></p> <p><b>Fully Implemented</b></p>

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Report No.	Report Date	Name of Report	Observations/Findings and Recommendations	Current Status (Fully Implemented, Substantially Implemented, Incomplete/Ongoing, or Not Implemented) with brief description if not yet implemented
2	6/24/2020	2020 Follow-Up	<b>5. Review Process for Code Change</b>  DOB should ensure changes with a high risk are reviewed, approved and documented before the implementation of the change. Changes that are not rated as a high risk can be assessed and approved at the user acceptance level.	Fully Implemented

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#### **VII. External Audit Services Procured in Fiscal Year 2020**

DOB procured the internal audit services documented in the approved Internal Audit Plan for fiscal year 2020. No other external audit services were performed.

#### **VIII. Reporting Suspected Fraud and Abuse**

DOB has provided information on their website home page on how to report suspected fraud, waste, and abuse to the State Auditor's Office (SAO) by posting a link to the SAO's fraud hotline. DOB has also developed a Fraud Prevention Policy that provides information on how to report suspected fraud, waste, and abuse to the SAO.

#### **IX. Proposed Internal Audit Plan for Fiscal Year 2021**

The risk assessment performed during the 2020 fiscal year was used to identify the following *proposed* areas that are recommended for internal audit and other tasks to be performed for fiscal year 2021. The Internal Audit Plan for Fiscal Year 2021 will be developed and presented to the Audit Committee and Finance Commission, for acceptance and approval, at a meeting to be determined at a later date.

- Management Information Systems<sup>1</sup>
- Corporate Activities
- Follow-up of Prior Year Internal Audits
- Other Tasks Assigned by the Finance Commission

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<sup>1</sup> Scope to be determined during the fiscal year 2021 risk assessment.



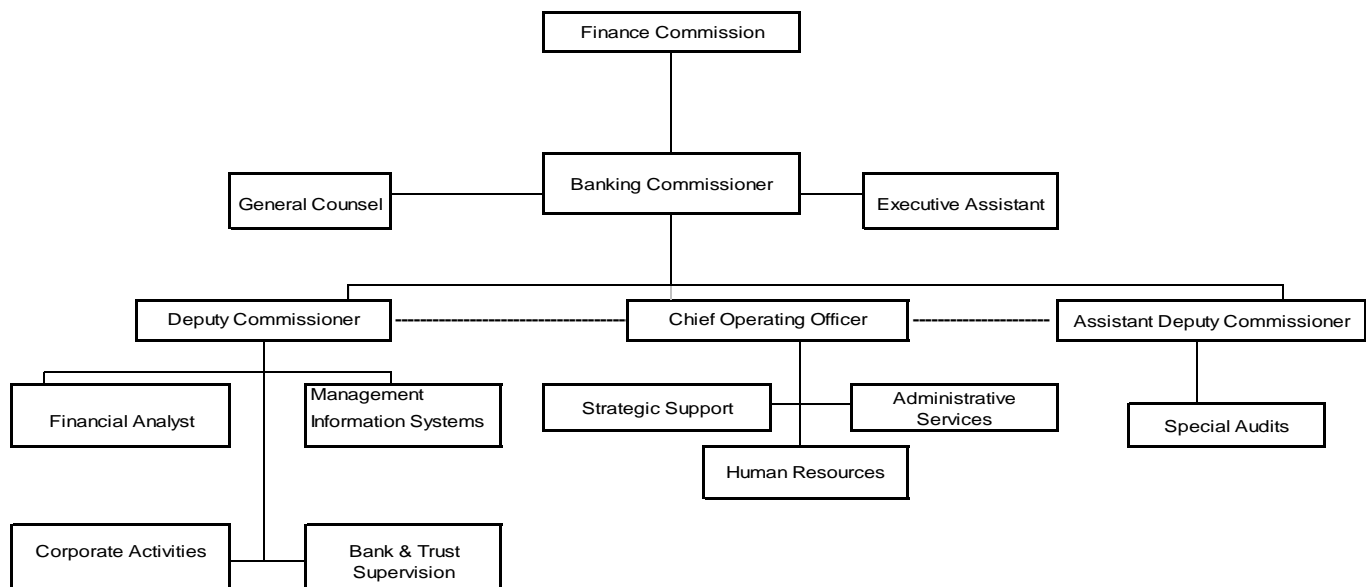
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## X. Organizational Chart



ATTACHMENT

**TEXAS DEPARTMENT OF BANKING**  
**History of Areas Audited**  
**For Fiscal Year 2020**

<b>POTENTIAL AUDIT TOPIC</b>		2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1	Bank Examinations	B		A/B*	B*				A/B*	E		
2	Corporate Activities				A			G*		E		
3	Financial Reporting		A						B	E*/C*		
4	Fixed Asset Management	C*				C*			A	C*		
5	Imaging and Records Management							A				A
6	IT Examinations	A						A		E		
7	Management Information Systems	A/D*	D*	D*	D*/W	A, D*	D*	D*/G*	D*/B	E*	A1*/D	
8	Money Service Businesses	A				A			B*	E	A1*	
9	Payroll and Human Resources	C	A*	V	G*	C		G*		C*/F*	F*/G*	
10	Perpetual Care Cemeteries						A		B*	E	A1*	
11	Prepaid Funeral Contracts				A				B*	E	A1*	
12	Prepaid Funeral Guaranty Fund			A						A/E	A1*	
13	Procurement/Contract Management/HUB	C	A			C			B*	C*		
14	Revenue Accounting Process		A				A		B	E	A1*	A
15	Travel	C	A*			C			B*	C*/E*		
16	Trust Examinations		A							A/E		

**Note:** Performance Measures is included in the scope of the applicable audit area(s).

**Legend (audits/reviews with asterisk are considered limited scope for the audit area)**

- A** Internal audit performed by Garza/Gonzalez & Associates, CPAs.
- A1** Internal audit performed by McConnell & Jones LLP.
- B** Audit performed by the State Auditor's Office (SAO).
- C** Post-Payment audit performed by the Comptroller of Public Accounts.
- D** IT assessment performed by the Department of Information Resources (DIR) or a third-party vendor procured through the DIR.
- E** Sunset Review performed by the Sunset Advisory Commission.
- F** Review performed by the Texas Workforce Commission.
- G** Review performed by the Department of Public Safety.



## TFEE Report – August 21, 2020

### ACTIVITIES RELATING TO THE TEXAS FINANCIAL ENDOWMENT FUND

The Texas Financial Education Endowment (TFEE) Grant cycle has passed the first semi-annual period and reports and reimbursement requests have been received. Staff are currently reviewing the first period semi-annual reports and reimbursement requests.

In June, the TFEE Grant Coordinator hosted a webinar *TFEE Reimbursement Review* for 2020-2021 TFEE grant recipients. Twelve people attended the presentation from the ten organizations.

The 2018-2019 TFEE grant cycle longitudinal reports are under review. The 2018-2019 TFEE Impact Report and the first period 2020-2021 Semi-Annual Report will be available in October.

The agency has established a Facebook page to help promote and expand the TFEE Grant as well as recognize and assist organizations that are TFEE Grant Award Recipients. The TFEE Facebook Page is available for review at <https://www.facebook.com/TexasFinancialEducationEndowment>.