

**MINUTES OF THE  
AUDIT COMMITTEE MEETING  
Friday, August 19, 2022**

The Audit Committee of the Finance Commission of Texas convened at 8:30 a.m., on Friday, August 19, 2022, with the following members present:

**Audit Committee Members in Attendance:**

Debbie Scanlon, Chairman  
Hector Cerna  
Phillip Holt, Finance Commission of Texas, Chairman

**Audit Committee Member(s) Absent:**

Roslyn Morris

Chairman Scanlon announced there was a quorum of the Audit Committee of the Finance Commission of Texas with three (3) members present. ( 0:28 on audio file).

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. Review and Approval of the Minutes of the June 24, 2022 Audit Committee Meeting	Hector Cerna made a motion to Approve the Minutes of the June 24, 2022 Audit Committee Meeting. Phillip Holt seconded and the motion passed.	0:45 start of discussion  0:59 Vote
B. Review of Agencies' Activities 1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking	No Action Required.	1:18  start of discussion
C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2022 Third Quarter Investment Officer Reports 1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking	Hector Cerna made a motion to recommend that the Finance Commission Approve the Agencies' 2022 Third Quarter Investment Officer Reports. Phillip Holt seconded and the motion passed.	3:46 start of discussion  6:24 Vote
D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Readoption of the Investment Policies for: 1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking	Phillip Holt made a motion to recommend that the Finance Commission Approve the Readoption of the Investment Policies for the Office of Consumer Credit Commissioner, Department of Savings and Mortgage Lending, and the Texas Department of Banking, as modified and attached. Hector Cerna seconded and the motion passed.	6:42 start of discussion  9:17 Vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2022 Third Quarter Financial Statements</p> <ol style="list-style-type: none"> <li>1. Office of Consumer Credit Commissioner</li> <li>2. Department of Savings and Mortgage Lending</li> <li>3. Texas Department of Banking</li> </ol>	<p>Hector Cerna made a motion to recommend that the Finance Commission Approve the Agencies' 2022 Third Quarter Financial Statements. Phillip Holt seconded and the motion passed.</p>	<p>9:48 start of discussion</p> <p>17:23 Vote</p>
<p>F. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2023 Operating Budgets</p> <ol style="list-style-type: none"> <li>1. Office of Consumer Credit Commissioner</li> <li>2. Department of Savings and Mortgage Lending</li> <li>3. Texas Department of Banking</li> </ol>	<p>Phillip Holt made a motion to recommend that the Finance Commission Approve the Office of Consumer Credit Commissioner's Fiscal Year 2023 Operating Budgets. Hector Cerna seconded and the motion passed.</p> <p>Hector Cerna made a motion to recommend that the Finance Commission Approve the Department of Savings and Mortgage Lending's Fiscal Year 2023 Operating Budgets. Phillip Holt seconded and the motion passed.</p> <p>Hector Cerna made a motion to recommend that the Finance Commission Approve the Texas Department of Banking's Fiscal Year 2023 Operating Budgets. Phillip Holt seconded and the motion passed.</p>	<p>17:42 start of discussion</p> <p>56:07 Vote</p> <p>56:29 Vote</p> <p>56:50 Vote</p>
<p>G. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Activities of the Texas Financial Education Endowment Fund</p>	<p>Phillip Holt made a motion to recommend that the Finance Commission Approve the Activities of the Texas Financial Education Endowment Fund. Hector Cerna seconded and the motion passed.</p>	<p>57:09 start of discussion</p> <p>57:30 Vote</p>
<p>H. 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 §§ 551.076 and 551.089, Texas Government Code</p>	<p>Deferred to Executive Session. No vote taken.</p>	<p>n/a</p>

Chairman Scanlon called for an Executive Session at 9:28 a.m. (57:58 on the audio file). The open meeting resumed at 9:56 a.m. (59:09 on the audio file).

There being no further business of the Audit Committee of the Finance Commission of Texas, Chairman Scanlon adjourned the meeting at 9:57 a.m. (59:23 on the audio file).

/s/Debbie Scanlon

Debbie Scanlon, Chairman, Audit Committee  
Finance Commission of Texas

/s/Charles G. Cooper

Charles G. Cooper, Executive Director  
Finance Commission of Texas

/s/Ruth Wright

Ruth Wright, Executive Assistant  
Finance Commission of Texas

OFFICE OF CONSUMER CREDIT COMMISSIONER  
 INVESTMENT POLICY STATEMENT  
 [Effective ~~August 19, 2022~~ ~~August 20, 2021~~]

**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 19, 2022~~ ~~August 20, 2021~~ to re-approve this policy as revised to clarify content within this policy. Previously, this policy was reviewed and approved on ~~August 20, 2021~~ ~~August 21, 2020~~.

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.

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://assets.ttstc.com/ttstc-public/20/2020-10-16%20TTSTC%20IPS%20Texas%20Endowment%20Funds.pdf>

<https://assets.ttstc.com/ttstc-public/20/2022-03-30%20TTSTC%20ENDOW%20Investment%20Policy.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.

- A. 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;
- B. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
- C. 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;
- D. 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;
- E. 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;
- F. Bonds issued, assumed, or guaranteed by the State of Israel;
- G. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
- H. Other interest-bearing deposit accounts not described above if:
  - i. 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;
  - ii. 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;
  - iii. 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
  - iv. The Agency appoints a custodian of the deposit accounts that is:
    - a. The depository institution selected to broker the deposits;
    - b. 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;
    - c. The Texas Treasury Safekeeping Trust Company;
    - d. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - e. A Federal Home Loan Bank;
    - f. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as custodian; or
    - g. 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)

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

- o Orally;
  - o In writing;
  - o Electronically; or
  - o In any combination of those methods.
- J. 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:
  - i. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
  - ii. Is secured by a combination of cash and obligations allowable under Gov't Code §2256.009(a)(1) or § 225603;
  - iii. 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;
  - iv. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
  - v. 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.

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

- i. Is registered with and regulated by the SEC;
  - ii. 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
  - iii. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).

L. A no-load mutual fund that:

- i. Is registered with the SEC;
  - ii. Has an average weighted maturity of less than two years; and
  - iii. Either:
    - a. Has a duration of one year or more and is invested exclusively in obligations authorized in this policy; or
    - b. 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:

- A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index; and
- E. 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);
- F. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization;  
and
- G. Investments in companies that are prohibited by law or have been barred from participating in State of Texas Contracts.

#### **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:

- A. The investment position of the Agency on the date of the report;
- B. 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);
- C. The maturity date of each separately invested asset that has a maturity date;
- D. The fund for which each individual investment was acquired;
- E. Any non-compliance of the investment portfolio with this policy;
- F. Income received and expenses incurred in conjunction with investments; and,
- G. 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, Market Pricing and Ratings Changes**

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, rating changes, and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives. The investment officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.



## **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:

- A. 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;
- B. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
- C. 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 and is responsible for the investment of the funds held and invested by the Agency. The Investment Officer is authorized to:

- A. Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- B. Delegate routine business transactions within authorized and established investments; and,
- C. 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, market risks, portfolio diversification, and compliance with applicable statutes.

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). The quality of all investment must meet the needs of the agency and be managed in accordance with this policy.

### **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:

- A. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
- B. 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:
  - i. is dependent on an analysis of the makeup of the Agency's entire portfolio;
  - ii. requires an interpretation of subjective investment standards; or
  - iii. 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.

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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.

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

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

\_\_\_\_\_  
Date

OFFICE OF CONSUMER CREDIT COMMISSIONER  
 INVESTMENT POLICY STATEMENT  
 [Effective August 19, 2022 ]

**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.

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- Diversification of investment portfolio; and,
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Enabling Legislation	§16.003, TEX. FIN. CODE

OCCC Residential Mortgage Loan Originator Recovery Fund (TTSTC #3008)	
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Enabling Legislation	§393.628, TEX. FIN. CODE
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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://assets.ttstc.com/ttstc-public/20/2022-03-30%20TTSTC%20ENDOW%20Investment%20Policy.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
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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.

- A. 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;

- B. Direct obligations of this state or its agencies and instrumentalities with a maximum allowable maturity of 10 years;
- C. 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;
- D. 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;
- E. 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;
- F. Bonds issued, assumed, or guaranteed by the State of Israel;
- G. Interest-bearing deposit accounts that are guaranteed or insured by the FDIC or its successor;
- H. Other interest-bearing deposit accounts not described above if:
  - i. 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;
  - ii. 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;
  - iii. 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
  - iv. The Agency appoints a custodian of the deposit accounts that is:
    - a. The depository institution selected to broker the deposits;
    - b. 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;
    - c. The Texas Treasury Safekeeping Trust Company;
    - d. A Federal Reserve Bank or a branch of a Federal Reserve Bank;
    - e. A Federal Home Loan Bank;
    - f. A financial institution authorized to exercise fiduciary powers that is designated by the comptroller as custodian; or
    - g. 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)

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

- o Orally;
  - o In writing;
  - o Electronically; or
  - o In any combination of those methods.
- J. 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:
  - i. With respect to a reverse security repurchase agreement, does not have a defined termination date exceeding 90 days;
  - ii. Is secured by a combination of cash and obligations allowable under Gov't Code §2256.009(a)(1) or § 225603;
  - iii. 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;
  - iv. Is placed through a primary government securities dealer, as defined by the Federal Reserve, or an insured financial institution domiciled in this state; and
  - v. 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.

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

- i. Is registered with and regulated by the SEC;
  - ii. 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
  - iii. Complies with federal SEC Rule 2a-7, promulgated under the Investment Company Act of 1940 (17 C.F.R. § 270-2a-7).

L. A no-load mutual fund that:

- i. Is registered with the SEC;
  - ii. Has an average weighted maturity of less than two years; and
  - iii. Either:
    - a. Has a duration of one year or more and is invested exclusively in obligations authorized in this policy; or
    - b. 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:

- A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years;
- D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index; and
- E. 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);
- F. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist organization; and
- G. Investments in companies that are prohibited by law or have been barred from participating in State of Texas Contracts.

#### **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:

- A. The investment position of the Agency on the date of the report;
- B. 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);
- C. The maturity date of each separately invested asset that has a maturity date;
- D. The fund for which each individual investment was acquired;
- E. Any non-compliance of the investment portfolio with this policy;
- F. Income received and expenses incurred in conjunction with investments; and,
- G. 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, Market Pricing and Ratings Changes**

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, rating changes, and rates of return on all investments to ensure that values and yields are consistent with risk and meet investment objectives. The investment officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.



## **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:

- A. 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;
- B. No one covered fund shall invest in mutual funds in the aggregate more than 80% of its monthly average balance; and,
- C. 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 and is responsible for the investment of the funds held and invested by the Agency. The Investment Officer is authorized to:

- A. Obtain external investment expertise if deemed necessary to fulfill investment objectives;
- B. Delegate routine business transactions within authorized and established investments; and,
- C. 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, market risks, portfolio diversification, and compliance with applicable statutes.

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). The quality of all investment must meet the needs of the agency and be managed in accordance with this policy.

#### **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:

- A. Has received and reviewed the Investment Policy for Funds under the Oversight of the Finance Commission of Texas; and,
- B. 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:
  - i. is dependent on an analysis of the makeup of the Agency's entire portfolio;
  - ii. requires an interpretation of subjective investment standards; or
  - iii. 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.

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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.

**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 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 and Mortgage Grant Fund (“the Funds”) which are administered by the Department of Savings and Mortgage Lending (“the Department”) to the extent the Department has statutory investment authority. The Recovery Fund was established as mandated by the 76<sup>th</sup> Legislature and organized pursuant to Texas Finance Code, Chapter 156, Subchapter F. The Mortgage Grant Fund was created by the 87<sup>th</sup> Legislature and organized pursuant to Texas Finance Code, Chapter 156, Subchapter G. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Chapter 2256), except as specifically authorized by the 87<sup>th</sup> legislature, 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 ~~1920~~, 2022~~1~~. The policy includes [clarification related to other unauthorized investments](#). Previous changes to this policy were approved on August 2~~10~~, 2021~~0~~.

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.

According to the Texas Constitution, Section 11b, Article VII, each of the Funds shall be managed and invested as a prudent investor, exercising reasonable care, skill, and caution, would invest in light of the purposes, terms, distribution requirements, and other circumstances of the Funds then prevailing, taking into consideration the investment of all the assets of each of the Funds rather than a single investment.

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, and the Mortgage Grant Fund as prescribed in Texas Finance Code Chapter 156 Subchapter G.

## **Types of Authorized Investments**

The Funds or a portion of the Funds may be placed in the Texas Treasury Safekeeping Trust Company (“TTSTC”) (or its successor). Pursuant to Government Code, Section 404.106, funds held by the TTSTC shall 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.

According to Texas Finance Code Section 156.501(c), the amounts in the Recovery Fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described by Section 11b, Article VII, Texas Constitution, however an investment may not be made if it will impair the necessary liquidity required to satisfy claims awarded to residential mortgage loan applicants from the Recovery Fund.

According to Texas Finance Code Section 156.553(b), the amounts in the Mortgage Grant Fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described in Section 11b, Article VII, Texas Constitution.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

Authorized investments according to the Public Funds Investment Act as well as their applicable standards, requirements, and any exceptions—, may be found at Tex. Gov't Code §§ 2256.009 through 2256.016, and include:

1. Obligations of, or Guaranteed by, Governmental Entities
2. Certificates of Deposit and Share Certificates
3. Repurchase Agreements
4. Securities Lending Programs
5. Bankers' Acceptances
6. Commercial Paper
7. Mutual Funds
8. Guaranteed Investment Contracts
9. Investment Pools

To provide for more flexibility and obtain a higher rate of return, while still maintaining liquidity and preserving principal, the Department's maximum allowable maturity period for any individual investment is 36 months (60 months for Obligations of, or Guaranteed by, Governmental Entities) and a minimum acceptable 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 either obligations that are described by Tex. Gov't Code § 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Tex. Gov't Code § 2256.009(b), or in accordance with Tex. Gov't Code Chapter 2257; 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 TTSTC (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 authorized by the Public Funds Investment Act; 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. *Obligations of, or Guaranteed by, Governmental Entities* – 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.
4. *Investment Pools* – Investment pools with TTSTC or another authorized entity, which pools invest in authorized by the Public Funds Investment Act investments, according to the requirements of Tex. Gov't Code § 2256.016.

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;

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT POLICY

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>
6. All investments in companies that are prohibited by law or have been barred from participating in State of Texas contracts.

## **Strategy for the Recovery Fund**

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 using the following priorities in order of importance:

- (1) the suitability of the investment to the available balances and anticipated needs of the Recovery Fund
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

## **Strategy for the Mortgage Grant Fund**

The investment strategy for funds received into the Mortgage Grant 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 using the following priorities in order of importance:

- (1) the suitability of the investment to the anticipated needs of the Mortgage Grant Fund,
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

## **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:

- The investment position of the Funds 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 compliance, including 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.

## **Investment Management**

The investment management of the Funds must be of sufficient quality and capability to meet and understand the suitability of the investments to the meet the financial requirements of the Department and each of the Funds.

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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>.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

### **Rates of Return, Market Pricing, and Ratings Changes**

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, rating changes, and rates of return on all investments to ensure that their ratings, values, and yields are consistent with risk and meet investment objectives, using the same methods and procedures as

### **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 Operations will be the designated primary Investment Officer (“Investment Officer”) and is responsible for the funds held and invested by the Department. The Commissioner may designate a secondary Investment Officer who will act as Investment Officer, if the primary Investment Officer is unavailable. 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 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, market risks, portfolio diversification, and compliance with the Public Funds Investment Act. 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.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT 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<sup>2</sup> 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.

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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.



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 and Mortgage Grant Fund (“the Funds”) which are administered by the Department of Savings and Mortgage Lending (“the Department”) to the extent the Department has statutory investment authority. The Recovery Fund was established as mandated by the 76<sup>th</sup> Legislature and organized pursuant to Texas Finance Code, Chapter 156, Subchapter F. The Mortgage Grant Fund was created by the 87<sup>th</sup> Legislature and organized pursuant to Texas Finance Code, Chapter 156, Subchapter G. While this agency is not subject to the requirements in the Public Funds Investment Act (Government Code Chapter 2256), except as specifically authorized by the 87<sup>th</sup> legislature, 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 19, 2022. The policy includes clarification related to other unauthorized investments. Previous changes to this policy were approved on August 20, 2021.

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.

According to the Texas Constitution, Section 11b, Article VII, each of the Funds shall be managed and invested as a prudent investor, exercising reasonable care, skill, and caution, would invest in light of the purposes, terms, distribution requirements, and other circumstances of the Funds then prevailing, taking into consideration the investment of all the assets of each of the Funds rather than a single investment.

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, and the Mortgage Grant Fund as prescribed in Texas Finance Code Chapter 156 Subchapter G.

## **Types of Authorized Investments**

The Funds or a portion of the Funds may be placed in the Texas Treasury Safekeeping Trust Company (“TTSTC”) (or its successor). Pursuant to Government Code, Section 404.106, funds held by the TTSTC shall 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.

According to Texas Finance Code Section 156.501(c), the amounts in the Recovery Fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described by Section 11b, Article VII, Texas Constitution, however an investment may not be made if it will impair the necessary liquidity required to satisfy claims awarded to residential mortgage loan applicants from the Recovery Fund.

According to Texas Finance Code Section 156.553(b), the amounts in the Mortgage Grant Fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the standard described in Section 11b, Article VII, Texas Constitution.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

Authorized investments according to the Public Funds Investment Act as well as their applicable standards, requirements, and any exceptions, may be found at Tex. Gov't Code §§ 2256.009 through 2256.016, and include:

1. Obligations of, or Guaranteed by, Governmental Entities
2. Certificates of Deposit and Share Certificates
3. Repurchase Agreements
4. Securities Lending Programs
5. Bankers' Acceptances
6. Commercial Paper
7. Mutual Funds
8. Guaranteed Investment Contracts
9. Investment Pools

To provide for more flexibility and obtain a higher rate of return, while still maintaining liquidity and preserving principal, the Department's maximum allowable maturity period for any individual investment is 36 months (60 months for Obligations of, or Guaranteed by, Governmental Entities) and a minimum acceptable 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 either obligations that are described by Tex. Gov't Code § 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Tex. Gov't Code § 2256.009(b), or in accordance with Tex. Gov't Code Chapter 2257; 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 TTSTC (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 authorized by the Public Funds Investment Act; 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. *Obligations of, or Guaranteed by, Governmental Entities* – 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.
4. *Investment Pools* – Investment pools with TTSTC or another authorized entity, which pools invest in authorized by the Public Funds Investment Act investments, according to the requirements of Tex. Gov't Code § 2256.016.

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;

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

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>
6. All investments in companies that are prohibited by law or have been barred from participating in State of Texas contracts.

### **Strategy for the Recovery Fund**

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 using the following priorities in order of importance:

- (1) the suitability of the investment to the available balances and anticipated needs of the Recovery Fund
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

### **Strategy for the Mortgage Grant Fund**

The investment strategy for funds received into the Mortgage Grant 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 using the following priorities in order of importance:

- (1) the suitability of the investment to the anticipated needs of the Mortgage Grant Fund,
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

### **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:

- The investment position of the Funds 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 compliance, including 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.

### **Investment Management**

The investment management of the Funds must be of sufficient quality and capability to meet and understand the suitability of the investments to the meet the financial requirements of the Department and each of the Funds.

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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>.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

## INVESTMENT POLICY

### **Rates of Return, Market Pricing, and Ratings Changes**

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, rating changes, and rates of return on all investments to ensure that their ratings, values, and yields are consistent with risk and meet investment objectives, using the same methods and procedures as

### **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 Operations will be the designated primary Investment Officer (“Investment Officer”) and is responsible for the funds held and invested by the Department. The Commissioner may designate a secondary Investment Officer who will act as Investment Officer, if the primary Investment Officer is unavailable. 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 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, market risks, portfolio diversification, and compliance with the Public Funds Investment Act. 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.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING INVESTMENT 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<sup>2</sup> 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.

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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.

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



**TEXAS DEPARTMENT OF BANKING**  
★ Dedicated to Excellence in Texas Banking ★

**ADMINISTRATIVE MEMORANDUM – 2027**

August 19, 2022

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**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 August 19, 2022, to re-approve this policy as revised to clarify other unauthorized investments. Previously, this policy was reviewed and approved August 20, 2021.

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

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- 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

**Administrative Memorandum 2027- Investment Policy for Funds Under the Oversight of the FCOT**

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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

**Administrative Memorandum 2027- Investment Policy for Funds Under the Oversight of the FCOT**

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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

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organization; and<sup>1</sup>

7. Investments in companies that are prohibited by law or have been barred from participating in State of Texas contracts.

### 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. The statement of compliance, including any non-compliance, of the investment portfolio with this policy;
6. Income received and expenses incurred in conjunction with investments; and,

<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>.

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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. ¶

7. Any other information as required by the Finance Commission.

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

#### **Rates of Return, Market Pricing, and Ratings Changes**

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, rating changes, and rates of return on all investments to ensure that their ratings, values, and yields are consistent with risk and meet investment objectives. The Investment Officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.

#### **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 Director of the Non-Depository Supervision Division is designated as the primary Investment Officer and is responsible for the investment of the funds held and invested by the Department. The Chief Financial Officer is designated as the secondary Investment Officer and will perform

## **Administrative Memorandum 2027- Investment Policy for Funds Under the Oversight of the FCOT**

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the functions of the primary Investment Officer if the primary Investment Officer is unavailable. 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, market risks, portfolio diversification, and compliance with the Public Funds Investment Act.

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

**Administrative Memorandum 2027- Investment Policy for Funds Under the Oversight of the FCOT**

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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). The quality of all investments must meet the needs of the agency and be managed in accordance with this policy.

**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.

<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.

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## 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.

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

\_\_\_\_\_  
Date



# ***TEXAS DEPARTMENT OF BANKING***

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

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## **ADMINISTRATIVE MEMORANDUM – 2027**

**August 19, 2022**

**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 August 19, 2022, to re-approve this policy as revised to clarify other unauthorized investments. Previously, this policy was reviewed and approved August 20, 2021.

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);
6. Investments in companies doing business in Sudan, in Iran, or with a foreign terrorist

organization; and<sup>1</sup>

7. Investments in companies that are prohibited by law or have been barred from participating in State of Texas contracts.

### **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. The statement of compliance, including any non-compliance, of the investment portfolio with this policy;
6. Income received and expenses incurred in conjunction with investments; and,

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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>.

7. Any other information as required by the Finance Commission.

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

### **Rates of Return, Market Pricing, and Ratings Changes**

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, rating changes, and rates of return on all investments to ensure that their ratings, values, and yields are consistent with risk and meet investment objectives. The Investment Officer will use the same methods and procedures as a prudent investor, exercising reasonable care, skill, and caution.

### **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 Director of the Non-Depository Supervision Division is designated as the primary Investment Officer and is responsible for the investment of the funds held and invested by the Department. The Chief Financial Officer is designated as the secondary Investment Officer and will perform



the functions of the primary Investment Officer if the primary Investment Officer is unavailable. 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, market risks, portfolio diversification, and compliance with the Public Funds Investment Act.

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). The quality of all investments must meet the needs of the agency and be managed in accordance with this policy.

**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