

A.

Finance Commission

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FINANCE COMMISSION OF TEXAS

MEETING DATEDecember 15, 2023

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

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

FUTURE MEETING DATESFebruary 16, 2024
April 19, 2024
June 21, 2024
August 16, 2024
October 25, 2024
December 20, 2024

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

Meeting Accessibility. Under the Americans with Disabilities Act, the agency will accommodate special needs. Those requesting auxiliary aids or services should notify the Texas Finance Commission Administrator several days prior to the meeting using the contact information above by mail, telephone, or email.

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FINANCE COMMISSION AGENDA

Friday, December 15, 2023
9:00 a.m.

or Upon Adjournment of the Audit Committee Meeting
Finance Commission Building
William F. Aldridge Hearing Room
2601 North Lamar Boulevard
Austin, Texas 78705

Section A.3 will take up agenda items A1, C2, D2 and D3, with NO DISCUSSION as notated in bold and italicized.

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

A. FINANCE COMMISSION MATTERS

1. Review and Approval of the Minutes of the October 27, 2023 Finance Commission Meeting

2. General Public Comment

3. Consent Agenda

4. Finance Commission Operations

5. Audit Committee Report

A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Appointment of New Texas Financial Education Endowment Fund Grant Advisory Committee Member Andrea Herrera

6. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff

7. Discussion of and Possible Vote to Take Action Regarding Facility Planning and Real Property Matters Pursuant to §551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property

8. Discussion of and Consultation with Attorney and Possible Vote to Take Action Pursuant to §551.071, Texas Government Code, for the Purpose of Seeking the Advice or Attorney-client Privileged Communications from our Attorneys, Including Matters Related to the Potential Financial Exposure of the Finance Commission Agencies and Their Officers and the Finance Commission and its Officers and Including Matters of Pending and Contemplated Litigation

9. 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

10. Discussion of Matters Made Confidential by Law Pursuant to § 551.081, Texas Government Code, including Information Relating to the Financial Condition or Business Affairs of a Financial Institution

B. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

1. Industry Status and Departmental Operations: a) Thrift Regulation Division Activities; b) Mortgage Regulation Division Activities; c) Operations Division Activities; d) Legal Division Activities, including Consumer Complaints and Gift Reporting; and e) Legislative Activities

2. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending; Cause No. JPC-23-02334-32, in the Justice Court, Precinct 3, Place 2, Dallas County, Texas

Julius Lamunn North v. Texas Department of Savings and Mortgage Lending; et al., Cause No. 2023-50470, in the District Court, 270th Judicial District, Harris County, Texas

C. TEXAS DEPARTMENT OF BANKING

1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities
2. ***Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 2, Chapter 12, Concerning Loans and Investments by State-Chartered Banks***
3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 2, Chapter 15, Concerning Corporate Activities by State-Chartered Banks
4. Discussion of and Possible Vote to Take Action on the Appointment of Ray Boone as the Consumer Representative and the Reappointment of Amy Biggs as the Insurance Industry Representative to the Guaranty Fund Advisory Council for the Period January 1, 2024, to December 31, 2025
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

D. OFFICE OF CONSUMER CREDIT COMMISSIONER

1. Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities
2. ***Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales***
3. ***Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 85, Subchapter B, Concerning Rules for Crafted Precious Metal Dealers, Resulting from Rule Review***
4. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 01-22-00712-CV, in the First Court of Appeals, Houston, Texas

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

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

**MINUTES OF THE
FINANCE COMMISSION MEETING
Friday, October 27, 2023**

The Finance Commission of Texas convened at 9:54 a.m., on October 27, 2023, with the following members present:

Finance Commission Members in Attendance:

Phillip Holt, Chairman	Will Lucas
George “Cliff” McCauley, Vice Chairman	Sharon McCormick
Hector Cerna	Roselyn “Rosie” Morris
Marty Green	Vince Puente

Finance Commission Members Absent:

Bob Borochoff	Laura Warren
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Commissioner Charles G. Cooper announced there was a quorum with eight (8) members present. (1:25 on audio file).

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. Finance Commission Matters		
1. Review and Approval of the Minutes of the August 18, 2023 Finance Committee Meeting	On Consent Agenda – Item A1 This item Approved on the Consent Agenda.	n/a
2. General Public Comment	No Action Required.	1:39 Start of Discussion
3. Consent Agenda – Items A1, B2, B3, C2 - C4, and D2	Vince Puente made a motion to Approve Consent Agenda items A1, B2, B3, C2 – C4, and D2. Sharon McCormick seconded, and the motion passed.	2:07 Start of Discussion 2:27 Vote
4. Finance Commission Operations	No Action Required.	2:50 Start of Discussion
5. Audit Committee Report		
A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies’ 2023 Fourth Quarter Investment Officer Reports	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies’ 2023 Fourth Quarter Investment Officer Reports passed.	4:25 Start of Discussion
1. Texas Department of Banking		4:37 Vote
2. Office of Consumer Credit Commissioner		
3. Department of Savings and Mortgage Lending		

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2023 Fourth Quarter Financial Statements</p> <ol style="list-style-type: none"> 1. Texas Department of Banking 2. Office of Consumer Credit Commissioner 3. Department of Savings and Mortgage Lending 	<p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' 2-23 Fourth Quarter Financial Statements passed.</p>	<p>4:51 Start of Discussion</p> <p>4:58 Vote</p>
<p>C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Final Selection of Organizations to Receive Grant Funds from the Texas Financial Education Endowment Fund</p>	<p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Final Selection of Organizations to Receive Grant Funds from the Texas Financial Education Endowment Fund passed.</p> <p>Vince Puente was the only dissenting vote.</p>	<p>5:11 Start of Discussion</p> <p>5:22 Vote</p>
<p>D. 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>No Discussion.</p>	<p>n/a</p>
<p>E. Discussion of the Activities of the Mortgage Grant Fund</p>	<p>No Discussion.</p>	<p>n/a</p>
<p>F. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Selection of an Internal Auditor for the Finance Commission Agencies for Fiscal Year 2024</p>	<p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Selection of an Internal Auditor, Garza/Gonzalez & Associates for the Finance Commission Agencies for Fiscal Year 2024 passed.</p>	<p>11:38 Start of Discussion</p> <p>11:52 Vote</p>
<p>6. Discussion of the Condition of the Texas State Banking System Report</p>	<p>No Action Required.</p>	<p>12:11 Start of Discussion</p>
<p>7. Discussion of and Possible Vote to Take Action on the Accomplishment Reports for Fiscal Year 2023 for the Commissioners of the Texas Department of Banking, the Office of Consumer Credit Commissioner and the Department of Savings and Mortgage Lending</p>	<p>Marty Green made a motion to Approve the Accomplishment Reports for Fiscal Year 2023 for the Commissioners of the Texas Department of Banking, the Office of Consumer Credit Commissioner and the Department of Savings and Mortgage Lending. Will Lucas seconded, and the motion passed.</p>	<p>52:32 Start of Discussion</p> <p>52:43 Vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
8. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff	No Discussion.	n/a
9. Discussion of and Possible Vote to Take Action Regarding Facility Planning and Real Property Matters Pursuant to §551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property	No Discussion.	n/a
10. Discussion of and Consultation with Attorney and Possible Vote to Take Action Pursuant to §551.071, Texas Government Code, for the Purpose of Seeking the Advice or Attorney-client Privileged Communications from our Attorneys, Including Matters Related to the Potential Financial Exposure of the Finance Commission Agencies and Their Officers and the Finance Commission and its Officers and Including Matters of Pending and Contemplated Litigation	No Discussion.	n/a
11. Discussion of and Consultation on Security Audit, Possible Issue Related to Confidential or Sensitive Information, Security Breach Audit and Assessment, or Security Assessments or Deployment Related to Information Resources Technology as Authorized by Tex. Govt. Code Secs. 551.076 and 551.089	No Discussion.	n/a
12. Discussion of Matters Made Confidential by Law Pursuant to § 551.0811, Texas Government Code, including Information Relating to the Financial Condition or Business Affairs of a Financial Institution	No Discussion.	n/a
B. Texas Department of Banking		
1. Industry Status and Departmental Operations: a) Current Issues Affecting Department’s Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities	No Action Required.	53:27 Start of Discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
2. Discussion of and Possible Vote to Take Action on the Adoption of Repeals of Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses	On Consent Agenda - Item B2 This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses	On Consent Agenda - Item B3 This item Approved on the Consent Agenda.	n/a
4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 2, Chapter 12, Concerning Loans and Investments by State-Chartered Banks	Marty Green made a motion to Approve the Proposal and Publication for Comment of Amendments in 7 TAC, Part 2, Chapter 12, Concerning Loans, and Investments by State-Chartered Banks. Sharon McCormick seconded, and the motion passed.	1:34:08 Start of Discussion 1:36:23 Vote
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a
C. Office of Consumer Credit Commissioner		
1. Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities	No Action Required.	1:37:23 Start of Discussion
2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner	On Consent Agenda - Item C2 This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 85, Subchapter A, Concerning Rules of Operation for Pawnshops	On Consent Agenda - Item C3 This item Approved on the Consent Agenda.	n/a
4. Discussion of and Possible Vote Take Action on the Readoption of 7 TAC, Chapter 83, Subchapter B, Concerning Rules for Credit Access Businesses, Resulting from Rule Review	On Consent Agenda - Item C4 This item Approved on the Consent Agenda.	n/a

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
5. Discussion of and Possible Vote to Take Action on the Proposal of Amendments in 7 TAC, Part 5, Chapter 83, Subchapter B, Concerning Rules for Credit Access Businesses, Resulting from Rule Review	Marty Green made a motion to Approve the Proposal of Amendments in 7 TAC, Part 5, Chapter 83, Subchapter B, Concerning Rules for Credit Access Business, Resulting from Rule Review. Sharon McCormick seconded, and the motion passed.	2:04:10 Start of Discussion 2:08:18 Vote
6. Discussion of and Possible Vote to Take Action on the Proposal of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales	Will Lucas made a motion to Approve the Proposal of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Loans, and Investments by State-Chartered Banks. Marty Green seconded and the motion passed.	2:08:43 Start of Discussion 2:14:00 Vote
7. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation <i>Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 01-22-00712-CV</i> , in the Court of Appeals, Houston, Texas	No Action Required.	n/a
D. Department of Savings and Mortgage Lending		
1. Industry Status and Departmental Operations: a) State Savings Bank Examinations and Supervision Division Activities; b) Mortgage Licensing Division Activities; c) Mortgage Examinations Division Activities; d) Consumer Complaints Division Activities; e) Administration and Finance Division Activities; f) Legal Division Activities, including Gift Reporting; and g) Legislative Activities	No Action Required.	2:14:26 Start of Discussion
2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators	On Consent Agenda - Item D2 This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation <i>Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending; Cause No. JPC-23-02334-32</i> , in the Justice Court, Precinct 3, Place 2, Dallas County, Texas <i>Julius Lamunn North v. Texas Department of Savings and Mortgage Lending; et al., Cause No. 2023-50470</i> , in the District Court, 270th Judicial District, Harris County, Texas	No Action Required.	n/a

There being no further business, Chairman Phillip Holt adjourned the meeting of the Finance Commission at 12:27 p.m. (2:33:54 on the audio file).

Phillip Holt, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Ruth Wright, Executive Assistant
Finance Commission of Texas

Finance Commission of Texas

Consent Agenda

December 15, 2023

A. Finance Commission Matters

1. Review and Approval of the Minutes of the October 27, 2023 Finance Commission Meeting

C. Texas Department of Banking

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 2, Chapter 12, Concerning Loans and Investments by State-Chartered Banks

D. Office of Consumer Credit Commissioner

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales
3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 85, Subchapter B, Concerning Rules for Crafted Precious Metal Dealers, Resulting from Rule Review

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B.

**Department of Savings and
Mortgage Lending**

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B. Department of Savings and Mortgage Lending

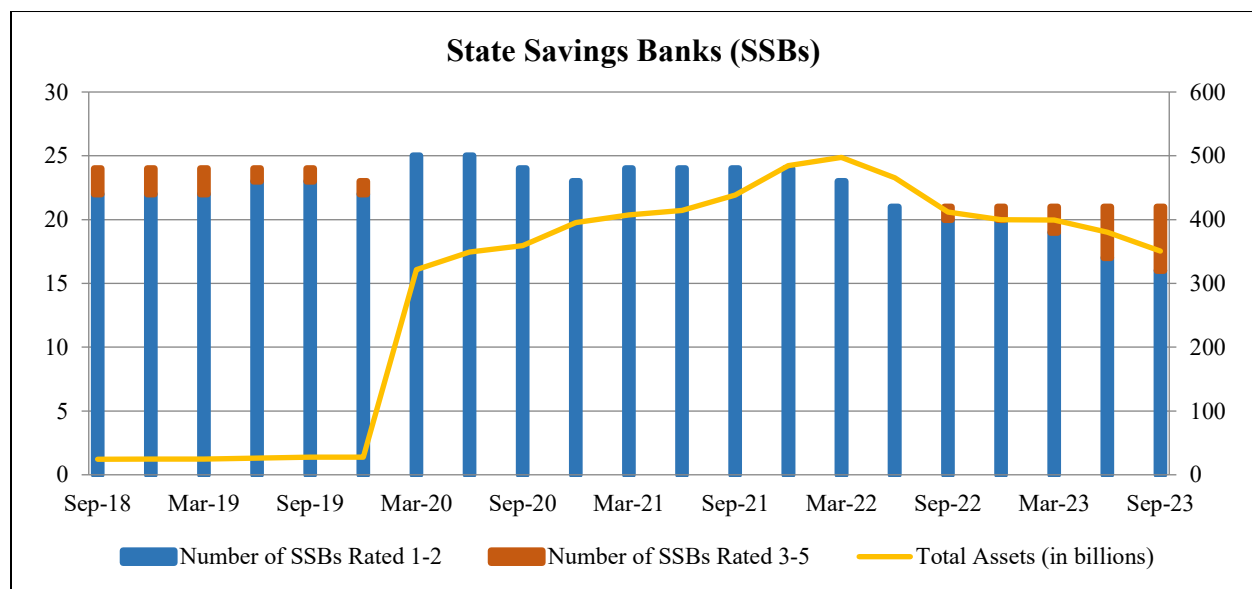
a) Thrift Regulation Division Activities

Industry Status

Thrift Examination Activity Report

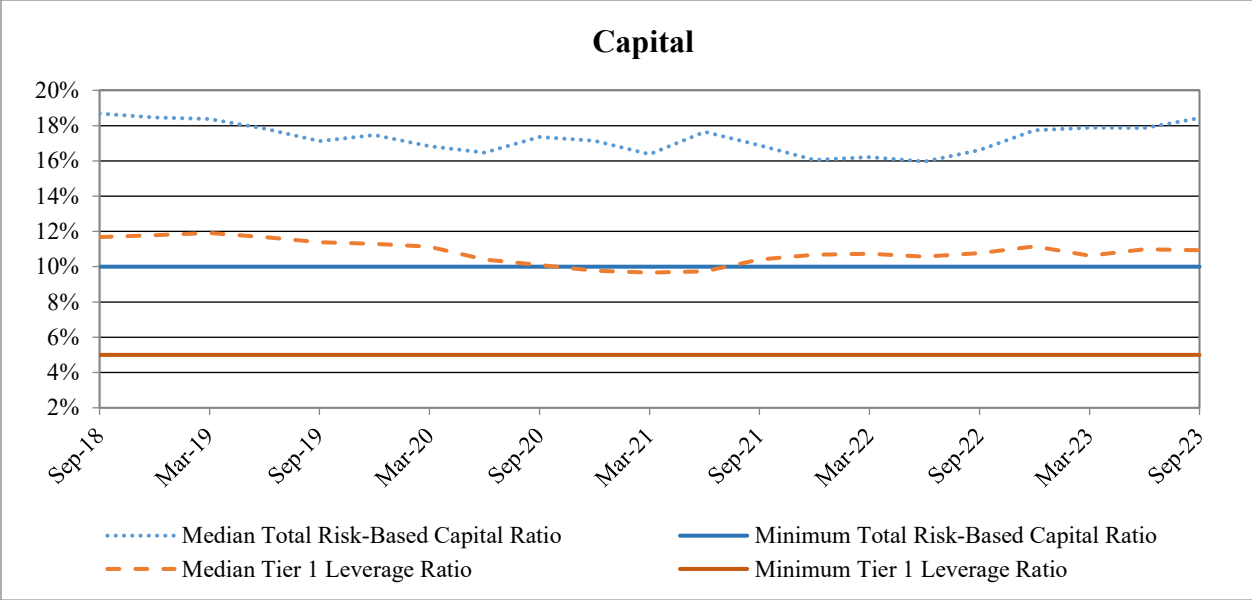
The Department continues to monitor various local, state, and national data sources to understand the risks facing the industry and individual savings banks.

The Department conducts bank examinations to ensure confidence in the banking system using the Uniform Financial Institutions Rating System (UFIRS). Banks with a UFIRS rating of 1 or 2 are considered well rated. The industry is comprised of 21 state savings banks with assets totaling \$350.6 billion as of September 30, 2023. The industry consists of 76% of banks being well rated as of September 30, 2023, and three informal supervisory actions are in place.

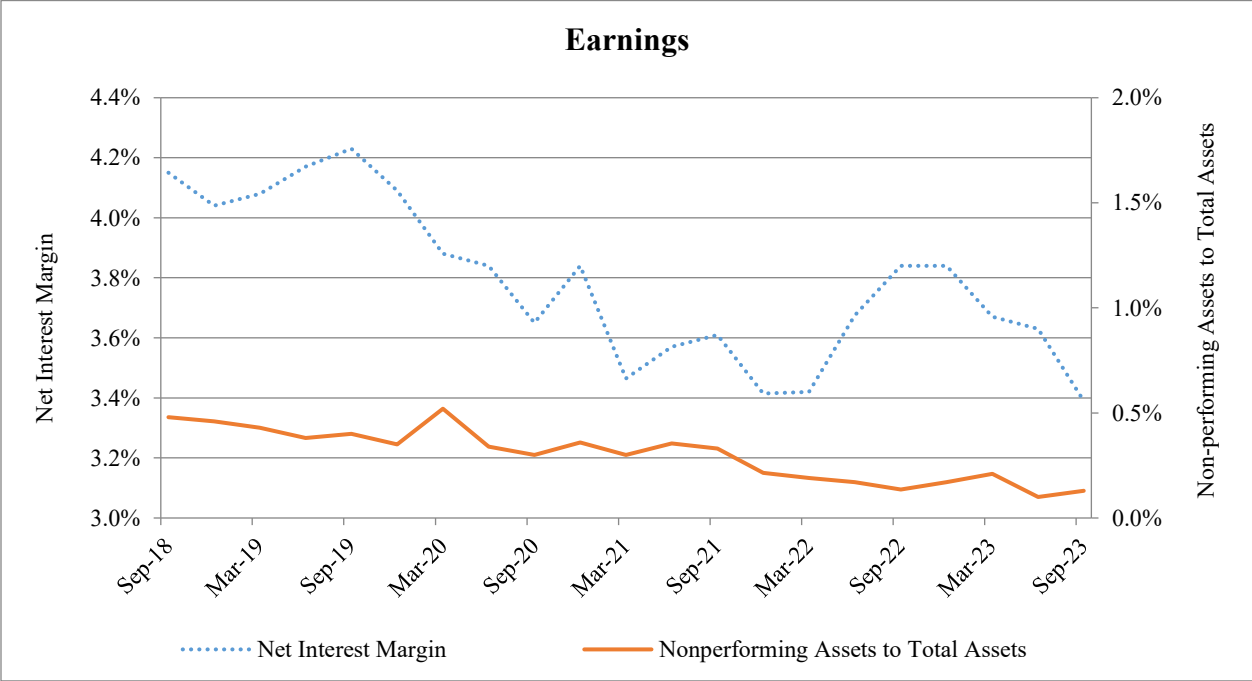


All SSBs are subject to quarterly offsite reviews. Those with the highest risk profiles receive enhanced scrutiny, as warranted, with targeted visitations, accelerated examinations, and/or corrective actions. Below are specific areas that the Department monitors in relation to changes in the state and national economic environment.

Bank capital performs several important functions, including absorbing losses, promoting public confidence, helping restrict excessive asset growth and providing protection to the depositors. Regulatory capital standards are designed to strengthen the quality and quantity of bank capital and promote a stronger financial industry that is more resilient to economic stress. As of June 30, 2023, all SSBs remain well above regulatory capital minimums. The portfolio median total risk-based capital ratio and median leverage capital protection have remained generally consistent and are now 18.43% and 10.94%, respectively.



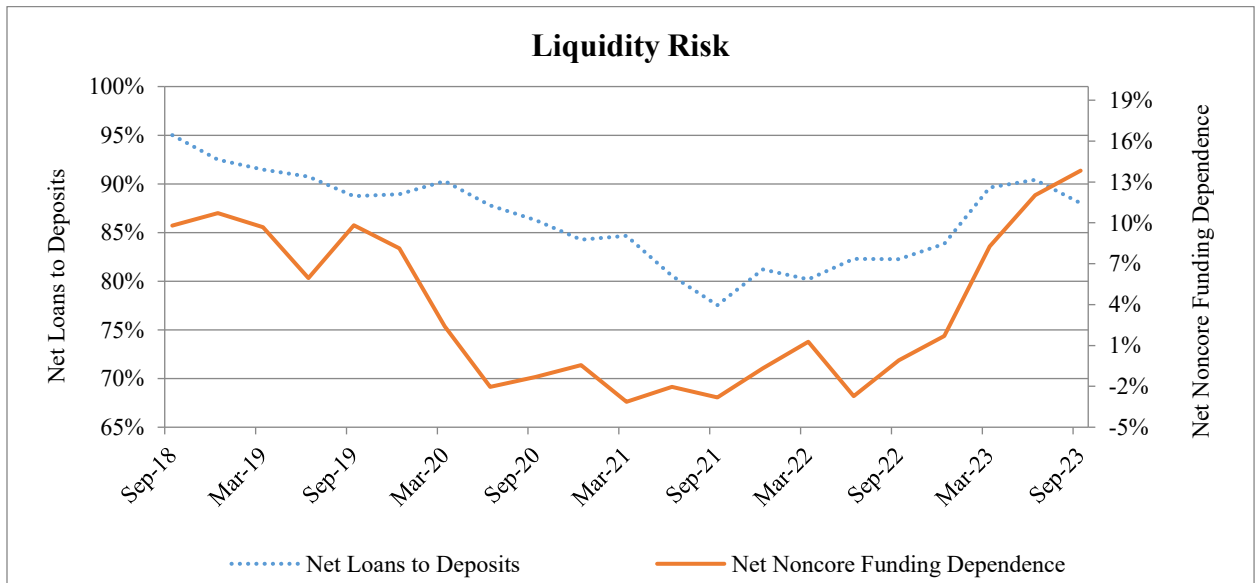
Earnings is the initial safeguard against the risk of engaging in the banking business, and is the first line of defense against capital depletion resulting from shrinkage in asset value. Earnings performance should allow the bank to remain competitive by providing the resources required to implement management’s strategic initiatives. The net interest or profit margin is 3.39%. Non-performing asset levels remain low at 0.13% of total assets.



Market risk primarily reflects exposures to changing interest rates over time. Long-term asset exposure can be an indicator of the degree of market risk taken by a state savings bank. As of September 30, 2023, the long-term assets to total assets ratio decreased to 46.78%.



Liquidity risk reflects the bank’s ability to fund assets and meet financial obligations under various scenarios, including adverse conditions. Liquidity risk is increasing. The Net Noncore Funding Dependence (NNCFD) Ratio, a measure of the funding of long-term assets using short-term funding strategies, is 13.83%. The loan-to-deposit ratio, a measure of the use of deposits to fund lending activities, is 88.03%.



Thrift Supervision Activity Report

The Thrift Supervision section continues to receive and process various requests for approval, including branch, subsidiary, and holding company applications.

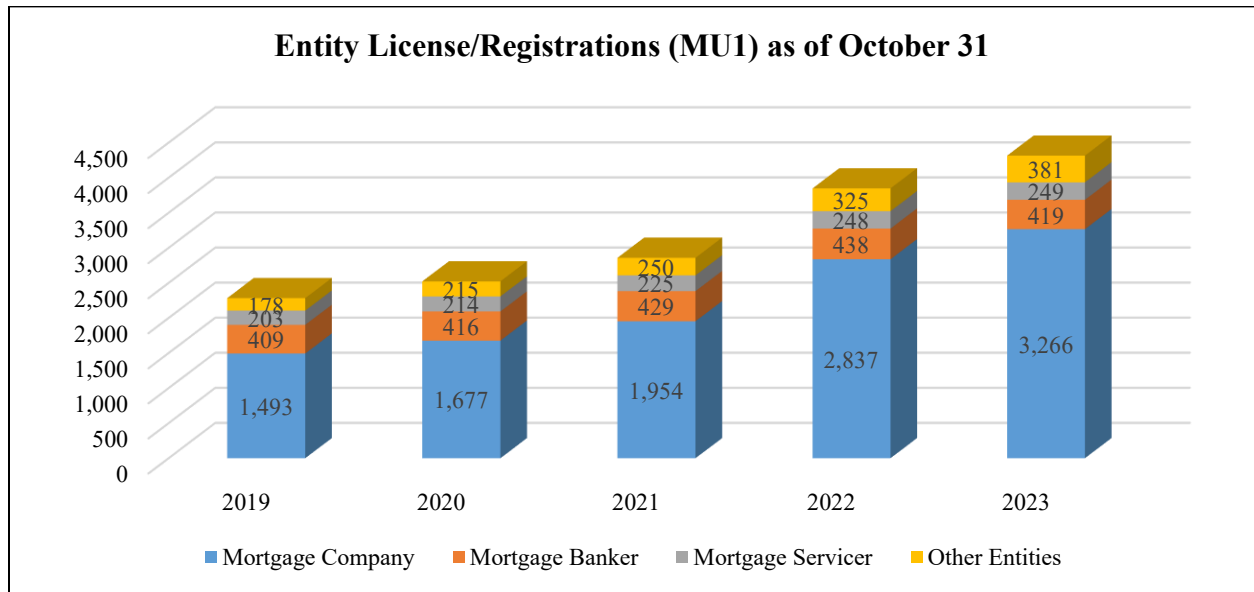
On June 30, 2023, Integrity Bank, SSB, a proposed de novo bank, filed an application for a state savings bank charter to be located in Houston, Texas. The application is under review.

b) Mortgage Regulation Division Activities

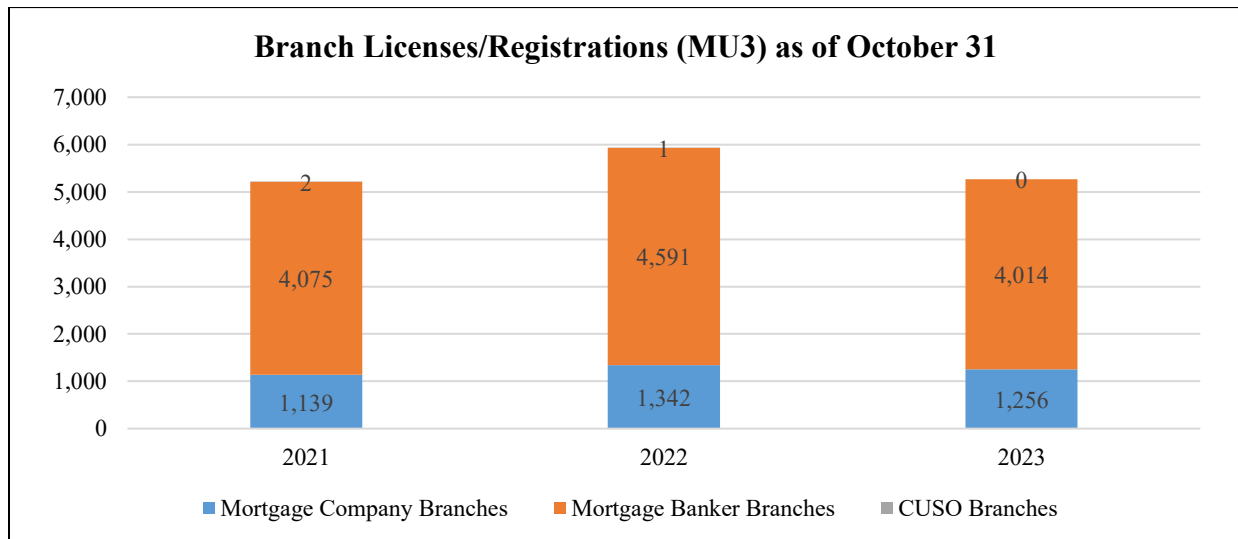
Industry Status

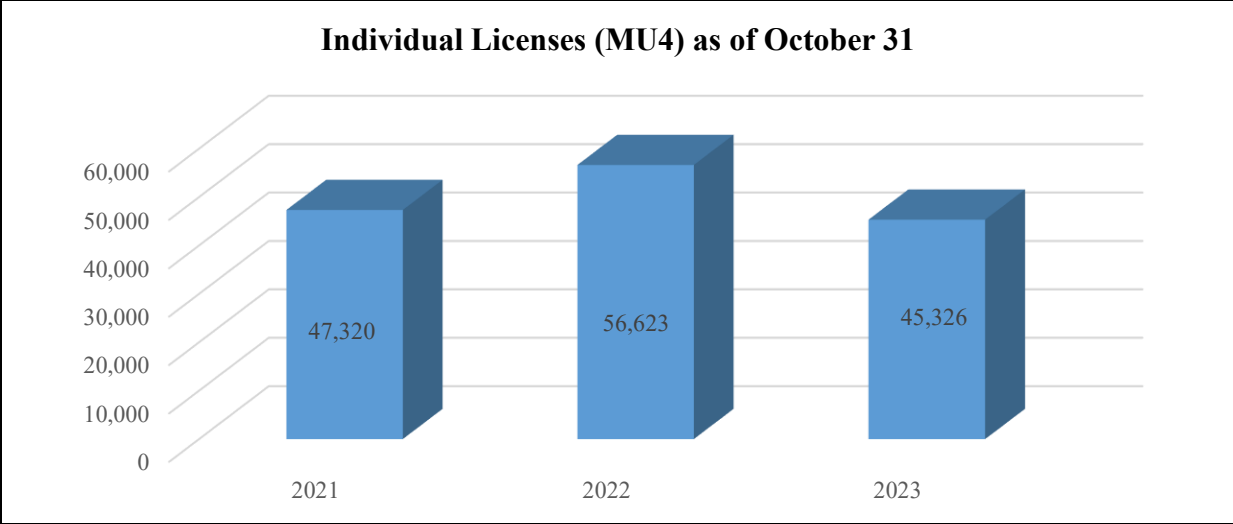
The Department continues to monitor various local, state, and national sources to identify issues impacting the mortgage industry including interest rate changes, housing supply and demand, availability and affordability of homeowner’s and flood insurance, mortgage-backed securities (MBSs) market, and trends in homeownership.

The charts below reflect historical information regarding the number of licenses and registrations in an approved status as of October 31st for the respective years shown below.



Other entities include Auxiliary Mortgage Loan Activity Company, Credit Union Subsidiary Organization (CUSO), Financial Services Company, and Independent Contractor Processor/Underwriter Company.





The most notable element in the three graphs shown above is the growth in the number of licensed mortgage companies over the past three years. Nonetheless, after the renewal and reinstatement period, the Department expects a decrease in the number of licensed mortgage companies.

Licensing Activity Report

From September 1, 2023, to October 31, 2023, the Mortgage Licensing section processed 1,307 applications and approved 1,095 applications, including 112 mortgage entities, 221 branch offices, and 762 residential mortgage loan originators. The remaining 212 applications were either withdrawn by the applicant or denied by the Department.

According to NMLS Data Analytics, the Mortgage Licensing section processed 18,367 license amendments, 885 credit report reviews, 3,041 sponsorship removals, and 2,590 sponsorship requests from September 1, 2023, to October 31, 2023.

Mortgage Examination Activity Report

From September 1, 2023, to October 31, 2023, the Mortgage Examination section issued 57 examinations covering 622 individual licensees. Compared to the same reporting period in FY2023, the overall number of examinations issued increased by 72.72% (57 versus 33); however, the number of individual licensees examined declined by 142.28% (622 versus 1,507). The significant drop in the number of individual licensees examined was due to several large mortgage bankers being examined at the beginning of the previous fiscal year.

For the first quarter, the issued examinations by the Department will be fewer because of the considerable virtual and in-person training received to adopt and implement the Conference of State Bank Supervisors (CSBS) State Examination System (SES) for multi-state, coordinated, and single-state examinations of non-depository mortgage entities.

The examinations revealed violations related to unlicensed independent loan processors, unlicensed residential mortgage loan originators, inadequate recordkeeping, failure to maintain adequate policies and procedures (e.g., Anti-Money Laundering Programs, Identity Theft Prevention Programs, Information Security Program and Remote Work Policies), non-compliant

social media advertisements, and non-compliant Conditional Pre-Qualification and Conditional Approval Letters.

Outreach and Training

On September 25, 2023, Senior Review Examiner Justin Accola attended an in-person meeting of the Performance Standards Committee held in Denver, Colorado. The Performance Standards Committee oversees all aspects of the CSBS Accreditation Program and meets periodically to evaluate accreditation standards, to review the Program’s format, content, and procedures, and to oversee accreditation reviews of state regulatory agencies. Senior Review Examiner Accola has been a member of the Committee since July 2022.

On September 27 and 28, 2023, Senior Review Examiner Justin Accola attended an in-person meeting of the National Test Maintenance Committee held in Washington, D.C. The National Test Maintenance Committee is responsible for maintaining the National Test with Uniform State Content that is administrated to applicants for a residential mortgage originator loan license.

On October 17 and 18, 2023, Director of Mortgage Regulation William Purce attended an in-person meeting of the NMLS Policy Committee held in Washington, D.C. The NMLS Policy Committee addresses the following types of issues:

- regulatory policies that govern the NMLS Program;
- system policies that govern the use of NMLS;
- suppression requests concerning NMLS Consumer Access;
- Business to Business Subscriptions; and
- Regulator and Public Comment Periods related to NMLS and the State Examination System (SES).

On November 6, 2023, the Department held its 11th Annual Mortgage Industry Day at the Westin Dallas Southlake Hotel in Southlake, Texas. The Mortgage Regulation Division staff made presentations relating to topics of interest to the industry. Below is the agenda of the event.

11th Annual Mortgage Industry Seminar

Monday, November 6, 2023
Westin Dallas Southlake Hotel, Southlake TX
1200 E State Hwy 114, Southlake TX, 76092
1:30 pm – 3:30 pm

1:30 pm – 1:35 pm	<u>Welcome and Opening Comments</u> Hector Retta, <i>Commissioner</i>
1:35 pm – 2:00 pm	<u>State Examination System (SES) - Adoption and Onboarding</u> Ellena Meier, <i>Chief Mortgage Examiner</i>

2:00 pm – 2:25 pm	<u>Enforcement Actions and Complaints</u> Iain Berry, General Counsel
2:25 pm – 2:40 pm	<u>Licensing Update and Issues</u> Chris Osuna, <i>Manager of Licensing</i>
2:40 pm – 3:15 pm	<u>Secondary Mortgage Loans – Requirements and Limitations</u> William Purce, <i>Director of Mortgage Regulation</i>
3:15 pm – 3:25 pm	<u>Open Forum Discussion</u>
3:25 pm – 3:30 pm	<u>Closing Comments</u> Hector Retta, <i>Commissioner</i>

c) Operations Division Activities

Risk Management

The Department’s staff prepared and submitted the annual report on the Department’s FY2022 expenditures for risk management activities to the State Office of Risk Management (SORM). The report, also known as SORM 200, is used by SORM to capture costs associated with agency risk management programs and compile the administrative costs of risk management, in accordance with Section 412.053 of the Texas Labor Code.

The Risk Management Program Review is scheduled to be performed on May 17, 2024. The review will be conducted under authority of Texas Labor Code, Title V, Subtitle A, Chapter 412, and is designed to assist state agencies with the development and implementation of comprehensive risk management program that meets the Risk Management for Texas State Agencies (RMTSA) Guidelines.

Accounting, Budget, and Financial Reporting

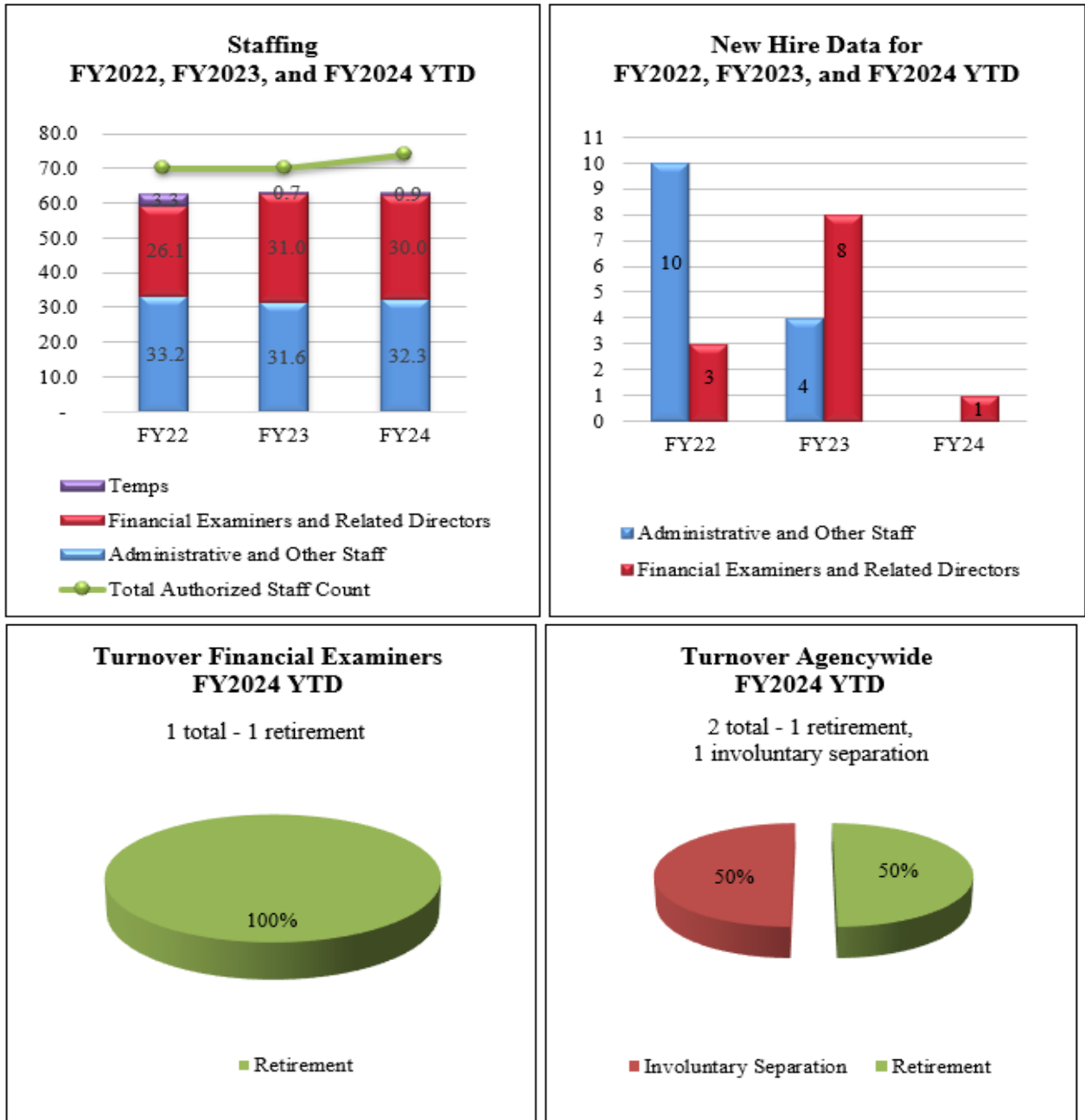
Staff is working on closing first quarter of fiscal year 2024.

As a self-directed semi-independent agency, the Department of Savings and Mortgage Lending submitted annual financial information required under Finance Code, Section 16.005(c), for fiscal year 2023, to oversight agencies and members of the legislature.

Pursuant to Government Code, Section 661.902(d), the Department has reported information to the Comptroller of Public Accounts on emergency leave granted to employees during the prior fiscal year.

Human Resources

Staffing Charts as of November 31, 2023



As of December 1, 2023, the Department was staffed at 64 regular full-time employees. On December 1, a Financial Examiner-Thrift separated, and three new hires joined the Department – a Management Analyst, an Administrative Assistant, and a Consumer Responsiveness Investigator.

Below is the status of the Department’s vacancies:

Vacancy Status	
Management Analyst III-IV Financial Examiner VI/VII – Thrift Examinations - 3	Filled
Investigator II-V - 2	
Administrative Assistant II/III	
Financial Examiner I – Thrift Examinations - 2	Collecting and reviewing applications
Financial Examiner I-II -Thrift Examinations (Information Technology)	
Financial Examiner VI/VII– Thrift Examinations - 2	
Financial Examiner V – Thrift Examinations (Loan Review) - 2	Preparing posting

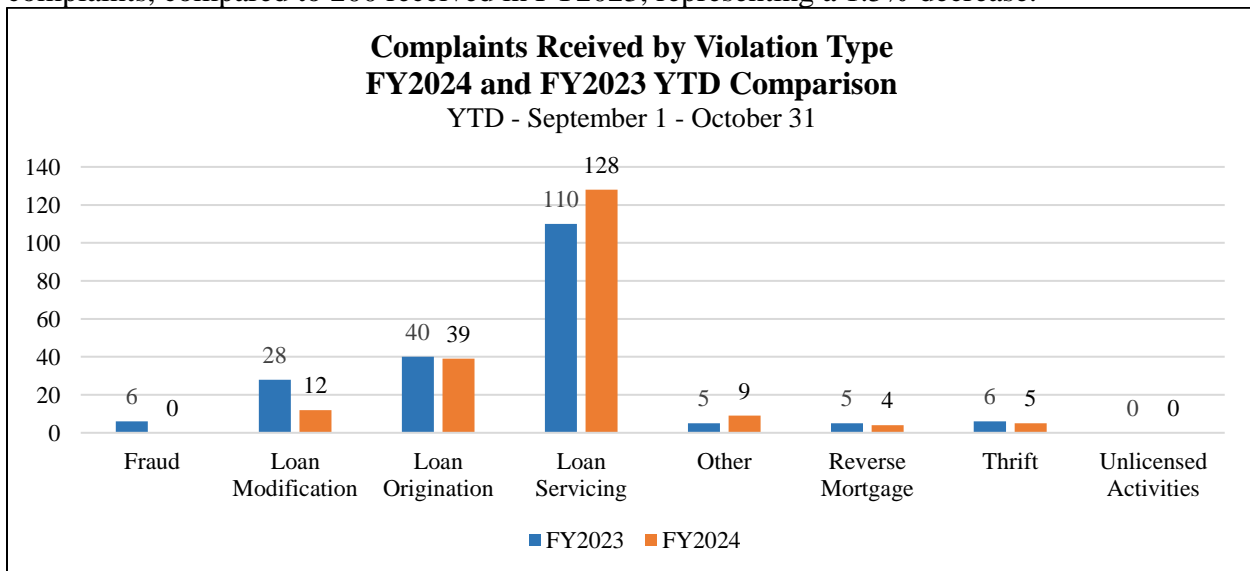
Outreach and Training

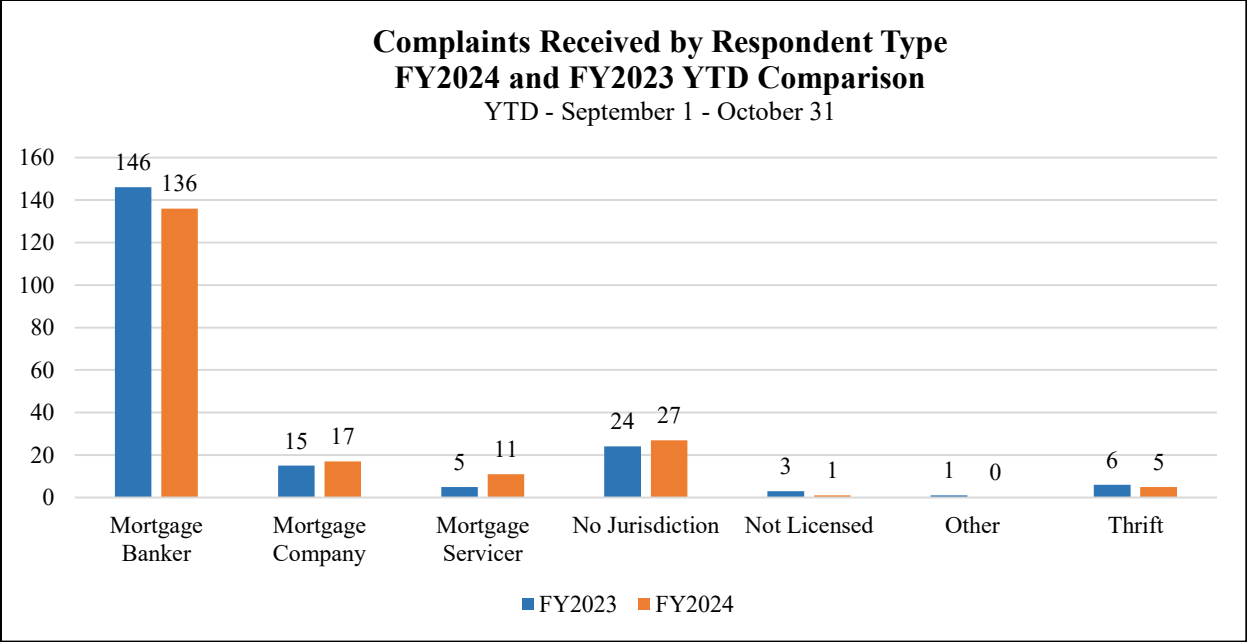
The quarterly agencywide meeting and training was held on November 9, 2023. Sessions covered topics related to the Strategic Plan, and Information and Human Resources. Additionally, the agenda included webinars on office safety and wellness.

d) Legal Division Activities, including Consumer Complaints and Gift Reporting

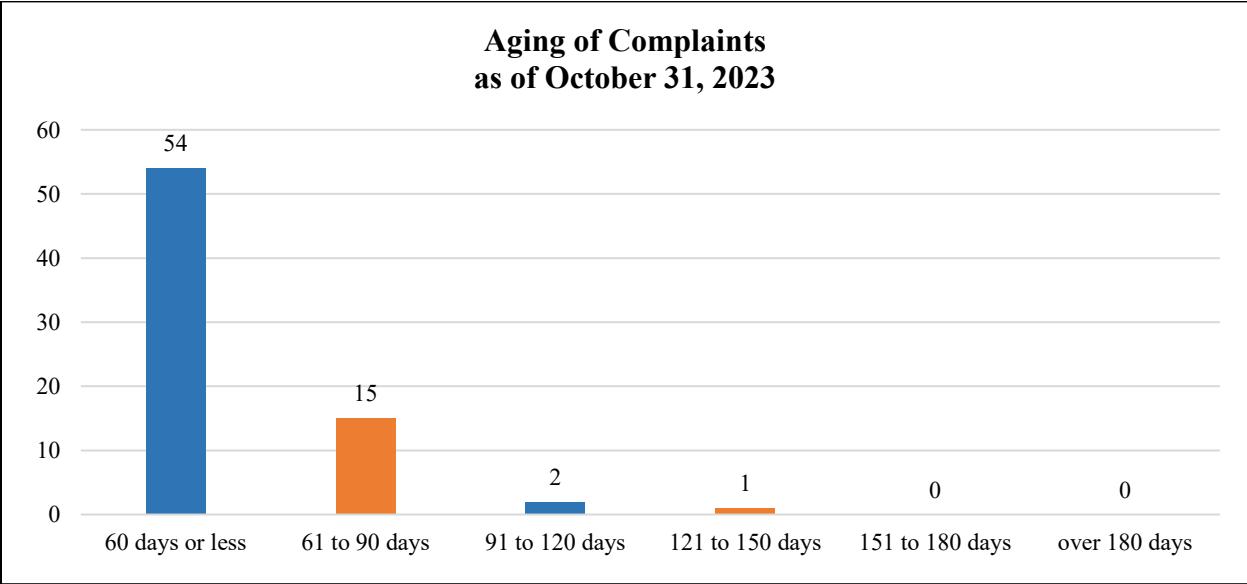
Consumer Complaints Activity Report

Complaints Received – In September and October 2023 (FY2024), the Department received 197 complaints, compared to 200 received in FY2023, representing a 1.5% decrease.





Aging of Open Complaints – As of October 31, 2023, there were 72 open complaint files. Complaint aging is acceptable with 99% of complaints aged 120 days or less.



Closed Complaints – In September and October 2023, a total of 219 complaints were closed. Data for the first quarter of FY2024 will be provided at the February 2024 meeting of the Finance Commission.

Legal and Enforcement Activity Report

Mortgage Enforcement Actions – In September and October 2023, nine enforcement actions were taken. Data for the first quarter of FY2024 will be provided at the February 2024 meeting of the Finance Commission.

Recovery Claims – In September and October 2023, the Department did not receive any recovery claim applications. Data for the first quarter of FY2024 will be provided at the February 2024 meeting of the Finance Commission.

Status of Pending Recovery Claim Applications as of October 31, 2023	
Pending Investigation	2
Pending Preliminary Determination Letter	6
Preliminary Determination Letter Issued, Pending Opportunity to Appeal	0
On Appeal	0
Open to Facilitate Resolution by the Parties	0
Total	8

Contested Cases at the State Office of Administrative Hearings (SOAH)

The Department does not have any cases pending at SOAH.

Litigation

Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending (Cause No. JPC-23-02334-32; in the Justice Court, Precinct 3, Place 2, Dallas, County, Texas) In this lawsuit, Mr. Schoenbauer seeks to compel the Department to take action that would, in turn, cause the insurer on a lender-placed homeowner’s insurance policy (a policy that insures Mr. Schoenbauer’s home and protects the mortgagee against loss) to add Mr. Schoenbauer as an insured. On May 5, 2023, Mr. Schoenbauer filed his original petition. On June 16, 2023, the Department, represented by the Office of the Attorney General, filed its original answer. On June 29, 2023, Mr. Schoenbauer filed his response to the Department’s original answer. No activity has occurred in this proceeding since the Finance Commission’s August 18, 2023, meeting.

Julius Lamunn North v. Texas Department of Savings and Mortgage Lending, et al. (Cause No. 2023-50470; in the District Court, 270th Judicial District, Harris County, Texas) In this lawsuit, Mr. North alleges violations of the Texas Deceptive Trade Practices-Consumer Protection Act (Tex. Civ. Prac. & Rem. Code Ch. 17, Subchapter E). Mr. North seeks unspecified damages in excess of \$1 million and unspecified injunctive relief. On August 7, 2023, Mr. North filed his original petition. On September 5, 2023, the Department, represented by the Office of the Attorney General, filed its original answer. On September 12, 2023, the court issued a scheduling order establishing various deadlines for the proceeding. On October 4, 2023, the Department filed its plea to the jurisdiction and motion to dismiss, seeking to dismiss the case. On November 21, 2023, the Department’s motion to dismiss and plea to the jurisdiction was granted, and the case was dismissed.

Public Information Requests

During September and October FY2023, the Department received 21 public information requests. Data for the first quarter of FY2023 will be provided at the February 2024 meeting of the Finance Commission.

Rulemaking

SML Future Rule Activity		
Rule	Rulemaking Action	Projected Date for Presentation
Chapter 78, Wrap Mortgage Loans	Proposed Rule Changes Resulting From Rule Review	April 2024
Chapter 79, Residential Mortgage Loan Servicers	Proposed Rule Changes Resulting From Rule Review	April 2024
Chapter 80, Residential Mortgage Loan Companies	Proposed Rule Changes Resulting From Rule Review	April 2024
Chapter 81, Mortgage Bankers and Residential Mortgage Loan Originators	Proposed Rule Changes Resulting From Rule Review	April 2024
Chapter 51, Department Administration	Rule Review	FY2025

Gift Reporting

During September 26-28, 2023, Senior Review Examiner Justin Accola attended the Nationwide Multistate Licensing System (NMLS) National Test Maintenance Committee meeting. Airfare, transportation, and meal expenses totaling \$454.42 were reimbursed by the Conference of State Bank Supervisors (CSBS). CSBS also directly paid for hotel accommodations of approximately \$800.00.

During October 16-18, 2023, Director of Mortgage Regulation William Purce attended the NMLS Policy Committee meeting. Airfare, transportation, and meal expenses, totaling \$697.67 were reimbursed by CSBS. CSBS also directly paid for hotel accommodations of approximately \$800.00.

On October 19, 2023, Justin Accola, William Purce, and Chief Mortgage Examiner Ellena Meier, attended the Texas Mortgage Bankers Association webinar: “Navigating the Future: Expert Insights on Mortgage Economics & Forecasts.” The total registration fee of \$177.00 was waived.

e) Legislative Activities

On October 9, 2023, the third special session of the 88th Legislature convened on October 9, 2023, and ended on November 7, 2023. No legislation was enacted that would significantly impact the Department or its regulated industries. On November 7, 2023, the fourth special session of the 88th Legislature convened. On that same date, (November 7, 2023), Texas voters approved Proposition 4, arising from HJR2, the enabling legislation for SB2, enacted during the 88th Legislature, second special session. The legislation, among other things: (i) uses appropriated funds to pay school district maintenance and operation expenses, offsetting those amounts and lowering property tax rates; (ii) increases the homestead exemption from \$40,000 to \$100,000; and (iii) limits appraisal increases on non-homestead property to 20% per year.

2. Discussion of and Possible Action Regarding Anticipated and Pending Litigation

Anticipated Litigation

None

Pending Litigation

Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending (Cause No. JPC-23-02334-32; in the Justice Court, Precinct 3, Place 2, Dallas, County, Texas)

Julius Lamunn North v. Texas Department of Savings and Mortgage Lending, et al. (Cause No. 2023-50470; in the District Court, 270th Judicial District, Harris County, Texas)

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C.

Texas Department of Banking

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Charles G. Cooper
Commissioner

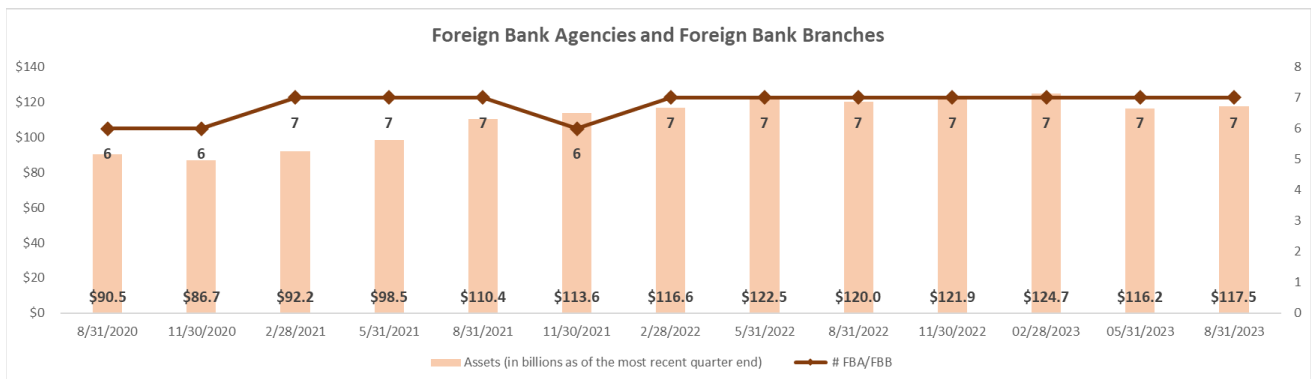
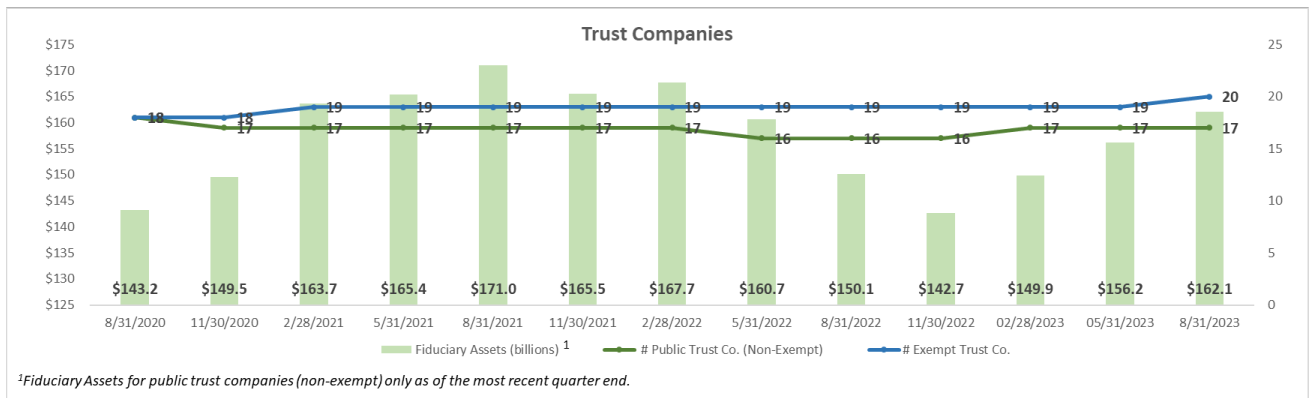
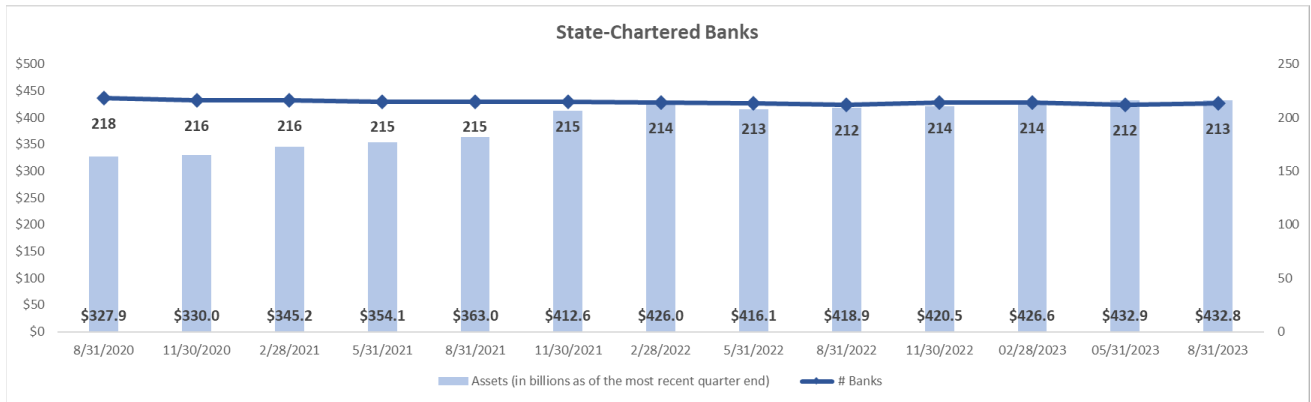
TEXAS DEPARTMENT OF BANKING

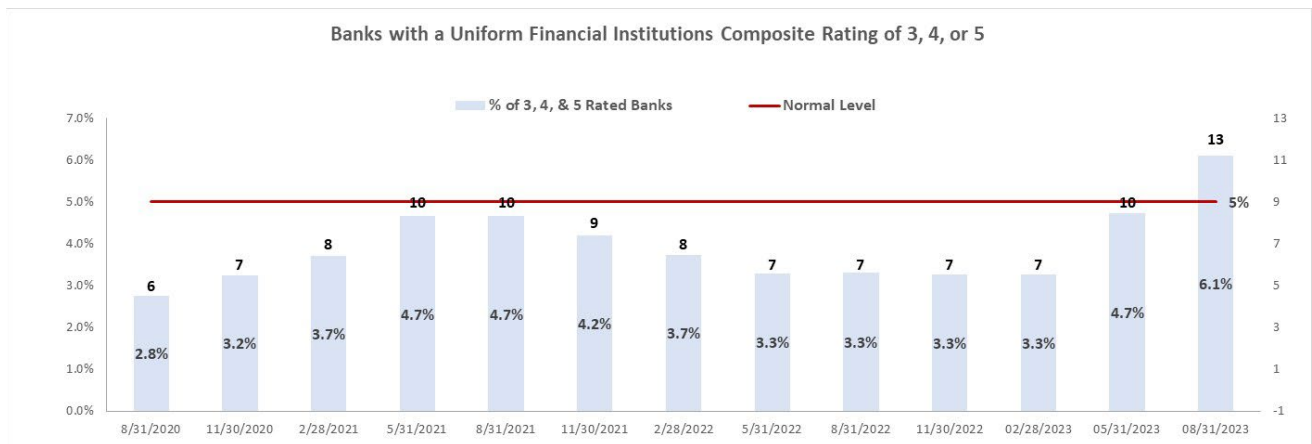
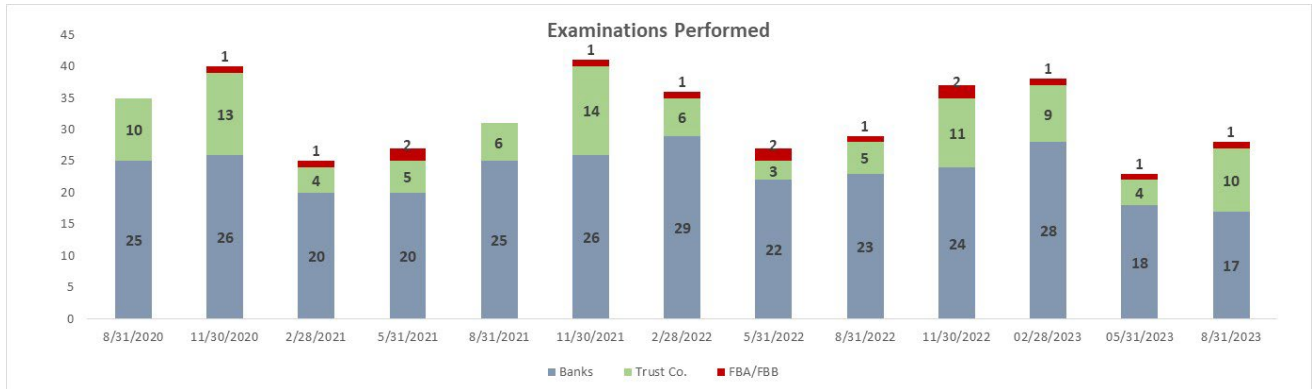
2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 /877-276-5554
www.dob.texas.gov

To: Finance Commission Members
From: Jared Whitson, Director of Bank & Trust Supervision *JW*
Date: November 29, 2023
Subject: Summary of the Bank & Trust Supervision Division Activities

Bank and Trust Supervision – Industry Profiles

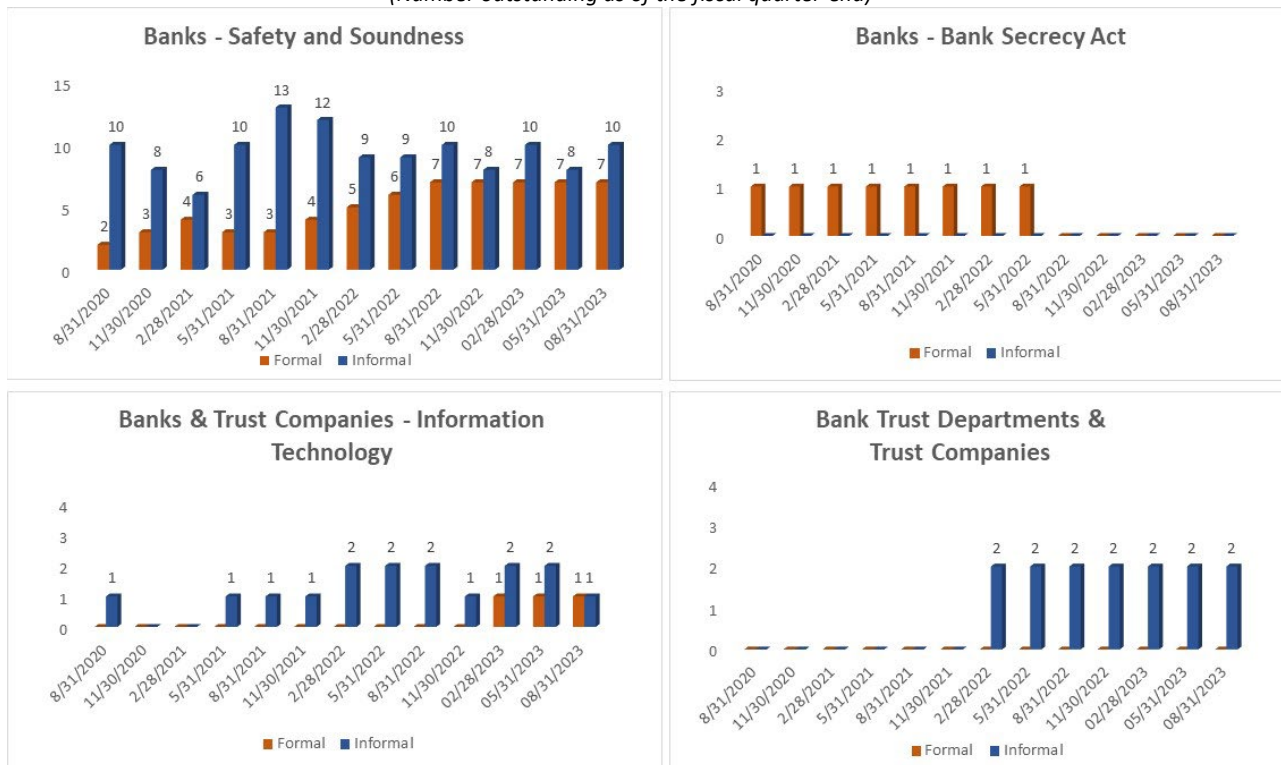
As of fiscal quarter-end (assets as of the preceding calendar quarter)





The Department considers any bank with a Uniform Financial Institutions Composite Rating of 3, 4, or 5, to be a problem bank. As illustrated above, the number of problem banks increased to 13 and above the normal range of 3% and 5% of the total number of institutions. The rapid interest rate hikes over the past year coupled with inadequate risk management practices have negatively impacted several institutions. In addition, liquidity pressures within the industry and increased competition for deposits is compressing net interest margins, which is likely to continue for the foreseeable future.

Enforcement Actions Outstanding by Type
 (Number outstanding as of the fiscal quarter-end)



Formal actions include Orders to Cease and Desist, Consent Orders, Written Agreements and Supervisor Actions. Informal actions include Determination Letters, Memoranda of Understanding, Commitment Letters and Board Resolutions. Compliance actions are not included.

Compliance with Examination Priorities

Percent of examinations conducted within Department guidelines.

Entity Type	FY 2023	FY 2024 (YTD – October 2023)
Commercial Banks	92%	90%
IT	91%	90%
Trust Departments	86%	100%
Foreign Banks (FRB)	100%	100%
Trust Companies (DOB)	81%	100%
IT	82%	100%

Examination categories with less than 95% of examinations conducted within guidelines for FY 2024 include:

- Bank Examinations – 3 exams past due by an average of 16 days.
- IT Examinations of Banks – 3 exams past due by an average of 21 days.

Division Highlights

- **Interest Rate Risk:** The Department continues monitoring the increase in market rates and its effects on banks' financial condition. Banks' net interest margins generally improve in a rising rate environment as short-term assets reprice at higher yields. However, financial institutions with a sizable portion of their assets in long-term securities and/or loans could see net interest margin compression as funding costs increase faster than asset yields. Furthermore, banks' fixed rate investments decline in value in a rising rate environment.
- **Credit Risk:** Examinations reveal that credit quality remains generally sound despite the surge in interest rates. The Department continues monitoring commercial real estate concentrations, and the market fundamentals for office space have deteriorated by the shift to remote work options.
- **Liquidity Monitoring:** The Bank & Trust Supervision division continues monitoring the liquidity posture of Texas state-chartered banks. This monitoring includes contacting banks about their liquidity positions, including obtaining current information on liquidity and deposit trends. Competition for deposits is noticeable as consumers are now more rate sensitive.
- **Special Operations and Conferences:**
 - On October 18, 2023, Commissioner Charles G. Cooper attended the Federal Deposit Insurance Corporation (FDIC) Advisory Committee of State Regulators Meeting held at FDIC Headquarters in Washington, D.C.
 - On October 23, 2023, Dallas Regional Director Tom Susany represented the Department on a regulatory panel discussing accounting and general overview of the issues impacting community banks at the Texas Society of Certified Public Accountants (TXCPA) in Dallas, Texas.
 - Beginning on November 6, 2023, Commissioner Cooper, Director of IT Security Phillip Hinkle, Review Examiner Kevin Wu, and Examiner Jay Voigt represented the Department at the Conference of State Bank Supervisors (CSBS) Cyber & IT Supervisory Forum held in Austin, Texas. Commissioner Cooper provided the opening remarks and Examiner Voigt was a part of a regulatory panel discussing the future of examination tools.
 - On November 10, 2023, Commissioner Cooper represented the Department on a regulatory panel at the Southwest Graduate School of Banking Foundation (SWGSB) Certified Community Bank Director's (CCBD) Program in Dallas, Texas.
 - Beginning on November 13, 2023, Director Hinkle attended the Federal Banking Agency Significant Service Provider Strategy Forum on Cybersecurity in Washington, D.C.
 - Beginning on November 14, 2023, Houston Regional Director Greg Wisian attended a virtual Federal Financial Institutions Examination Council (FFIEC) International Banking Conference.
 - Beginning on November 28, 2023, Director Hinkle represented the Department at the Financial and Banking Information Infrastructure Committee / Financial Services Sector Coordinating Council (FBII-CFSSCC) Conference on Cybersecurity in Washington, D.C.

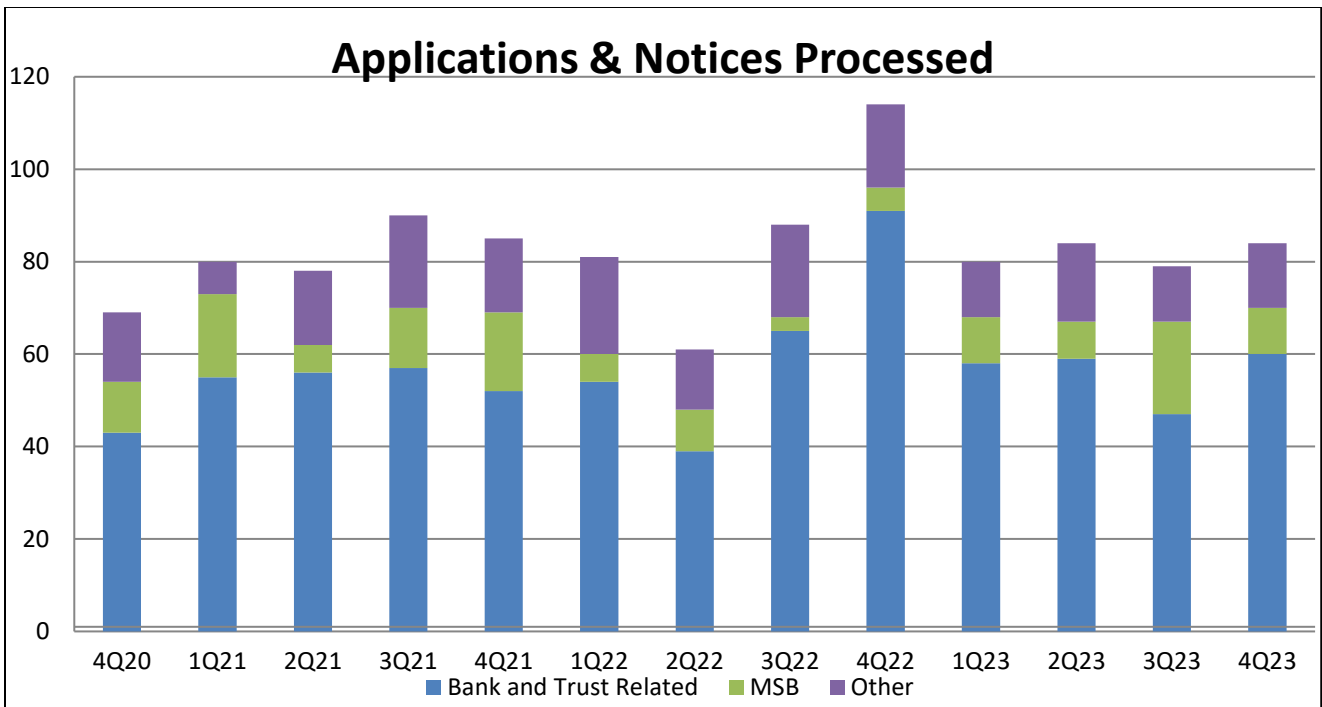


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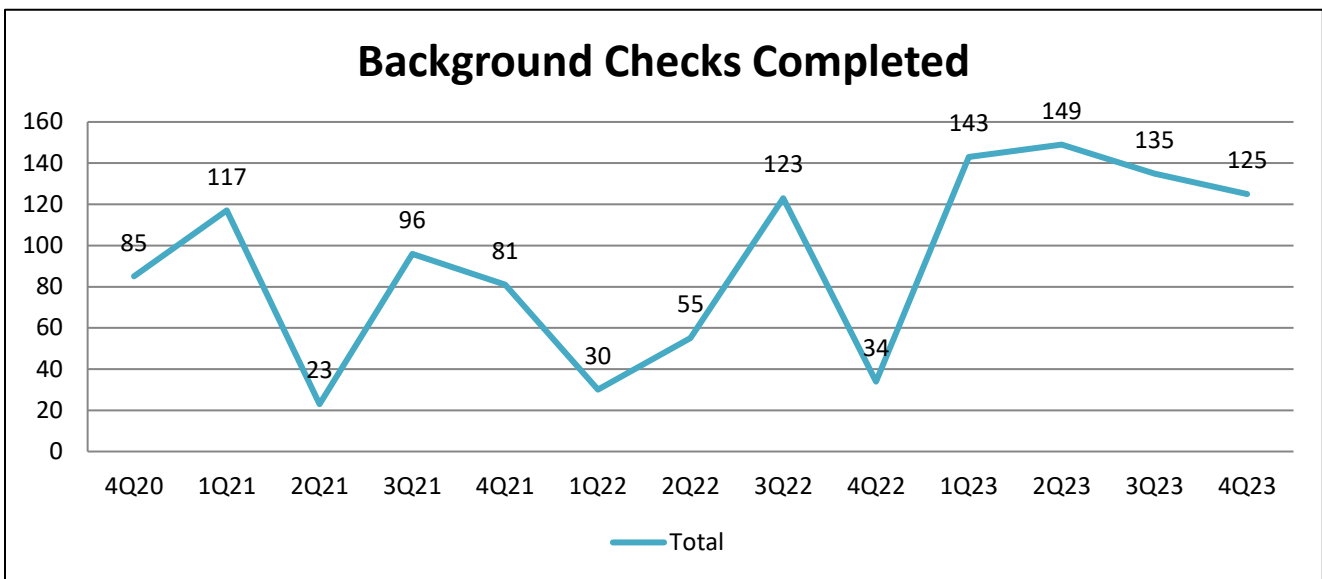
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 512-475-1300 / 877-276-5554
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Charles G. Cooper
 Commissioner

To: Finance Commission Members
 From: Dan Frasier, Director of Corporate Activities and Financial Innovation *DBF*
 Date: November 28, 2023
 Subject: Summary of Corporate Division Activities



Information on a Fiscal Quarter Basis.



Information on a Fiscal Quarter Basis.

Entities	Applications and Notices Currently Under Review (as of October 31, 2023)	Change Since Last Finance Commission Report	
		Change in Open Filings	Percent Change
Bank Related	20	-5	-20%
Trust Companies	3	-1	-25%
Money Services Business (MSB)	27	-5	-16%
Others	4	0	0%
Totals	54	-11	-17%

The number of open filings decreased by 17% compared to the level reported at the last Finance Commission meeting. The decrease is predominantly from fewer open bank branch applications and MSB license applications.

Division Highlights

- **Significant Applications:** Since the last report, the following significant bank applications have been received:
 - None.
- **Charter, Conversion, and Merger Activity:** Since the last report, the following transactions have consummated:
 - *Banks*
 - First National Bank of Jasper, Jasper, merged with and into First State Bank of Livingston, Livingston, [estimated gain in state banking assets of approximately \$311 million].
 - *Trust Companies*
 - None.



Charles G. Cooper
Commissioner

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To: Finance Commission Members
From: Jesus "Jesse" Saucillo, Director of Non-Depository Supervision
Date: December 1, 2023
Subject: Summary of Non-Depository Supervision (NDS) Activities

		FY 2024								
Entity	FY 2023		1 st		2 nd		3 rd		4 th	
Industry Profile (# / Assets (billions))										
Money Services Businesses (MSB)	194	\$342.5	*	*						
Prepaid Funeral Contract (PFC)	337	\$4.9	*	*						
Perpetual Care Cemeteries (PCC)	244	\$460.7**	*	*						
Check Verification Entities (CVE)	2	n/a	*	*						
Examinations Performed										
MSB	98		*							
MSB Limited Scope	2		*							
MSB Accepted other State	4		*							
PFC	220		*							
PFC Limited Scope	2		*							
PCC	138		*							
PCC Limited Scope	1		*							
Ratings (# / %) Assigned to All Regulated Entities										
1	277	36.84%	*	*						
2	414	55.05%	*	*						
3	55	7.31%	*	*						
4 & 5	6	0.80%	*	*						
Noncompliance with Examination Priorities (Past Due)										
MSB	6		*							
PFC	18		*							
PCC	12		*							

NOTES:

- * First quarter Fiscal Year 2024 data has not been finalized and will be provided in the division's next summary.
- ** PCC \$ amounts reflected in the millions.
- Limited scope examinations do not receive a rating.

Examination Activities

As noted on the previous page, analysis of the division's industry profiles and examination performance for the first quarter of fiscal year (FY) 2024 ending November 30, 2023, has not been finalized as of the date of this memorandum. It is anticipated that NDS will meet all performance measures for the first quarter of FY 2024. However, the division will be challenged to meet examination performance measures in subsequent quarters due to recent financial examiner vacancies. A summary of the division's personnel status is detailed below.

- The division has two financial examiner vacancies in the MSB area. Further, beginning in the second quarter of FY 2024, two additional MSB financial examiner positions were budgeted to assist the division in complying with examination performance measures. Interviews to fill some of the vacancies are expected for mid-December 2023.
- Two PFC/PCC financial examiners are in the training phase and it is anticipated that both financial examiners will complete their training in the Spring of 2024. Once their initial training is complete, they should be able to conduct examinations of larger and more complex license holders.

Division Activities

- Events and Training
 - Director Saucillo attended the second week of the Governor's Executive Management Development Program in Galveston, Texas, on November 6, 2023. The course covers organizational strategy, infrastructure management, resource management, and personal effectiveness through a three-week program. The final week of the three-week training will be held the week of December 4th.
 - Department staff attended the Payment Systems Risk Conference in Arlington, Virginia, on October 31, 2023. The conference discussed wholesale and retail payment systems, emerging payment processes and technology, and the impact on the financial industry.
- Division staff continues to monitor for, and investigate activities conducted in non-compliance with applicable regulations. During this reporting period, NDS issued regulatory enforcement actions against entities offering and conducting MSB activities in violation of applicable rules and regulations.
 - As mentioned in the prior Finance Commission meeting, a settlement and consent order was entered into with ACI Payments, Inc., as a result of its failure to properly safeguard consumer data. The settlement was a result of collaboration between state MSB regulators and attorneys general.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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Memorandum

To: Finance Commission Members
From: Wendy Rodriguez, Deputy Commissioner
Date: December 1, 2023
Subject: Summary of the Human Resources Division Activities

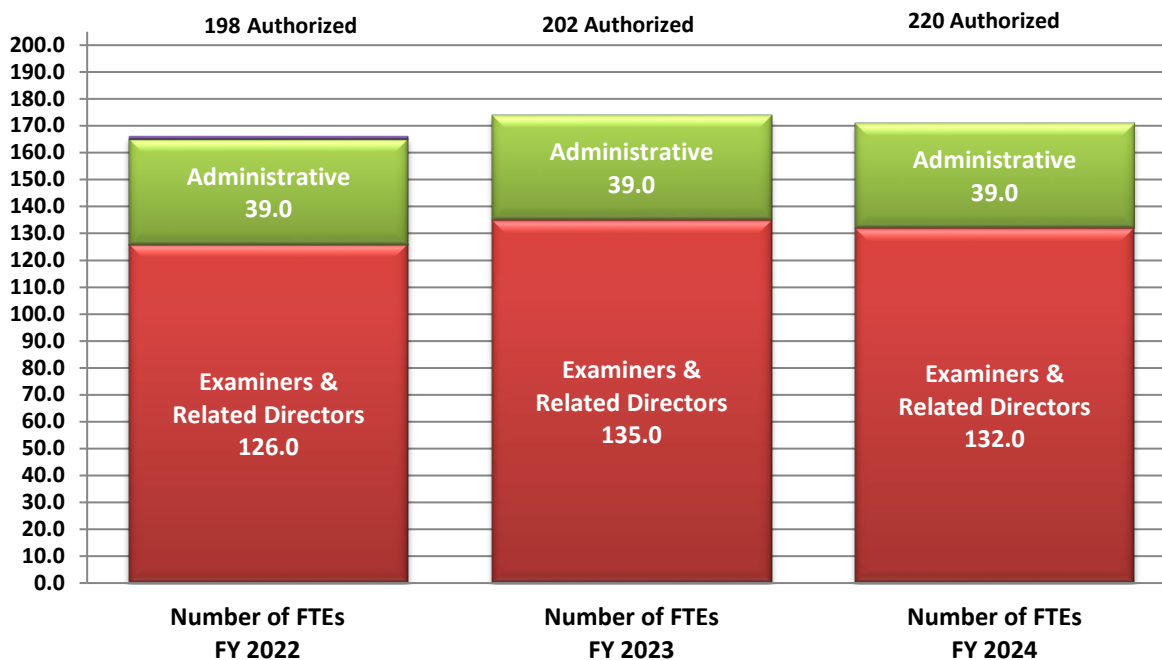
Active Postings				
Number of Positions	Position	Division	Status	Activities
3	Financial Examiner I-III: Asst. IT Examiner (Dallas, Houston, Lubbock)	Bank and Trust	Closes January 21, 2024	Recruiting
1	Information Security Officer (HQ)	Bank and Trust	Open Until Filled	Recruiting
1	Administrative Assistant III-IV	Corporate	Open Until Filled	Interviewing
2	Compliance Analyst I-II: Consumer Assistance Specialist (HQ)	DSS	Open Until Filled	Recruiting
3	Financial Examiner IV-VII: Information Technology Specialist	Bank and Trust	Open Until Filled	Recruiting
2	Attorney II-III (HQ)	Bank and Trust	Open Until Filled	Recruiting
1	Director III-V: Strategic Support	DSS	Open Until Filled	Recruiting
2	Financial Examiner V: Credit Review Specialist	Bank and Trust	Open Until Filled	Recruiting
2	Financial Examiner VI-VII: Commercial Bank Examiner	Bank and Trust	Open Until Filled	Recruiting
1	Financial Examiner IV-VI: Financial Analyst – Training Coordinator	Bank and Trust	Open Until Filled	Recruiting
2	Financial Examiner III-IV: Corporate Analyst (HQ)	Corporate	Open Until Filled	Recruiting

Status of Postings that Closed before December 1, 2023				
Number of Positions	Position	Division	Status	Activities
1	Legal Assistant III (HQ)	Bank and Trust	Closed November 17, 2023	Interviewing
1	Human Resources Manager VI-VII	Bank and Trust	Closed November 10, 2023	Interviewing
3	Financial Examiner I: Assistant Bank Examiner (Lubbock)	Bank and Trust	Closed October 27, 2023	Selection
2	Financial Examiner I: Assistant Bank Examiner (San Antonio)	Bank and Trust	Closed October 24, 2023	Selection
3	Financial Examiner I: Assistant Bank Examiner (Dallas)	Bank and Trust	Closed October 24, 2023	Selection
1	Financial Examiner I: Assistant Trust Examiner (Dallas, Houston)	Bank and Trust	Closed October 24, 2023	Selection
2	Financial Examiner I-II: MSB (Houston, Dallas)	NDS	Closed October 25, 2023	Interviewing

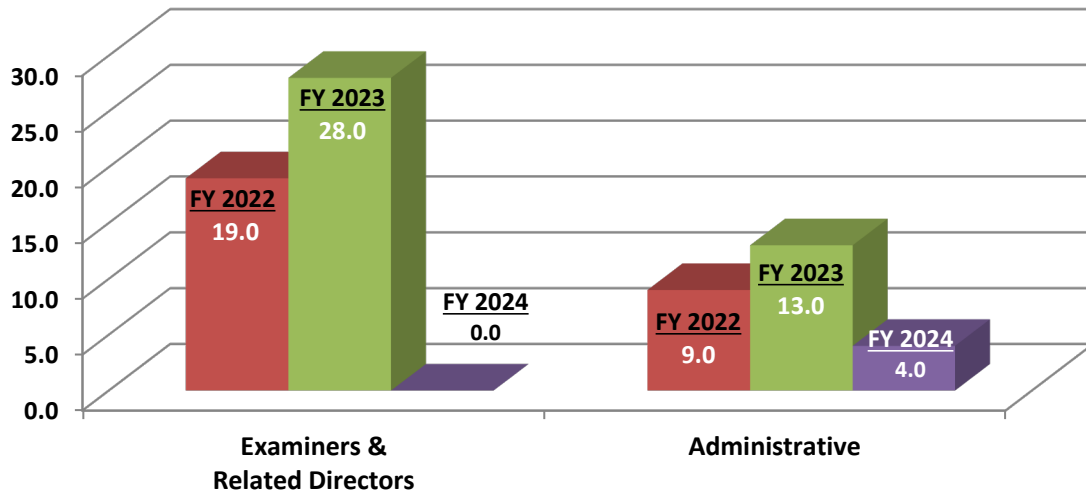
Division Activities:

- *Texas Workforce Commission Personnel Policy and Procedure System Review:*
 - *Division is preparing for this regularly scheduled 6-year review.*
 - *Initial requested information has been submitted.*
 - *Official review will begin in the 3rd Quarter of FY 2024.*
- *New Employee Orientation (NEO) was held on November 6, 2023.*
 - *Legal – General Counsel, Robert Nichols*
 - *Strategic Support – Editor, Chris Hawkes*
- *The FE-I Postings (two rounds) resulting in 11 new hires scheduled to start January 8, 2024.*
 - *Round 1:*
 - *2-Lubbock*
 - *3-Houston*
 - *1-San Antonio*
 - *Round 2:*
 - *2-Lubbock*
 - *3-Dallas*
- *CAPPS Onboarding:*
 - *Feature has been delayed due to HR staffing but is anticipated to be online for the January 8, 2024, NEO.*

**Texas Department of Banking
Employee Data for Fiscal Years 2022, 2023 and 2024 as of
11/30/2023**

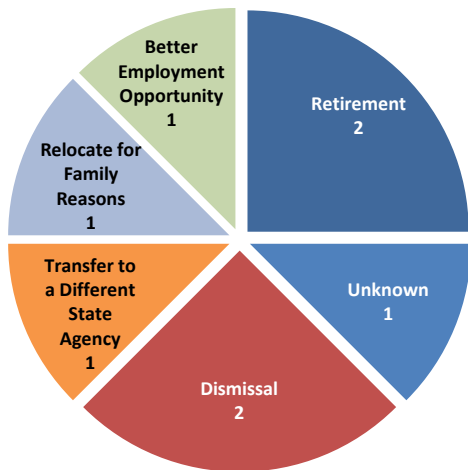


New Hire Data for Fiscal Years 2022, 2023 and 2024

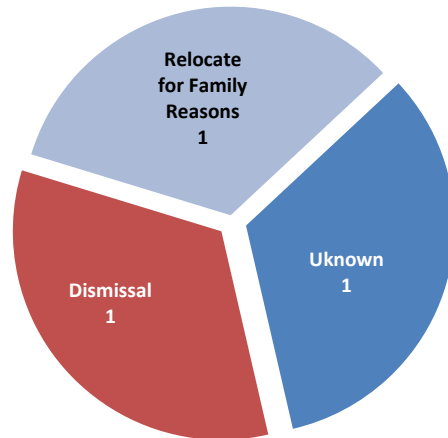


FY 2024 Employee Turnover Reasons

All Employees
8 Resignations



Financial Examiners Only
3 Resignations



As of 11/30/2023



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

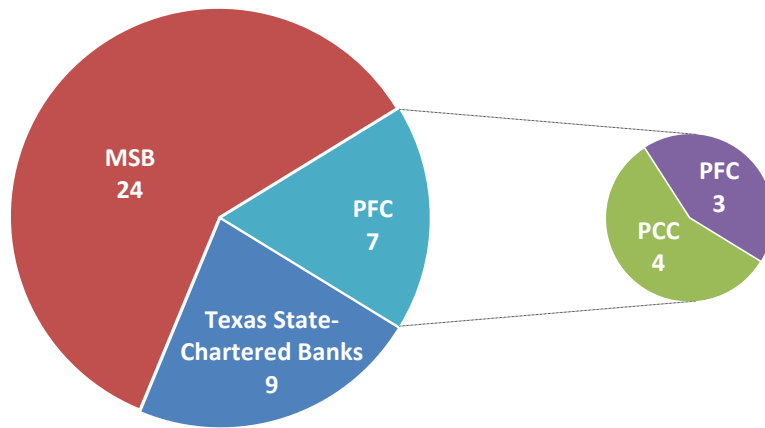
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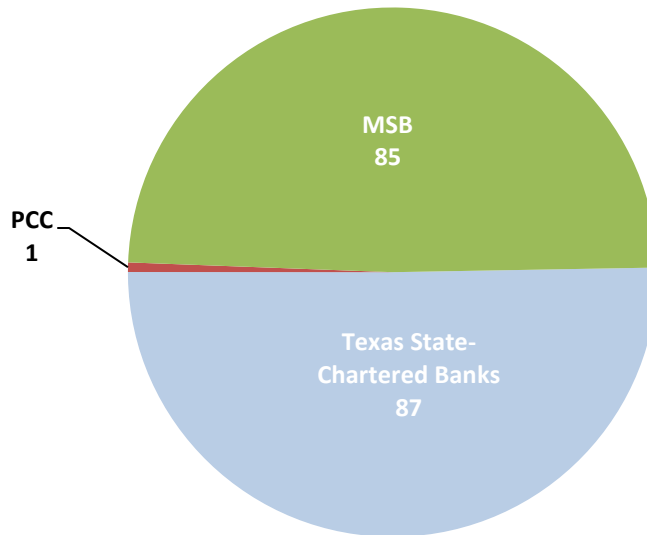
To: Finance Commission Members
From: Phil Lena, Financial Analyst
Date: December 1, 2023
Subject: Summary of the Strategic Support Division Activities

Jurisdictional Written Complaints September 2023-October 2023



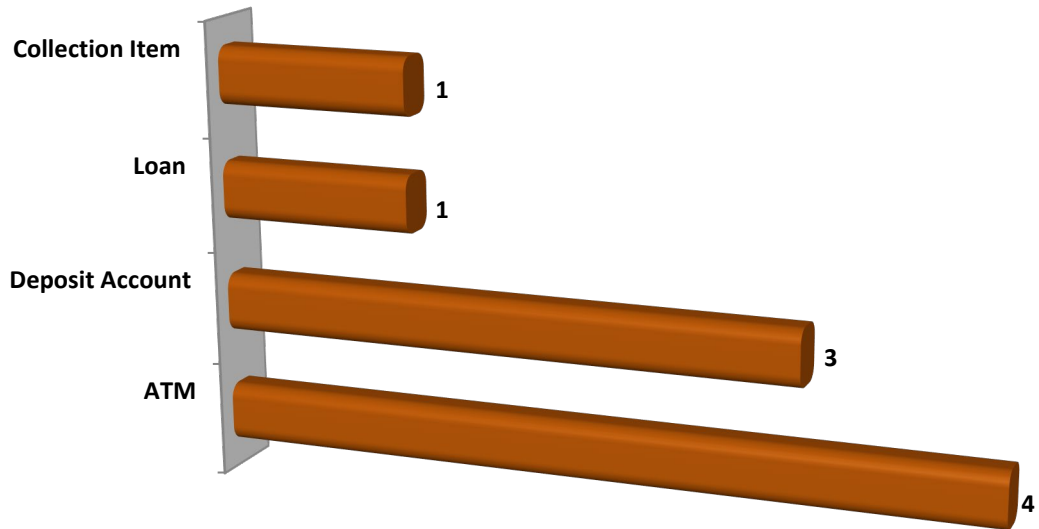
Recoveries = \$28,283.81
Total = 40

Inquiries on Jurisdictional Entities September 2023-October 2023



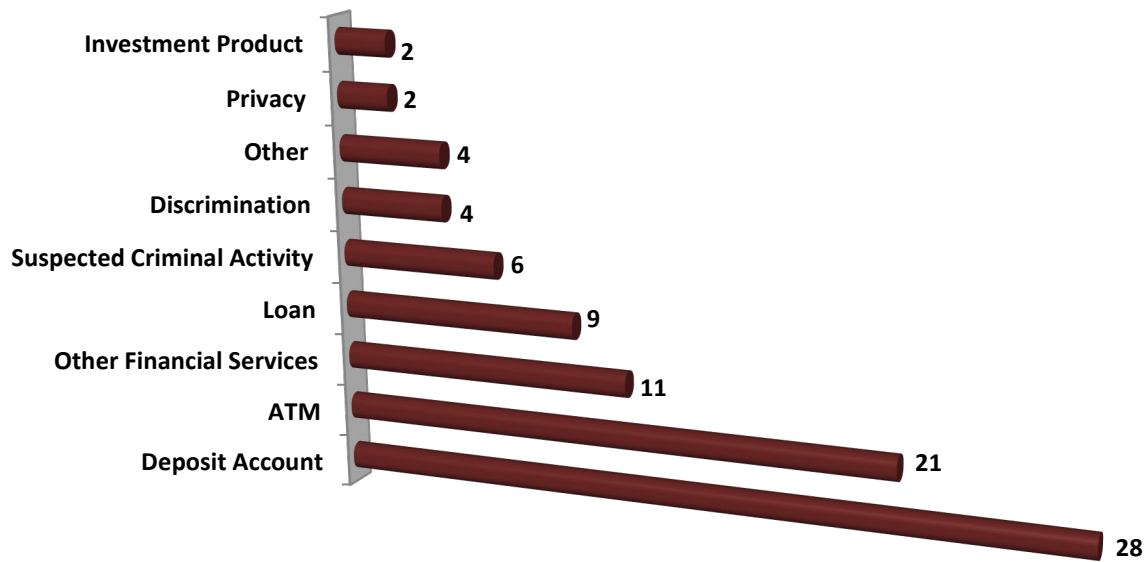
Total = 173

State-Chartered Banks and Trust Companies Written Complaints by Type September 2023-October 2023



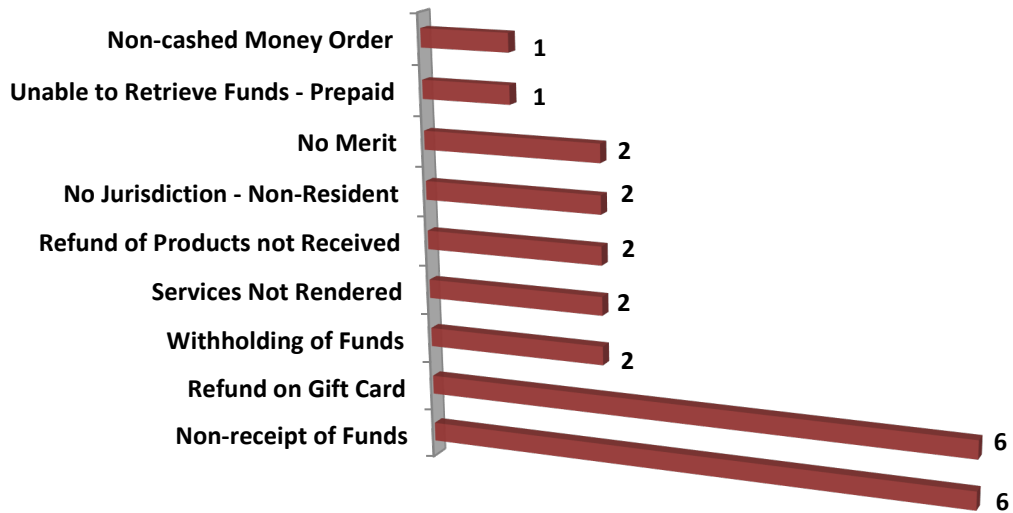
Total = 9

State-Chartered Banks and Trust Companies Inquiries by Type September 2023-October 2023



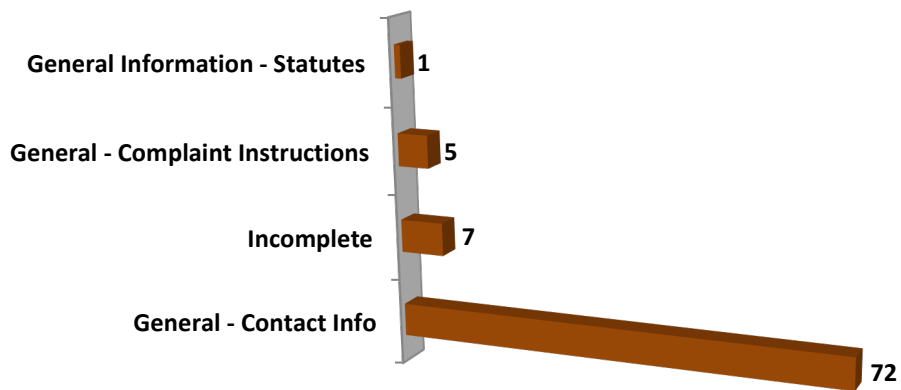
Total = 87

Money Services Businesses Written Complaints by Type September 2023-October 2023



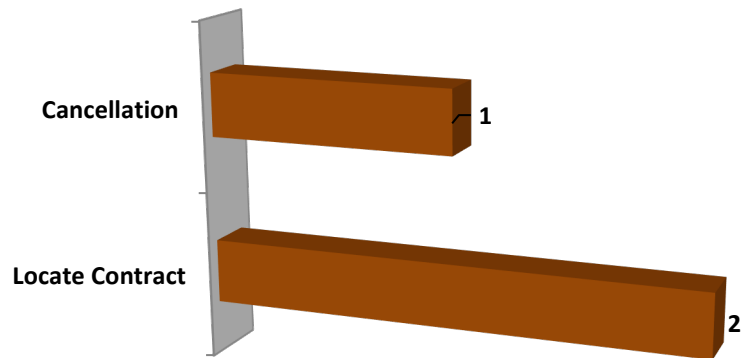
Total = 24

Money Services Businesses Inquiries by Type September 2023-October 2023



Total = 85

**Prepaid Funeral Contract Sellers
Written Complaints by Type
September 2023-October 2023**

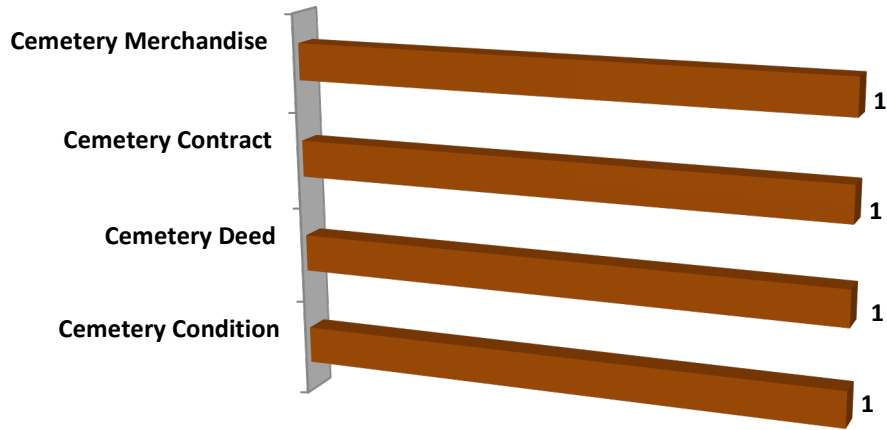


Total = 3

**Prepaid Funeral Contract Sellers
Inquiries by Type
September 2023-October 2023**

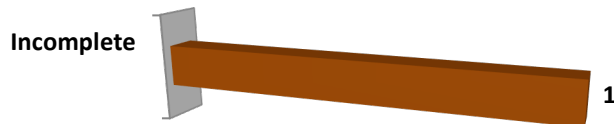
No inquiries were reported during this period.

**Perpetual Care Cemeteries
Written Complaints by Type
September 2023-October 2023**



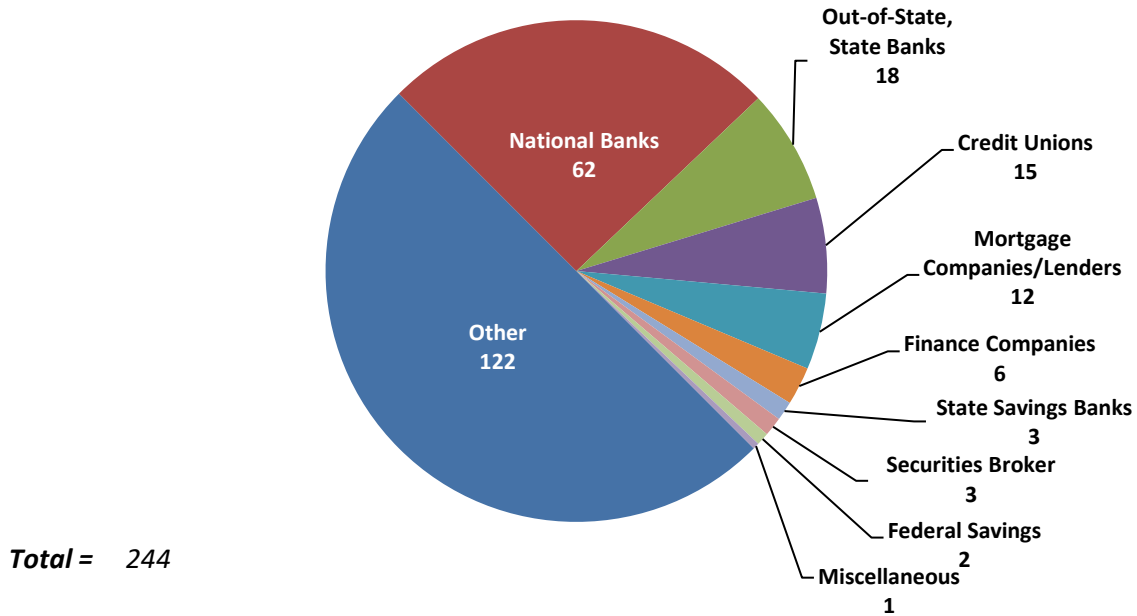
Total = 4

**Perpetual Care Cemeteries
Inquiries by Type
September 2023-October 2023**



Total = 1

Complaints and Inquiries Against Non-Jurisdictional Entities September 2023-October 2023



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

Complaint Activities Information by Quarter*

	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.
State-Chartered Banks				
Avg. Number of Days to Close a Written Complaint	N/A	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	N/A	N/A	N/A	N/A
Number of Written Complaints Resolved	N/A	N/A	N/A	N/A
Trust				
Avg. Number of Days to Close a Written Complaint	N/A	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	N/A	N/A	N/A	N/A
Number of Written Complaints Resolved	N/A	N/A	N/A	N/A
PFC/PCC				
Avg. Number of Days to Close a Written Complaint	N/A	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	N/A	N/A	N/A	N/A
Number of Written Complaints Resolved	N/A	N/A	N/A	N/A
MSB				
Avg. Number of Days to Close a Written Complaint	N/A	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	N/A	N/A	N/A	N/A
Number of Written Complaints Resolved	N/A	N/A	N/A	N/A

*First quarter Fiscal Year 2024 data is not available.

Closed Account Notification System (CANS) Activity
January 1, 2020 – November 27, 2023

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	182	372
Texas State-Chartered Savings Banks	23	57
Federal Savings Banks	10	0
State Credit Unions	135	689
Federal Credit Unions	229	605
National Banks	171	100
Out-of-State State-Chartered Banks	12	65
Out-of-State National Banks	6	0
Total	768	1,888

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

	FY 2021	FY 2022	FY 2023	FY 2024 As of 11/30/2023
I. General Knowledge	6	5	4	2
II. Loan Analysis	1	3	3	3
III. Panel	3	3	4	2
IV. Test Bank	5	3	6	0
Total FE3	17	13	14	14

Promotions

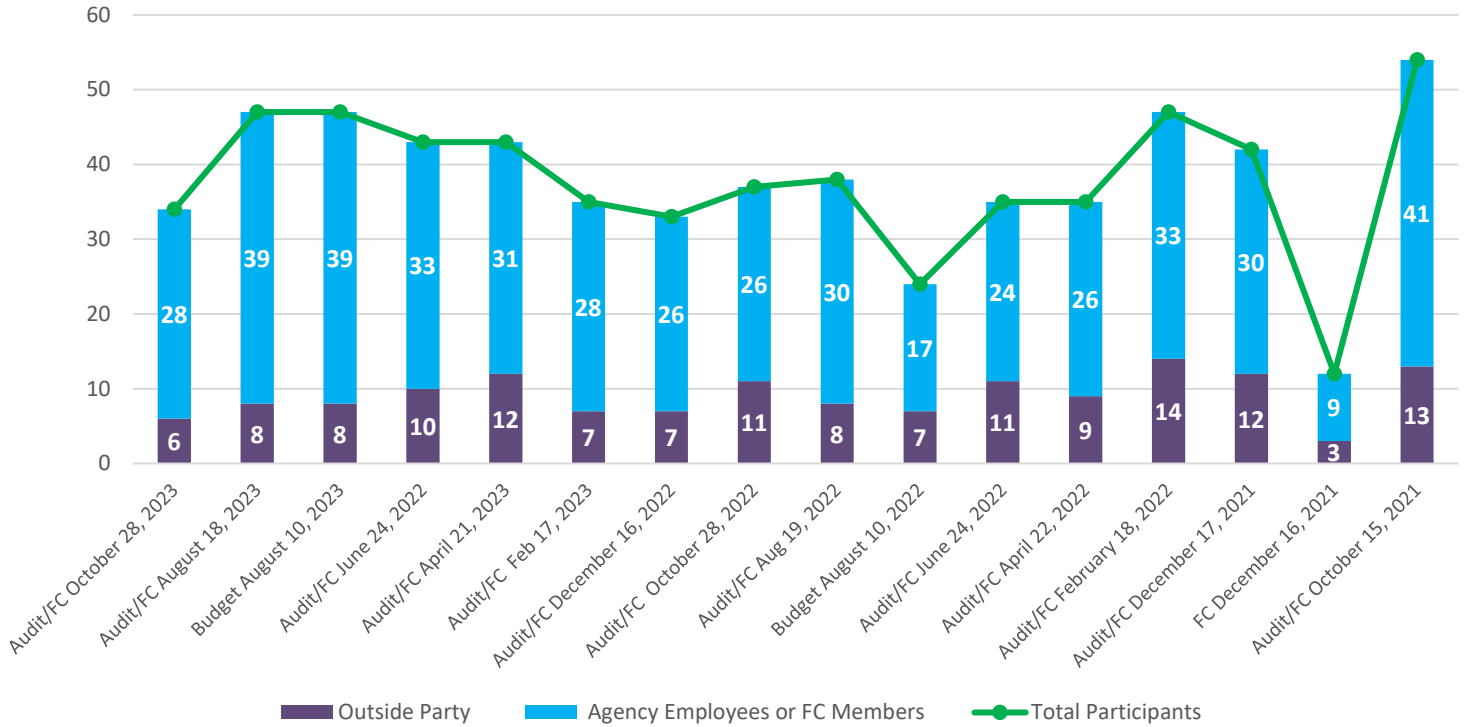
<i>Commissioned Examiners</i>	5	3	5	1
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Other Divisional Items:

- *Financial Education:*
 - The Texas Department of Banking and the Office of Consumer Credit Commissioner are co-hosting the Financially Surviving the Holidays webinar on December 13, 2023. The webinar will focus on educating the public on money management with tips and strategies as they navigate the holiday season.
- *Third and Fourth Special Legislative Sessions:*
 - Governor Greg Abbott convened a Third Special Session on October 9, 2023, with 6 agenda items. Another item was added by Governor Abbott on October 17, 2023, followed by two additional agenda items on October 31, 2023. The special session concluded on November 5, 2023. The agenda items did not impact the Department or regulated entities.

- The Fourth Special Legislative Session began on November 7, 2023, with four agenda items. The Department monitored the activities during the Fourth Special Session which ended on December 6, 2023. The agenda items did not impact the Department or regulated entities.
- *Publications:*
 - The next Texas Bank Report will be published in December 2023.
- *Policy Revisions/Updates:*
 - Administrative Memorandums (AM)
 - AM 2010 Finance Commission Building Service Center (December 2023)
 - AM 2047 Request for Budget Variance (December 2023)
 - AM 2045 Institution Review Process for State-Chartered Trust Companies (November 2023)
 - AM 2002 Equal Employment Opportunity, Discrimination and Sexual Harassment Prevention Policy (November 2023)
 - AM 2031 Delegation of Authority (November 2023)
 - AM 2039 Examination of Foreign Banking Organizations (November 2023)
 - AM 2006 Treatment of Matters Requiring Attention in the Report of Examination (October 2023)
 - AM 2035 Austin Headquarter Parking Policy (October 2023)
 - AM 2038 Frequent Overnight Stay-Out Stipend (FOSTS) Program (October 2023)
 - Supervisory Memorandums (SM)
 - SM 1005 Policy on Enforcement Actions for State-Chartered Banks (October 2023)
 - SM 1030 Policy on Enforcement Actions for Trust Companies (October 2023)
- *Examination Procedure Revisions/Updates:*
 - Information Technology
 - InTREx Type A Procedures (October 2023)
- *Training:*
 - The inaugural training program established in June 2023 for new financial examiners will hold a graduation in December 2023 for 17 financial examiners. The program was well received and is expected to be held again in June 2024 for the next group of financial examiners being hired in calendar 2024.

Finance Commission Webcast Historical Data





Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705

512-475-1300 / 877-276-5554

www.dob.texas.gov

To: Finance Commission Members
From: Robert Nichols, General Counsel
Date: November 29, 2023
Subject: Legal Division Update

Orders Issued October 1, 2023 – November 30, 2023

The Commissioner issued six enforcement orders during this period:

Bank and Trust Supervision

- Consent Order dated October 23, 2023; Herring Bank IT, Amarillo, Texas

Non-Depository Supervision

- Consent Order dated October 4, 2023; Blockchain.com, Inc., Miami, Florida
- Consent Order dated October 5, 2023; BitGo Trust Company, Inc., Sioux Falls, South Dakota
- Consent Order dated October 16, 2023; ACI Worldwide Corp. ACI Payments, Inc., Elkhorn, Nebraska
- Consent Order dated November 1, 2023; Automatic Payroll Systems, Inc., Shreveport, Louisiana
- Final Order dated November 8, 2023; SCI Texas Funeral Services, LLC, Prosper, Texas

Public Information Requests

From October 1, 2023, through November 30, 2023, staff received and responded to 31 requests for public information addressed to the Department of Banking and received eight inquiries from the “Ask a Question” feature. During the same period, we received one public information request addressed to the Finance Commission, and response is pending. No requests for an OAG opinion were submitted during this period.

Gifts

None were reported for the period October 1, 2023 – November 2023.

FY 2023 Quarterly Order Activity

BANK				
Type of Action	1st	2nd	3rd	4th
Consent Order	1	0	0	0
Cease & Desist	0	0	0	0
Supervision	0	0	0	0
Prohibition	0	0	0	0
Total	0	0	0	0

TRUST COMPANY				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Supervision	0	0	0	0
Prohibition	0	0	0	0
Total	0	0	0	0

MONEY SERVICES BUSINESS				
Consent Order	4	0	0	0
Cease & Desist	0	0	0	0
Final Order after hearing	0	0	0	0
Total	0	0	0	0

PERPETUAL CARE CEMETERY				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Refusal to Renew Cert/Auth	0	0	0	0
Final Order after Hearing	1	0	0	0
Total	0	0	0	0

PREPAID FUNERAL CONTRACT				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Final Order	0	0	0	0
Total	0	0	0	0

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 2, Chapter 12, Concerning Loans and Investments by State-Chartered Banks.

PURPOSE: Amendments to these sections of Chapter 12 to conform the rules to changes in applicable Texas law, federal regulation, and accounting standards.

RECOMMENDED ACTION: No comments were received regarding the proposed amendments in 7 TAC, Part 2, Chapter 12. The Department recommends that the Commission approve adoption of amendments without changes to the proposal as previously published in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt the amendments in 7 TAC, Part 2, Chapter 12 without changes to the proposal as previously published in the *Texas Register*.

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***Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 12. Loans and Investments***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts amendments to Subchapter B of Chapter 12 of Title 7 of the Texas Administrative Code, concerning loans and investments by state banks. Sections 12.2, 12.3, 12.6, 12.11, 12.12, and 12.32 are the affected sections. These amendments are adopted without changes to the proposed text as published in the November 10, 2023 issue of the *Texas Register* (48 TexReg 6509). The amended rules will not be republished.

The amendments conform these rules to changes in applicable Texas law, federal regulation, and accounting standards. The amendments do not materially change the requirements of the rules.

The department received no comments regarding the proposed amendments.

The amendments are adopted pursuant to Finance Code §11.301, which authorizes the commission to adopt rules applicable to state banks, and Finance Code, §31.003, which authorizes the commission to adopt rules necessary to preserve or protect the safety and soundness of state banks.

This proposal affects the statutes administered and enforced by the department's commissioner with respect to state banks, contained in Finance Code, Subtitle A. No other statute is affected by this proposal.

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

<rule>

§12.2. Definitions.

(a) Definitions in the Finance Code, Title 3, Subtitles A and G, are incorporated herein by reference. As used in this subchapter and in Finance Code, Chapter 34, concerning investments and loans, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (3) (No change.)

(4) Credit derivative--As defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~].

(5) - (6) (No change.)

(7) Eligible credit derivative--A single-name credit derivative or a standard, non-tranched index credit derivative provided that:

(A) the derivative contract meets the requirements of an eligible guarantee, as defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~], and has been confirmed by the protection purchaser and the protection provider;

(B) any assignment of the derivative contract has been confirmed by all relevant parties;

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(C) if the credit derivative is a credit default swap, the derivative contract includes the following credit events:

(i) failure to pay any amount due under the terms of the reference exposure, subject to any applicable minimal payment threshold that is consistent with standard market practice and with a grace period that is closely in line with the grace period of the reference exposure; and

(ii) bankruptcy, insolvency, restructuring (for obligors not subject to bankruptcy or insolvency), or inability of the obligor on the reference exposure to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and similar events;

(D) the terms and conditions dictating the manner in which the derivative contract is to be settled are incorporated into the contract;

(E) if the derivative contract allows for cash settlement, the contract incorporates a robust valuation process to estimate loss with respect to the derivative reliably and specifies a reasonable period for obtaining post-credit event valuations of the reference exposure;

(F) if the derivative contract requires the protection purchaser to transfer an exposure to the protection provider at settlement, the terms of at least one of the exposures that is permitted to be transferred under the contract provides that any required consent to transfer may not be unreasonably withheld; and

(G) if the credit derivative is a credit default swap, the derivative contract clearly identifies the parties responsible for

determining whether a credit event has occurred, specifies that this determination is not the sole responsibility of the protection provider, and gives the protection purchaser the right to notify the protection provider of the occurrence of a credit event.

(8) (No change.)

~~[(9) Federal capital adequacy guidelines--The federal reference entitled "Capital Adequacy Guidelines for Banks: Internal Ratings Based and Advanced Measurement Approaches," codified as Appendix D to 12 C.F.R. part 325 (or Appendix F to 12 C.F.R. part 208 in the case of a bank that is a member of the Federal Reserve System).]~~

~~[(10) Federal risk based capital standards--The federal system for calculating a bank's equity capital and its specified components, set forth in Appendix A to 12 C.F.R. part 325 (or Appendix A to 12 C.F.R. part 208 in the case of a bank that is a member of the Federal Reserve System).]~~

(9) [(11)] Qualifying central counterparty--As defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~].

(10) [(12)] Qualifying master netting agreement--As defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~].

(11) [(13)] Sale of federal funds--A transaction between depository institutions involving the transfer of immediately

available funds resulting from credits to deposit balances at Federal Reserve Banks, or from credits to new or existing deposit balances due from a correspondent depository institution.

(12) [~~(14)~~] Securities financing transaction-- A repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction.

(13) [~~(15)~~] Tier 1 capital--A state bank's unimpaired capital and surplus. A state bank's Tier 1 capital is calculated under 12 C.F.R. part 324 (or 12 C.F.R. part 217 in the case of a bank that is a member of the Federal Reserve System) [~~the federal risk-based capital standards~~], is reported in the bank's most recent call report, and is periodically recalculated as provided by §12.11 of this title (relating to Calculation of Lending Limit).

(14) [~~(16)~~] Unimpaired capital and surplus-- A state bank's core capital, equal to its Tier 1 capital calculated under 12 C.F.R. part 324 (or 12 C.F.R. part 217 in the case of a bank that is a member of the Federal Reserve System) [~~the federal risk-based capital standards~~], and referred to as Tier 1 capital in this chapter.

§12.3. Loans and Extensions of Credit.

(a) (No change.)

(b) Loans or extensions of credit for purposes of the Finance Code, §34.201, and this subchapter do not include:

(1) funds advanced to or for the benefit of a borrower by a bank for taxes or insurance associated with collateral security for a loan

or extension of credit, as well as funds advanced for utilities, security, and maintenance expenses associated with real property securing a loan or extension of credit, but only if necessary to preserve the value of the real property or other collateral security and consistent with safe and sound banking practices, provided the bank maintains sufficient records to demonstrate the necessity of the advance, and such advances are included in loans and extensions of credit thereafter until repaid for the purpose of determining whether additional loans or extensions of credit to the same borrower may be made within applicable lending limits;

(2) accrued and discounted interest on an existing loan or extension of credit, including interest that has been capitalized from prior notes and interest that has been advanced under terms and conditions of a loan agreement;

(3) that portion of a loan or extension of credit sold as a participation by a bank on a nonrecourse basis, provided the participation results in a pro rata sharing of credit risk proportionate to respective interests of the originating and participating lenders, except that:

(A) notwithstanding any requirement of Financial Accounting Standard Board Accounting Standard Codification Topic 860, Transfers and Servicing [~~Statement of Financial Accounting Standards No. 166 (Financial Accounting Standards Bd. 2009)~~], for lending limit purposes, if the participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be considered to exist only if, in

the event of default or comparable event provided in the agreement, the participants share in all subsequent repayments and collections in proportion to their actual percentage participation at the time of the occurrence of the event;

(B) if the originating bank funds the entire loan, the participants must be contractually obligated to remit their portion to the bank before the close of business (the time at which the bank closes its accounting records for the business day) on the next business day of the originating bank or its portion funded by the originating bank will be considered a loan by the originating bank to the borrower;

(C) in the case of a participation sold in an existing loan, the amount of the participation may not be subtracted from the outstanding loans and extensions of credit of the originating bank until the proceeds of sale are in the possession of the originating bank; and

(D) a loan participation agreement that provides for weekly settlement of amounts due to and from the participants meets the requirements of this paragraph if the outstanding balance to the borrower from the originating bank does not at any time exceed the bank's legal lending limit;

(4) an advance against uncollected funds in the normal course of collection pursuant to the bank's availability schedule issued in compliance with Regulation CC (12 C.F.R. §229.1 et seq.), including the amount of an item that must be credited to the customer under the bank's availability schedule but remains uncollected and unreturned because of a delay or defect in the collection system;

(5) the sale of Federal funds with a maturity of one day or less, or Federal funds sold under a continuing contract, including contracts that provide for weekly settlement if the parties have the contractual right to obtain their funds at maturity of each transaction;

(6) intra-day credit exposures arising from a derivative transaction or a securities financing transaction;

(7) a renewal or restructuring of a nonconforming loan as a new loan or extension of credit, subject to compliance with §12.10(b) of this title (relating to Nonconforming Loans); and

(8) that portion of one or more loans or extensions of credit, not to exceed 15% of the bank's Tier 1 capital, with respect to which the bank has purchased protection in the form of a single-name eligible credit derivative [~~that meets the requirements of §12.2(a)(7) of this title (relating to Definitions)~~] from an eligible protection provider if the reference obligor is the same legal entity as the borrower in the loan or extension of credit and the maturity of the protection purchased equals or exceeds the maturity of the loan or extension of credit.

§12.6. Loans Not Subject to Lending Limits.

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

(f) Government guaranteed loans. Pursuant to Finance Code, §34.201(a)(8), a loan or extension of credit to a borrower is not subject to the limitations of the Finance Code, §34.201, or this subchapter to the extent secured by unconditional takeout commitments, insurance, or guarantees of a

governmental entity described in subsection (c) or (e) of this section, provided the commitment or guarantee is payable only in cash or its equivalent. If the purchasing, insuring, or guaranteeing entity is described in subsection (c) of this section, the lending bank must obtain an opinion of counsel [~~or the opinion of the attorney general~~] that the unconditional takeout commitment, insurance, or guarantee is a valid and enforceable general obligation of the purchasing, insuring, or guaranteeing entity. A takeout commitment, insurance, or guarantee is considered unconditional if the protection afforded the bank is not substantially diminished or impaired if loss should result from factors beyond the bank's control. Protection against loss is not materially diminished or impaired by procedural requirements such as an agreement to pay on the obligation only in the event of default, including default over a specific period of time, a requirement that notification of default be given within a specific period after its occurrence, or a requirement of good faith on the part of the bank.

(g) Loans secured by segregated deposit accounts. Pursuant to the Finance Code, §34.201(a)(10), loans or extensions of credit are not subject to the limitations of the Finance Code, §34.201, and this subchapter to the extent secured by a segregated deposit account in the lending bank, provided that:

(1) the lending bank has perfected its security interest in the deposit under applicable law;

(2) if the deposit is eligible for withdrawal before the secured loan matures, the bank establishes internal procedures to prevent

release of the security without the lending bank's prior consent; and

(3) if the deposit is denominated and payable in a currency other than that of the loan or extension of credit that it secures, the deposit currency is freely convertible to U.S. dollars, except that only that portion of the loan or extension of credit that is fully secured by the U.S. dollar value of the deposit qualifies for exception and only if the lending bank establishes procedures to periodically revalue foreign currency deposits to ensure that the loan or extension of credit remains fully secured at all times.

(h) Discount of installment consumer paper.

(1) Loans and extensions of credit to one borrower arising from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guarantee of payment by the person transferring the paper to the bank is considered a loan or extension of credit to the transferor, as well as the maker, and subject to the general lending limit, except that the loan or extension of credit will not be considered made to the transferor to the extent the bank has met the requirements of the Finance Code, §34.201(a)(11), and this subsection. If the transferor of the paper offers only partial recourse to the bank, the exception provided by the Finance Code, §34.201(a)(11), and this subsection is available only to the extent of the total amount of paper the transferor may be obligated to repurchase or has guaranteed. An unconditional guarantee may be in the form of a repurchase agreement, separate guarantee agreement, or other agreement having the same effect. A

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condition reasonably within the power or control of the bank to perform will not render conditional an otherwise unconditional guarantee.

(2) In order to claim the installment consumer paper exception under the Finance Code, §34.201(a)(11), and this subsection, the bank must demonstrate its reliance on the maker of the paper by maintaining records supporting the bank's independent credit analysis of the maker's ability to repay the loan or extension of credit, maintained by the bank or a third party that is contractually obligated to make those records available for examination purposes, and a written certification by an officer of the bank, specifically designated by the board of the bank for this purpose, that the bank is relying primarily on the maker for repayment of the loan or extension of credit and not on a full recourse endorsement or unconditional guarantee by the transferor. If installment consumer paper is purchased in substantial quantities, the required records, evaluation, and certification must be in a form appropriate for the class and quantity of paper involved. The bank may use sampling techniques, or other appropriate methods, to independently verify the reliability of the credit information supplied by the seller.

(3) As used in this subsection, a consumer is the end user of a product, commodity, good, or service, whether leased or purchased, but not a person who purchases products or commodities for the purpose of resale or fabrication into goods for sale. Consumer paper includes paper relating to the lease or purchase of automobiles, mobile homes, residences, office equipment, household items, tuition fees, insurance premiums, and other consumer items. Consumer paper also

includes paper relating to the lease or purchase of equipment for use in manufacturing, farming, construction, or excavation, if the bank is neither the lessor nor owner of the property.

(4) A bank may purchase and temporarily hold mortgages for sale to investors in the secondary market, and consider the purchases as loans to individual mortgagors rather than a mortgage warehouse facility, by purchasing without recourse to the transferor or, if purchased with recourse, by complying with this subsection. Whether an actual purchase is considered to occur depends on both the nature of the relationship established between the bank and other parties to the contractual arrangements and on assessment of the economic substance of the transaction. Failure to meet any one of the criteria listed below [~~applied by the department~~] does not necessarily result in characterization of an ostensible purchase transaction as a mortgage warehouse facility to the originator. In determining whether the economic substance of a transaction constitutes a purchase, the banking commissioner [~~department~~] will consider whether:

(A) provisions of the contractual arrangements governing the mortgage transfers consistently reflect a relationship of buyer and seller between the bank and the transferor, and whether the bank in fact acts as the owner of the mortgages;

(B) the bank obtains possession or control of the bearer instruments conveying ownership, including the original note, deed of trust, assignment from the transferor, and a power of attorney from the transferor for instruments endorsed in blank, provided that

possession or control may also be established through safekeeping or custodial arrangements between the bank and a third party agent or bailee;

(C) the bank takes possession or control of underlying underwriting documents, provided that possession or control of the underwriting documents by the investor is not inconsistent with characterization of the bank as a purchaser and owner of the mortgages;

(D) the bank receives and controls the sales proceeds when remitted from the investor;

(E) the bank demonstrates reliance on the maker by reviewing the credit quality and documentation underlying a mortgage prior to committing to make the purchase, provided that a bank purchasing mortgages in significant quantities may use sampling techniques or other appropriate methods to independently verify the reliability of the credit information supplied by the transferor;

(F) recourse and repurchase obligations of the transferor are subject to conditions outside the control of the transferor, such as a commitment to repurchase the mortgage if rejected by the investor for reasons other than fraud or underwriting deficiency; and

(G) the bank earns interest on the mortgages according to the interest rate on the face of each note rather than at a rate separately negotiated with the transferor.

(i) (No change.)

§12.11. Calculation of Lending Limit.

(a) Calculation date. For purposes of

determining compliance with Finance Code, §34.201, and this subchapter, a state bank shall determine its lending limit as of the most recent of the following dates:

(1) the last day of the preceding calendar quarter; or

(2) the date on which there is a change in the bank's capital category for purposes of 12 U.S.C. §1831o [~~1831e~~] and 12 C.F.R. §324.402 [~~§325.102~~] (or 12 C.F.R. §324.402 [~~CFR §208.32~~] in the case of a bank that is a member of the Federal Reserve System).

(b) - (c) (No change.)

§12.12. Credit Exposure Arising from Derivative and Securities Financing Transactions.

(a) (No change.)

(b) Derivative transactions.

(1) Non-credit derivatives. Subject to paragraphs (2) - (4) of this subsection, a state bank shall calculate the credit exposure to a counterparty arising from a derivative transaction by one of the following methods. Subject to paragraphs (3) and (4) of this subsection, a bank shall use the same method for calculating counterparty credit exposure arising from all of its derivative transactions.

(A) Model method.

(i) Credit exposure. The credit exposure of a derivative transaction under the model method is equal to the sum of the current credit exposure of the derivative transaction and the potential future credit exposure of the derivative transaction.

(ii) Calculation of current credit exposure. A bank shall determine its current credit exposure by the mark-to-market value of the derivative contract. If the mark-to-market value is positive, then the current credit exposure equals that mark-to-market value. If the mark-to-market value is zero or negative, then the current credit exposure is zero.

(iii) Calculation of potential future credit exposure. A bank shall calculate its potential future credit exposure by using an internal model that has been approved in writing for purposes of 12 C.F.R. §324.132(d) (or 12 CFR §217.132(d) in the case of a bank that is a member of the Federal Reserve System) [~~§32(d) of the federal capital adequacy guidelines~~], provided that the bank notifies the commissioner prior to its use for purposes of this section, or another model approved by the department based on the views of the bank's primary federal banking regulatory agency and any third party testing and evaluation reports submitted to the commissioner. Any substantive revisions to an internal model made after the bank has provided notice of its use, or after the commissioner has approved the use of an alternate model, must be approved by the commissioner before a bank may use the revised model for purposes of this section.

(iv) Net credit exposure. A bank that calculates its credit exposure by using the model method pursuant to this subparagraph may net credit exposures of derivative transactions arising under the same qualifying master netting agreement.

(B) Conversion factor matrix method. The credit exposure arising from a derivative transaction under the conversion factor

matrix method is equal to and will remain fixed at the potential future credit exposure of the derivative transaction, which equals the product of the notional amount of the derivative transaction and a fixed multiplicative factor determined by reference to Table 1 of this section.

Figure: 7 T.A.C. §12.12(b)(1)(B). (No change.)

(C) Current exposure method. The credit exposure arising from a derivative transaction (other than a credit derivative transaction) under the current exposure method is calculated in the manner provided by 12 C.F.R. §324.34(b)-(c) (or 12 C.F.R. §217.34(b)-(c) in the case of a bank that is a member of the Federal Reserve System) [~~§32(e)(5), (6) and (7) of the federal capital adequacy guidelines~~].

(2) Credit derivatives.

(A) Counterparty exposure.

(i) General rule. Notwithstanding paragraph (1) of this subsection and subject to clause (ii) of this subparagraph, a state bank that uses the conversion factor matrix method or the current exposure method, or that uses the model method without entering an effective margining arrangement as defined in §12.2 of this title (relating to Definitions), shall calculate the counterparty credit exposure arising from credit derivatives entered by the bank by adding the net notional value of all protection purchased from the counterparty on each reference entity.

(ii) Special rule for certain effective margining arrangements. A bank must add

the effective margining arrangement threshold amount to the counterparty credit exposure arising from credit derivatives calculated under the model method. The effective margining arrangement threshold is the amount under an effective margining arrangement with respect to which the counterparty is not required to post variation margin to fully collateralize the amount of the bank's net credit exposure to the counterparty.

(B) Reference entity exposure. A state bank shall calculate the credit exposure to a reference entity arising from credit derivatives entered into by the bank by adding the net notional value of all protection sold on the reference entity. A bank may reduce its exposure to a reference entity by the amount of any eligible credit derivative purchased on that reference entity from an eligible protection provider.

(3) Special rule for central counterparties. In addition to amounts calculated under paragraphs (1) and (2) of this subsection, the measure of counterparty exposure to a central counterparty must also include the sum of the initial margin posted by the bank plus any contributions made by it to a guaranty fund at the time such contribution is made. However, this requirement does not apply to a bank that uses an internal model pursuant to paragraph (1)(A) of this subsection if such model reflects the initial margin and any contributions to a guaranty fund.

(4) Mandatory or alternative use of method. The commissioner may in the exercise of discretion require or permit a state bank to use a specific method or methods set forth in this subsection to calculate the credit

exposure arising from all derivative transactions, from any category of derivative transactions, or from a specific derivatives transaction if the commissioner in the exercise of discretion finds that such method is consistent with the safety and soundness of the bank.

(c) Securities financing transactions.

(1) In general. Except as provided by paragraph (2) of this subsection, a state bank shall calculate the credit exposure arising from a securities financing transaction by one of the following methods. A state bank shall use the same method for calculating credit exposure arising from all of its securities financing transactions.

(A) Model method. A state bank may calculate the credit exposure of a securities financing transaction by using an internal model that has been approved in writing for purposes of 12 C.F.R. §324.132(b) (or 12 CFR §217.132(b) in the case of a bank that is a member of the Federal Reserve System) [~~§32(b) of the federal capital adequacy guidelines~~], provided that the bank notifies the commissioner prior to its use for purposes of this section, or another model approved by the department based on the views of the bank's primary federal banking regulatory agency and any third party testing and evaluation reports submitted to the commissioner. Any substantive revisions to an internal model made after the bank has provided notice of its use, or after the commissioner has approved the use of an alternate model, must be approved by the commissioner before a bank may use the revised model for purposes of this section.

(B) Basic method. A state bank may calculate the credit exposure of a securities financing transaction as follows:

(i) Repurchase agreement. The credit exposure arising from a repurchase agreement shall equal and remain fixed at the market value at execution of the transaction of the securities transferred to the other party less cash received.

(ii) Securities lending.

(I) Cash collateral transactions. The credit exposure arising from a securities lending transaction where the collateral is cash shall equal and remain fixed at the market value at execution of the transaction of securities transferred less cash received.

(II) Non-cash collateral transactions. The credit exposure arising from a securities lending transaction where the collateral is other securities shall equal and remain fixed as the product of the higher of the two haircuts associated with the two securities, as determined by reference to Table 2 of this section, and the higher of the two par values of the securities. Where more than one security is provided as collateral, the applicable haircut is the higher of the haircut associated with the security lent and the notional-weighted average of the haircuts associated with the securities provided as collateral.

(iii) Reverse repurchase agreements. The credit exposure arising from a reverse repurchase agreement shall equal and remain fixed as the product of the haircut associated with the collateral received, as determined by reference to Table 2 of this section, and the

amount of cash transferred.

(iv) Securities borrowing.

(I) Cash collateral transactions. The credit exposure arising from a securities borrowed transaction where the collateral is cash shall equal and remain fixed as the product of the haircut on the collateral received, as determined by reference to Table 2 of this section, and the amount of cash transferred to the other party.

(II) Non-cash collateral transactions. The credit exposure arising from a securities borrowed transaction where the collateral is other securities shall equal and remain fixed as the product of the higher of the two haircuts associated with the two securities, as determined by reference to Table 2 of this section, and the higher of the two par values of the securities. Where more than one security is provided as collateral, the applicable haircut is the higher of the haircut associated with the security borrowed and the notional-weighted average of the haircuts associated with the securities provided as collateral.

Figure: 7 T.A.C. §12.12(c)(1)(B)(iv)(II). (No change.)

(C) Basel collateral haircut method. A state bank may calculate the credit exposure of a securities financing transaction in the manner provided by 12 C.F.R. §324.132(b)(2)(i) and (ii) (or 12 CFR §217.132(b)(2)(i) and (ii) in the case of a bank that is a member of the Federal Reserve System) [~~§32(b)(2)(i) and (ii) of the federal capital adequacy guidelines~~].

(2) Mandatory or alternative use of method. The commissioner may in the exercise of discretion require or permit a state bank to use a specific method or methods set forth in this subsection to calculate the credit exposure arising from all securities financing transactions, from any category of securities financing transactions, or from a specific derivatives transaction if the commissioner finds in the exercise of discretion that such method is consistent with the safety and soundness of the bank.

§12.33. Debt Cancellation Contracts and Debt Suspension Agreements

(a) – (e) (No change.)

(f) Disclosures.

(1) Content of short form of disclosures. The short form of disclosures required by this section must include the information described in subparagraphs (A) through (F) of this paragraph that is appropriate to the product offered. Short form disclosures made in a form that is substantially similar to these disclosures will satisfy the short form disclosure requirements of this subsection.

(A) This product is optional. “Your purchase of (product name) is optional. Whether or not you purchase (product name) will not affect your application for credit or the terms of any existing credit agreement you have with the bank.”

(B) Lump sum payment of fee (applicable if a bank offers the option to pay the fee in a single payment, prohibited where the debt subject to the contract is a residential mortgage loan). “You may choose to pay the

fee in a single lump sum or in monthly or quarterly payments. Adding the lump sum of the fee to the amount you borrow will increase the cost of (product name).”

(C) Lump sum payment of fee with no refund (applicable if a bank offers the option to pay the fee in a single payment for a no-refund debt cancellation contract, prohibited where the debt subject to the contract is a residential mortgage loan). “You may choose (product name) with a refund provision or without a refund provision. Prices of refund and no-refund products are likely to differ.”

(D) Refund of fee paid in lump sum (applicable where the customer pays the fee in a single payment and the fee is added to the amount borrowed, prohibited where the debt subject to the contract is a residential mortgage loan). Either:

(i) “You may cancel (product name) at any time and receive a refund;”

(ii) “You may cancel (product name) within _____ days and receive a full refund;” or

(iii) “If you cancel (product name) you will not receive a refund.”

(E) Additional disclosures. “We will give you additional information before you are required to pay for (product name).” If applicable: “This information will include a copy of the contract containing the terms of (product name).”

(F) Eligibility requirements, conditions, and exclusions. “There are eligibility requirements, conditions, and exclusions that could prevent you from receiving benefits under (product name).” Either:

(i) "You should carefully read our additional information for a full explanation of the terms of (product name);" or

(ii) "You should carefully read the contract for a full explanation of the terms."

(2) Content of long form of disclosures. The long form of disclosures required by this section must include the information described in subparagraphs (A) through (I) of this paragraph that is appropriate to the product offered. Long form disclosures made in a form that is substantially similar to these disclosures will satisfy the long form disclosure requirements of this subsection.

(A) This product is optional. "Your purchase of (product name) is optional. Whether or not you purchase (product name) will not affect your application for credit or the terms of any existing credit agreement you have with the bank."

(B) Explanation of debt suspension agreement (applicable if the contract has a debt suspension feature). "If (product name) is activated, your duty to pay the loan principal and interest to the bank is only suspended. You must fully repay the loan after the period of suspension has expired." If applicable: "This includes interest accumulated during the period of suspension."

(C) Amount of fee.

(i) For closed-end credit: "The total fee for (product name) is _____."

(ii) For open-end credit, either:

(I) "The monthly fee for (product name) is

based on your account balance each month multiplied by the unit-cost, which is _____;" or

(II) "The formula used to compute the fee is _____."

(D) Lump sum payment of fee (applicable if a bank offers the option to pay the fee in a single payment, prohibited where the debt subject to the contract is a residential mortgage loan). "You may choose to pay the fee in a single lump sum or in monthly or quarterly payments. Adding the lump sum of the fee to the amount you borrow will increase the cost of (product name)."

(E) Lump sum payment of fee with no refund (applicable if a bank offers the option to pay the fee in a single payment for a no-refund debt cancellation contract, prohibited where the debt subject to the contract is a residential mortgage loan.) "You have the option to purchase (product name) that includes a refund of the unearned portion of the fee if you terminate the contract or prepay the loan in full prior to the scheduled termination date. Prices of refund and no-refund products may differ."

(F) Refund of fee paid in lump sum (applicable where customer pays the fee in a single payment and the fee is added to the amount borrowed, prohibited where the debt subject to the contract is a residential mortgage loan). Either:

(i) "You may cancel (product name) at any time and receive a refund;"

(ii) "You may cancel (product name) within _____ days and receive a full refund;" or

(iii) “if you cancel (product name) you will not receive a refund.”

(G) Use of card or credit line restricted (applicable if the contract restricts the use of card or credit line when customer activates protection). “If (product name) is activated, you will be unable to incur additional charges on the credit card or use the credit line.”

(H) Termination of (product name). Either:

(i) “You have no right to cancel (product name);” or

(ii) “You have the right to cancel (product name) in the following circumstances _____:” and

(I) “The bank has no right to cancel (product name);” or

(II) “The bank has the right to cancel (product name) in the following circumstances _____.”

(I) Eligibility requirements, conditions, and exclusions. “There are eligibility requirements, conditions, and exclusions that could prevent you from receiving benefits under (product name).” Either:

(i) “The following is a summary of the eligibility requirements, conditions, and exclusions (summary provided by bank);” or

(ii) “You may find a complete explanation of the eligibility requirements, conditions, and exclusions in paragraphs _____ of the (product name) agreement.”

(3) Disclosure requirements; timing and method of disclosures.

(A) Short form disclosures. The bank shall make the short form disclosures orally at the time the bank first solicits the purchase of a contract.

(B) Long form disclosures. The bank shall make the long form disclosures in writing before the customer completes the purchase of the contract. If the initial solicitation occurs in person, then the bank shall provide the long form disclosures in writing at that time.

(C) Special rule for transactions by telephone. If the contract is solicited by telephone, the bank shall provide the short form disclosures orally and shall mail the long form disclosures and, if appropriate, a copy of the contract to the customer within 3 business days, beginning on the first business day after the telephone solicitation.

(D) Special rule for solicitations using written mail inserts or “take one” applications. If the contract is solicited through written materials such as mail inserts or “take one” applications, the bank may provide only the short form disclosures in the written materials if the bank mails the long form disclosures to the customer within 3 business days, beginning on the first business day after the customer contacts the bank to respond to the solicitation, subject to the requirements of subsection (g)(3) of this section.

(E) Special rule for electronic transactions. The disclosure described in this section may be provided electronically in a manner consistent with the requirements of the Uniform Electronic Transactions Act, Texas Business and Commerce Code Chapter 322

[43], and the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq.

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

*n

(4) Form of disclosures.

(A) Disclosures must be understandable. The disclosures required by this subsection must be in plain language, i.e., conspicuous, simple, direct, readily understandable, and designed to call attention to the nature and significance of the information provided.

(B) Disclosures must be meaningful. The disclosures required by this subsection must be in a meaningful form. Examples of methods that could call attention to the nature and significance of the information provided include:

(i) a plain-language heading to call attention to the disclosures;

(ii) a typeface and type size that are easy to read;

(iii) wide margins and ample line spacing;

(iv) boldface or italics for key words; and

(v) distinctive type style and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

(5) Advertisements and other promotional material. The short form disclosures are required in advertisements and promotional material for contracts unless the advertisements and promotional materials are of a general nature describing or listing the services or products offered by the bank.

3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 2, Chapter 15, Concerning Corporate Activities by State-Chartered Banks.

PURPOSE: Amendments to these sections of Chapter 15 to conform the rules to changes in applicable Texas law, federal regulation, and accounting standards and improve their clarity.

RECOMMENDED ACTION: The Department recommends that the Commission approve publication of the proposed amendments in the *Texas Register* for comment.

RECOMMENDED MOTION: I move that we publish the proposed amendments in 7 TAC, Part 2, Chapter 15 in the *Texas Register* for comment.

***Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 15. Corporate Activities
Subchapter A. Fees and Other Provisions
of General Applicability***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend Subchapter A of Chapter 15 of Title 7 of the Texas Administrative Code, concerning corporate activities by state banks. The amended rules are proposed to conform the rules to changes in applicable federal regulation and improve clarity.

Subchapter A of Chapter 15 provides general rules for corporate activities of state banks subject to the Texas Finance Code (Finance Code). Section 15.1 provides various definitions for Chapter 15 that incorporate various concepts and standards from other laws, including federal banking regulations, to ensure clear, consistent, and fair regulation with minimal additional burden. A citation in Section 15.1 to a federal regulation defining “well capitalized” is no longer correct and needs to be updated. Similarly, Section 15.3, which governs expedited corporate filings, provides a citation the same federal banking regulation, and also needs to be updated. Rather citing the current federal regulation, the underlying federal statute defining “well capitalized” can be cited instead. Changing these citations would not materially change the substance of these rules. In addition, state banks are already subject to these federal regulatory standards.

Section 15.4 discusses required information for filings and potential abandonment of incomplete filings. The proposed amendment

to this section clarifies the process for determining that a previously accepted filing is abandoned due to the filer not timely paying additional fees or costs that may be required under existing law and regulation, such as application investigation fees.

Section 15.5 governs public notice requirements for certain filings. Subsection (e) contains a reference to a definition that has been removed from Section 15.1. Further, Subsection (e) is redundant of Subsection (a). Subsection (e) provides the Banking Commissioner (commissioner) with specific discretion to determine that public notice requirements for a filing are satisfied where public notice has been required and provided by another regulator. Subsection (a) provides the commissioner with more general discretion to find that any alternative form of publication is acceptable, which could include the alternative publication currently described in Subsection (e). For these reasons, deletion of Subsection (e) of Section 15.5 is appropriate.

Section 15.6 discusses applications for state bank charters. It contains a typographical error that needs to be corrected.

Section 15.7 discusses submission of documents in general, and submission of reproductions of documents in particular. This section should be amended to expressly apply both to original documents and to reproductions, where appropriate. Another appropriate amendment updates the name of the non-depository supervision division of the department. Finally, this section should be amended to address electronic filings in all forms, and to clarify the rules on when filings

of all types are deemed to be received by the department.

Daniel Frasier, Director of Corporate Activities and Financial Innovation, has determined that for the first five years the proposed amended rules are in effect, there will be no foreseeable increases or reductions in costs or other fiscal implications to state or local government as a result of enforcing or administering the rules as amended.

Director Frasier has further determined that for the first five years the proposed amended rules are in effect, the public benefit anticipated from enforcing the rules is ensuring that the Finance Code corporate activities requirements will be enforced for the benefit of banks and their constituents in a manner that is clear and not unnecessarily complex, and consistent with applicable federal regulations.

Director Frasier has also determined that for the first five years the proposed amended rules are in effect the economic costs to persons required to comply with the rules as proposed will be unchanged from the costs required under these rules as they currently exist.

In addition, Director Frasier has determined that for the first five years the proposed amended rules are in effect, the rules will not: create or eliminate a government program; require the creation of new department employee positions or the elimination of existing agency employee positions; require an increase or decrease in future legislative

appropriations to the department; require an increase or decrease in fees paid to the department; create a new regulation; or increase or decrease the number of individuals subject to the rules' applicability.

Finally, Director Frasier has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities from the proposed amended rules and no difference in the cost of compliance for these entities.

To be considered, comments on the proposed amendments must be submitted to the department in writing no later than 5:00 p.m. on January 29, 2024. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

This proposal is made under the authority of Finance Code §11.301 which authorizes the commission to adopt rules applicable to state banks, and Finance Code, §31.003, which authorizes the commission to adopt rules necessary to preserve or protect the safety and soundness of state banks.

This proposal affects the statutes administered and enforced by the department's commissioner with respect to state banks, contained in Finance Code, Subtitle A. No other statute is affected by this proposal.

<rule>

§15.1. Definitions

Words and terms used in this chapter that are defined in the Finance Code, Title 3, Subtitle A or Subtitle G, have the same meanings as defined in the Finance Code. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (3) (No change.)

(4) Eligible bank--A state bank that:

(A) is well capitalized as defined in Section 38, Federal Deposit Insurance Act, 12 USC §1831o [~~12 Code of Federal Regulations (CFR), §325.103~~], or is operating in compliance with a capital plan approved in writing by the banking commissioner;

(B) received a composite rating of either 1 or 2 as defined by the Uniform Financial Institutions Rating System at the most recent examination by the department or federal regulatory agencies;

(C) received a CRA rating of either outstanding or satisfactory at the bank's most recent inspection by the appropriate federal regulatory agency;

(D) is not presently operating in violation of a regulatory condition or commitment letter imposed by a state or federal banking regulatory agency; and

(E) is not presently operating under a memorandum of understanding; determination letter or other notice of determination; order to cease and desist, or other state or federal administrative enforcement order issued by a state or federal banking regulatory agency.

(5) - (9) (No change.)

§15.3. Expedited Filings

(a) (No change.)

(b) Notwithstanding another provision of this section, the banking commissioner may deny expedited filing treatment to an eligible bank, in the exercise of discretion, if the banking commissioner finds that the filing involves one or more of the following:

(1) the proposed transaction involves significant policy, supervisory, or legal issues;

(2) approval of the proposed transaction is contingent on additional statutory or regulatory approval by the banking commissioner or another state or federal regulatory agency;

(3) the proposed transaction will result in a fixed asset investment in excess of the limitation contained in the Finance Code, §34.002(a);

(4) the proposed transaction requires the approval of the banking commissioner under the Finance Code, §33.109(b);

(5) the proposed transaction involves an issue of parity between state and national banks pursuant to the Finance Code, §32.009;

(6) the proposed transaction significantly impacts the strategic plan of the bank;

(7) the proposed transaction will result in a decrease in capital below the levels required

to qualify as an eligible bank [~~meet the definition of "well capitalized" in 12 Code of Federal Regulations, §325.103];~~

(8) the proposed transaction will result in an abandonment of the community pursuant to the Finance Code, §32.202(d);

(9) the proposed transaction involves an issue of regulatory concern as determined by the banking commissioner in the exercise of discretion; or

(10) the application is deficient and specific additional information is required, or the filing fee has not been paid.

(c) - (e) (No change.)

§15.4. Required Information and Abandoned Filings

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

(d) Abandoned filing. The banking commissioner may determine any submitted or accepted filing to be abandoned, without prejudice to the right to refile, if the information required by the Finance Code, this chapter, or any rule or regulation adopted pursuant to the Finance Code, or additional requested information, is not furnished within the time period specified by subsection (c) of this section or as requested by the department, [~~banking commissioner~~] in writing, to the person or entity making the submission. The banking commissioner may determine a submitted or accepted filing, for which additional fees or costs are required by the Finance Code or by this chapter, [~~are not paid within 30 days of receipt of the initial~~

submission] to be abandoned if those amounts are not paid by the deadline stated by the department, which shall be at least 14 days from the date the deadline is communicated in writing to the applicant.

(e) (No change.)

§15.5. Public Notice

(a) - (d) (No change.)

~~[(e) Other acceptable public notice. The banking commissioner may determine that public notice required by another regulatory agency of a bank or other regulated entity satisfies the public notice requirements of this section. For example, if a state bank converts, merges, or organizes into a financial institution that is no longer regulated by the banking commissioner and the banking commissioner determines that public notice requirements imposed by the successor regulatory authority regarding the conversion, merger, or organization satisfy the notice requirements of the Act and this section, the banking commissioner may permit the notice required by the successor regulatory authority to serve as notice under the Act and this section.]~~

§15.6. Credit Exposure Arising from Derivative and Securities Financing Transactions

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

(d) Violation of Processing Times. If an application is not protested [~~pretested~~] or a hearing is not convened, an applicant may appeal directly to the banking commissioner

for a timely resolution of a dispute arising from a violation of a processing period set forth in this section. An applicant may appeal by filing a written request with the banking commissioner on or before the 30th day after the date the decision is made on the application, requesting review by the banking commissioner to determine whether the established period for the granting or denying of the application has been exceeded. The decision on the appeal shall be based on the written appeal filed by the applicant, any response by the department, and any agreements between the parties. The banking commissioner may convene a hearing to take evidence on the matter.

(e) (No change.)

§15.7 Submission of Documents and Reproductions

(a) Scope. This section governs submission of [~~specified forms of copies of original~~] documents to the department, [~~Texas Department of Banking (the department)~~] for processing by the corporate activities division of the department, pursuant to this chapter and does not permit, prohibit, or affect correspondence with, or documents submitted to, the department for another purpose, including:

(1) applications submitted to the non-depository supervision [~~special audits~~] division of the department; and

(2) documents submitted to the department as required or permitted by Government Code, Chapter 2001, and Chapter 9 of this title (relating to Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings).

(b) Reproduction. For purposes of this section, the term reproduction means:

(1) a photographic or photostatic copy or similar reproduction of an original document that is submitted to the department by mail or hand delivery;

(2) a facsimile copy of an original document submitted by telephonic document transmission to the fax number specified by the department; or

(3) if permitted by the department with respect to a specific filing, an electronic copy of an original document submitted by electronic means as authorized [~~to the email address specified~~] by the department.

(c) (No change.)

(d) Page limitations. A document [~~reproduction~~] submitted by telephonic document transmission to the department's fax machine may not exceed 25 pages in total length, including the transmittal document required by subsection (e) of this section, or it will be rejected for filing. The transmission of portions of any particular filing at different times is treated as one reproduction for purposes of this subsection.

(e) (No change.)

(f) Time of receipt. To be considered received by the department, a document [~~reproduction~~] must be in clearly legible form. Documents submitted by mail or hand delivery must be delivered during regular business hours of the department. For documents submitted by mail or hand delivery, the date and time the submission is actually received by the department will

determine the time of receipt. For reproductions submitted by telephonic document transmission, [ø] the date and time imprinted by the department's fax machine on the last page of a reproduction submitted by telephonic document transfer will determine the time of receipt. [~~provided that~~ a] For reproductions submitted by email, the date and time reflected by the department's email system will determine the time of receipt. Any document [reproduction] received after 4:30 p.m. on a business day, or on a non-business day, is considered received at 8:00 a.m. on the next business day. A ~~document~~ [reproduction] will not be considered received until the department receives the entire document and the required filing fee, if any.

(g) (No change.)

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***Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 15. Corporate Activities
Subchapter F. Applications for Merger,
Conversion, and Purchase or Sale of Assets***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend Subchapter F of Chapter 15 of Title 7 of the Texas Administrative Code, concerning corporate activities by state banks. The amended rule is proposed to conform the rule to changes in applicable federal regulation.

Subchapter F of Chapter 15 governs applications for merger, conversion, or purchase of assets relating to state banks subject to the Texas Finance Code (Finance Code). Section 15.103 permits expedited filings for these applications if they relate to “well capitalized” state banks as defined under federal regulation. The citation in Section 15.103 to this federal regulation is no longer correct and needs to be updated. Rather citing the current federal regulation, the underlying federal statute defining “well capitalized” can be cited instead. Changing this citation would not materially change the substance of this rule. In addition, state banks are already subject to these federal regulatory standards.

Daniel Frasier, Director of Corporate Activities and Financial Innovation, has determined that for the first five years the proposed amended rule is in effect, there will be no foreseeable increases or reductions in costs or other fiscal implications to state or local government as a result of enforcing or

administering the rule as amended.

Director Frasier has further determined that for the first five years the proposed amended rule is in effect, the public benefit anticipated from enforcing the rules is ensuring that the Finance Code corporate activities requirements will be enforced for the benefit of banks and their constituents in a manner that is clear and not unnecessarily complex, and consistent with applicable federal regulations.

Director Frasier has also determined that for the first five years the proposed amended rule is in effect the economic costs to persons required to comply with the rule as proposed will be unchanged from the costs required under this rule as it currently exists.

In addition, Director Frasier has determined that for the first five years the proposed amended rule is in effect, the rule will not: create or eliminate a government program; require the creation of new department employee positions or the elimination of existing agency employee positions; require an increase or decrease in future legislative appropriations to the department; require an increase or decrease in fees paid to the department; create a new regulation; or increase or decrease the number of individuals subject to the rule’s applicability.

Finally, Director Frasier has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities from the proposed amended rule and no difference in the cost of compliance for these entities.

To be considered, comments on the proposed amendment must be submitted to the department in writing no later than 5:00 p.m. on January 29, 2024. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

This proposal is made under the authority of Finance Code §11.301 which authorizes the commission to adopt rules applicable to state banks, and Finance Code, §31.003, which authorizes the commission to adopt rules necessary to preserve or protect the safety and soundness of state banks.

This proposal affects the statutes administered and enforced by the department's commissioner with respect to state banks, contained in Finance Code, Subtitle A. No other statute is affected by this proposal.

<rule>

§15.103. Expedited Filings

(a) (No change.)

(b) An expedited filing consists of a letter application including, except to the extent waived by the banking commissioner, these items:

(1) a summary of the transaction;

(2) a current pro forma balance sheet and income statement for all parties to the transaction, with adjustments, reflecting the

proposed transaction as of the most recent quarter ended immediately prior to the filing of the application, demonstrating that each resulting state bank is well capitalized as defined in Section 38, Federal Deposit Insurance Act, 12 USC §1831o [~~12 Code of Federal Regulations, §325.103~~];

(3) a completed Worksheet to Determine Eligibility form as prescribed by the commissioner;

(4) a completed Worksheet for Expedited Filings form as prescribed by the commissioner;

(5) an executed opinion of counsel conforming to the requirements of the section of this subchapter that would apply had the applicant not filed an expedited filing;

(6) copies of all other required regulatory notices or filings submitted concerning the transaction; and

(7) a copy of the public notice published in conformity with the section of this subchapter that would apply had the applicant not filed an expedited filing.

(c) (No change.)

(d) The banking commissioner, in the exercise of discretion, may withdraw an application from expedited processing or may deny expedited filing treatment to an otherwise eligible applicant if the banking commissioner finds that the application involves one or more of these issues:

(1) the proposed transaction involves significant policy, supervisory, or legal

issues;

(2) approval of the proposed transaction is contingent on additional statutory or regulatory approval by the banking commissioner or another state or federal regulatory agency;

(3) the proposed transaction contemplates a resulting entity that is not a financial institution;

(4) the proposed transaction involves a financial institution or other entity that is not domiciled in Texas;

(5) the proposed transaction would cause the assets of a resulting state bank to increase more than:

(A) 100% if it had total assets of one billion dollars or less prior to the transaction; or

(B) 35% if it had total assets of more than one billion dollars prior to the proposed transaction;

(6) the proposed transaction involves a state bank that has experienced, since the last commercial examination by a state or federal regulatory agency, asset growth, through acquisition or otherwise, greater than:

(A) 100% if it had total assets of one billion dollars or less at the last examination; or

(B) 35% if it had total assets of more than one billion dollars at the last examination;

(7) the proposed transaction involves a resulting state bank that would not be well capitalized as defined in Section 38, Federal Deposit Insurance Act, 12 USC §1831o [12

~~CFR §325.103~~];

(8) the proposed transaction involves an issue of regulatory concern as determined by the banking commissioner in the exercise of discretion; or

(9) the banking commissioner determines that a conversion examination is necessary for financial institutions converting into a state bank.

(e) - (f) (No change.)

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***Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 15. Corporate Activities
Subchapter G. Charter Amendments and
Certain Changes in Outstanding Stock***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend Subchapter G of Chapter 15 of Title 7 of the Texas Administrative Code, concerning corporate activities by state banks. The amendments are proposed to conform the rules to changes in applicable Texas law and accounting standards.

Subchapter G of Chapter 15 provides general rules for charter amendments and outstanding stock changes for state banks subject to the Texas Finance Code (Finance Code). Section 15.121 governs acquisition and retention of shares of treasury stock by a state bank. Section 15.122 governs amendments to a state bank's certificates of formation to effect a reverse stock split.

Certain citations in Sections 15.121 and 15.122 to Texas laws and Financial Accounting Standards Board standards are no longer correct and need to be updated. Changing these citations would not materially change the substance of these rules. In addition, state banks are already subject to these other requirements as currently in effect.

Daniel Frasier, Director of Corporate Activities and Financial Innovation, has determined that for the first five years the proposed amended rules are in effect, there will be no foreseeable increases or reductions in costs or other fiscal

implications to state or local government as a result of enforcing or administering the rules as amended.

Director Frasier has further determined that for the first five years the proposed amended rules are in effect, the public benefit anticipated from enforcing the rules is ensuring that the Finance Code corporate activities requirements will be enforced for the benefit of banks and their constituents in a manner that is clear and not unnecessarily complex, and consistent with applicable state law and accounting standards.

Director Frasier has also determined that for the first five years the proposed amended rules are in effect, the economic costs to persons required to comply with the rules as proposed will be unchanged from the costs required under these rules as they currently exist.

In addition, Director Frasier has determined that for the first five years the proposed amended rules are in effect, the rules will not: create or eliminate a government program; require the creation of new department employee positions or the elimination of existing agency employee positions; require an increase or decrease in future legislative appropriations to the department; require an increase or decrease in fees paid to the department; create a new regulation; or increase or decrease the number of individuals subject to the rules' applicability.

Finally, Director Frasier has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural

communities from the proposed amended rules and no difference in the cost of compliance for these entities.

To be considered, comments on the proposed amendments must be submitted to the department in writing no later than 5:00 p.m. on January 29, 2024. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

This proposal is made under the authority of Finance Code §11.301 which authorizes the commission to adopt rules applicable to state banks, and Finance Code, §31.003, which authorizes the commission to adopt rules necessary to preserve or protect the safety and soundness of state banks.

This proposal affects the statutes administered and enforced by the department's commissioner with respect to state banks, contained in Finance Code, Subtitle A. No other statute is affected by this proposal.

<rule>

§15.121. Acquisition and Retention of Shares as Treasury Stock

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

(d) Compliance with securities law.

(1) An issuer's purchase of its own shares is a transaction subject to the antifraud provisions of federal securities law, see 15

United States Code, §78j, 17 Code of Federal Regulations, §240.10b-5, and *Spector v. L Q Motor Inns, Inc.*, 517 F.2d 278 (5th Cir. 1975), cert. denied, 423 U.S. 1055 (1976). The transaction is also subject to the antifraud provisions of state securities law, see Texas Government Code, Title 12 [Civil Statutes, Article 581-33(B)]. Potential liability of the state bank to the selling shareholder can therefore arise if the state bank withholds or misrepresents material facts that the seller would have considered important in making the decision to sell.

(2) Approval of an application under this section by the commissioner does not constitute a determination that the bank has complied with applicable securities law.

(e) (No change.)

(f) Accounting for treasury stock. A state bank must account for the acquisition and retention of treasury stock in accordance with generally accepted accounting principles as prescribed by Financial Accounting Standard Board Accounting Standard Codification Topic 505-30, Treasury Stock [~~under either the cost method or the par value method (see Accounting Research Bulletin Number 43), although use of the cost method may avoid the reduction in capital and certified surplus that would be required under the par value method~~]. The method used for accounting for treasury stock must be clearly reflected in the bank's accounting records.

(g) (No change.)

§15.3. Amendment of Certificate to Effect a Reverse Stock Split

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

(d) Standards for approval.

(1) The banking commissioner will process the proposed reverse stock split in accordance with the Finance Code, §32.101(c). The banking commissioner will require that the reverse stock split be for valid business purposes of the bank itself, viewed as an entity distinct from its affiliates, and be accomplished through fair dealing with and a fair price to unaffiliated shareholders. The banking commissioner may impose conditions on approval, including a condition that an independent appraisal report be obtained regarding the value of the unaffiliated shareholders' shares, exclusive of any element of value arising from the accomplishment or expectation of the proposed transaction, and without minority discount. Share value determined by an independent and properly prepared appraisal report that is fully disclosed to bank shareholders or by the market price of publicly traded shares will be presumed to be a fair value unless extenuating circumstances to the contrary are specifically noted.

(2) In the event approval of the banking commissioner is obtained prior to approval by shareholders, the state bank must file a statement with the banking commissioner certifying that any future event or condition upon which the approval of the transaction was conditioned has been satisfied and the date that each such condition was satisfied. Upon receipt of such statement, the banking commissioner will file the approved amendment to the certificate of formation in accordance with the Finance Code, §32.101(c).

(3) An issuer's purchase of its own shares is a transaction subject to the antifraud provisions of federal securities law, see 15 United States Code, §78j, 17 Code of Federal Regulations (CFR), §240.10b-5, and *Spector v. L Q Motor Inns, Inc.*, 517 F.2d 278 (5th Cir. 1975), cert. denied, 423 U.S. 1055 (1976). Such a transaction is also subject to the antifraud provisions of state securities law, see Texas Government Code, Title 12 [~~Civil Statutes, Article 581-33(B)~~]. Potential liability of the state bank to the selling shareholder can therefore arise if the state bank withholds or misrepresents material facts that the seller would have considered important in making the decision to sell. Consequently, a state bank must disclose to the shareholders in writing, prior to or simultaneously with the written notice of the shareholders meeting, all material information necessary to make an informed decision regarding the proposed reverse stock split. If the reverse stock split involves publicly traded shares and is subject to 15 CFR, §240.13e-3, the registration statement required by federal law is considered to satisfy this disclosure obligation. Approval of an application under this section by the banking commissioner does not constitute a determination that the bank has complied with applicable securities law.

(e) (No change.)

*n

Ray Boone

Ray Boone is a retired Clorox Company executive. In 2020, Mr. Boone moved to Boerne, Texas.

Mr. Boone has been a member of Funeral Consumers Alliance (FCA) for 20 years. He joined while living in the San Francisco and San Diego areas in California. After moving to Boerne, Texas, Mr. Boone transferred his membership to the San Antonio FCA. After attending the annual meetings, he wanted to become more involved in supporting the goals of this worthwhile organization. He joined the San Antonio FCA Board in September 2023.

The San Antonio FCA is a non-profit educational and service organization, founded in 1948. They provide information and support to help consumers navigate the funeral process, and educate consumers on end-of-life planning.

Amy Biggs

Amy Biggs currently holds the position of Vice President of Operations at Funeral Directors Life Insurance Company. Funeral Agency, Inc., a subsidiary of Funeral Directors Life, has been granted an insurance-funded prepaid funeral benefits permit by the Department since 1982. Amy brings to her role more than 27 years of managerial and supervisory experience in operational leadership at Funeral Directors Life, specializing in new business underwriting, commissions, prepaid funeral contracts, policy administration, customer support, and claims settlement. Her valuable analytical, organizational, and planning skills greatly benefit the funeral homes, agents, and policyholders under her care.

D.

**Office of Consumer Credit
Commissioner**

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Consumer Protection and Consumer Assistance Report

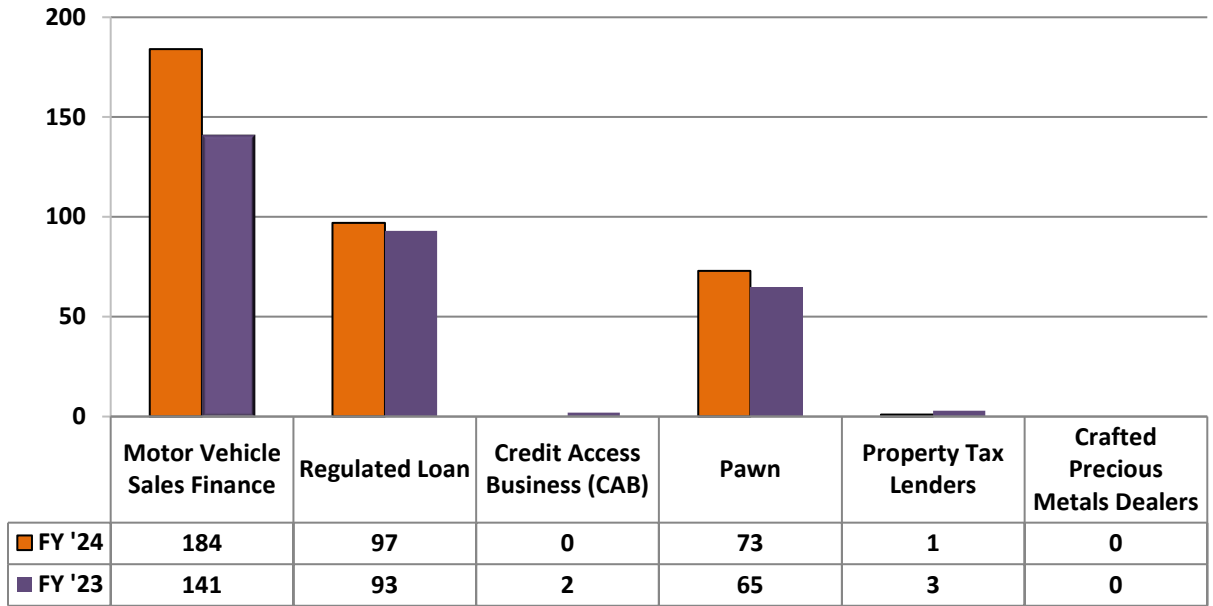
The OCCC examination program is behind FY'24 target exam production by 5% as of the end of November 2023. Significant training and coordination time was invested in examiner capabilities during October. The result of that effort is four more examiners are certified in credit access business examinations and the agency completed a large enterprise credit access business examination. Classroom training for mortgage examinations was conducted during the first week of October. Additionally, the agency has invested significant examiner time in two multi-state mortgage examinations in October and November. A third multi-state mortgage examination began in late November. In contrast to Fiscal Year 2023, results of this multi-state mortgage examination activity are expected before the end of fiscal year 2024.

Four mortgage examinations remain in review by the Multi-State Mortgage Committee and are anticipated to be finalized by the end of January 2024. Multi-State auto finance examination activity for Fiscal Year 2024 has not been determined as of the date of this report.

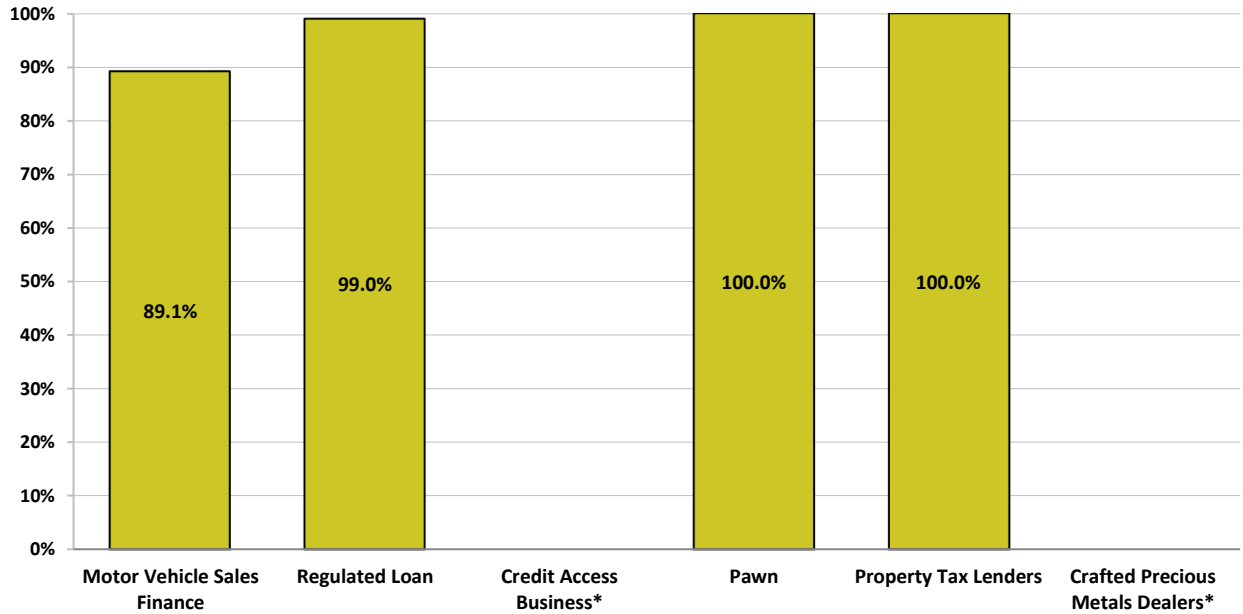
As noted in the October briefing, examiner training and development remains the high priority for the examination department. Training in motor vehicle sales finance examinations for the June 2023 examiner class is expected to begin early in calendar year 2024. January will see a large classroom training experience (eight examiners) related to Texas Finance Code 342-E exams. In spring 2024, a large classroom training experience has been scheduled for mortgage and property tax lender exams. Finally, classroom training (six examiners) related to credit access business examinations is scheduled for the summer of 2024. These classroom training events are a vital component of examiner career ladder progression.

The OCCC is committed to filling a summer (June 2023) examiner class of five examiners. Recruitment is being planned and will begin in the spring of 2024.

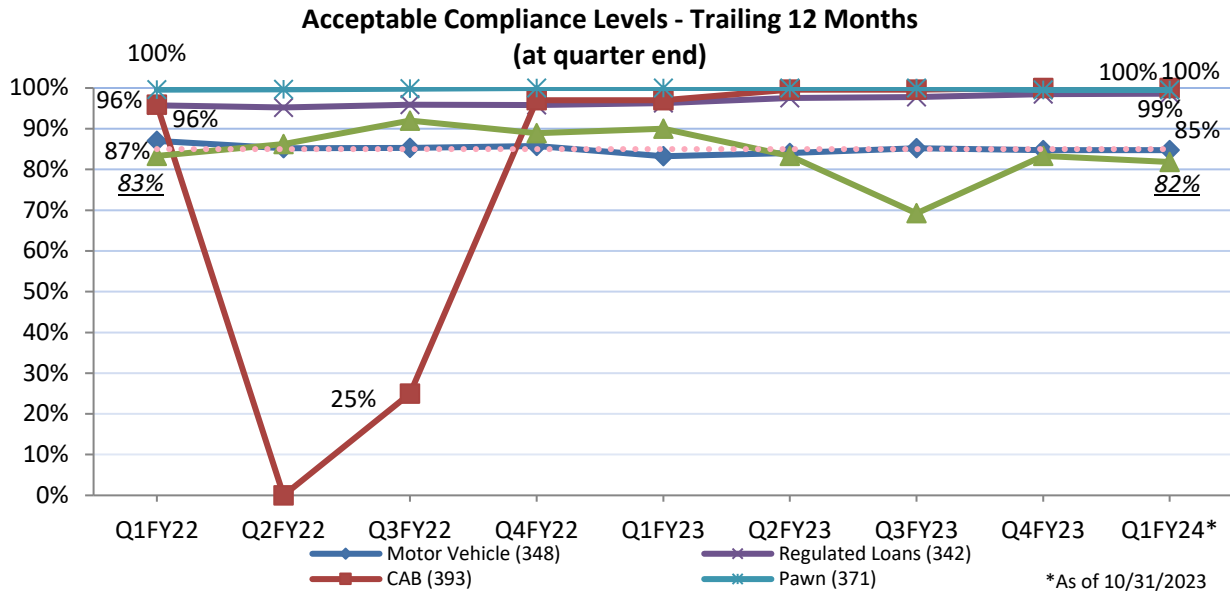
**Examinations Conducted: Sept - Oct
Fiscal Year Comparison**



**Acceptable Level of Compliance FY '24
(Sept 2023 - Oct 2023)**



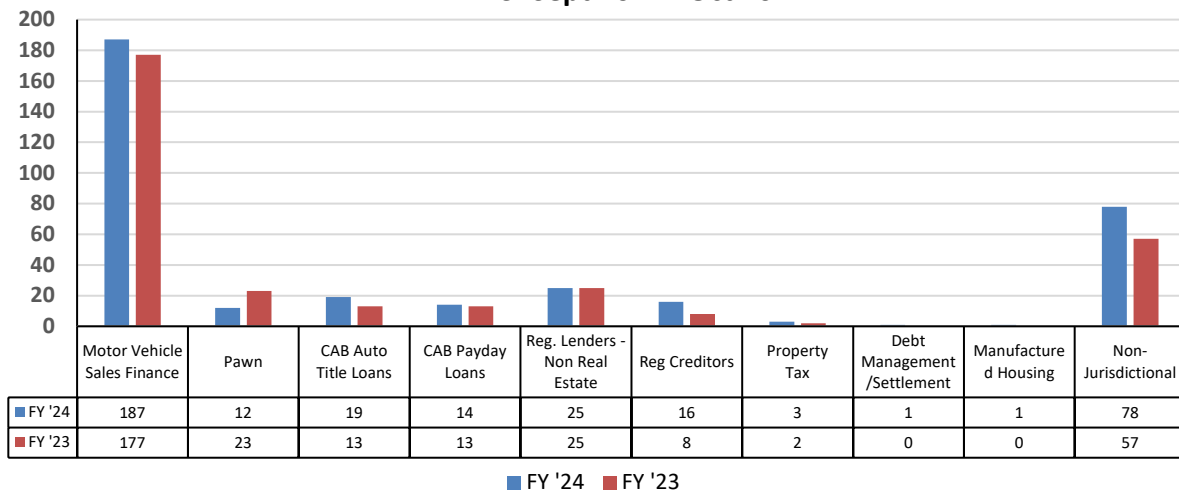
The following chart denotes the acceptable level of compliance on a trailing 12-month basis through the end of October 2023.



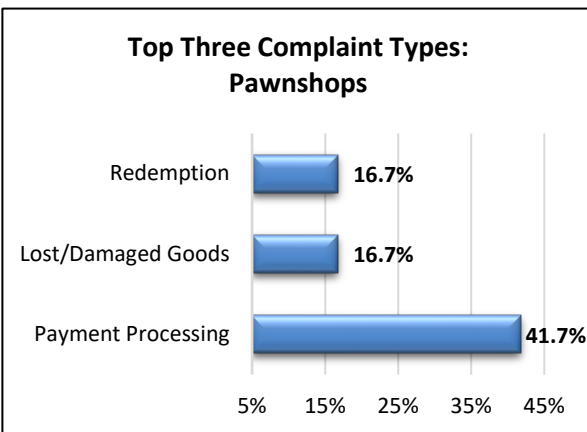
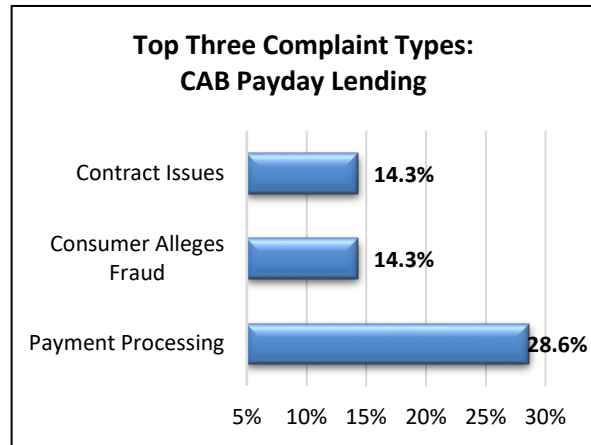
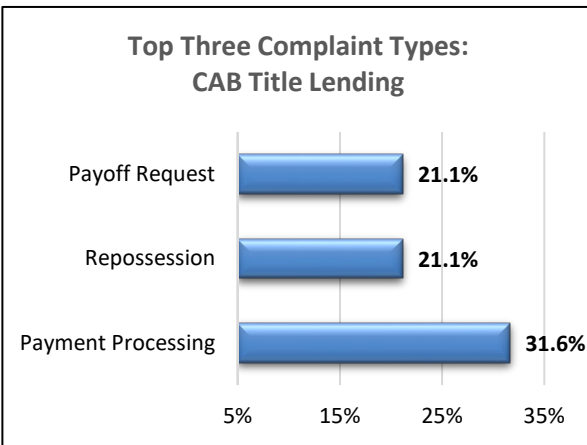
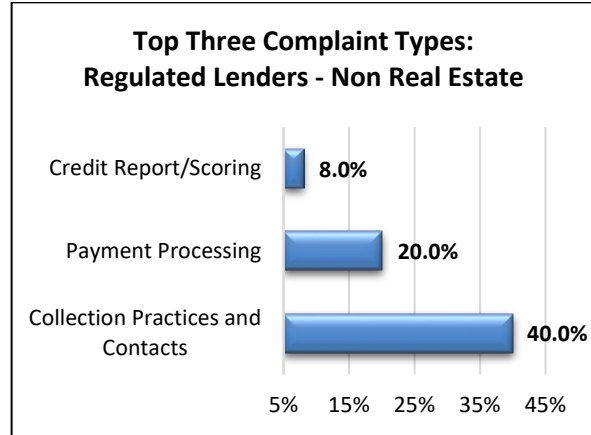
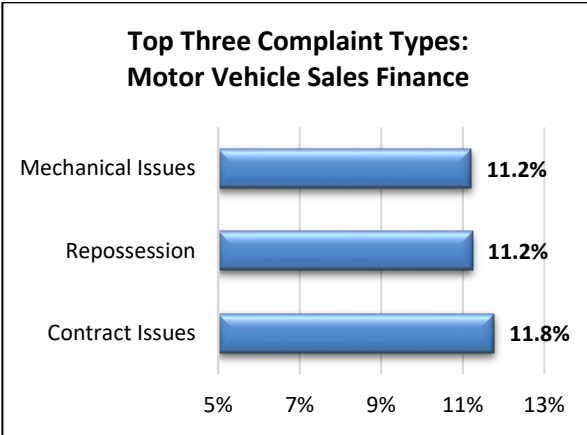
Consumer Assistance

During this reporting period, 356 complaints were closed, of which 78 were classified as non-jurisdictional. Complaints have increased approximately 12% from this period last fiscal year. The top four areas of jurisdictional complaints are (1) Motor Vehicle Sales Finance (MVSF), (2) Credit Access Businesses (CAB), (3) Regulated Lenders Non-Real Estate, and (4) Pawn. MVSF complaints were the largest complaint category at 52.3%. The second largest category was Credit Access Business complaints at 9.2% collectively, separately these are 3.9% for payday loans and 5.3% for title loans. The third largest category came from Regulated Lenders Non-Real Estate at 7%. The fourth largest category was Pawnshops at 3.4%.

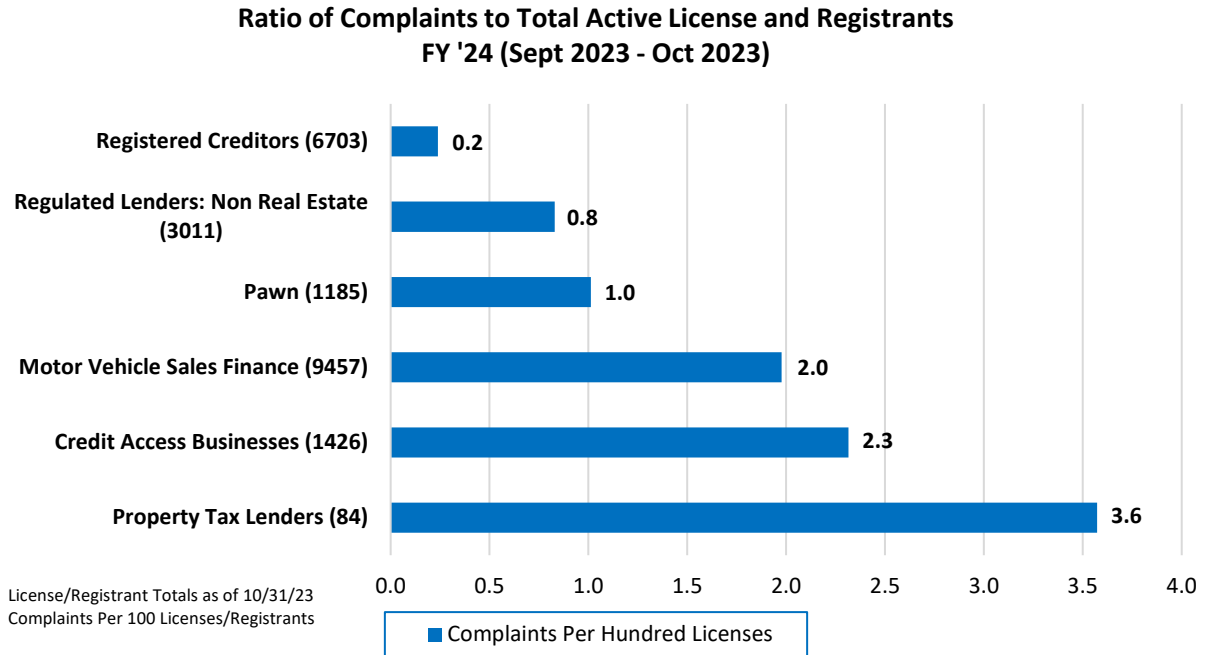
Complaints Closed FY '24: Sept 2023 - Oct 2023 FY '23: Sept 2022 - Oct 2022



The following charts represent the top three complaint areas per license type. In Motor Vehicle Sales Finance, the category *Questionable Business Practices*, where many of the complaints were related to allegations dealers refused to accept outside financing, has fallen out of the top three complaint types.



Comparison of complaints processed to the number of active license or registrant population is noted on the chart below. For this reporting period, the highest ratio of complaints to active license/registrants is Property Tax Lenders, followed by Credit Access Businesses, Motor Vehicle Sales Finance, and Pawn.



Investigations

For FY 2024, the OCCC completed 2 investigations out of the annual goal of 75. Multiple investigations are being reviewed and closure of several of those investigations is anticipated before the end of the calendar year.



Licensing Report-December 2023

Mirand Diamond, Director of Licensing & Finance

Renewals

The department has concluded renewal for both motor vehicle and commercial motor vehicle sales finance licenses. Approximately 90% of motor vehicle sales finance licenses and 95% of commercial motor vehicle sales finance licenses were renewed.

The department is currently in the middle of license renewal for credit access businesses, property tax lenders and regulated lenders. Regulated lenders received a discount of 25% off the maximum annual assessment. Management anticipates more than 90% of each group will complete renewal.

Registration renewal for crafted precious metals dealers and refund anticipation loan facilitators is also currently ongoing.

Application Processing

For the past few months, the department has maintained less than 200 pending applications weekly, indicating efficient and timely processing of applications so far in FY 24. Management will continue to monitor incoming volume, as well as application processing data.

As of October, the processing of business license applications is 4% ahead of pro rata projections. The volume of business license applications received has averaged 114 in September and October, however the department projects receiving 98 applications monthly for all of FY 24.

Incoming pawn employee applications averaged 23 monthly for the period of September and October, and the department is processing approximately the same amount monthly, with an estimate of 25 applications received monthly in FY 24.

Other Updates

The department along with the IT and legal department is continuing work to digitize certain historical paper files in coordination with the Department of Banking and certain vendors.



Administration

Financial Education and TFE

OCCC staff presented at four in-person retiree events hosted by Employee Retirement System of Texas and conducted webinars for the Texas General Land Office and Texas County and District Retirement Systems. Additionally, OCCC staff provided financial education to 2nd graders through Junior Achievement's JA-In-A-Day program. In mid-December the OCCC will partner with the Texas Department of Banking to host a joint webinar and has several financial education presentations scheduled over the next few months.

TFEE activities remain normal, with the fourth and final semi-annual reporting period for the 2022-2023 grant cycle ending on December 31, 2023. The 2024-2025 grant cycle will begin on January 1, 2024. The TFE Grant Advisory Committee met on November 10, 2023 to review the recent grant application and evaluation process and to consider improvements for future cycles.

Communication

On October 24, 2023, OCCC staff met at the State Capitol for an agency-wide conference focused on building capacity and featured keynote speaker, Justice Dale Wainwright of the Texas Public Safety Commission. During the same week, several staff members traveled to Utah to attend the National Association of Consumer Credit Administrators Examiners School. The agency intranet was updated, the employee winter newsletter was published, and many agency employees participated in the State Employee Charitable Campaign. The OCCC continues to communicate with stakeholders, and staff have provided presentations to regulated entities and other groups as follows:

- On September 19, 2023, General Counsel Nance attended the TxDMV Customer Service and Protection Advisory Committee Meeting.
- On October 3, 2023, Commissioner Pettijohn, General Counsel Nance, Director Lewis, Director Diamond, Assistant Director Hubenthal, Assistant General Counsel Spalding, Senior Paralegal Harmon, and Paralegal Fisher conducted a CAB Rule Review Webinar.
- On October 4, 2023, Commissioner Pettijohn, General Counsel Nance, Director Lewis, Assistant Director Hubenthal, Assistant General Counsel Spalding, and Senior Paralegal Harmon conducted a Motor Vehicle Recordkeeping Rule Review Webinar.
- On October 5, 2023, Financial Examiner Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles (DMV).

- On November 2, 2023, Financial Examiner Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles (DMV).
- On November 14, 2023, Commissioner Pettijohn and General Counsel Nance provided a presentation at the TCCC Annual Meeting.

Human Resources

On November 30, 2023, the OCCC was staffed with a total of 68 FTEs. The onboarding process for an Attorney II and Manager II is scheduled to begin on December 1, 2023.

The OCCC has closed the following positions.

Vacancy	Status
Attorney I-II	Closed – 1
Manager I-II	Closed – 1

The turnover ratio as of November 30, 2023, was 1.25%.

Information Technology

Technology modernization and deployment

Three new laptops were deployed, replacing older units that were near or at end-of-life and showing mechanical wear and tear.

Cybersecurity

The agency held a day-long, all-hands conference meeting at the State Capital in late October. Two members of the IT team gave presentations, on securely connecting from remote sites, and the tools and risks presented by the rapidly emerging Artificial Intelligence front of cyberspace.

The comprehensive reorganization of OCCC IT-relevant policies and procedures, to fully align with NIST SP 800-53 revision 5, is approximately 50% completed.

OCCC expanded its cybersecurity training and learning module service package, gaining access to deeper training materials, particularly related to privacy and compliance matters. This will help improve the OCCC's security and awareness postures.



Accounting Report- December 2023

Mirand Diamond, Director of Licensing & Finance

Financial Reporting

The accounting staff concluded work on the Annual Financial Report in November and completed fiscal year end close for FY 23 in CAPPs.

Other Items

Accounting staff prepared monthly expenditure tracking reports for management to monitor budgeted expenditures and to inform future expenditure planning.

In compliance with Government Code, Section 2101.0115, the required Annual Non-Financial Report is being finalized and is due to the Office of the Governor and the Legislative Budget Board by 12/31.

In compliance with Finance Code Section 16.005(c), pertaining to self-directed, semi-independent agencies, the OCCC submitted the required annual report, which included annual financial information.



Legal Department Report

Matthew Nance, General Counsel

December 2023

Enforcement Report

Contested Cases

As of November 30, 2023, the OCCC does not have any contested cases pending before the State Office of Administrative Hearings (SOAH) and does not have any hearings scheduled before SOAH.

Enforcement Case Highlights

Credit access business quarterly and annual reports

Under Chapter 393 of the Texas Finance Code and its implementing rules, each credit access business is required to file quarterly and annual reports with the OCCC describing transaction activity. The reports are due January 31, April 30, July 31, and October 31 of each year. If a credit access business violates this requirement, the OCCC's typical practice is to send an injunction for the first violation, followed by administrative penalties for subsequent violations. In August 2023, the OCCC issued four orders against credit access businesses for failing to file 2023 second quarter reports by the deadline of July 31, 2023.

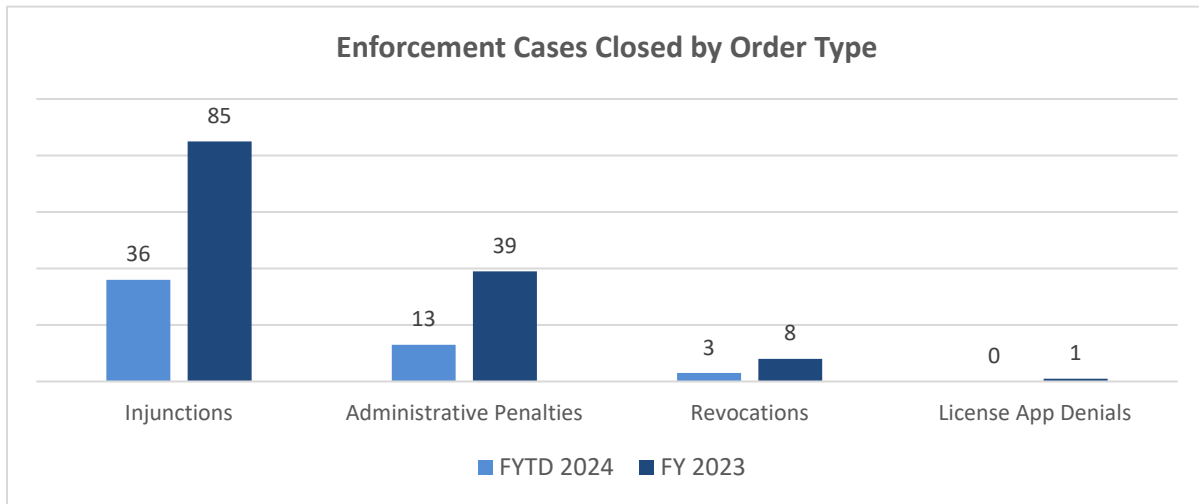
Orders to furnish information and allow investigation

Under Chapter 348 of the Texas Finance Code, the OCCC is authorized to examine and investigate motor vehicle sales finance licensees. Licensees are required to allow the OCCC to access their records and to respond to the OCCC's requests for information. If a licensee fails to provide requested information in an investigation, the OCCC's typical practice is to send an order to the licensee to provide the requested information and to allow an investigation. Failure to comply with an order may result in administrative penalties and license revocation. In November 2023, the OCCC issued two orders against motor vehicle sales finance companies for failing to furnish requested information in investigations.

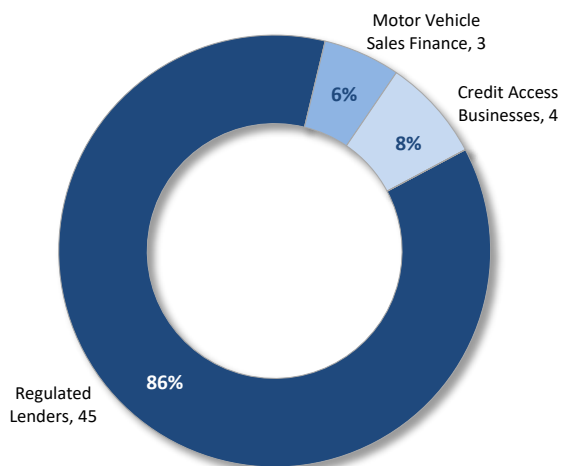
Enforcement Case Tracking

The following table includes enforcement case tracking information for FY 2024 to date (September 1 through November 30, 2023) and FY 2023.

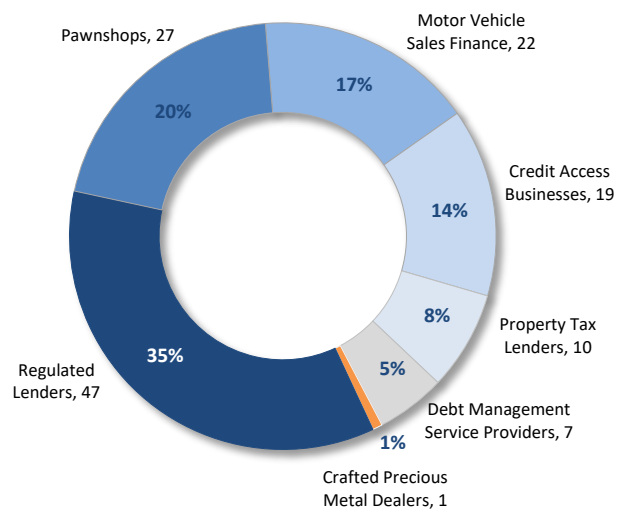
Enforcement Case Tracking Information	FYTD 2024	FY 2023
Enforcement Cases Opened	4	124
Enforcement Cases Closed	52	133
Enforcement Cases Closed by Final Order	49	126
Average Number of Days to Close an Enforcement Action	82	142
Contested Cases Docketed at SOAH	0	2



Cases Closed by Industry FYTD 2024



Cases Closed by Industry FY 2023



Litigation

Ernest Polk v. Texas Office of Consumer Credit Commissioner

This is an employment discrimination lawsuit pending before the First Court of Appeals in Houston (case no. 01-22-00712-CV). The district court dismissed the plaintiff's case, and the plaintiff appealed the case. The parties have filed their briefs in the court of appeals. On October 4, 2023, the court of appeals issued a letter that identified the three justices who will decide the case, stated that the court will not hear oral argument, and set a case submission date of November 28, 2023. As of November 30, the appeal is still pending.

Rulemaking

At the December meeting, the OCCC is presenting the following rule actions:

- Adoption of amendments to 7 TAC Chapter 84 (relating to motor vehicle sales finance) to specify recordkeeping requirements for debt cancellation agreements following HB 2746 (2023) and to make technical corrections.
- Readoption of 7 TAC Chapter 85, Subchapter B (relating to crafted precious metal dealers), resulting from rule review.

At the February 2024 meeting, the OCCC intends to present the following rule actions:

- Adoption of amendments to 7 TAC Chapter 83, Subchapter B (relating to credit access businesses), resulting from rule review. (This adoption is being delayed due to an error in the *Texas Register's* initial publication of the proposed amendments. The error was corrected in the November 24 issue of the *Texas Register*.)
- Readoption of 7 TAC Chapters 1 (relating to OCCC official interpretations) and 82 (relating to OCCC administration), as well as any proposed amendments to these chapters, resulting from rule review.

Advisory Guidance

From October 1, 2023, to November 30, 2023, the OCCC did not issue any advisory bulletins.

From October 1, 2023, to November 30, 2023, the OCCC did not receive any requests for official interpretations of the Texas Finance Code. As of November 30, 2023, there were no pending requests for official interpretations of the Texas Finance Code.

Public Information Requests

Public Information Tracking Information	FYTD 2024	FY 2023
Public Information Requests Received	24	162
Public Information Requests Closed	21	155
Public Information Requests Withdrawn	0	7
Public Information Requests Referred to Office of Attorney General	0	0
Average Number of Days to Address a Public Information Request	2.7	2.3

Gifts Received by the OCCC

General Counsel Matthew Nance attended the Conference on Consumer Finance Law (CCFL) Annual Consumer Financial Services Conference without a registration fee. The conference took place in Dallas on November 2 and 3, 2023. The CCFL's website stated that "In-house legal staff" may "attend the conference without charge." For the purposes of this conference, the OCCC's attorneys have been considered in-house legal staff who may attend the conference without a registration fee. If the OCCC had been required to pay the outside-counsel registration fee for one attendee, the registration fee would have been \$495.

D. OFFICE OF CONSUMER CREDIT COMMISSIONER

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales

PURPOSE: The purposes of the rule changes to 7 TAC Chapter 84 are to implement changes relating to recordkeeping for debt cancellation agreements under HB 2746 (2023) and to make technical corrections and updates.

RECOMMENDED ACTION: The OCCC requests that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 84.

RECOMMENDED MOTION: I move that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 84.

Title 7, Texas Administrative Code
Part 5. Office of Consumer Credit Commissioner
Chapter 84. Motor Vehicle Installment Sales
Subchapter G. Examinations

The Finance Commission of Texas (commission) adopts amendments to §84.707 (relating to Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)), §84.708 (relating to Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)), and §84.709 (relating to Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)) in 7 TAC Chapter 84, concerning Motor Vehicle Installment Sales.

The commission adopts the amendments to §84.707, §84.708, and §84.709 without changes to the proposed text as published in the November 10, 2023, issue of the *Texas Register* (48 TexReg 6519).

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 84 govern motor vehicle retail installment transactions. In general, the purposes of the adopted rule changes to 7 TAC Chapter 84 are: (1) to implement changes relating to recordkeeping for debt cancellation agreements under HB 2746 (2023), and (2) to make technical corrections and updates.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received one informal precomment on the rule text draft, discussed later in this preamble. The OCCC appreciates the thoughtful input provided by stakeholders.

Amendments to §84.707 update recordkeeping requirements for retail sellers that assign motor vehicle retail installment contracts to another holder. Amendments at §84.707(d)(2)(A)(iv) remove a reference to the Tax Collector's Receipt for Texas Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS). Based on information from the Texas Department of Motor Vehicles (TxDMV), the OCCC understands that this form is obsolete for motor vehicle dealer sales. An amendment removes current §84.707(d)(2)(E), which requires retail sellers to maintain the County of Title Issuance form (Form VTR-136). The OCCC understands that this form is now obsolete and is no longer used, following the passage of SB 876 (2021) and amendments to Texas Transportation Code, Chapter 501. Other amendments throughout §84.707 renumber provisions to be consistent with these amendments and make technical corrections.

Amendments at §84.707(d)(2)(I) update recordkeeping requirements for motor vehicle debt cancellation agreements. Under Texas Finance Code, §354.007, a buyer is entitled to a refund of a debt cancellation agreement fee when the agreement terminates due to prepayment of the retail installment contract. The OCCC has identified failure to provide these refunds as a recurring issue in its examinations of licensees. In examinations conducted between 2016 and 2023, the OCCC instructed licensees to provide more than \$26 million in refunds to consumers as a result of this issue. In the 2023 regular legislative

session, the Texas Legislature passed HB 2746, which amended requirements for debt cancellation agreement refunds. In particular, HB 2746 amended Texas Finance Code, §354.007 to specify: (1) that retail sellers and third-party administrators are responsible for providing refunds upon cancellation or termination of a debt cancellation agreement (based on the portion of the debt cancellation agreement fee that the retail seller and administrator received), (2) that holders must either refund a debt cancellation agreement fee or provide written instruction to the administrator and retail seller to make the refund, and (3) that administrators and retail sellers are responsible for maintaining records of a refund. The amendments to §84.707(d)(2)(I) specify that retail sellers must maintain documentation of the disbursement of the debt cancellation agreement fee, any written instruction from a holder to make a refund, and documentation of any refund. These amendments will help ensure that retail sellers maintain records to show compliance with Texas Finance Code, §354.007, as amended by HB 2746. Licensees must maintain these records to document that consumers are receiving legally required refunds.

In an informal precomment, an attorney representing an association of motor vehicle dealers asked two questions regarding the proposed amendments to §84.707. First, the attorney asked: "With respect to the required 'written instruction' from a holder and the documentation of any refund of the DCA, if the written instructions are sent electronically, may the written instructions be maintained electronically by the retail seller?" Second, the attorney asked: "With the recognition that the DCA is to be maintained in each retail installment transaction file or a copy of any page of the DCA with a signature, transaction-specific

term, the cost of the DCA and any blank spaces completed and a master copy of each DCA maintained as required, do the written instructions and refund documents have to be maintained in each retail buyer's file, or may they be maintained collectively?" These issues are addressed in the current rule's introductory text to §84.707(d)(2), which states: "A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time." The introductory text also states: "If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request." These two sentences apply to the records that are normally part of the retail installment transaction file, and these sentences are not being changed in this adoption. As described in these two sentences, a retail seller could maintain an electronic record that is not included in the transaction file, as long as the electronic record can be accessed on request within a reasonable amount of time.

Amendments to §84.708 update recordkeeping requirements for retail sellers that collect payments on motor vehicle retail installment contracts. The amendments to §84.708 are substantially similar to the amendments to §84.707 described in the previous two paragraphs. In particular, the amendments delete a reference to Form 31-RTS, delete a reference to Form VTR-136, make technical corrections, and require sellers to maintain records of debt cancellation agreement refunds to ensure consistency with HB 2746.

Amendments to §84.709 update recordkeeping requirements for holders that take assignment of motor vehicle retail installment contracts. Specifically, amendments to §84.709(e)(2)(D) explain that holders must maintain any written instruction to another person to make a refund, and must maintain any other refunding documentation that comes into their possession. Amendments to §84.709(e)(2)(F) specify that holders must maintain documents relating to the cancellation or termination of a debt cancellation agreement that come into their possession, and must cooperate in obtaining related documents. These amendments are consistent with a holder's current responsibility under §84.709(e)(2)(F) to maintain (and cooperate in obtaining) documents relating to a debt cancellation agreement claim. It is important that licensees maintain these records to document that consumers are receiving legally required refunds.

The rule amendments are adopted under Texas Finance Code, §11.304, which authorizes the Finance Commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4. In addition, Texas Finance Code, §348.513 authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 348 and 354.

§84.707. Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)

- (a) - (c) (No change.)
- (d) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract entered into by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (7) [~~(6)~~] of this subsection.

(B) - (D) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) - (iii) (No change.)

(iv) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) [~~], Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS),~~] or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(v) (No change.)

(vi) any records applicable to the retail installment transaction outlined by subparagraphs (B) - ~~(P)~~ [(Q)] of this paragraph.

(B) - (D) (No change.)

~~[(E) for a retail installment sales transaction in which the retail buyer elects to have the vehicle registered in another county as permitted by Texas Transportation Code, §501.0234, a completed copy of the Texas Department of Motor Vehicles' County of Title Issuance form (Form VTR-136) signed by the retail buyer.]~~

~~(E)~~ [(F)] for a retail installment sales transaction involving a downpayment, a copy of any document relating to the downpayment including:

(i) - (iv) (No change.)

~~(E)~~ [(G)] for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

~~(G)~~ [(H)] for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document relating to the disbursement of funds for money advanced.

~~(H)~~ [(I)] for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

~~(I)~~ [(J)] for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction from a holder to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used

by the licensee during the period described by paragraph (7) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(J) [~~K~~] for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(K) [~~L~~] for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) - (ii) (No change.)

(L) [~~M~~] for a retail installment sales contract that has an itemized charge for the inspection of a used motor vehicle, access to a copy of the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(M) [~~N~~] for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(N) [~~O~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(O) [~~P~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) - (ii) (No change.)

(P) [~~Q~~] any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) - (7) (No change.)

§84.708. Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)

(a) - (d) (No change.)

(e) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract made or acquired by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (10) [~~9~~] of this subsection.

(B) - (D) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) - (iv) (No change.)

(v) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) [~~Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS),~~] or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(vi) (No change.)

(vii) any records applicable to the retail installment transaction outlined by subparagraphs (B) - ~~(U)~~ [~~(V)~~] of this paragraph.

(B) - (D) (No change.)

~~[(E) for a retail installment sales transaction in which the retail buyer elects to have the vehicle registered in another county as permitted by Texas Transportation Code, §501.0234, a completed copy of the Texas Department of Motor Vehicles' County of Title Issuance form (Form VTR-136) signed by the retail buyer.]~~

~~(E)~~ [(F)] for a retail installment sales transaction involving a downpayment, a copy of any record or document relating to the downpayment including:

(i) - (iv) (No change.)

~~(F)~~ [(G)] for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

~~(G)~~ [(H)] for a retail installment sales contract that has an itemized charge for the inspection of a new or used motor vehicle, a copy of or access to the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

~~(H)~~ [(I)] for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a

copy of any document, form, or agreement relating to the disbursement of funds for money advanced.

(I) [~~(H)~~] for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(J) [~~(K)~~] for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (10) of this subsection;

(iii) in the licensee's general business files, policies and procedures that

show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(K) [~~(L)~~] for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(L) [~~(M)~~] for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:

(i) - (ii) (No change.)

(M) [~~(N)~~] for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle:

(i) - (ii) (No change.)

(N) [~~(O)~~] for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) - (ii) (No change.)

(O) [~~(P)~~] for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as

prescribed by 43 TAC §217.106 (relating to Discharge of Lien).

(P) [~~(Q)~~] for a retail installment sales transaction involving a repossession, the records required by subsection (f) of this section.

(Q) [~~(R)~~] for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:

(i) - (ii) (No change.)

(R) [~~(S)~~] for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(S) [~~(T)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(T) [~~(U)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) - (ii) (No change.)

(U) [~~(V)~~] any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) - (10) (No change.)

(f) (No change.)

§84.709. Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)

(a) - (d) (No change.)

(e) Records required.

(1) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

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

(D) for a retail installment sales transaction in which the licensee issues or takes assignment of a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer and any written instruction to another person to make a full or partial refund of the

debt cancellation agreement fee, and any documentation that comes into the licensee's possession regarding a refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (9) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(E) (No change.)

(F) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle, or involving the cancellation or termination of a debt cancellation agreement, the licensee must:

(i) maintain any documents that come into its possession relating to the creation, processing, [Ø] resolution,

cancellation, or termination of a debt cancellation agreement; and

(ii) upon request of the agency, cooperate in requesting and obtaining access to the type of documents described in clause (i) of this subparagraph that are not in its possession.

(G) - (J) (No change.)

(3) - (9) (No change.)

(f) (No change.)

Certification

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

Issued in Austin, Texas on December 15, 2023.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner

D. OFFICE OF CONSUMER CREDIT COMMISSIONER

3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Chapter 85, Subchapter B, Concerning Rules for Crafted Precious Metal Dealers, Resulting from Rule Review

PURPOSE: Pursuant to Texas Government Code, §2001.039, the OCCC has completed the review of 7 TAC Chapter 85, Subchapter B, and believes that the reasons for initially adopting the rules contained in this subchapter continue to exist.

RECOMMENDED ACTION: The OCCC requests that the Finance Commission readopt 7 TAC Chapter 85, Subchapter B following rule review, because the reasons for the rules continue to exist.

RECOMMENDED MOTION: I move that the Finance Commission readopt 7 TAC Chapter 85, Subchapter B following rule review, because the reasons for the rules continue to exist.

Title 7. Banking and Securities
Part 5. Office of Consumer Credit Commissioner
Chapter 85. Pawnshops and Crafted Precious Metal Dealers
Subchapter B. Rules for Crafted Precious Metal Dealers

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 85, Subchapter B, concerning Rules for Crafted Precious Metal Dealers. The rule review was conducted under Texas Government Code, §2001.039.

Before publishing notice of the review in the Texas Register, the Office of Consumer Credit Commissioner (OCCC) issued an informal advance notice of the rule review to stakeholders. In response to the advance notice, the OCCC received one informal precomment from an individual in the gold buying business. This precomment suggested "that the current rules be left alone" because "they seem to be sufficient."

Notice of the review of 7 TAC Chapter 85, Subchapter B was published in the October 6, 2023, issue of the *Texas Register* (48 TexReg 5827). The commission received no official comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this subchapter continue to exist.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 85, Subchapter B continue to exist, and readopts this subchapter in accordance with the requirements of Texas Government Code, §2001.039.

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