

June 2016



# 2017

---

# STRATEGIC PLAN 2021

Texas Department of Banking  
2601 N. Lamar Blvd.  
Austin, Texas 78705  
Toll Free 877-276-5554  
[www.dob.texas.gov](http://www.dob.texas.gov)

**AGENCY STRATEGIC PLAN**  
**FISCAL YEARS 2017 TO 2021**  
**BY THE**  
**TEXAS DEPARTMENT OF BANKING**

<b>FINANCE COMMISSION OF TEXAS</b>		
<b>COMMISSION MEMBER</b>	<b>DATES OF TERM</b>	<b>HOMETOWN</b>
Stacy G. London, Chair	June 26, 2008 to Feb 1, 2020	Houston
Robert (Bob) Borochoff	Feb 22, 2016 to Feb 1, 2022	Houston
Hector J. Cerna	Dec 16, 2015 to Feb 1, 2020	Eagle Pass
Margaret (Molly) Curl	Feb 23, 2016 to Feb 1, 2022	Richardson
Phillip A. Holt	Feb 23, 2016 to Feb 1, 2022	Bonham
Victor E. Leal	Feb 2, 2012 to Feb 1, 2018	Amarillo
William M. (Will) Lucas	Sept 27, 2011 to Feb 1, 2018	Center
Lori B. McCool	Apr 27, 2009 to Feb 1, 2020	Boerne
Matthew (Matt) Moore	Feb 23, 2016 to Feb 1, 2022	Amarillo
Paul Plunket	June 26, 2008 to Feb 1, 2020	Dallas
Hilliard (Jay) Shands, III, Vice Chair	Aug 23, 2010 to Feb 1, 2018	Lufkin

**SUBMITTED JUNE 10, 2016**

SIGNED:           /s/ Charles G. Cooper            
Charles G. Cooper, Banking Commissioner

APPROVED:           /s/ Stacy G. London            
Stacy G. London, Finance Commission Chair

THIS PAGE INTENTIONALLY LEFT BLANK.

## TABLE OF CONTENTS

Department of Banking Mission.....	1
Agency Goals and Action Plans.....	1
Goal: Effective Bank and Trust Regulation.....	2
Actions Required to Achieve Goal.....	2
Goals and Action Items Support Statewide Objectives.....	2
Other Considerations.....	4
Goal: Effective Regulation Of Special Audit Licensees.....	7
Actions Required to Achieve Goal.....	7
Goals and Action Items Support Statewide Objectives.....	7
Other Considerations.....	9
Goal: Effective Regulation Through Corporate Activities.....	12
Actions Required to Achieve Goal.....	12
Goals and Action Items Support Statewide Objectives.....	12
Other Considerations.....	13
Goal: Effective and Efficient Operations Compliant with State Laws.....	15
Actions Required to Achieve Goal.....	15
Goals and Action Items Support Statewide Objectives.....	15
Other Considerations.....	17
Redundancies and Impediments.....	19

THIS PAGE INTENTIONALLY LEFT BLANK

## DEPARTMENT OF BANKING MISSION

The mission of the Department of Banking is to ensure Texas has a safe, sound and competitive financial services system.

## AGENCY GOALS AND ACTION PLANS

The Department's mission is accomplished primarily by the examination of the chartered and licensed entities under our supervision. In order to meet our goals and fulfill our mission, the Department will abide by these core values and operating principles:

- Adhere to the highest ethical and professional standards;
- Be statutorily accountable and responsible;
- Anticipate and respond to a dynamic environment;
- Identify and promote innovative practices;
- Operate efficiently and maintain consistent and prudent regulatory standards;
- Communicate effectively;
- Foster teamwork while encouraging individual excellence and career development;
- Provide a desirable work environment that values cultural and individual differences;
- Seek input from and be responsive to the public, our supervised entities, and State leadership; and
- Adhere to the principle of "Tough but Fair" regulatory oversight.

**GOAL: EFFECTIVE BANK AND TRUST REGULATION**

To ensure timely, fair, and effective supervision and regulation of the financial institutions under our jurisdiction in order to promote a stable banking and financial services environment and provide the public with convenient, safe, and competitive financial services. In doing so, provide quality regulation and maintain the credibility of the Department with the public, industries we regulate, federal banking regulators and other government agencies.

**ACTIONS REQUIRED TO ACHIEVE GOAL**

- Conduct commercial bank, trust company, foreign bank agency, and foreign representative office examinations, in cooperation with the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve Bank (FRB), in conformance with the Department's examination priority schedule and in a thorough, accurate, and timely manner.
- Maintain contact with, and monitor the condition of, regulated entities between examinations through processes which include an off-site monitoring program.
- Monitor industry status and engage in regular communication with federal regulators (FDIC and FRB) and the Conference of State Bank Supervisors (CSBS).
- Promote cybersecurity awareness among regulated entities.
- Ensure correction-oriented enforcement actions will be taken, as appropriate, against regulated entities that demonstrate higher than normal weakness or risk, including consideration for noncompliance with laws, regulations, and policies.
- Maintain sufficient regulatory resources in the event of further industry deterioration or systemic industry problems, the reallocation of federal regulatory resources away from Texas, a significant increase in the regulated asset base or a substantial loss of examiners.
- Optimize efficiencies in the examination process, including automating examination procedures, adopting electronic examination tools, and utilizing the secure data exchange portal to share information with regulated entities and federal counterparts.
- Research and report on changing industry, statutory, and economic conditions and develop appropriate supervisory strategies to adapt to these changes.
- Provide the industry with electronic access to regulatory and supervisory information through the agency's website.
- Attract and retain qualified employees through a competitive salary program, specialized training, and career advancement opportunities. Create a culture that state service can be a career.
- Maintain accreditation status by CSBS.

**GOALS AND ACTION ITEMS SUPPORT STATEWIDE OBJECTIVES**

**1. Accountable to tax and fee payers of Texas.**

**Consumers**

- Ensure Texans have access to safe and sound financial services providers that comply with applicable laws and regulations.
- Provide consumers access to a Consumer Assistance hotline and other avenues for filing complaints on entities regulated by the Department.

- Protect consumers by maintaining the Closed Account Notification System (CANS) which provides depository institutions with a method to report, to check verification companies, accounts closed due to risk of fraud or identity theft.
- Ensure adherence with self-leveling, self-funding and Self-Directed, Semi-Independent (SDSI) statutory requirements.

**Regulated Entities**

- Provide useful and timely information on the website.
- Issue regulatory and supervisory guidance accessible in the Department's Law and Guidance Manual.
- Provide outreach efforts to industry stakeholders for discussing important issues impacting the industry such as cybersecurity.
- Assist the industry in mitigating risks of emerging electronic crimes through the use of the Texas Bankers Electronic Crimes Task Force (ECTF).
- Seek input on the annual budget through a public hearing.
- Provide an avenue for employees of regulated entities to report suspicious activity, fraud, or abuse to the Department.

**2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including the elimination of redundant and non-core functions.**

- Coordinate examinations and other supervisory activities with federal regulators to reduce duplicative responses by financial institutions.
- Maintain a secure electronic Data Exchange (DEX) portal for use by regulated entities and examination staff.
- Conduct streamlined and risk-focused examinations to target risk areas of concern.
- Develop and refine examination procedures on a continual basis.
- Utilize and continue to enhance technology allowing examiners to be more efficient when on-site and perform portions of an examination off site, when practical.
- Allow flexible work schedules to reduce travel burden and minimize associated expenses.

**3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.**

- Meet or exceed performance measures related to banks, trust companies, and foreign bank agencies.
- Explore ways to further automate examination and related administrative processes.
- Monitor legislative and emerging issues and their impact on regulated entities.
- Perform on-going reviews of examination procedures and policies.
- Review regulatory and supervisory guidance regularly to ensure they are current and relevant.
- Provide ongoing formal and informal training opportunities for examination staff.

**4. Providing excellent customer service.**

- Provide professional and timely resolutions to consumer complaints.
- Seek feedback from consumers upon closure of their complaint against a regulated entity.
- Seek feedback from regulated entities at the conclusion of each examination and through the annual *Rate the Department Survey*.
- Adhere to policies regarding timely dissemination of reports of examinations.
- Notify regulated entities of new or revised rules, regulations or policies in a timely manner.
- Participate in town hall outreach events for bankers held in various locations across the state.
- Ensure that managers of entities under examination are well informed about the progress of the examination and significant findings.

**5. Transparent such that agency actions can be understood by any Texan.**

- Ensure the Department's website contains the following information:
  - Proposed rule changes written in plain language and instructions on how to submit comments;
  - Enforcement actions and orders;
  - Examination procedures;
  - Corporate applications, notices, and filing activity; and
  - Links to the Law and Guidance Manual which contains regulatory and supervisory guidance issued by the Department.
- Provide status reports regarding agency activities and industry conditions to the Finance Commission (FC).

**OTHER CONSIDERATIONS**

To be successful in meeting our goals, the agency must be knowledgeable of regulatory changes, emerging trends, and economic conditions at both the state and national level. In order to stay informed of the matters affecting our regulated entities, the Department will continue to work closely with various organizations, trade groups, and federal and state agencies. Agency staff will continue to participate in numerous committees, workgroups, and task forces through CSBS, a national organization dedicated to advancing the quality and effectiveness of regulation and supervision of state banking and financial services, and other federal regulatory agencies in order to stay abreast of legislative and regulatory issues.

The number of banking entities supervised by the Department as of December 31, 2015 is shown in the following chart:

**AGENCY GOALS AND ACTION PLANS**

---

<b>Regulated Entities</b>	<b>Number of Entities As of December 31, 2015</b>	<b>Total Assets (\$ millions)</b>
<b>Commercial Banks</b>	252	246,960
<b>Trust Companies</b>	20 Nonexempt / 17 Exempt	97,453
<b>Offices of Foreign Bank Agencies(FBAs)*</b>	9 FBAs / 17 Representative Offices / 1 Bank Branch	77,941

*\*Texas state branch, agency or representative office of a foreign bank.*

The number of these entities supervised by the Department has declined over the years, although the size and complexity have grown. This trend is expected to continue.

Examinations and off-site monitoring are conducted by staff in the Bank & Trust Supervision Division, and account for 65% of the agency's 189 employees. As banks increase in asset size and complexity, the number of examiners needed to examine these entities within the required timeframes increases. In addition, the number of additional specialty examiners in the capital markets, Bank Secrecy Act/Anti-Money Laundering, trust and Information Technology (IT) areas will increase.

Challenges facing the banking industry which are expected to continue over the next five years include:

- (1) Regulatory burden as many new federal regulations are phased in and compliance costs continue to rise;
- (2) Economic conditions such as low interest rates and industry downturns are impacting the bottom line;
- (3) Technology risks including cybersecurity threats that are becoming more complex and are targeting financial institutions;
- (4) Human resources which include finding and retaining qualified staff; replacing retiring management and board members;
- (5) Advances in technology and the evolving payments system;
- (6) Competition and the easing of credit underwriting standards; and
- (7) Finding new revenue sources.

Technology risks facing our regulated entities continue to increase as cybercrimes continue to evolve. The Department and federal banking agencies are requiring financial institutions to perform cybersecurity risk assessments. Examiners review the financial institution's cybersecurity risk assessment at every examination. The ECTF website, maintained by the Department, provides numerous resources for bankers related to cybercrimes.

Examiner training and development continues to be a priority for the agency. The general training policy includes on-the-job training, conferences, and a core curriculum of internal and external schools for financial examiner levels I-III in order to progress from an assistant examiner to a commissioned examiner. As banks and trust companies under the Department's supervision become larger and more complex, more resources will be required to develop staff to keep up with the changing industry.

## AGENCY GOALS AND ACTION PLANS

---

During the coming year, the Department's Bank & Trust Supervision Division examiners will adopt the FDIC's Examination Tool Suite (ETS) which is an examination program for asset review, operations work, and report of examination preparation. This will replace the current systems, GENESYS and ETS-ALERT. ETS was developed through a cooperative effort between the FDIC, state banking departments and the FRB, and has new features including enhanced security, increased accuracy checking, and improved collaboration of findings among examination staff and review examiners. ETS will allow bank examiners with the Department, FDIC and FRB to more effectively and efficiently examine financial institutions for safety and soundness.

The Department will continue to expand the functionality of DEX. Future enhancements will be made to the data sharing function between examiners and our federal counterparts and our regulated entities' ability to store and retrieve documents for use by agency staff.

**GOAL: EFFECTIVE REGULATION OF SPECIAL AUDIT LICENSEES**

To ensure timely, fair, and effective supervision and regulation of the non-bank licensees under our jurisdiction in order to promote a stable financial services environment and provide the public with convenient, safe, and competitive financial services. In doing so, provide quality regulation and maintain the credibility of the Department with the public, industries we regulate, and other government agencies.

**ACTIONS REQUIRED TO ACHIEVE GOAL**

- Conduct Money Services Business (MSB), Prepaid Funeral Contract (PFC), and Perpetual Care Cemetery (PCC) examinations, in cooperation with federal and other state regulatory entities, in conformance with the Department's examination priority schedule and in a thorough, accurate, and timely manner.
- Maintain contact with, and monitor the condition of, regulated entities between examinations.
- Promote cybersecurity awareness among regulated entities.
- Optimize efficiencies in the examination process, including automating the data exchange of examination documents through a secure portal, and utilizing electronic examination procedures and reference materials.
- Research and report on changing industry, statutory, and economic conditions and develop appropriate supervisory strategies to adapt to these changes.
- Monitor industry status and engage in regular communication with federal and state regulators.
- Provide the industry with electronic access to regulatory and supervisory information through the agency's website.
- Identify and investigate non-licensed entities and fraudulent activities.
- Ensure proper enforcement actions are taken against unlicensed entities in an effort to bring such entities into compliance with rules and regulations.
- Ensure proper enforcement actions will be taken against regulated entities that demonstrate noncompliance with rules and regulations.
- Attract and retain qualified employees through a competitive salary program, specialized training, and career advancement opportunities. Create a culture that state service can be a career.

**GOALS AND ACTION ITEMS SUPPORT STATEWIDE OBJECTIVES**

**1. Accountable to tax and fee payers of Texas.**

**Consumers**

- Ensure Texans have access to safe and sound financial services providers that comply with applicable laws and regulations.
- Ensure consumer funds collected for PFCs will be available when needed.
- Ensure consumer funds used to purchase a burial right in a perpetual care cemetery are properly deposited in a trust account and used appropriately.
- Ensure consumer funds collected by an MSB are properly transmitted and received by the beneficiary.
- Provide consumers access to a Consumer Assistance hotline and other avenues for filing

complaints on entities regulated by the Department.

- Oversee the Prepaid Funeral Guaranty Fund.
- Ensure adherence with self-leveling, self-funding and SDSI statutory requirements.

**Regulated Entities**

- Provide useful and timely information on the website.
- Issue regulatory and supervisory guidance accessible in the Department's Law and Guidance Manual.
- Organize stakeholder meetings to gather feedback on proposed rules and regulations.
- Seek input on the annual budget through a public hearing.
- Provide outreach efforts to the industry stakeholders for discussing important issues impacting the industry such as cybersecurity.
- Provide an avenue for employees of regulated entities to report suspicious activity, fraud, or abuse to the Department.

**2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including the elimination of redundant and non-core functions.**

- Utilize the ability to accept another state's examination report when certain criteria is met, in an effort to avoid unnecessary regulatory duplication and facilitate the process of supervision and examination with the least regulatory burden to our licensed entities.
- Maintain DEX, which is used by regulated entities and examination staff to improve the flow of information.
- Utilize and continue to enhance technology allowing examiners to be more efficient when on-site and perform portions of an examination off site, when practical.
- Utilize technology to receive annual PFC and PCC license renewals and MSB annual report submissions online to reduce processing time.
- Utilize streamlined and risk-focused procedures, when appropriate.
- Develop and refine examination procedures on a continual basis.
- Allow flexible work schedules to reduce travel burden and minimize associated expenses.
- Coordinate and participate in multi-state MSB examinations utilizing the Money Transmitter Regulators Association (MTRA) standard examination procedures.

**3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.**

- Meet or exceed performance measures related to MSBs, PFCs, and PCCs.
- Monitor legislative and emerging issues and their impact on regulated entities.
- Hold stakeholder meetings to discuss proposed rule and statute changes.
- Perform on-going reviews of examination procedures and policies.
- Review regulatory and supervisory guidance regularly to ensure they are current and relevant.

- Explore ways to further automate examination and related administrative processes.
- Provide ongoing formal and informal training opportunities for examination staff.

**4. Providing excellent customer service.**

- Provide professional and timely resolutions to consumer complaints.
- Seek feedback from consumers upon closure of their complaint against a regulated entity.
- Maintain PFC website to provide information which will help consumers to make informed decisions relating to the purchase of preneed funeral merchandise or services.
- Seek feedback from regulated entities through the annual *Rate the Department Survey*.
- Notify regulated entities of new or revised rules, regulations or policies in a timely manner.
- Ensure that managers of entities under examination are well informed about the progress of the examination and significant findings.

**5. Transparent such that agency actions can be understood by any Texan.**

- Ensure the Department's website contains the following information:
  - Proposed rule changes written in plain language and instructions on how to submit comments;
  - Enforcement actions and orders;
  - Corporate applications, notices and filing activity; and
  - Links to the Law and Guidance Manual which contains regulatory and supervisory guidance issued by the Department.
- Provide status reports about agency activities and industry conditions to the FC.

**OTHER CONSIDERATIONS**

To be successful in effectively regulating and supervising licensees, agency staff must be knowledgeable of regulatory changes, emerging trends, and economic conditions at both the state and national level. In order to stay informed of the matters affecting our regulated entities, the Department will continue to work closely with various organizations, such as CSBS and MTRA, and federal agencies such as the Financial Crimes Enforcement Network (FinCEN) and the Internal Revenue Service (IRS).

The entities licensed by the Department and subject to examinations are shown in the following chart:

Regulated Entities	Number of Entities As of December 31, 2015	Total Assets (\$ millions)
<b>Money Services Businesses</b>	147	104,133
<b>Prepaid Funeral Contract Sellers</b>	378	3,638
<b>Perpetual Care Cemeteries</b>	245	308

Examinations and monitoring of these licensees are conducted by staff in the Special Audits Division, accounting for approximately 11% of the agency's employees. The number of MSBs supervised by the Department has increased over the years, while the number of PFC licensees has decreased and the number of PCC licensees has remained stable. These trends are expected to continue.

The MSB industry is continually evolving. MSBs are becoming more complex and shifting towards more innovative technology products, such as virtual wallets, and away from traditional money transmission activities. Licensees are also now using numerous payment processors and agents in their business models making the flow of funds much more complicated. As new technologies are adopted, regulators must ensure that MSBs have policies and procedures in place to help prevent criminals from hacking computer information systems, infrastructures, and/or computer networks containing valuable customer information. Cybersecurity will be an ongoing issue for this industry and the Department will continue to promote awareness in this area.

Department staff must stay abreast of current and emerging issues and adapt quickly to adequately supervise these entities. In addition, the agency will be challenged to identify fraudulent activities and unlicensed entities doing business with Texans, particularly internet-based companies. Given these challenges, the number of knowledgeable staff required to complete examinations and meet performance goals could increase in the next five years.

The Department is considered a leader in MSB regulation/examinations, often providing training for examiners in other states. The Department strives to work cooperatively with other state and federal agencies, such as FinCEN and the IRS. Working with other regulators and industry groups helps the Department provide MSBs with clear and consistent guidance and allows examination personnel to stay abreast of current and emerging issues. Also, the Department has been proactive in issuing guidance related to the emerging issues in the money services business industry.

The death care industry, which includes PFC and PCC, is a more mature industry operating in a well-established regulatory environment. Over the past several years, the number of permit holders administering preneed trust funds has been declining, while the amount of funds administered by the PFCs licensed by the Department is rising. This trend is expected to continue. Smaller funeral homes and cemeteries will continue to struggle as the industry faces several challenges, including:

- (1) Low interest rates impacting the bottom line;
- (2) Reduction in revenue as consumers shift away from the more expensive traditional burials towards cremation services;
- (3) Finding new revenue sources to offset the increase in cremations;
- (4) Rising maintenance costs for cemeteries;

## AGENCY GOALS AND ACTION PLANS

---

- (5) Continuity of family owned operations as heirs are not interested in taking over the family business; and
- (6) Increased risk of fraudulent activity.

The Department will continue its ongoing monitoring for illegal and fraudulent activity in the death care industry, including the sale of PFCs by unlicensed entities and /or individuals, and misuse of trust funds by permit holders.

**GOAL: EFFECTIVE REGULATION THROUGH CORPORATE ACTIVITIES**

To ensure that the citizens of Texas have access to convenient, safe, sound, and competitive financial services through an effective corporate activities process to evaluate and act upon corporate filings requesting to initiate, expand, or modify financial services to Texans.

**ACTIONS REQUIRED TO ACHIEVE GOAL**

- Process all filings in a timely and thorough manner while adhering to the principle of providing Texans with access to convenient and competitive financial services in a safe and sound manner.
- Optimize efficiencies in the application process by enhancing automated systems, where possible, in order to improve the quality and speed of information exchanged internally and between the Department, its stakeholders, applicants, and the various federal and state agencies that we partner with to process applications.
- Perform thorough background checks as appropriate to determine if the individuals proposed have the experience, personal and financial integrity, and financial ability to direct and/or lead a financial institution's or MSB's affairs in a safe, sound, and legal manner.
- Attract and retain qualified employees through a competitive salary program, specialized training, and career advancement opportunities. Create a culture that state service can be a career.

**GOALS AND ACTION ITEMS SUPPORT STATEWIDE OBJECTIVES**

**1. Accountable to tax and fee payers of Texas.**

**Consumers**

- Charter and license entities with sound business operations and plans which demonstrate the ability and propensity to abide by applicable laws, including consumer protection laws.
- Promote a thriving and competitive financial services industry.
- Prevent the introduction of bad actors into a regulated entity by performing appropriate background checks.
- Ensure adherence with self-leveling, self-funding and SDSI statutory requirements.

**2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including the elimination of redundant and non-core functions.**

- Ensure that staffing resources are periodically evaluated and adjusted in consideration of application type and volume.
- Maintain the secure web portal for applicants and regulated entities to securely and expediently deliver applications and accompanying documentation.
- Encourage a risk-based process for processing applications such that additional time and resources are spent reviewing higher-risk applications and less time and resources are spent processing low-risk applications.
- Allow the use of federal or other states' forms, when available, to minimize duplicate efforts by the applicant.
- Allow the use of Nationwide Multistate Licensing System & Registry (NMLS) for MSB applications.

**3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.**

- Meet or exceed our goal for processing bank, trust, MSB, check verification company, and private child support enforcement agency registration and renewal applications; and cemetery broker and bullion depository agent registrations within statutory time periods.
- Strive to reduce manual processes by leveraging technology.

**4. Providing excellent customer service.**

- Expedite application processing, review and approval processes.
- Monitor compliance with rules currently in place to require timely responses to applications.
- Review forms and applications regularly to improve the quality of initial submission and ease of completion, flexibility, and ultimately timely processing.
- Obtain feedback from entities using corporate services through the annual *Rate the Department Survey*.

**5. Transparent such that agency actions can be understood by any Texan.**

- Ensure Corporate Activities application forms are logically organized and accessible by the public through our website and meet accessibility standards.
- Provide corporate application activity information through our website.
- Ensure that our website continues to accurately list the chartered and licensed entities supervised by the Department.

**OTHER CONSIDERATIONS**

The Department is entrusted with ensuring the safety of the public's money held by businesses that provide financial services. The Department does not license and regulate all financial service providers in Texas. Entities that are chartered or licensed by the Department and subject to examinations to ensure they are operating in a safe and sound manner and in compliance with state and federal laws are state-chartered banks, trust companies, offices of foreign bank agencies, MSBs, PFC sellers, and PCCs. Entities which are required to register with the Department, but not subject to examination, are private child support enforcement agencies, cemetery brokers, check verification entities, and Texas bullion depository agents. The 84<sup>th</sup> Legislature amended the Texas Finance Code requiring the licensing of Texas bullion depository agent services, effective September 1, 2015.

The volume of corporate applications and filings related to the entities chartered and licensed by the Department is expected to remain steady while the complexity continues to increase moderately over the next five years. In the banking sector, mergers and consolidations are expected to continue at a modest pace, particularly among the smaller community banks that find it harder to operate profitably in an environment with increasing costs, competition, and regulatory risk. There have been no bank de novo charter applications since 2008; however, federal regulators have taken steps to encourage de novo applications which may entice organizers to seek new charters. The number of MSB license applications is expected to grow and increase in complexity as technology is quickly evolving in the payments system arena. Recent legislative changes have introduced the licensing of Texas bullion depository agents and cemetery brokers to the agency's corporate filings activities.

## AGENCY GOALS AND ACTION PLANS

---

In addition to the entities identified in the previous goals, other entities that are required to file applications with the Department, as of December 31, 2015 are shown in the following chart. Corporate filings from these entities are nominal.

<b>Regulated Entities (Registration Only)</b>	<b>Number of Entities As of December 31, 2015</b>
<b>Cemetery Brokers</b>	9
<b>Private Child Support Enforcement Agencies</b>	10
<b>Check Verification Entities</b>	2
<b>Texas Bullion Depository Agent Services*</b>	0

*\*Licensing of these entities will begin after the Texas Bullion Depository has been established by the Texas Comptroller of Public Accounts.*

The Department utilizes technology to streamline corporate application related processes. A secure system is in place to accept online filings through the Corporate Application Filing Entry (CAFE) program. Other operating efficiencies are achieved with the utilization of the NMLS, an electronic filing system, which the Department may use for receiving money transmitter applications and processing fingerprint information.

**GOAL: EFFECTIVE AND EFFICIENT OPERATIONS COMPLIANT WITH STATE LAWS**

To ensure that Texans and stakeholders are effectively and efficiently served by high-quality professionals entrusted to implement regulatory requirements and industry standards, utilize advanced technologies, safeguard confidential information, and provide educational opportunities to support and strengthen the financial services industry.

**ACTIONS REQUIRED TO ACHIEVE GOAL**

- Investigate, process, and respond to consumer complaints about Department supervised entities in a professional, appropriate and timely manner.
- Develop comprehensive annual budget and staffing plan.
- Adhere to the agency's annual budget.
- Update and test Continuity of Operations Plan (COOP) annually.
- Utilize technology to streamline processes throughout the agency.
- Promote financial education.
- Migrate to the Centralized Accounting & Payroll/Personnel Systems (CAPPS) by 2020.
- Promote information security and cybersecurity awareness within the agency through training and processes designed to protect sensitive data.
- Engage in regular communication and reporting with the FC.
- Prepare and deliver SDSI agency reports to the Governor and Legislature in an accurate and timely manner.
- Attract and retain qualified staff and maintain professional service.

**GOALS AND ACTION ITEMS SUPPORT STATEWIDE OBJECTIVES**

**1. Accountable to tax and fee payers of Texas.**

**Consumers**

- Conduct outreach efforts for financial education across the state through workshops, webinars, and on-site visits.
  - Provide consumers with several methods for filing complaints against regulated entities.
  - Publish, on the agency website, contract and purchase information as well as Contract Management Guide and Handbook.
  - Provide quarterly reporting of agency financials, budget variance analysis and performance measures to the FC.
  - Ensure adherence with self-leveling, self-funding and SDSI statutory requirements.
- 2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including the elimination of redundant and non-core functions.**
- Utilize secure electronic mailbox to communicate with regulated entities.
  - Utilize a document imaging system to maintain documents electronically, and allow information to be shared more quickly and easily among staff.

- Share resources such as building maintenance and receptionist duties with the two other FC agencies, Department of Savings and Mortgage Lending (DSML) and the Office of Consumer Credit Commissioner (OCCC), in an effort to eliminate unnecessary processes and maximize efficiency and productivity.
- Implement improvements noted or suggested in any external audits.
- Comply with all requirements of Senate Bill 20 from the 84<sup>th</sup> Legislative Session, related to contracting.

**3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.**

- Review internal processes and program applications continuously to find opportunities to further automate or enhance features using advancing technologies.
- Perform periodic testing of COOP, including disaster recovery efforts.
- Review budget performance on a quarterly basis with explanations required for variances between actual expenses and budget.
- Promote and provide cybersecurity awareness training to staff on a continuous basis.
- Provide adequate hardware and software to enable staff to efficiently perform their job duties.
- Conduct an annual employee survey and discuss results with the Employee Advisory Council to explore ideas to enhance agency efficiencies.

**4. Providing excellent customer service.**

- Handle consumer complaints in a professional and timely manner.
- Offer various avenues in which a consumer may contact the Department.
- Provide extensive selection of consumer related information on the Department's website.
- Work closely with various consumer organizations and trade groups in order to respond to issues that are important to our regulated entities.

**5. Transparent such that agency actions can be understood by any Texan.**

- Hold annual public hearing on the agency's budget prior to submission of budget to the FC.
- Publish enforcement actions taken by the Department which include removal and/or prohibition orders, and enforcement orders on the website.
- Seek input to improve the agency's services.
- Publish contract and purchase information on the agency website. Adhere to and comply with the Department's Contract Management Guide and Handbook.
- Provide status reports on agency activities for the FC meetings, which are open to the public. Ensure that the FC meeting agenda, materials, and packets, and minutes are posted on the FC website.

## OTHER CONSIDERATIONS

As a self-leveling, self-funding agency, the Department's revenue is derived from fees and assessments collected from regulated entities. The Department is responsible for all direct and indirect costs and does not receive any general revenue funds. All revenues for operations are placed in a separate account at the Texas Treasury Safekeeping Trust Company. Various provisions in the Finance Code and Health and Safety Code authorize the Commissioner to impose and collect fees to cover only the cost of examination, the equitable or proportionate cost of maintenance and operation of the Department, and the cost of enforcement. The Department operates in a prudent and fiscally responsible manner while performing its statutory duties.

The Department develops a budget annually that is evaluated and reviewed by the FC, the eleven member governing body which oversees three state agencies: the Department, the DSML, and the OCCC. The FC must approve the Department's budget before any expenditure can be made. A budget hearing, which is open to the public, is held each year.

In addition, the Department has been a SDSI agency since 2009. This status has been instrumental over the past years in supporting the agency's efforts to fulfill its mission. Being a SDSI agency, the Department is able to respond effectively and timely to the changing dynamics in our economy and our regulated industries. This includes the ability to adjust budgets to implement immediate changes in staffing strategies as well as adjust salaries to retain and attract qualified personnel and strive for more competitive salary levels with the FDIC. Having SDSI status has allowed the Department to operate more efficiently and has provided the flexibility needed to expand or diminish resources in response to economic conditions.

The Department offers employees an opportunity to provide feedback to improve agency effectiveness and efficiency. Each year, employees are invited to participate in either an internally developed employee satisfaction survey or the University of Texas' Survey of Employee Engagement. In addition, the Department maintains an online (intranet) Suggestion Box for employees to communicate ideas with senior management. An Employee Advisory Council meets at least annually to discuss strengths and weaknesses of the agency and make appropriate suggestions to enhance agency operations.

The Department has begun moving physical servers to virtual servers. Virtual servers allow the Department to save money on hardware, have faster deployment, easier backups and a more energy efficient platform. Virtualizing servers creates a failover system where if one server goes down, it immediately falls over to another system and conserves energy. In the next five years, the agency would like to create a virtual disaster recovery site in order to more efficiently maintain a working network environment in case of a disaster.

To meet the Department's objectives to provide quality regulation, maintain the Department's credibility and to ensure timely, fair, and effective supervision and regulation, it is important to maintain up-to-date computer technology that allows maximum efficiency and minimum down time. To accomplish this, the Department will continue to upgrade equipment and provide new web services to our customers and the public.

Over the next five years, the Department will implement an initiative to develop technologies and approaches to secure networks and systems, including mobile devices, the website and the cloud. By utilizing new technologies and approaches, faster detection and remediation of threats will ensure the Department's information is kept secure. The Information Technology Division will also continue to focus on training Department employees in the area of cybersecurity. Social engineering continues to be the biggest cyber threat and educating users will be a priority in keeping the Department's electronic information safe. The training is required to meet the agency's internal security awareness policy and procedures.

## AGENCY GOALS AND ACTION PLANS

---

According to a recent nationwide survey by the FDIC of unbanked and underbanked households, Texas has one of the highest numbers of unbanked or underbanked households in the nation. The Department strongly supports financial education and will continue to promote and participate in financial literacy initiatives and host financial education events, partnering with financial institutions, businesses, schools, nonprofit organizations, and government agencies to educate and promote financial literacy in their communities. These efforts help to fulfill DOB's financial education mission: *Bankers helping Texans in making informed decisions about budget, credit, asset-building, savings and debt management through financial education.*

The Department is in compliance with the directives of the State Office of Risk Management (SORM) and the Department of Public Safety (DPS) regarding the Continuity of Operations Plan (COOP). Two continuity exercises were conducted in August 2015 and January 2016 with good results. The yearly COOP update and submission to SORM was completed in March 2016. The Department will continue to comply with SORM and DPS requirements and improve its continuity of operations plan and related exercises.

As part of the statewide Enterprise Resource Planning, the Department will need to transition to CAPPs financial and human resources (HR)/personnel modules by fiscal year 2020. In order to transition to the new systems, the Department will face the following challenges:

- Existing Accounting, HR, and Information Technology (IT) staff will dedicate resources as subject matter experts to ensure thorough business process analysis; sound system migration, verification, and validation; and disposition of legacy systems;
- Software and hardware costs will be incurred in order to implement the modules;
- Additional costs will also be incurred related to training, travel, and overall implementation; and
- Changes will impact all staff and must be effectively managed.

Management succession is on the forefront as approximately 31% of the agency staff, or 58 employees, will be eligible to retire over the next five years. Included in this group are all executive management and seven division and regional directors. The knowledge and expertise these individuals will take with them is significant. As a smaller state agency, with less than 200 employees, we rely heavily on these individuals to oversee the agency's regulatory and operational activities. With this in mind, the Department is taking steps towards developing staff to fill these foreseeable vacancies. Efforts to develop up and coming employees include cross-training to expose staff to other aspects of the agency, attending management development courses sponsored by the Government Center for Management Development, involving staff in special projects and participating in committees with organizations outside of the Department. These steps will help to better prepare current employees for taking on new roles as the need arises with minimal disruption to daily operations.

The Department and the other FC agencies, the DSML and the OCCC, are currently located at 2601 N. Lamar Blvd. in a building owned by the three agencies. During the next five years, the Department anticipates relocating the Austin headquarters to facilities which will better meet our needs. Relocating the Austin office is challenging as it is difficult to find building space to meet the requirements of all FC agencies. The staffing resources needed to plan, organize, and execute the move efficiently and effectively will be significant. Cash reserves have been set aside to cover future expenses related to a new building and relocation.

**REDUNDANCIES AND IMPEDIMENTS**

The Department monitors and modifies Texas Administrative Code rules as necessary to reflect changes in state and federal laws, clarify existing laws, and address the dynamics of the changing industries. Periodic reviews of fee rules are performed to ensure each regulated area covers its cost of regulation. Each legislative session, the agency works with state legislators to make necessary changes to state statutes to improve regulations for the industries we charter or license. The following regulation has been identified as a potential barrier to efficient agency operations.

<b>Service, Statute, Rule or Regulation (Provide Specific Citation if applicable)</b>	<b>Describe why the Service, Statute, Rule or Regulation is Resulting in inefficient or ineffective Agency Operations</b>	<b>Provide Agency Recommendations for Modification or Elimination</b>	<b>Describe the Estimated Cost Savings or Other Benefit Associated with Recommended Change</b>
Finance Code Section 202.001	Current statute requires a bank holding company (BHC) to file an application with the Department for all acquisitions of Texas banks, including Texas state savings banks, which are regulated by the DSML. This creates a redundancy in which both agencies review the same proposed transaction.	Amend the Finance Code to place responsibility for review and approval of holding company transactions involving only state savings banks with the DSML	Eliminates agency staff time required for redundant review; and Entity seeking to acquire a Texas state savings bank would only be required to submit one application and pay one filing fee, to obtain approval from the state regulatory agency charged with overseeing it, DSML.

# SCHEDULE A

## BUDGET STRUCTURE

---

The Department of Banking has been a Self-Directed, Semi-Independent agency since 2009 and does not have a bill pattern in the General Appropriations Act. The Department, which is self-funding and self-leveling, is responsible for all costs as no resources are appropriated from the General Revenue Fund. All revenues for operations are derived from assessments and fees paid by regulated entities. The revenues are placed in a separate account at the Texas Treasury Safekeeping Trust Company and not included in the General Revenue Fund.

The Department develops a budget annually that is evaluated and reviewed by the Finance Commission (FC). The budgeting process begins in the last quarter of the fiscal year with the proposed budget presented at a public hearing typically at the end of July. The final budget is presented to the FC at its regularly scheduled August meeting. The FC must approve the budget before any expenditure can be made.

### **GOAL: EFFECTIVE BANK AND TRUST REGULATION**

---

To ensure timely, fair, and effective supervision and regulation of the financial institutions and other licensees under our jurisdiction in order to promote a stable banking and financial services environment and provide the public with convenient, safe, and competitive financial services.

### **OBJECTIVES**

---

**Quality Bank Regulation:** To provide quality regulation and maintain the credibility of the Department with the public, industries we regulate, federal banking regulators and other government agencies by striving that through 2021:

- Examinations of regulated entities will be performed when due;
- Correction-oriented enforcement action will be taken, as appropriate, against regulated entities that demonstrate higher than normal weakness or risk;
- Accreditation status by the Conference of State Bank Supervisors (CSBS) is maintained; and
- Agency will strive to attract and retain qualified employees.

### **OUTCOME MEASURES**

---

- Percentage of banks receiving examinations when due.
- Percentage of foreign bank organizations receiving examinations when due.
- Percentage of trust companies receiving examinations when due.
- Percentage of problem institutions with appropriate supervisory actions in place.
- Certificate of accreditation by the CSBS maintained in good standing.

### **STRATEGIES**

---

**Bank Examination:** Conduct commercial bank, trust company, foreign bank agency, and foreign representative office examinations, in cooperation with federal regulatory entities, in conformance with the Department's examination priority schedule and in a thorough, accurate, and timely manner. Maintain national accreditation. Maintain contact with, and monitor the condition of, regulated entities between examinations through processes which include an off-site monitoring program. Monitor industry status and engage in regular communication with federal regulators (FDIC and FRB) and the Conference of State Bank Supervisors (CSBS). Promote cybersecurity awareness among regulated entities. Optimize efficiencies in the examination process, including automating examination procedures, adopting electronic

# SCHEDULE A

## BUDGET STRUCTURE

---

examination tools, and utilizing the secure data exchange portal to share information with regulated entities and federal counterparts. Research and report on changing industry, statutory, and economic conditions. Provide the industry with electronic access to regulatory and supervisory information through the website.

**FDIC / Industry Deterioration / Federal Regulatory Consolidation Contingency Plan:** Maintain a contingency plan to provide additional regulatory resources in the event of further industry deterioration or systemic industry problems, the reallocation of federal regulatory resources away from Texas, a significant increase in the regulated asset base or a substantial loss of examiners.

### OUTPUT MEASURES

---

- Number of bank and foreign bank examinations performed.
- Number of trust company, trust department and information technology examinations or certifications and other specialized reviews performed.

### EFFICIENCY MEASURES

---

- Average cost per bank examination.
- Assets examined per examiner day (in millions).

### EXPLANATORY MEASURES

---

- Percentage of banks classified safe and sound.
- Number of state-chartered banks in Texas.
- Total assets (dollars in billions) in state-chartered banks in Texas.

# SCHEDULE A

## BUDGET STRUCTURE

---

### GOAL: EFFECTIVE REGULATION OF SPECIAL AUDIT LICENSEES

---

To ensure timely, fair, and effective supervision and regulation of the non-bank licensees under our jurisdiction in order to promote a stable banking and financial services environment and provide the public with convenient, safe, and competitive financial services.

### OBJECTIVE

---

**Quality Non-bank Regulation:** To provide quality regulation and maintain the credibility of the Department with the public, the industries we regulate, and other government agencies by striving that through 2021:

- Examinations of regulated entities will be performed when due; and,
- Correction-oriented enforcement action will be taken against regulated entities that demonstrate higher than normal weakness or risk.

### OUTCOME MEASURES

---

- Percentage of MSB licensees examined when due.
- Percentage of PFC licensees examined when due.
- Percentage of PCC licensees examined when due.
- Percentage of PCC and PFC applications completed within statutory period.

### STRATEGIES

---

**Non-bank Examination:** Conduct Perpetual Care Cemetery (PCC), Prepaid Funeral Contract (PFC) and Money Service Business (MSB) examinations, in cooperation with federal and other state regulatory entities, in conformance with the Department's examination priority schedule and in a thorough, accurate, and timely manner. Promote cybersecurity awareness among regulated entities. Maintain contact with, and monitor the condition of regulated entities between examinations. Optimize efficiencies in the examination process, including automating the data exchange of examination documents through a secure portal, and utilizing electronic examination procedures and reference materials. Research and report on changing industry, statutory, and economic conditions. Ensure proper enforcement actions are taken against unlicensed entities.

### OUTPUT MEASURES

---

- Number of Special Audits licensees examined.
- Number of Special Audits licensees.

### EFFICIENCY MEASURE

---

- Average direct cost per PFC and PCC licensee examination.

### EXPLANATORY MEASURE

---

# SCHEDULE A

## BUDGET STRUCTURE

---

- Dollar amount (billions) of PFC in force.

### **GOAL: EFFECTIVE REGULATION THROUGH CORPORATE ACTIVITIES**

---

To ensure timely, fair, and effective supervision and regulation of the financial institutions and other licensees under our jurisdiction in order to promote a stable banking and financial services environment and provide the public with convenient, safe, and competitive financial services.

### **OBJECTIVE**

---

**Corporate Activities:** To provide convenient and competitive financial services and protect the public by striving through 2021, that all applications, notices, and filings receive a timely and thorough review resulting in knowledgeable and competent recommendations.

### **OUTCOME MEASURE**

---

- Percentage of bank and trust, MSB, check verification company and private child support enforcement agency registration and renewal applications and cemetery broker registrations completed within statutory time periods.

### **STRATEGIES**

---

**Application Processing:** Optimize efficiencies in the application process by enhancing automated systems, where possible, in order to improve the quality and speed of information exchanged during the processing of corporate applications, notices and other filings. . Perform thorough background checks as appropriate to determine if the individuals proposed have the experience, personal and financial integrity, and financial ability to direct and/or lead a financial institution's or MSB's affairs in a safe, sound, and legal manner. Process applications, filings and information requests timely and thoroughly, resulting in knowledgeable and competent recommendations.

### **OUTPUT MEASURE**

---

- Number of bank and trust applications, notices, and filings, MSB license, check verification company and private child support enforcement agency registration and renewal applications and cemetery broker registrations completed.

### **EXPLANATORY MEASURE**

---

- Number of requests for information received.

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-01.01 Percentage of Banks Receiving Examinations When Due**

**Short Definition:** The number of banks due for examination per the examination priority schedule (described in Supervisory Memorandum 1003) and examinations started timely by the Department of Banking, FDIC, or Federal Reserve Bank during the reporting period.. An examination is the process by on-site or off-site review, to review and evaluate the records of a regulated entity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** The Department is under a statutory mandate regarding examination frequency. This measure indicates how well the agency is meeting its mandate.

**Source/Collection of Data:** Division staff enters into the Department's Examination Division Information System on the Network (EDISON) all commercial examinations started and completed by the Department of Banking, FDIC or Federal Reserve Bank. Data is maintained on the total number of banks due for examinations per examination priority schedule. The number of examinations in the numerator and denominator includes banks examined by the Department of Banking and federal agencies, whether joint or independent. Past due banks include those banks with examinations held in abeyance pending their exit from the state system.

**Method of Calculation:** Total number of examinations started of banks when due (as determined by Administrative Memorandum 2041 including the 30 day grace period extension) divided by the number of examinations due during the reporting period.

**Data Limitations:** The number of banks receiving an examination when due could significantly decrease in the event of: (1) Material deterioration in the overall condition of the state's financial institutions which would require a more frequent examination schedule; (2) An inability of the federal banking authorities to meet their examination responsibilities due to a reallocation of personnel to other priorities; and (3) A significant increase in the number of new bank charters.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-01.02 Percentage of Foreign Bank Organizations Receiving Examinations When Due**

**Short Definition:** Number of foreign bank agencies and branches due examinations per examination priority schedule and examinations started timely by the Department of Banking, FDIC, or Federal Reserve Bank during the reporting period. An examination is the process by on-site or off-site review, to review and evaluate the records of a regulated entity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** The Department is under a statutory mandate regarding examination frequency. This measure indicates how well the agency is meeting its mandate.

**Source/Collection of Data:** Division staff enters into the Department's database (EDISON) all foreign bank agencies and branches examinations performed by the Department of Banking or federal agencies, whether joint or independent. Data is maintained on the total number of foreign bank agencies due for examinations per examination priority schedule and includes all agencies examined by the Department or the federal agencies.

**Method of Calculation:** To calculate the percentage of foreign bank agencies and branches receiving examinations when due (as determined by Administrative Memorandum 2041 including the 30 day grace period extension) divided by the number of examinations due during the reporting period.

**Data Limitations:** The number of foreign bank agencies and branches receiving an examination when due could significantly decrease in the event of: (1) Material deterioration in the overall condition of the state's financial institutions which would require a more frequent examination schedule; (2) An inability of the federal banking authorities to meet their examination responsibilities due to a reallocation of personnel to other priorities; and (3) A significant increase in the number of new bank charters.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-01.03 Percentage of Trust Companies Receiving Examinations When Due**

**Short Definition:** Number of trust companies due examinations per examination priority schedule (described in Supervisory Memorandum 1004) and examinations started timely by the Department of Banking, FDIC, or Federal Reserve Bank during the reporting period, less trust companies in liquidation or forfeiture of charter. An examination is the process by on-site or off-site review, to review and evaluate the records of a regulated entity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** The Department is under a statutory mandate regarding examination frequency. This measure indicates how well the agency is meeting its mandate.

**Source/Collection of Data:** Division staff enters into the Department's database (EDISON) all trust companies examinations performed by the Department of Banking or federal agencies, whether joint or independent. Data is maintained on the total number of trust companies due for examinations per examination priority schedule and includes all trust companies examined by the Department or the federal agencies.

**Method of Calculation:** Total number of examinations started of trust companies when due (as determined by Administrative Memorandum 2041 including the 30 day grace period extension) divided by the number of examinations due during the reporting period.

**Data Limitations:** The number of trust companies receiving an examination when due could significantly decrease in the event of: (1) Material deterioration in the overall condition of the state's trust companies which would require a more frequent examination schedule; and (2) A significant increase in the number of new trust companies.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-01.04 Percentage of Problem Institutions with Appropriate Supervisory Actions in Place**

**Short Definition:** Number of banks with a composite CAMELS (Capital, Asset Quality, Management, Earnings, Liquidity, and Sensitivity) rating of 3, 4, or 5 with Cease & Desist Orders, Determination Letters, Memorandums of Understanding, Commitment Letters, Board Resolutions, or Letters of Agreement in effect at the time of the cut-off date for the reporting period, divided by number of banks with a composite CAMELS rating of 3, 4, or 5 as of the cut-off date.

**Purpose/Importance:** It is the Department's policy to impose a supervisory action on an institution which is not operating safely and soundly, to encourage and assist the institution in taking corrective action to improve its condition.

**Source/Collection of Data:** Agency headquarters staff enters into the Department's database (EDISON) rating information about the condition of each bank after an examination is completed by the Department of Banking, FDIC, or the Federal Reserve Bank. Data is maintained on the CAMELS rating of each institution.

**Method of Calculation:** To calculate the percentage of problem institutions with appropriate supervisory actions, divide the number of 3, 4, or 5 rated banks with one of the administrative actions shown above either open or pending as of the fiscal quarter end by the total number of banks rated a composite 3, 4, or 5 as of the same fiscal quarter end date.

**Data Limitations:** This number could naturally increase if there were a substantial deterioration in the condition of the banking industry.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Meet target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-01.05 Certificate of Accreditation by CSBS Maintained in Good Standing**

**Short Definition:** Department is accredited by the Conference of State Bank Supervisors (CSBS) as of the end of the reporting period. 100% - Department is accredited. 0% - Department is not accredited.

**Purpose/Importance:** CSBS accreditation is a national standard of excellence among financial regulators. The Department must maintain its accreditation in order to participate in supervision of interstate banking, and maintain credibility among federal regulators and the national Congress.

**Source/Collection of Data:** A certificate of accreditation is awarded to the Department. This is displayed in the reception area of the agency's headquarters building.

**Method of Calculation:** Determine if the annual CSBS accreditation is in good standing. If so, answer "YES."

**Data Limitations:** None

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** To remain accredited

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Output Measure**      **01-01.06 Number of Bank and Foreign Bank Organization Examinations Performed**

**Short Definition:** Number of regular, limited, abbreviated, joint, and concurrent examinations of banks and offices of foreign bank organizations by the Department of Banking started during the reporting period. An examination is the process by on-site or off-site review, to review and evaluate the records of a regulated entity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** This measure is an indication of the volume of examination activity. It consists of the number of commercial examinations performed by the Department including joint examinations with a federal agency during the fiscal quarter. Foreign bank agency and branch examinations and representative office examinations are included in this measure.

**Source/Collection of Data:** Division staff enters into the Department's database (EDISON) all bank and foreign bank examinations conducted by the Department of Banking, FDIC, or the Federal Reserve Bank. Data is maintained on the total number of banks examined within any given time period.

**Method of Calculation:** The measure is obtained by counting all independent Department of Banking and joint examinations performed during the fiscal quarter from the exam started reports for commercial, foreign bank branch, foreign bank agency, and foreign bank representative office examinations.

**Data Limitations:** Consolidation from mergers and acquisitions within these entities could significantly reduce the number of institutions and therefore reduce the number of examinations performed.

**New Measure:** No

**Calculation Type:** Cumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Output Measure**      **01-01.07 Number of Trust Company, Trust Department, and Information Technology Examinations and Other Specialized Reviews Performed**

**Short Definition:** Number of trust company, trust department, and Information Technology (IT) examinations and other specialized reviews by the Department of Banking started during the reporting period. This measure includes joint examinations with a federal agency, bank holding company examination and the annual review of financial statements submitted by exempt trust companies.

**Purpose/Importance:** This measure is an indication of the volume of examination activity.

**Source/Collection of Data:** Division staff enters into the Department's database (EDISON) all trust company, trust department, and IT examinations conducted by the Department of Banking, FDIC, or the Federal Reserve Bank. Data is maintained on the total number of banks examined within any given time period.

**Method of Calculation:** The total number is obtained by counting all independent Department of Banking examinations and joint examinations from the exam started reports for trust companies, trust departments, bank holding companies, and IT examinations. The number of annual financial statements received for review is also included in this measure.

**Data Limitations:** The number of examinations could significantly decrease in the event of:

- Material deterioration in the overall condition of these entities, which would require more field office time to investigate the safety and soundness concerns;
- A significant change in services or powers that could necessitate expanded examination time periods in order to fully investigate these new activities;
- An inability of the federal banking authorities to meet their examination responsibilities due to a reallocation of personnel to other priorities (applicable to trust departments only); and
- Consolidation of regulated entities through mergers and acquisitions.

On the other hand, the number of examinations could increase in the event of a significant influx of new charters.

**New Measure:** No

**Calculation Type:** Cumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Efficiency Measure**    **01-01.08 Average Cost per Bank Examination**

**Short Definition:** Total direct bank examination costs, expressed as a ratio of the number of examinations performed over the reporting period.

**Purpose/Importance:** To assist in review of the efficiency of the Department's examinations, and to benchmark against other regulators.

**Source/Collection of Data:** Field personnel prepare detailed time and expense reports about their duties. Monthly, this information is transferred into a Departmental database that is maintained by the Information Technology Division of the agency.

**Method of Calculation:** The total bank and trust regional office expenses for the fiscal quarter. Divide the total expenses for the regional offices by the number of exams performed.

**Data Limitations:** Legislative increases in allowable travel expenses or statewide merit increase could increase this measure.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Lower than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Efficiency Measure**    **01-01.09 Assets Examined per Examiner Day (in millions)**

**Short Definition:** Total assets examined by the Department over the reporting period, divided by the days (hours divided by 8) related to those specific bank examinations.

**Purpose/Importance:** To assist in review of the efficiency of the Department's examinations, and to benchmark against other regulators.

**Source/Collection of Data:** Bank financial information is obtained during each examination and is uploaded into the Department's database.

**Method of Calculation:** To calculate the assets examined per examiner day, run the Exams Completed Report for the appropriate fiscal quarter. Divide the sum of the total assets examined by the total exam hours and again divided by eight.

**Data Limitations:** This number could change dramatically if mergers and consolidation increase the asset size of a majority of our regulated entities. Further, the need to train examiners in new issues or an increase in the risk profile of institutions requiring more oversight could also affect this calculation.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

#### **Explanatory Measure 01-01.10 Percentage of Banks Classified Safe and Sound**

**Short Definition:** The total number of state-chartered banks with a composite CAMELS rating of 1 or 2 and non-rated (new charters), divided by the total number of state-chartered banks as of the most recent calendar-quarter-end data available preceding the reporting period cut-off date.

**Purpose/Importance:** This measure is indicative of the condition of the state banking system.

**Source/Collection of Data:** Agency headquarters' staff enters into the Department's database, EDISON, rating information about the condition of each bank after an examination is completed by the Department of Banking, FDIC, or the Federal Reserve Bank. Data is maintained on the CAMELS rating of each institution.

**Method of Calculation:** Divide the total number of state-chartered banks rated 1 or 2 and non-rated (new charters) by the total number of state-chartered banks at the end of the reporting period. It should be further noted that new banks who have not yet been examined are considered safe and sound and/or in compliance with state requirements for calculation of this measure.

**Data Limitations:** The overall condition of a material number of institutions could deteriorate due to adverse economic conditions and substantially increase the percentage of banks not classified as safe and sound.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Explanatory Measure 01-01.11 Number of State-Chartered Banks in Texas**

**Short Definition:** The total number of state-chartered banks as of reporting period cut-off date.

**Purpose/Importance:** This measure is indicative of the volume of banks under the agency's supervision.

**Source/Collection of Data:** The Entity Count Report on agency's EDISON database.

**Method of Calculation:** Run the Entity Count Report as of the last day of the appropriate fiscal quarter. Take the figure shown for state banks and subtract any limited banking associations limited to trust powers.

**Data Limitations:** The number of state chartered banks in Texas could materially increase with an influx of new charter or conversion activity and substantially decrease due to significant merger and acquisition activity.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Explanatory Measure 01-01.12 Total Assets (Dollars in Billions) in State-Chartered Banks in Texas**

**Short Definition:** Total assets of all state-chartered banks as of the calendar-quarter-end immediately preceding the reporting period cut-off date.

**Purpose/Importance:** This measure is indicative of the volume of bank assets under the agency's supervision.

**Source/Collection of Data:** The *All State Banking Activity in Texas Report* produced by the Strategic Support Division as found on the agency's website.

**Method of Calculation:** The performance measure is the subtotal in the total asset column of the *All State Banking Activity in Texas Report* for total Texas state bank activity. This incorporates banks chartered by other states with branches in Texas.

**Data Limitations:** Total assets of state chartered banks in Texas could materially increase with an influx of new charter or conversion activity or substantially decrease due to significant merger and acquisition activity with national banks.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-02.01 Percentage of Money Service Business Licensees Examined When Due**

**Short Definition:** The Department has 12-month and 18-month examination cycles. The number of Money Service Businesses (MSB) license holders with examinations started by the Department of Banking, another state agency, the federal government, or an independent accounting firm over the 18-month period preceding the cut-off prior to the reporting date, divided by the number of MSB license holders required to be statutorily examined as of the cut-off date. An examination is the process by on-site or off-site review to review and evaluate the records of a licensee that relate to the regulated activity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** This measure provides information regarding the extent to which the Department is adhering to the statutory requirements regarding examination frequency and demonstrates the effectiveness of the Department.

**Source/Collection of Data:** Examination data is provided to staff at Headquarters who enter this information into a customized database. The database produces customized reports that: (1) lists all examinations started during the 18-month period preceding the cut-off prior to the reporting date and (2) lists the MSB license holders MSBs required to be examined as of the cut-off date.

**Method of Calculation:** The percentage is calculated by dividing the examinations started during the 18-month period preceding the cut-off prior to the reporting date (Report 1 above) by the number of MSBs required to be statutorily examined as of the cut-off date (Report 2 above).

**Data Limitations:** Standards have been established in statute and by rule to ensure that examinations are performed within acceptable timeframes; however, the level of experience and efficiency of each examiner, along with retaining and hiring qualified examiners, can be limiting factors. This measure would also be affected by a significant increase or decrease in licensees.

**New Measure:** No

**Calculation Method:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-02.02 Percentage of Prepaid Funeral Contract Licensees Examined When Due**

**Short Definition:** The Department has 12-month and 18-month examination cycles. The number of prepaid funeral contract (PFC) license holders with examinations started by the Department of Banking over the 18-month period preceding the cut-off prior to the reporting date, divided by the number of PFC license holders required to be statutorily examined as of the cut-off date. An examination is the process by on-site or off-site review, by which the Department reviews and evaluates the records of a licensee that related to the regulated activity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** This measure provides information regarding the extent to which the Department is adhering to the statutory requirements regarding examination frequency and demonstrates the effectiveness of the Department.

**Source/Collection of Data:** Examination data is provided to staff at Headquarters who enter this information into a customized database. The database produces customized reports that: (1) lists all examinations started during the 18-month period preceding the cut-off prior to the reporting date and (2) lists the PFCs license holders required to be examined as of the cut-off date.

**Method of Calculation:** The percentage is calculated by dividing the examinations started during the 18-month period preceding the cut-off prior to the reporting date (Report 1 above) by the number of PFC required to be statutorily examined as of the cut-off period (Report 2 above).

**Data Limitations:** Standards have been established in statute and by rule to ensure that examinations are performed within acceptable timeframes; however, the level of experience and efficiency of each examiner along with retaining and hiring qualified examiners can be limiting factors. This measure would also be affected by a significant increase or decrease in licensees.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-02.03 Percentage of Perpetual Care Cemetery Licensees Examined When Due**

**Short Definition:** The Department has 12-month and 18-month examination cycles. The number of perpetual care cemeteries (PCC) license holders with examinations started by the Department of Banking over the 18-month period preceding the cut-off prior to the reporting date, divided by the number of PCCs license holders required to be statutorily examined as of the cut-off date. An examination is the process by on-site or off-site review, by which the Department reviews and evaluates the records of a licensee that related to the regulated activity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** This measure provides information regarding the extent to which the Department is adhering to the statutory requirements regarding examination frequency and demonstrates the effectiveness of the Department.

**Source/Collection of Data:** Examination data is provided to staff at Headquarters who enter this information into a customized database. The database produces customized reports that (1) lists all examinations started during the 18-month period preceding the cut-off prior to the reporting date and (2) lists the PCCs license holders required to be examined as of the cut-off date.

**Method of Calculation:** The percentage is calculated by dividing the examinations started during the 18-month period preceding the cut-off prior to the reporting date (Report 1 above) by the number of PCCs required to be statutorily examined as of the cut-off period (Report 2 above).

**Data Limitations:** Standards have been established in statute and by rule to ensure that examinations are performed within acceptable timeframes; however, the level of experience and efficiency of each examiner along with retaining and hiring qualified examiners can be limiting factors. This measure would also be affected by a significant increase or decrease in licensees.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-02.04 Percentage of Perpetual Care Cemetery and Prepaid Funeral Contract Applications Completed Within Statutory Period**

**Short Definition:** The number of perpetual care cemetery (PCC) and prepaid funeral contract (PFC) applications completed within the statutory periods, expressed as a ratio of the number of PCC and PFC applications completed during the reporting period.

**Purpose/Importance:** To measure to what extent the Department is adhering to the statutory requirement regarding the processing and completion of PCC and PFC applications. This measure provides an indication of the Department's compliance with the statutory requirements pertaining to PCC and PFC applications.

**Source/Collection of Data:** All application processing data is maintained in a database, which produces customized reports for the applications processing function. The following information is maintained for each application: date of receipt, date of response, date of completion, days to complete, and date of final action. A report is also generated which lists all received, pending and approved applications during the reporting period. Staff in each of the two areas input data as applications are received and as the processing function takes place. The customized reports can be produced for any given date and are readily available to check the status of an application at any given time.

**Method of Calculation:** A percentage is obtained by dividing the number of PCC and PFC applications completed within the statutory periods for the reporting period divided by the number of PCC and PFC applications completed during the same reporting period.

**Data Limitations:** Limitations include the level of experience of the staff who process the applications and understaffing. Operating procedures have been developed to ensure that applications are processed within the required time frame; however, the level of experience and efficiency of the staff and reviewing officials, along with retaining and hiring qualified employees are limiting factors.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Output Measure**

**01-02.05 Number of Special Audits Licensees Examined**

**Short Definition:** The aggregate number of money service businesses, prepaid funeral contract and perpetual care cemetery examinations started by the Department of Banking or of another state agency or of the federal government or of an independent accounting firm in the reporting period. An examination is the process by on-site or off-site review, to review and evaluate the records of a licensee that relate to the regulated money service businesses, prepaid funeral contract and perpetual care cemetery businesses to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** This measure shows the total number of examinations started during a reporting period and can also be used to determine the percentage of licensees examined during that same period. This data is used by management to determine examiner efficiency, evaluate staffing requirements, schedule future examinations, and to assess the overall effectiveness of Special Audit's examination program.

**Source/Collection of Data:** Examination data is provided to staff at the headquarters office who enter this information into customized databases. The databases produce customized reports that list all examinations started for any given reporting period for each regulated area of Special Audits. Totals from these reports are combined to arrive at the total number of Special Audit Licensees examined during the reporting period.

**Methodology of Calculation:** Customized reports that list and detail the start date of each examination for a reporting period are generated and the totals from these reports are added together to determine the number of Special Audits examinations performed during a reporting period.

**Data Limitations:** Standards have been established in statute and by rule to ensure that examinations are performed within acceptable timeframes; however, the level of experience and efficiency of each examiner, along with retaining and hiring qualified examiners, can be limiting factors. This measure would also be affected by a significant increase or decrease in licensees.

**New Measure:** No

**Calculation Method:** Cumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Output Measure**      **01-02.06 Number of Special Audits Licensees**

**Short Definition:** Total number of Special Audit licensees as of the reporting period cut-off date.

**Purpose/Importance:** Provides an indication of the total number of entities licensed by the Department of Banking and under the supervision of the Special Audits Division. This measure is useful for determining industry trends and growth patterns of the three areas (Perpetual Care Cemetery, Prepaid Funeral Contracts, and Money Service Business) within the Special Audits Division. Information is also useful to assess personnel needs and to evaluate regulatory policies and procedures for each area.

**Source/Collection of Data:** Each of the three areas within the Special Audits Division maintains a database master list, which shows each licensed entity. An entity is transferred to the master list upon becoming an active license.

**Method of Calculation:** Totals from each area's master listing of licensees as of the reporting period cut-off date are combined to arrive at the total number of Special Audits Division licensees as of the reporting period cut-off date.

**Data Limitations:** The number of licensees could fluctuate depending on the number of new licensees and/or the surrendering or revocation of licenses.

**New Measure:** No

**Calculation Type:** Cumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Efficiency Measure      01-02.07 Average Direct Cost per Prepaid Funeral Contract and Perpetual Care Cemetery Licensee Examination**

**Short Definition:** Total direct prepaid funeral contract (PFC) and perpetual care cemetery (PCC) licensee examination costs, divided by the number of examinations started by the Department of Banking over the reporting period. An examination is the process by on-site or off-site review to review and evaluate the records of a licensee that related to the regulated activity to the extent necessary to determine compliance with applicable laws.

**Purpose/Importance:** To measure the average direct cost of each PFC and PCC licensee's examination performed over the reporting period. This measure provides an indication of the Department's use of its resources, personnel, and time as it relates to the examination of PFC and PCC licensees.

**Source/Collection of Data:** Data used to calculate the average cost per PFC and PCC licensee examination is derived from the Department's MIP (Micro Information Products) accounting system which allocates all direct costs incurred by the Department which are associated with the examination of any PFC and PCC licensee during the reporting period. Data is collected and summarized by the MIP accounting system as costs are incurred and charged as expenses. The number of licensee examinations performed over the reporting period is derived from a customized database report which lists each examination performed during the period and which provides a total of the number of examinations performed over the reporting period.

**Method of Calculation:** The total direct costs associated with the examination of any PFC and PCC licensee are divided by the number of examinations performed over the reporting period. The resulting figure is an average direct cost per PFC and PCC licensee examination.

**Data Limitations:** Legislative increases in allowable travel expenses or a statewide merit increase could increase this measure.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Lower than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

#### **Explanatory Measure 01-02.08 Dollar Amount (Billions) of Prepaid Funeral Contracts in Force**

**Short Definition:** The total dollars (aggregate) in prepaid funeral contracts held by prepaid funeral contract licensees regulated by the Department of Banking at the close of the most recent calendar year.

**Purpose/Importance:** Provides an indication of the dollar volume of prepaid funeral contracts regulated by the Department of Banking. This measure assists in determining industry trends and growth patterns, assessing personnel needs, and evaluating examination policies and procedures.

**Source/Collection of Data:** Data is derived from the most recent Departmental examination report of each licensee. The reports contain the total dollar amount and number of prepaid funeral contracts held by the licensee as of the most recent examination. Data contained in the reports entered in a customized database that produces a report summarizing the total number of prepaid contracts and dollars sold.

**Method of Calculation:** A customized database containing each licensee's total number of outstanding contracts and total dollar amount of outstanding contracts produces a report which provides a total of the aggregate total dollar amount in prepaid funeral contracts held by prepaid funeral contract licensees.

**Data Limitations:** The number of contracts and/or the dollar amount of outstanding contracts reported by each licensee at the most recent examination is dependent on information provided by the licensee.

**New Measure:** No

**Calculation Type:** Noncumulative

**Target Attainment:** Higher than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

---

**Outcome Measure**      **01-03.01 Percentage of Bank & Trust, Money Service Business, Check Verification Company and Private Child Support Enforcement Agency Registration and Renewal Applications and Cemetery Broker Registrations Completed within Statutory Time Periods**

**Short Definition:** The number of bank and trust, money service business (MSB), check verification company (CVE), and private child support enforcement agency (PCSEA) registration and renewal applications, and cemetery broker (CB) registrations completed within the statutorily required periods, expressed as a ratio of the number of such applications completed during the reporting period. The time periods for completing these activities are prescribed by rule or statute, and a Summary Chart (Appendix II) of this information is maintained in the Corporate Activities Division.

**Purpose/Importance:** This measure shows the extent of compliance with statutory and rule limitation on the time allowed for corporate processing. A high percentage of compliance is suggestive of an efficient and effective division that is responsive to the requests of the applicants. Processing deadlines bring some certainty to the process and recognition of lost opportunity costs to the applicants. Further, a high percentage of compliance helps the Department remain competitive vis-à-vis other banking regulatory agencies.

**Source/Collection of Data:** The source of data is derived from the database referred to as "CATS". Agency staff make the initial entry including received date for all corporate filings from information supplied by applicants. Additional entries are made to indicate acceptance for filings, requests for additional information and date of decision.

**Methods of Calculation:** The ratio is computed by dividing the number of compliant initial-reply and processing time limits for applicable corporate filings divided by the total number of initial-reply and processing time limits that are mandated for applicable corporate filings. CATS produces customized reports the (1) lists all corporate filings with initial reply and processing times compared to mandated limits and (2) totals all compliant and non-compliant initial reply and processing times for each transaction type.

**Data Limitations:** Standards are established in statute and by rule to ensure that all corporate filings, especially those subject to rule or statutory time limits, are timely performed; however, the Department has no control over the number or types of applications submitted during a particular time period. In some instances, the Corporate Division is dependent upon the actions of others in order to reach a decision. For example, a conversion examination by the Bank and Trust Division must be completed before a decision can be rendered on an application. Additionally, because the Commissioner is the only person authorized to make decisions on some types of applications, processing may extend beyond the required timeframe because of scheduling conflicts.

**New Measure:** No

**Calculation Method:** Noncumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

**Output Measure**      **01-03.02 Number of Bank and Trust Applications, Notices, and Filings, Money Service Business License, Check Verification Company and Private Child Support Enforcement Agency Registration and Renewal Applications and Cemetery Broker Registrations Completed**

**Short Definition:** Number (aggregate) of Bank & Trust applications, notices, and filings completed; the total number of money service business (MSB) new license applications completed; and the number of check verification company (CVE) private child support enforcement agency (PCSEA) and Cemetery Broker (CB) initial and renewal applications completed in the reporting period.

**Purpose/Importance:** This data is used to judge not only the types of activities undertaken by the regulated entities, but to predict future performance of the regulated industries. In most instances the Texas public will feel the effect of these actions and the economic health of the state will be affected. Agency staffing and training requirements can also be impacted based upon the types of filings.

**Source/Collection of Data:** The source of data is derived from the database referred to as "CATS". Agency staff makes the initial entry including received date for all corporate filings from information supplied by applicants. Additional entries are made to indicate acceptance for filing, requests for additional information and date of decision.

**Methodology of Calculation:** A pre-defined report format for this measure is contained within the CATS database. The report allows the user to select a beginning and ending date, which is typically a fiscal quarter. The resulting report then lists, by type of application or filing, the respective number of corporate filings by one of the following five categories: "approved," "denied," "information," "notice," or "withdrawn." The report also provides a total for each type as well as a grand total. The number used for the performance measure takes the total for the number of filings less the total number of "information" and "withdrawn" filings for the applicable reporting period. Numbers for MSB and PCSEA must be manually calculated.

**Data Limitations:** Standards are established in statute and by rule to ensure corporate filings are timely performed; however, we have no control over the number or types of applications submitted during a particular time period. In some instances the Corporate Division is dependent upon the actions of others in order to reach a decision. For example, a conversion examination by the Bank and Trust Division must be completed before a decision can be rendered on an application. Additionally, because the Commissioner is the only person authorized to make decisions on some types of applications, processing may extend beyond the required timeframe because of scheduling problems. Further, the number and timing of filings received by the Corporate Division is a function of the private sector and, as such, is beyond the control of the Corporate Division. Withdrawn applications are not counted even though much time may have been expended in their review.

**New Measure:** No

**Calculation Method:** Cumulative

**Target Attainment:** Higher than target

## SCHEDULE B

### PERFORMANCE MEASURE DEFINITIONS

---

#### **Explanatory Measure 01-03.03 Number of Requests for Information Received**

**Short Definition:** The number of requests received over the reporting period, open records requests and the number of consumer complaints and inquiries.

**Purpose/Importance:** This measure shows the frequency and type of information, which the Department supplies. The public depends upon this data to facilitate commercial transactions such as loan closings, title releases, etc. This information also reflects the volume and types of complaints and inquiries received from the public regarding the entities that we license and/or regulate.

**Source/Collection of Data:** Data is derived from divisional databases administered by the Strategic Support, Special Audits, and Legal Divisions. The information requests and related processing information, such as entity involved and response date is input into the applicable database by an administrative assistant.

**Method of Calculation:** The measure is calculated as the sum of: (1) the total number of complaints and inquiries processed by the Strategic Support, and Special Audits Divisions and (2) the total number of open records requests received by the Legal Division during the fiscal quarter reporting period.

**Data Limitations:** Protocols are established to help ensure information requests are captured; however, no mechanism exists to ensure such information is always appropriately noted.

**New Measure:** No

**Calculation Type:** Cumulative

**Target Attainment:** Lower than target

SCHEDULE B  
PERFORMANCE MEASURE DEFINITIONS

**OUTCOME MEASURES BY FISCAL YEAR**

OUTCOME MEASURE	FY'16	FY'17	FY'18	FY'19	FY'20	FY'21
Percentage of banks receiving examinations when due	87.5%	90%	90%	90%	90%	90%
Percentage of foreign bank agencies receiving examinations when due	95%	95%	95%	95%	95%	95%
Percentage of trust companies receiving examinations when due	90%	90%	90%	90%	90%	90%
Percentage of problem institutions with appropriate supervisory actions in place	100%	100%	100%	100%	100%	100%
Certificate of accreditation by CSBS maintained in good standing	Yes	Yes	Yes	Yes	Yes	Yes
Percentage of money service business licensees examined when due	90%	90%	90%	90%	90%	90%
Percentage of prepaid funeral contract licensees examined when due	90%	90%	90%	90%	90%	90%
Percentage of perpetual care cemetery licensees examined when due	90%	90%	90%	90%	90%	90%
Percentage of bank and trust, money services business, check verification company, private child support enforcement agency registration and renewal applications, and cemetery broker registrations completed within statutory time periods	95%	95%	95%	95%	95%	95%

# SCHEDULE C

## HISTORICALLY UNDERUTILIZED BUSINESS PLAN

---

### HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PLAN

#### HUB POLICY

The Department has adopted a policy to achieve the proportional Historically Underutilized Businesses (HUB) expenditure targets established by the Texas Comptroller of Public Accounts. As part of this policy, the Department will make a good faith effort to assist HUBs in receiving a portion of the total contract value of all contracts that the agency expects to award in a fiscal year. Although the Department has limited opportunities to award contracts, whenever possible and practical, the agency purchases from HUBs regardless of dollar value.

When purchasing goods and services, the Department utilizes the Comptroller of Public Accounts – Texas Procurement and Support Services Division (CPA-TPASS) Centralized Master Bidders List (CMBL), which includes all certified HUB vendors. Any noncertified HUB vendors identified by the Department during this process are encouraged to obtain certification by CPA-TPASS.

#### HUB ACTIVITY

The Department routinely monitors its progress toward achieving the CPA-TPASS HUB goals. Over the last several years, the Department has exceeded its HUB targets in the categories of Professional Services and Commodities Contracts.

#### STATE HUB GOALS COMPARED TO DEPARTMENT OF BANKING FISCAL YEARS

Contracts	State Goal	Agency FY 2015	Agency FY 2014	Agency FY 2013	Agency FY 2012
Professional Services Contracts	23.7%	100%	100%	100%	100%
Commodities Contracts	21.1%	48.6%	29.81%	61.7%	62%

THIS PAGE INTENTIONALLY LEFT BLANK

## SUPPLEMENTAL SCHEDULE D

This schedule regarding Statewide Capital Plan  
is not applicable.

## SUPPLEMENTAL SCHEDULE E

This schedule regarding Health and Human Services  
is not applicable.

THIS PAGE INTENTIONALLY LEFT BLANK

SUPPLEMENTAL SCHEDULE F

[Agency Workforce Plan](#)

THIS PAGE INTENTIONALLY LEFT BLANK

## SUPPLEMENTAL SCHEDULE G

### Report on Customer Service

THIS PAGE INTENTIONALLY LEFT BLANK

# Schedule H

## ASSESSMENT OF ADVISORY COMMITTEES March, 2016 Texas Department of Banking # 451

To assist in the process required by Chapter 2110, Texas Government Code, state agencies should submit an assessment of advisory committees using the format provided. Please submit your assessment for each advisory committee under your agency's purview. Include responses for committees created through statute, administrative code or ad-hoc by your agency. Include responses for all committees, whether ongoing or inactive and regardless of whether you receive appropriations to support the committee. Committees already scheduled for abolishment within the 2016-17 biennium are omitted from the scope of this survey. When submitting information for multiple advisory committees, right-click the sheet "Cmte1", select Move or Copy, select Create a copy and move to end.

NOTE: Only the items in blue are required for inactive committees.

### SECTION A: INFORMATION SUBMITTED THROUGH ADVISORY COMMITTEE SUPPORTING SCHEDULE IN LEGISLATIVE APPROPRIATIONS REQUEST

**Committee Name:** Prepaid Funeral Guaranty Fund Advisory Council

**Number of Members:** 4

**Committee Status (Ongoing or Inactive):** Ongoing  
Note: An inactive committee is a committee that was created prior to the 2014-15 biennium but did not meet or supply advice to an agency during that time period.

**Date Created:** 1987 **Date to Be Abolished:** N/A

**Budget Strategy (Strategies) (e.g. 1-2-4):** N/A **Strategy Title (e.g. Occupational Licensing):** N/A

**Budget Strategy (Strategies):** N/A **Strategy Title:** N/A

State / Federal Authority  
 State Authority  
 State Authority  
 Federal Authority  
 Federal Authority  
 Federal Authority

Select Type	Identify Specific Citation
Statute	Texas Finance Code, Chapter 154, Subchapter H, Guaranty Fund, §§ 154.351-154.360
Admin Code	Texas Administrative Code, Title 7, Part 2, §25.19

**Advisory Committee Costs: This section includes reimbursements for committee member costs and costs attributable to agency staff support.**

Committee Members' <u>Direct</u> Expenses	Expended Exp 2015	Estimated Est 2016	Budgeted Bud 2017
Travel	\$0	\$0	\$0
Personnel	\$0	\$0	\$0
Number of FTEs	0.0	0.0	0.0
Other Operating Costs	\$0	\$0	\$0
<i>Total, Committee Expenditures</i>	\$0	\$0	\$0

  

Committee Members' <u>Indirect</u> Expenses	Expended Exp 2015	Estimated Est 2016	Budgeted Bud 2017
Travel	\$0	\$0	\$0
Personnel	\$0	\$0	\$0
Number of FTEs	0.0	0.0	0.0
Other Operating Costs	\$0	\$0	\$0
<i>Total, Committee Expenditures</i>	\$0	\$0	\$0

  

Method of Financing	Expended Exp 2015	Estimated Est 2016	Budgeted Bud 2017
Method of Finance			
1 - General Revenue Fund	\$0	\$0	\$0
	\$0	\$0	\$0
	\$0	\$0	\$0
	\$0	\$0	\$0
	\$0	\$0	\$0
Expenses / MOFs Difference:	\$0	\$0	\$0

  

Meetings Per Fiscal Year	Expended Exp 2015	Estimated Est 2016	Budgeted Bud 2017
	1	1	1

**Committee Description:** Chapter 154 of the Texas Finance Code mandates that our Department maintain a fund to guarantee performance by sellers of prepaid funeral contracts to ensure funeral providers adhere to their contractual obligations. The Department collects \$1 per new contract sold from trust and insurance funded permit holders until each separate fund reaches \$1 million. The Prepaid Funeral Guaranty Fund Advisory Council is made up of: (1) the commissioner or commissioner's representative; (2) two prepaid funeral contract industry representatives (one each for trust and insurance funded permit holders); and (3) a consumer representative.

### SECTION B: ADDITIONAL COMMITTEE INFORMATION

**Committee Bylaws:** Please provide a copy of the committee's current bylaws and most recent meeting minutes as part of your submission. **NOTE: The Prepaid Funeral Guaranty Fund Advisory Council does not have bylaws.**

1. When and where does this committee typically meet and is there any requirement as to the frequency of committee meetings?  
 Chapter 154 of the Texas Finance Code does not outline a specific frequency for the meetings. However, the committee meets at the Texas Department of Banking's Austin, TX office at least once a year.

2. What kinds of deliverables or tangible output does the committee produce? If there are documents the committee is required to produce for your agency or the general public, please supply the most recent iterations of those.  
 The committee approves: (1) trust fund reconciliations; (2) fund withdrawals; (3) prepaid funeral contract claims; and, (4) revisions to Investment Policy.

3. What recommendations or advice has the committee most recently supplied to your agency? Of these, which were adopted by your agency and what was the rationale behind not adopting certain recommendations, if this occurred?

Approved unusual contract for payment. Claim paid from fund.

4a. Does your agency believe that the actions and scope of committee work is consistent with their authority as defined in its enabling statute and relevant to the ongoing mission of your agency?

 Yes

4b. Is committee scope and work conducted redundant with other functions of other state agencies or advisory committees?

 No

5a. Approximately how much staff time (in hours) was used to support the committee in fiscal year 2015?

5b. Please supply a general overview of the tasks entailed in agency staff assistance provided to the committee.

Tasks include reconciling fund account, depositing fund assessments, gathering consumer documentation in order to process fund withdrawals, answering consumer complaints, and oversight of investment of funds.

6. Have there been instances where the committee was unable to meet because a quorum was not present?

 No

Please provide committee member attendance records for their last three meetings, if not already captured in meeting minutes.

7a. What opportunities does the committee provide for public attendance, participation, and how is this information conveyed to the public (e.g. online calendar of events, notices posted in Texas Register, etc.)?

Public attendance is welcome as the committee agenda is posted with the Texas Register.

7b. Do members of the public attend at least 50 percent of all committee meetings?

 No

7c. Are there instances where no members of the public attended meetings?

 Yes

8. Please list any external stakeholders you recommend we contact regarding this committee.

Texas Funeral Service Commission and Funeral Consumer Alliance, a nonprofit organization dedicated to protecting a consumer's right to choose a meaningful, dignified, affordable funeral.

9a. In the opinion of your agency, has the committee met its mission and made substantive progress in its mission and goals?

 Yes

9b. Please describe the rationale for this opinion.

Committee meets its mission as outlined by Subchapter H Guaranty Fund of Chapter 154 of the Texas Finance Code. Committee meetings are held with the required members of the committee to ratify fund activity and any claims made to ensure funeral providers meet their contractual obligations.

10. Given that state agencies are allowed the ability to create advisory committees at will, either on an ad-hoc basis or through amending agency rule in Texas Administrative Code:

10a. Is there any functional benefit for having this committee codified in statute?

 Yes

10b. Does the scope and language found in statute for this committee prevent your agency from responding to evolving needs related to this policy area?

 No

10c. If "Yes" for Question 2b, please describe the rationale for this opinion.

N/A

11a. Does your agency recommend this committee be retained, abolished or consolidated with another committee elsewhere (either at your agency or another in state government)?

 Retain

11b. Please describe the rationale for this opinion.

Committee serves crucial function in overseeing the Guaranty Fund to guarantee prepaid funeral contract performance by sellers and funeral providers.

12a. Were this committee abolished, would this impede your agency's ability to fulfill its mission?

 No

12b. If "Yes" for Question 4a, please describe the rationale for this opinion.

Committee is warranted to ensure proper checks and balances are in place when approving funds to be withdrawn from the prepaid funeral guaranty funds.

13. Please describe any other suggested modifications to the committee that would help the committee or agency better fulfill its mission.

None

## MINUTES OF THE

### Prepaid Funeral Guaranty Fund Advisory Council

May 14, 2014

1:30 p.m.

Texas Department of Banking

2601 North Lamar Boulevard

Third Floor

Austin, Texas 78705

The Prepaid Funeral Guaranty Fund Advisory Council (GFAC) met on Wednesday, May 14, 2014, in the Conference Room of the Finance Commission Building at 2601 N. Lamar Boulevard, Austin, Texas.

#### **Members in Attendance:**

Sandy Booth, Consumer Representative

Tom Elam, Insurance Representative

Dick Owens, Industry Representative

Stephanie Newberg, Investment Officer and Deputy Commissioner, Texas Department of Banking *for*  
Charles G. Cooper, Chair and Banking Commissioner, Texas Department of Banking

#### **Others in Attendance:**

Russell Reese, Director, Special Audits Division, Texas Department of Banking

Debby Loomis, Deputy Assistant General Counsel, Texas Department of Banking

Dan Wood, Assistant General Counsel, Texas Department of Banking

Jesse Saucillo, Review Examiner, Texas Department of Banking

---

With a quorum present, Deputy Commissioner Stephanie Newberg convened the meeting of the Prepaid Guaranty Fund Advisory Council at 1:32 p.m.

#### **Discussion of and Possible Vote to Approve Minutes of the May 14, 2014 Prepaid Funeral Guaranty Fund Advisory Council Meeting**

Dick Owens made a motion to approve the minutes of the May 16, 2013 Prepaid Guaranty Fund Advisory Council meeting as presented. Sandy Booth seconded and the motion passed unanimously.

#### **Discussion of and Possible Vote to Approve the Activity of the Funds and the Investment Officer Reports for the Period March 1, 2013 to February 28, 2014**

Review Examiner Jesse Saucillo outlined the activity of the Insurance-Funded Guaranty Fund for the period March 1, 2013 through February 28, 2014. Deposits totaling \$97,731.00 were placed in the fund for assessments collected and \$62.51 for interest earned; no claims were paid for this period. The balance for the Insurance-Funded Guaranty Fund as of February 28, 2014 is \$242,102.86.

Review Examiner Saucillo also outlined the activity of the Trust-Funded Guaranty Fund for the period of March 1, 2013 through February 28, 2014. There were no claims paid for this period. Interest earned was \$7,370.72. Restitution totaling \$2,770.96 was received from Turner Bros Undertakers, and Roselawn Funeral Home. The balance for the Trust-Funded Guaranty Fund as of February 28, 2014 is \$1,289,452.99.

Dick Owens made a motion to approve the report of the Guaranty Funds' activities and the Investment Officer Reports for the period March 1, 2013 to February 28, 2014 as presented by Jesus "Jesse" Saucillo, Review Examiner. Tom Elam seconded and the motion passed unanimously.

**Discussion of and Possible Vote to Approve A Claim Related to Washington Memorial Funeral Home, Dallas, Texas**

Director Russell Reese reported on a claim related to three contracts totaling \$7,102.00 for Washington Memorial Funeral Home, Dallas, Texas. The Major Funeral Home (Major) is the successor funeral home that has agreed to honor the three outstanding prepaid funeral contracts for Washington Memorial Funeral Home. They agreed to honor and provide contracted goods and services if additional funds were awarded. Major provided a reconciliation detailing the price difference between current pricing and preneed pricing but has agreed to accept a reduced amount. Major requested that 67% of the difference between its current prices and the prices on the prepaid contracts be awarded. The Department verified that the prepaid funeral contract prices reflected on its reconciliation matches Major's current price list. Based on this information, the Department verified that the claim amount of \$7,102.00 is accurate for the three contracts. These three claims are being presented to the Guaranty Fund Advisory Council for review and possible approval.

Tom Elam made a motion to approve this claim totaling \$7,102.00 for Washington Memorial Funeral Home, Dallas, Texas, as presented by Russell Reese, Director of Special Audits. Sandy Booth seconded and the motion passed unanimously.

**Discussion of and Possible Vote to Approve Claims Related to Tom G. Walker Funeral Home, Coleman, Texas**

Director Russell Reese reported on three claims totaling \$11,196.75, related to Tom G. Walker Funeral Home, Coleman, Texas (Walker). The first claim is for \$2,202.00. The Department received correspondence from a consumer indicating that a prepaid funeral contract purportedly sold by Walker was not properly funded. The consumer notified the Department that limited documentation was available. As a result, the Department's Legal Division reviewed the prepaid funeral contract and related documentation and determined that the consumer had sufficient information to reasonably conclude that Walker received payment in full. The second claim is for \$2,812.75 and the third claim is for \$6,182.00. The purported contract dates are during the time that Walker had an active permit from the Department. Our research revealed that both of these contracts were not shown in the records transferred to North Texas. Both of these prepaid funeral contracts are signed by both parties and reflect that \$2,812.75 and \$6,182.00 were both paid-in-full by the purchasers to Walker. These three claims are being presented to the Guaranty Fund Advisory Council for review and possible approval.

Dick Owens made a motion to approve the three claims totaling \$11,196.75, for Tom G. Walker Funeral Home, Coleman, Texas, as presented by Russell Reese, Director of Special Audits. Sandy Booth seconded and the motion passed unanimously.

**Discussion of and Possible Vote to Approve Revised Administrative Memorandum 2016**

Review Examiner Saucillo reported that we are required to review Administrative Memorandum 2016 which is the Investment Policy for Funds Under the Oversight of the Guaranty Fund Advisory Council, annually. The last review was completed in May 2013. Although the Guaranty Funds are not subject to the Public Funds Investment Act, our policy is emulated to the guidelines stipulated under the Act to the extent it affects current policy. The primary amendments to Administrative Memorandum 2016 were minor in nature and changed to emulate the Public Funds Investment Act updates.

Tom Elam suggested that the Investment Officer verbiage be changed to state that the Investment Officer **may not** have a personal business relationship with a business organization offering to engage in an investment transaction with the Council. This statement and related statements were amended to make this change and delete unnecessary language that was no longer needed.

Tom Elam made a motion to approve the amended, revised Administrative Memorandum 2016 as presented by Jesus “Jesse” Saucillo, Review Examiner. Sandy Booth seconded and the motion passed unanimously.

**Discussion of Collection Efforts**

Director Russell Reese outlined the collection efforts and summary of restitution paid for the period of March 1, 2013 to February 28, 2014. The Department tracks monthly payments received to ensure everybody is current, and sends out letters demanding payment for those who are non-compliant.

**Discussion of Future Meeting Dates**

The next meeting of the Guaranty Fund Advisory Council will be determined at a later date.

The meeting of the GFAC was adjourned at 2:36 p.m.

*(s) Charles G. Cooper*

*(s) Brenda Medina*

---

Charles G. Cooper  
Chair of the Guaranty Fund Advisory Council  
and Banking Commissioner

---

Brenda Medina  
Executive Assistant to the  
Guaranty Fund Advisory Council

## MINUTES OF THE

### Prepaid Funeral Guaranty Fund Advisory Council

May 16, 2013

1:30 p.m.

Texas Department of Banking

2601 North Lamar Boulevard

Third Floor

Austin, Texas 78705

The Prepaid Funeral Guaranty Fund Advisory Council (GFAC) met on Thursday, May 16, 2013, in the Conference Room of the Finance Commission Building at 2601 N. Lamar Boulevard, Austin, Texas.

#### **Members in Attendance:**

Sandy Booth, Consumer Representative

Tom Elam, Insurance Representative

Dick Owens, Industry Representative

Stephanie Newberg, Investment Officer and Deputy Commissioner, Texas Department of Banking *for*  
Charles G. Cooper, Chair and Banking Commissioner, Texas Department of Banking

#### **Others in Attendance:**

Russell Reese, Director, Special Audits Division, Texas Department of Banking

Dan Wood, Assistant General Counsel, Texas Department of Banking

Jesse Saucillo, Review Examiner, Texas Department of Banking

---

With a quorum present, Deputy Commissioner Stephanie Newberg convened the meeting of the Prepaid Guaranty Fund Advisory Council at 1:36 p.m.

#### **Discussion of and Possible Vote to Approve Minutes of the May 17, 2012 Prepaid Funeral Guaranty Fund Advisory Council Meeting**

Dick Owens made a motion to approve the minutes of the May 17, 2012 Prepaid Guaranty Fund Advisory Council meeting as presented. Tom Elam seconded and the motion passed unanimously.

#### **Discussion of and Possible Vote to Approve the Activity of the Funds and the Investment Officer Reports for the Period March 1, 2012 to February 28, 2013**

Review Examiner Jesse Saucillo outlined the activity of the Insurance-Funded Guaranty Fund for the period March 1, 2012 through February 28, 2013. Deposits totaling \$48,303.00 were placed in the fund for assessments collected and \$154.65 for interest earned; no claims were paid for this period. The balance for the Insurance-Funded Guaranty Fund as of February 28, 2013 is \$144,365.02.

Review Examiner Saucillo also outlined the activity of the Trust-Funded Guaranty Fund for the period of March 1, 2012 through February 28, 2013. Claims totaling \$6,486.50 were paid relating to three prepaid funeral contracts sold by Walker-Mora Funeral Home, Alice, Texas, Roselawn Funeral Home, Mineola, Texas, and Memorial Operations Company, Paris, Texas. Travel reimbursement expenses were also paid to Guaranty Fund Advisory Council Member Dick Owens. Restitution totaling \$1,985.54 was also received from Turner Bros Undertakers, Mount Pleasant, Texas and Roselawn Funeral Home, Mineola, Texas. The balance for the Trust-Funded Guaranty Fund as of February 28, 2013 is \$1,279,625.97.

Sandy Booth made a motion to approve the report of the Guaranty Funds' activities and the Investment Officer Reports for the period March 1, 2012 to February 28, 2013 as presented by Jesus "Jesse" Saucillo, Review Examiner. Tom Elam seconded and the motion passed unanimously.

### **Discussion of and Possible Vote to Approve Administrative Memorandum 2016**

Review Examiner Saucillo reported that we are required to review Administrative Memorandum 2016 which is the Investment Policy for Funds Under the Oversight of the Guaranty Fund Advisory Council, every two years. He also stated that both he and Deputy Commissioner Newberg attended Public Fund Investment Act Training in February 2013. Although the Guaranty Funds are not subject to the Public Funds Investment Act, our policy is emulated to the guidelines stipulated under the Act to the extent it affects current policy. The primary amendments to Administrative Memorandum 2016 changed the frequency that the Investment Officer shall provide a report to the Council and the frequency of the review of the policy from a bi-annual to an annual review.

Dick Owens made a motion to approve amended Administrative Memorandum 2016 as presented by Jesus "Jesse" Saucillo, Review Examiner. Sandy Booth seconded and the motion passed unanimously.

### **Discussion of and Possible Vote to Review and Ratify Claims under \$6,500 Paid From the Guaranty Fund**

Director Russell Reese reported on the claims paid by the Department for the period of March 1, 2012 to February 28, 2013 that were under \$6,500.

The first claim paid of \$3,856.50 is related to Remembrance Marketing and Management Corporation, dba Roselawn Funeral Home, Mineola, Texas. This claim was made by the successor funeral home, Beaty Funeral Home, Mineola, Texas. Mr. Beaty requested \$3,856.50 for servicing the prepaid funeral contract (PFC).

The second claim paid of \$1,095.00 is related to Meadowbrook Gardens, Paris, Texas. The purchaser was refunded this amount for the outer burial container and opening and closing costs that were never provided.

Tom Elam made a motion to ratify the claims paid from the Guaranty Fund as presented by Russell Reese, Director of Special Audits. Dick Owens seconded and the motion passed unanimously.

**Discussion of Potential Claims to Guaranty Fund**

Attorney Dan Wood provided an update on a potential Guaranty Fund claim for Howell-Doran Funeral Home. This seizure was done in June 2011. There were approximately 100 partially and unfunded contracts. The Department did a cease and desist and took over the funeral home’s prepaid records. Because trust and insurance funded contracts were sold, the Texas Department of Insurance was involved. Both agencies referred the cases to the San Saba District Attorney’s Office for prosecution. Attorney Wood and Director Reese recently met with the San Saba Assistant District Attorney and the defense attorney. June 20, 2013 is the final date to settle a plea bargain or the case will go to trial.

All parties agreed to a settlement that will be paid to the Department and the funds will be deposited into the Guaranty Fund to administer to the people due restitution. The dollar amount that will be agreed upon is unknown, but the Department calculated restitution at \$180,000; this amount includes the unfunded trust contracts sold legally and illegally. Mr. Keeney has already been sued many times by individuals and groups, and he has paid the settlements for those suits. Deputy Commissioner Newberg added that when this case closes and after the restitution is paid, we can still have an administrative hearing for fines and penalties. Attorney Wood stated that the insurance companies have sued and settled. There is a local funeral home now honoring the contracts.

Deputy Commissioner Newberg mentioned that she and Director Reese participated in a seizure at Vandiver Funeral Home, Waco, but it will not be a claim to the Guaranty Fund because the funeral home was not licensed to sell prepaid funeral benefit contracts.

**Discussion of Collection Efforts**

Director Reese outlined the collection efforts and summary of restitution paid for the period of March 1, 2012 to February 28, 2013. The Department tracks monthly payments received to ensure everybody is current, and sends out letters demanding payment for those who are non-compliant.

**Discussion of Future Meeting Dates**

The next meeting of the Guaranty Fund Advisory Council will be determined at a later date.

The meeting of the GFAC was adjourned at 2:25 p.m.

*/s/ Stephanie Newberg for*

---

Charles G. Cooper  
Chair of the Guaranty Fund Advisory Council  
and Banking Commissioner

*Brenda Medina*

---

Brenda Medina  
Executive Assistant to the  
Guaranty Fund Advisory Council

## MINUTES OF THE

### Prepaid Funeral Guaranty Fund Advisory Council

May 17, 2012

1:30 p.m.

Texas Department of Banking

2601 North Lamar Boulevard

Third Floor

Austin, Texas 78705

The Prepaid Funeral Guaranty Fund Advisory Council (GFAC) met on Thursday, May 17, 2012, in the Conference Room of the Finance Commission Building at 2601 N. Lamar Boulevard, Austin, Texas.

#### **Members in Attendance:**

Sandy Booth, Consumer Representative

Tom Elam, Insurance Representative

Dick Owens, Industry Representative

#### **Others in Attendance:**

Russell Reese, Director, Special Audits Division, Texas Department of Banking

Kaylene Ray, General Counsel, Texas Department of Banking

Debby Loomis, Assistant General Counsel, Texas Department of Banking

Dan Wood, Assistant General Counsel, Texas Department of Banking

Jesse Saucillo, Review Examiner, Texas Department of Banking

Stephanie Newberg, Investment Officer and Deputy Commissioner, Texas Department of Banking

#### **Members Not in Attendance:**

Charles G. Cooper, Chair and Banking Commissioner, Texas Department of Banking

---

With a quorum present, Deputy Commissioner Stephanie Newberg convened the meeting of the Prepaid Guaranty Fund Advisory Council at 1:31 p.m.

#### **Discussion of and Possible Vote to Approve Minutes of the June 1, 2011 Prepaid Funeral Guaranty Fund Advisory Council Meeting**

Tom Elam made a motion to approve the minutes of the June 1, 2011 Prepaid Guaranty Fund Advisory Council meeting as presented. Dick Owens seconded and the motion passed unanimously.

#### **Discussion of and Possible Vote to Approve the Activity of the Funds and the Investment Officer Reports for the Period March 1, 2011 to February 29, 2012**

Review Examiner Jesse Saucillo outlined the activity of the Insurance-Funded Guaranty Fund for the period March 1, 2011 through February 29, 2012. Deposits totaling \$70,492 were placed in the fund

for assessments collected and interest earned; no claims were paid for this period. The balance for the Insurance-Funded Guaranty Fund as of February 29, 2012 is \$96,036.80.

Review Examiner Saucillo also outlined the activity of the Trust-Funded Guaranty Fund for the period of March 1, 2011 through February 29, 2012. Claims totaling \$28,978.33 were paid-relating to four prepaid funeral contracts sold by Walker-Mora Funeral Home, and one prepaid funeral contract sold by Gordon-Foster-Brown Funeral Home. Restitution totaling \$1,100.00 was also received from DJ Turner, Turner Bros Undertakers, Mount Pleasant. The balance for the Trust-Funded Guaranty Fund as of February 29, 2012 is \$1,274,861.86.

Dick Owens made a motion to approve the report of the Guaranty Funds' activities and the Investment Officer Reports for the period March 1, 2011 to February 29, 2012 as presented by Jesus "Jesse" Saucillo, Review Examiner. Sandy Booth seconded and the motion passed unanimously.

**Discussion of and Possible Vote to Review and Ratify Claims under \$6,500 Paid From the Guaranty Fund**

Director Russell Reese reported on the claims paid by the Department for the period of March 1, 2011 to February 29, 2012 that were under \$6,500. He also noted that the Department has the authority to process these claims without Guaranty Fund approval since they are below the \$6,500 threshold.

The first claim paid of \$1,207.41 is related to Gordon-Foster-Brown Funeral Home, Athens, Texas. This claim was made on behalf of a purchaser of a prepaid funeral benefit contract (PFC) from Gordon-Foster-Brown Funeral Home, Athens, Texas. The contract was sold by the funeral home while it had an active permit with the Department.

The remaining three claims paid totaling \$6,705 are related to Walker-Mora Funeral Home, Alice, Texas. These claims were made on behalf of purchasers of prepaid funeral benefit contracts (PFCs) from Walker-Mora Funeral Home, Alice, Texas. The contracts were initially sold by Walker-Mora while it had an active permit. The purchaser is attempting to recover the \$950 that he paid.

Attorney Debby Loomis provided an overview on the previous seizure of Walker Mora Funeral Home, Alice, Texas. Two administrative hearings awarded \$37,000 in restitution to the contract holders and penalties to the Department from the owners, Mr. Ramirez and his mother. An abstracted judgment was filed in Travis County and also in Alice, Texas, where the funeral home is located; however, there are no assets to satisfy the judgment.

Deputy Commissioner Newberg stated that Mr. Ramirez has never paid any restitution. Mr. Ramirez has continued selling contracts while working as a car dealer. Attorney Loomis said that the Department will have an administrative hearing and will also send a letter to the Travis County District Attorney's Office and the Texas Attorney General's Office and ask them to pursue Mr. Ramirez criminally.

Dick Owens made a motion to ratify the claims paid from the Guaranty Fund as presented by Russell Reese, Director of Special Audits. Tom Elam seconded and the motion passed unanimously.

### **Discussion of and Possible Vote to Approve Administrative Memorandum 2016**

Review Examiner Saucillo reported that we are required to review Administrative Memorandum 2016 which relates to the Investment Policy for Funds Under the Oversight of the Guaranty Fund Advisory Council every two years. In 2011, there were some statutory amendments to the Public Funds Investment Act. Although the Guaranty Funds are not subject to the Public Funds Investment Act, we changed our policy to emulate the guidelines stipulated under the Act to the extent it affected current policy.

As a side note, Deputy Commissioner Newberg stated that the Guaranty Funds were audited by our internal auditor, Garza-Gonzales and Associates. The audit was completed and presented at the April 2012 Finance Commission meeting. Essentially all of the information that is brought to the Council was reviewed and verified by the auditors. The internal auditors had no findings in the audit. We will provide a copy of the audit to the Council members.

Sandy Booth made a motion to approve amended Administrative Memorandum 2016 as presented by Jesus "Jesse" Saucillo, Review Examiner. Tom Elam seconded and the motion passed unanimously.

### **Discussion of and Possible Vote to Approve a Claim Related to Walker-Mora Funeral Home, Inc., Alice, Texas**

Director Reese discussed a claim related to Walker-Mora Funeral Home, Alice, Texas. At the last Guaranty Fund Advisory Council meeting, there was a detailed discussion related to the Guaranty Fund possibly authorizing a disbursement to pay the difference of yesterday's cost to today's cost to ensure that consumer got the service and merchandise paid for.

After two failed attempts for funeral providers to bid on the Walker-Mora PFC's, the Department contacted Roberson Funeral Home, Inc., Alice, Texas. After discussing the matter with the Roberson Funeral Home's owner, Steven Roberson, he agreed to honor and service the PFCs if additional funds were awarded. Specifically, Mr. Roberson requested the difference between Roberson Funeral Home's current prices and the prices on the prepaid contracts. Consequently, a claim funding the difference between current prices and PFC pricing on the eight contracts previously awarded to Roberson Funeral Home was approved by the Guaranty Fund Advisory Council at the prior meeting held in June 2011.

In October 2011, Mr. Roberson presented information that Roberson Funeral Home had performed the service for Maria Rios. Documentation presented revealed that Ms. Rios purchased a PFC from Walker-Mora Funeral Home while it had an active permit; however this PFC was not found in the records seized. As part of the initial agreement to assume the Walker-Mora Funeral Home, Inc. PFC's, Mr. Roberson is requesting that the difference in the Walker-Mora PFC and his current cost of honoring the contract for Ms. Rios be paid to him. The difference is \$1,535. This claim totaling \$1,535 is being presented to the Guaranty Fund Advisory Council for review and consideration.

After much discussion, Council Member Tom Elam wanted to modify the motion to approve a claim in the amount of \$1,535 related to Walker-Mora Funeral Home, Alice, Texas to reflect that for all future claims on contracts that the maximum amount that the Guaranty Fund will be responsible for paying out is an amount limited to a maximum payment of \$5,000.

Dick Owens made a revised motion to approve a claim in the amount of \$1,535 made by Mr. Roberson related to Walker-Mora Funeral Home, Alice, Texas; but for all future claims on contracts, the maximum amount that the Guaranty Fund will pay out is \$5,000. Sandy Booth seconded and the motion passed unanimously.

Tom Elam made a new motion to pay an additional 10% of the original contract price on any future claims made to the Guaranty Fund and the difference in out of pocket costs on cash advance items for contracts sold by Walker-Mora Funeral Home, Alice, Texas and claims made by Mr. Roberson of Roberson Funeral Home, Alice, Texas. Dick Owens seconded and the motion passed unanimously.

### **Discussion of Potential Claims to Guaranty Fund**

Director Reese provided an overview of a potential Guaranty Fund claim. In June 2011, the Department issued an Emergency Cease and Desist and Seizure Order against Howell-Doran Funeral Home, Inc., San Saba, Texas for failing to properly account for and deposit money collected from the sale of prepaid funeral contracts. The Department recently finalized its review of the seized records of Howell-Doran and was able to ascertain the amount of funds that were collected by the owner, Mr. Keeney that were either not trusted properly or forwarded to the insurance-funded permit holder as required. In March 2012, the Department met with representatives from the San Saba County District Attorney's office in Llano, Texas to discuss taking criminal action against the Mr. Keeney. A departmental administrative hearing for this seizure has been postponed pending the completion of the criminal proceedings.

There are approximately 58 trust funded PFC contracts totaling \$198,058 that were not reported during our examinations. Additionally, there were additional payments collected on properly reported PFCs totaling \$32,686, but they were not deposited and Mr. Keeney did not report them under the quarterly reconciliations. The Department was able to make this determination through consumer account verifications. The Department seized funds of \$19,449 from an operating account, \$19,397 from a certificate of deposit, and \$90,265 in interest that was applicable to the properly reported PFCs. Deputy Commissioner Newberg stated that the potential claim to the Guaranty Fund would be approximately \$104,633 to fund the entire principal, but we may be required to pay someone interest for taking it.

There was also about \$27,000 that was sold when Keeney was not a valid agent of the insurance company. These monies will not be paid by an insurance provider. A criminal investigator with the Texas Department of Insurance verified that if you're not a valid agent appointed by an insurance company, then the company has no liability to fund any mishandled funds; the Department agreed with this determination.

Approximately 32 Insurance Funded PFCs were sold and \$115,000 in insurance premiums was collected and was not properly reported to the insurance permit holders as required. These contracts have all been funded.

There were also 15 PFCs that were written after Howell-Doran's PFC permit was restricted from selling new contracts which as a result, do not qualify for Guaranty Fund coverage. Further, four

individuals were unable to provide complete documentation; therefore, claims to the Guaranty Fund cannot be made for these individuals either.

Attorney Dan Wood reported that the San Saba District Attorney was able to get a grand jury indictment and arrest Mr. Keeney on the insurance fraud; there is now a pending criminal trial. On March 20, 2012, he, Attorney Loomis and Director Reese met with the Assistant District Attorney and he indicated that he would like to take our material for the trust funded contracts and get a second separate indictment. When Attorney Wood talked to the Assistant District Attorney a day ago, he anticipated July 2012 as a date to get a second indictment for the trust contracts.

**Discussion of Collection Efforts**

Review Examiner Saucillo went over the collection efforts and summary of restitution paid for the period of March 1, 2011 to February 29, 2012. The Department tracks monthly payments received to ensure everybody is current, and sends out letters demanding payment for those who are non-compliant.

**Discussion of Future Meeting Dates**

The next meeting of the Guaranty Fund Advisory Council will be determined at a later date.

The meeting of the GFAC was adjourned at 3:12 p.m.

/s/ Stephanie Newberg for

Charles G. Cooper  
Chair of the Guaranty Fund Advisory Council  
and Banking Commissioner

/s/ Brenda Medina

Brenda Medina  
Executive Assistant to the  
Guaranty Fund Advisory Council

THIS PAGE INTENTIONALLY LEFT BLANK