Response to Request for Information
by Charles G. Cooper
Commissioner
Texas Department of Banking
House Committee on Pensions, Investments, and Financial Services
August 28, 2020

Members of the Pensions, Investments, and Financial Services Committee, thank you for the opportunity to submit a response regarding the effects of Coronavirus Disease 2019 (COVID-19) on industry and business operations, and existing statutory and regulatory barriers in responding to COVID-19.

Texas Department of Banking (Department) Overview

The Department was established in 1905 by the 29th Legislature. Our mission is to ensure Texas has a safe, sound, and competitive financial services system. The 81st Texas Legislature amended the Texas Finance Code and granted Self-Directed, Semi-Independent status to the Department. Further, the 86th Legislature passed Senate Bill 614 extending the existence of the Department through September 1, 2031, under the continued oversight of the Finance Commission.

The Department supervises State-Chartered Commercial Banks, Foreign Bank Organizations, Public Trust Companies, Exempt Trust Companies, Money Services Businesses (MSB), Prepaid Funeral Contract Sellers (PFC), Perpetual Care Cemeteries (PCC), and Check Verification Entities. The chart below illustrates the entities by type and total assets.

Regulated Entities	Number of Entities As Of June 30, 2020	Total Assets $ (millions)
Commercial Banks*	217	319,759
Foreign Bank Agencies	21	90,487
Trust Companies	36	143,228
Prepaid Funeral Licensees	354	4,285
Perpetual Care Cemeteries	241	374
Money Service Businesses	175	143,988
Check Verification Companies	2	NA
Totals	1,046	702,121

***Performance summary data is provided in Exhibit A for Commercial Banks.**

COVID-19 and Response by the Department

On March 11, 2020, the World Health Organization declared COVID–19 a global pandemic and on March 13, 2020, Governor Greg Abbott declared a State of Disaster. Since these declarations, the pandemic has had a profound impact on both the Texas economy and the financial service providers who facilitate transactions that support business and economic development.

In response to Governor Abbott's declaration and pursuant to Section 37.003 of the Texas Finance Code, I found that an emergency was pending for all Texas counties as a result of COVID-19. Therefore, on March 16, 2020, the Department issued a proclamation (Exhibit B) authorizing banks organized under the laws of the State of Texas, at their discretion, to close all or part of their offices to protect the public health and the most vulnerable population, while ensuring financial institutions could still meet the financial needs of their customers and those affected by COVID–19. Industry Notice 2020-03 (Exhibit C) was issued on March 16, 2020 to provide additional guidance to our institutions regarding customer support, pandemic preparedness including tips on emergency closures, and future examinations.

The Industry Notice encouraged our financial institutions to work with their customers in a safe and sound manner to help borrowers recover and provide an opportunity to ultimately repay their debt. This sentiment is consistent with the Joint Press Release (Exhibit D) issued on March 9, 2020, by the federal agencies and the Conference of State Bank Supervisors (CSBS).

As the evolution of this pandemic remains uncertain, and until stabilization is reached, items such as determining asset classification and reserve adequacy are understandably fluid situations. The Industry Notice reminds institutions to review, test, and be prepared to implement their business continuity plans and refers institutions to the Interagency Statement on Pandemic Planning (Exhibit E) for additional guidance.

Financial Institution Operations

Industry Notice 2020-03 (Exhibit C) asked our financial institutions to keep the Department informed about the closures of their offices. We immediately began receiving closure notifications and comments of appreciation for the quick response and authorization to close their locations for the safety of their staff.

In March, we received notifications from approximately 95% of our institutions that they had diminished operations of some kind (i.e. reduced operating hours, drive-thru only open, lobby by appointment, etc.). Institutions have utilized the flexibility to do what is needed for their staff and communities depending on the level of COVID-19 cases in their areas.

Essential Workers

During a state of emergency, financial service providers must continue to service their customers' needs. On March 23, 2020, Industry Notice 2020-04 (Exhibit F) was issued which identified employees of the financial services industry as essential workers. The Industry Notice directed our institutions to the March 22, 2020 U.S. Treasury Department's memo (Exhibit G) that states the financial services sector is identified as a Critical Infrastructure Sector by the Department of Homeland Security (DHS). In the beginning, a few local jurisdictions attempted to restrict bank employees access to their facilities, but this was corrected.

DHS Cybersecurity and Security Infrastructure Security Agency issued guidance (Exhibit H) that identified 16 critical industries. This allowed banks and other financial service providers to continue to serve their customers during the State of Disaster. Financial institutions were advised to provide their employees and contractors with a letter from the institution's leadership explaining the identified worker carrying the letter is an essential critical infrastructure worker who needs to be allowed access to their place of work.

Department Operations

On March 16, 2020, we issued work from home requirements for our staff. Senior staff, regional directors, and Management Information Systems staff collaborated to ensure all employees had the capability to perform their duties from home. We believed this was the best decision for our employee as their health and safety are paramount. Currently, all offices (Austin headquarters, Dallas, Houston, Lubbock, and San Antonio) have a 25% maximum capacity limitation. The Department is following the protocols set forth by the Texas Health and Human Services Commission.

Examinations – Suspensions and Reinstatement

On March 16, 2020, within Industry Notice 2020-03 (Exhibit C), the Department notified regulated entities we were suspending future examinations; only those in process would be completed on an off-site basis. We suspended examinations to allow our institutions the ability to provide critical financial services to their customers and communities while focusing on their staff's health without further strain and stress from their primary regulator. The temporary examination suspension was not a material concern since our banks have historically responded well in adverse situations.

Communication during a state of emergency is critical. Therefore, a senior examiner was assigned to every bank. The senior examiner called each Chief Executive Officer (CEO) to provide support as needed and establish two-way communication. The CEOs were given the senior examiner's contact information for immediate access. While the examination process was suspended, a working group was created to develop and implement an off-site examination process that allows us to properly evaluate a bank or trust company's condition while being mindful of the burden an examination places on the institution's staff and resources.

Further, off-site monitoring capabilities continue to be enhanced and utilized to assess the condition of regulated entities in the changing economic landscape. Additional off-site monitoring of banks most susceptible to the precipitous drop in oil and gas commodity prices is also being performed which includes a quarterly oil and gas risk assessment survey.

For our non-depository industries that include MSBs, PCC, and PFC, the Department coordinated with license holders to implement a flexible examination approach by converting all on-site examinations to off-site. Off-site examinations remain full scope and procedures continue to be performed to verify the safety and soundness of all license holders.

On May 29, 2020, via Industry Notice 2020-08 (Exhibit I), we announced the Department would resume the examination process beginning June 1, 2020 for all entities that we govern. COVID-19 has changed the method of examinations as they will be conducted off-site for the near future. To accomplish this, our working group implemented new examination procedures and processes to focus on the most relevant risks as conditions dictate.

We also utilize data analytics to assist with examination planning and scoping to quickly identify core issues upon which to focus. Communication is always an important aspect of an examination, and we are committed to ensuring communication remains forthright and effective with our institutions. Examiners and financial institution management have risen to the challenges of and adapted to the off-site working environment. Adjustments are made to the procedures as issues surface. We maintain the flexibility to be able to expand the procedures when we encounter heightened risk in an institution or circumstances otherwise warrant.

The Department issued Industry Notice 2020-09 (Exhibit J), Interagency Examiner Guidance for Assessing Safety and Soundness Considering the Effect of the COVID-19 Pandemic on Institutions, dated June 23, 2020. The notice alerts institutions to state and federal banking agency guidance (Exhibit K) issued to examiners to assist them in assessing the safety and soundness of financial institutions impacted by the COVID-19 pandemic. The Department contributed to the development of this guidance, and examination staff will be assessing each financial institution following the supervisory principals outlined in the guidance. We believe in consistent, transparent, and appropriate regulatory responses.

Business Continuity Planning Considerations and Increased Cyber Activity During Times of Crisis

The Department issued Industry Notice 2020-05 (Exhibit L), Business Continuity Planning Considerations dated March 30, 2020, in conjunction with Independent Bankers Association of Texas and the Texas Bankers Association. This guide contains a list of important areas for financial institutions to consider for maintaining essential business operations during the pandemic. It is important to view bank business continuity from the enterprise perspective to ensure that interdependent operations and the personnel to carry them out are considered.

In addition to the economic impact of COVID-19, cybercriminals have exploited the pandemic to prey on unsuspecting victims. Shortly after the pandemic began, the Department anticipated increased threats and issued Industry Notice 2020-07 (Exhibit M) on April 8, 2020. This Industry Notice advised banks about various controls that should be initiated related to people, processes and technology to mitigate these risks. Further, we are working with fellow regulators to help financial institutions minimize the risk of becoming a victim of ransomware.

Reports of Condition and Income (Call Report) and Progress Reports

On April 1, 2020, Industry Notice 2020-06 (Exhibit N) was issued which provided regulated trust companies with a 31-day extension for filing Call Reports with the Department. Additionally, the notice authorizes trust companies to file the reports using electronic signatures.

The Call Report extension is in-line with the Federal Financial Institutions Examination Council's Press Release (Exhibit O) issued on March 25, 2020 to banks, which allowed institutions to submit the March 31, 2020, Call Reports up to 30 days after the official filing date.

Further, we waived progress reports due by financial institutions for the quarter ending March 31, 2020. These actions were taken to help give our institutions some flexibility and much needed time to deal with the pandemic.

Home Equity Lending Guidance

The April 1, 2020 and later revised on April 22, 2020, Home Equity Lending Guidance: Coronavirus Emergency Measures (Exhibit P) was issued jointly by the Department, Department of Savings Mortgage Lending, Office of Consumer Credit Commissioner, and Credit Union Department. The guidance offers emergency measures for home equity lenders to consider in response to COVID-19. The guidance highlights the regulations surrounding home equity loans to ensure lenders continue to comply with Article XVI, Section 50 of the Texas Constitution in order to have a valid home equity lien.

The agencies anticipate that many lenders will be making new loans to assist in recovery efforts and may need to adjust terms or temporarily extend maturities of existing loans where circumstances warrant and safety and soundness is not compromised. The agencies encourage lenders to work with borrowers, and support measures that will help borrowers recover and provide an opportunity to ultimately repay their debt.

Post-Crisis Economic Recovery and Financial Infrastructure

On June 11, 2020, CSBS issued a press release (Exhibit Q) noting state financial regulators implemented a COVID-19 Recovery Steering Group to guide multistate efforts to respond to the personal hardships and financial infrastructure risks caused by the global pandemic. I was asked to lead the steering group which will consider changes to bank and nonbank financial services oversight and will share lessons learned and best practices with fellow regulators and the financial services industry.

State regulators are committed to our state and local communities' economic recovery, and we are putting infrastructure in place to ensure state-chartered banks and state-licensed nonbank financial services companies are positioned to serve their customers. The Recovery Steering Group will stay focused on our role in protecting consumers and supporting our local economies.

This group of regulators has gained experience during past crises to make systemic changes to banking and financial services oversight. Changes to state or federal laws or regulations to improve operational flexibility, information sharing, and coordination are also being considered.

Paycheck Protection Program (PPP) in Texas

The PPP was enacted as part of the $2.3 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was signed into law on March 27, 2020. The program was implemented by the Small Business Administration (SBA) with support from the U.S. Department of Treasury to help individuals and businesses deal with the challenges and economic downturn brought on by the pandemic. Specifically, the PPP provides small businesses with the resources they need to maintain their payroll, re-hire employees who have been laid off, and cover applicable overhead.

The PPP began on April 3, 2020, and in 14 days $349 billion of funds were depleted. The SBA approved the equivalent of 14 years of SBA loans in the two weeks. The second round of PPP funding of $310 billion began on July 6, 2020. The second round of funds ended on August 8, 2020 with approximately $134 billion in funds remaining.

SBA data illustrates that Texas banks were responsible for $41 billion of the total PPP loans funded or 7.9% of the total, which was second only to California. The $41 billion funded encompassed loans to approximately 417,000 small businesses in Texas. The data also shows over 4.5 million jobs in the state were retained because of the program. The largest loan sector was comprised of 337,238 businesses who received loans less than $150,000. The industries with the highest participation in PPP lending for Texas are oil and gas, restaurants, and hospitality.

Assessment Reduction

The July 30, 2020, Press Release (Exhibit R), announced that the 2020 quarterly assessment for the period of June – August was reduced 60% for all Texas state-chartered banks and foreign bank agencies and branches. Reductions in expenses such as travel due to COVID-19 limitations, sustained growth of state-chartered banks in Texas, and other agency efficiencies are the primary factors that led to the reduction this fiscal year. Fiscal year reductions were 35% for MSBs and 15% for PFCs and PCCs.

Forward Looking

We are leveraging our off-site monitoring program, oil and gas risk assessment survey, and other capabilities to project the number of problem banks the agency could see in the months ahead. This is important because problem banks require more of the agency's resources and necessitate appropriate remediation plans are put in place to affect a timely recovery. Our banks entered this pandemic well-capitalized with average leverage capital of 10.6% while the national average is 9.4%, as of March 31, 2020.

Currently, the number of problem banks is exceptionally low at approximately 3% of the total number of banks. This illustrates that industry conditions were relatively strong headed into the financial crisis brought about by COVID-19. We project the number of problem banks will increase modestly over the next six months as loan payment deferral programs initiated by banks will help alleviate the financial stress on many borrowers. However, as loan payment deferrals are exhausted and customers affected by the pandemic experience financial stress, loan defaults are expected to increase. Though banks are well prepared for this potential increase in problem loans and are expected to work closely with affected customers, the impact to banking industry conditions will be significant.

Banks have already begun to prepare for an increase in problem loans. Banks under the Department's supervision increased reserves for the allowance for loan and lease losses by 9.8% from March 31, 2020 to June 30, 2020, in anticipation of increased loan losses.

Information gathered through examination of banks under the Department's supervision since the pandemic began indicates that the vast majority of banks provided relief to their customers in the form of deferment of loan payments. The structure of these deferred payment programs varied significantly, with most offering 90-day deferral of payments, either interest only, principal only or both principal and interest payment deferrals. Institutions also expressed a desire to allow extension of these payment deferrals past the initial 90 days at the customer's request. Some banks administered loan payment deferrals as a broad program offered to all customers, while others accepted and approved requests on a case-by-case or as-needed basis.

We will continue to engage in open communication with our regulated entities to ensure all Texans have access to reliable and secure financial services as we deal with this pandemic.

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Exhibit A

Commercial Bank Performance

	Commercial Banks			
	June 30, 2019		June 30, 2020	
	Texas - State Chartered	Nationwide	Texas - State Chartered	Nationwide
Profile				
Number of Institutions	228	4,630	217	4,430
Number of Employees	41,880	1,948,707	41,269	1,958,663
Assets*	$276,326	$17,096,682	$319,759	$19,840,796
Loans*	$177,866	$9,624,516	$198,274	$10,331,143
Deposits*	$221,400	$13,115,341	$261,290	$15,906,414
Capital Protection				
Leverage Ratio	10.84%	9.77%	9.86%	8.72%
Cash Dividends / Net Income**	66.65%	70.43%	59.69%	133.91%
Retained Earnings / Average Equity**	4.09%	3.54%	3.06%	-1.12%
Asset Quality				
Noncurrent Assets + ORE / Assets	0.43%	0.54%	0.46%	0.56%
Noncurrent Loans / Total Loans	0.57%	0.89%	0.65%	1.01%
Net Loan Losses / Total Loans	0.12%	0.47%	0.31%	0.55%
Loan and Lease Allowance / Total Loans	1.03%	1.19%	1.44%	2.20%
Earnings				
Return on Assets	1.55%	1.37%	0.96%	0.35%
Return on Equity	12.25%	11.99%	7.58%	3.31%
Net Interest Margin	3.86%	3.37%	3.37%	2.94%
Banks with Earnings Gains	71.93%	63.52%	46.08%	51.11%
Banks Unprofitable	2.63%	3.13%	4.61%	4.51%
Liquidity				
Net Loans to Assets	63.70%	55.62%	61.11%	50.92%
Net Loans to Deposits	79.51%	72.51%	74.79%	63.52%

* - In Thousands

** - Year-to-date Only

Exhibit B

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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Proclamation
By the Banking Commissioner of Texas

In response to the State of Disaster declaration issued by Governor Greg Abbott on March 13, 2020, and pursuant to Section 37.003 of the Texas Finance Code, I find that an emergency is impending in all Texas counties as a result of the coronavirus (COVID – 19).

Accordingly, I, Charles G. Cooper, Banking Commissioner of Texas, do hereby authorize banks organized under the laws of the State of Texas, at their discretion, to close all or part of their offices to protect public health and the most vulnerable population, while ensuring the financial institution can meet the financial needs of their customers and those affected by COVID – 19.

Dated this 16th day of March 2020.

/s/
Charles G. Cooper
Banking Commissioner

Exhibit C

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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INDUSTRY NOTICE 2020-03
Date: March 16, 2020

Texas Department of Banking Provides Support and Guidance for Coronavirus Disease 2019 (COVID – 19)

We are all dealing with the impact of COVID – 19. The Texas Department of Banking is mindful of all effects resulting from the global pandemic. Further, the Department supports prudent measures taken by financial institutions to help customers with their needs.

The purpose of this notice is to provide additional guidance to our institutions regarding customer support, pandemic preparedness including tips on emergency closures, and future examinations.

Consumer Support

The extent of the financial impact of COVID – 19 is unknown at this time. The Department trusts our financial institutions will work with their customers in a safe and sound manner to help the borrowers recover and provide an opportunity to ultimately repay their debt. As the evolution of this pandemic remains volatile, and until stabilization is reached, items such as determining asset classification and reserve adequacy are understandably fluid situations. The Department supports the Joint Press Release issued on March 9, 2020, by the federal agencies and the Conference of State Bank Supervisors.

Pandemic Preparedness

As you know, this is the time for institutions to review, test, and be prepared to implement the Business Continuity Plan. Sound preparations and planning will help mitigate interruptions in the normal course of business. For further guidance, refer to the Interagency Statement on Pandemic Planning.

Today, I issued a Proclamation allowing banks to close facilities as needed in response to this public health issue. I only ask that you keep us informed as you close all or part of your offices. This can be done by email or by phone at 877-893-6246.

Examination Activity

Our goal is to complete examinations that are in process. We plan to do these activities offsite. Our banks have historically responded well in adverse situations. As you are working with your customers and communities, we will try to stay out of your way. Communication during this time is essential, and we want to provide support when needed. Accordingly, a senior examiner will be assigned to each bank for coordination purposes. Each Chief Executive Officer will be contacted in the coming days. Please determine who within your organization will be the primary contact, and our examiner will provide that person with their individual contact information. As always, you can contact me directly.

Thank you in advance for doing the good work you always do when facing challenges.

Exhibit D

Joint Press Release

March 09, 2020

Agencies encourage financial institutions to meet financial needs of customers and members affected by coronavirus

Board of Governors of the Federal Reserve System

Consumer Financial Protection Bureau

Federal Deposit Insurance Corporation

National Credit Union Administration

Office of the Comptroller of the Currency

Conference of State Bank Supervisors

For release at 4:30 p.m. EDT

Share

Federal financial institution regulators and state regulators today encouraged financial institutions to meet the financial needs of customers and members affected by the coronavirus. The agencies recognize the potential impact of the coronavirus on the customers, members, and operations of many financial institutions and will provide appropriate regulatory assistance to affected institutions subject to their supervision.

Regulators note that financial institutions should work constructively with borrowers and other customers in affected communities. Prudent efforts that are consistent with safe and sound lending practices should not be subject to examiner criticism.

The agencies understand that many financial institutions may face current staffing and other challenges. In cases in which operational challenges persist, regulators will expedite, as appropriate, any request to provide more convenient availability of services in affected communities. The regulators also will work with affected financial institutions in scheduling examinations or inspections to minimize disruption and burden.

SR letter 20-4 / CA letter 20-3, "Supervisory Practices Regarding Financial Institutions Affected by Coronavirus"

Media Contacts:

Federal Reserve Board	Darren Gersh	202-452-2955
FDIC	Julianne Fisher Breitbeil	202-898-6895
CFPB	Marisol Garibay	202-435-7170
CSBS	Jim Kurtzke	202-728-5733
NCUA	Ben Hardaway	703-518-6333
OCC	Bryan Hubbard	202-649-6870

Interagency Statement on Pandemic Planning

PURPOSE

The Federal Financial Institutions Examination Council (FFIEC) on behalf of its member agencies[1] are issuing guidance to remind financial institutions that business continuity plans should address the threat of a pandemic outbreak and its potential impact on the delivery of critical financial services. This guidance is an update to the 2007 Interagency Statement on Pandemic Planning as well as the "Interagency Advisory on Influenza Pandemic Preparedness" issued on March 15, 2006 by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, as well as the "Letter to Credit Union 06-CU-06 - Influenza Pandemic Preparedness" issued by the National Credit Union Administration in March 2006.

This guidance identifies actions that financial institutions should take to minimize the potential adverse effects of a pandemic. Specifically, the institution's business continuity plan(s) (BCP) should address pandemics and provide for a preventive program, a documented strategy scaled to the stages of a pandemic outbreak, a comprehensive framework to ensure the continuance of critical operations, a testing program, and an oversight program to ensure that the plan is reviewed and updated. The pandemic segment of the BCP must be sufficiently flexible to address a wide range of possible effects that could result from a pandemic, and also be reflective of the institution's size, complexity, and business activities.

BACKGROUND

Pandemics are defined as an outbreak of a disease that occurs over a wide geographic area and affects an exceptionally high proportion of the population, possibly worldwide. Several pandemics have occurred throughout history and experts predict that we will experience at least one pandemic outbreak in this century.

It is unknown if an infectious disease outbreak will result in a pandemic. The widespread nature of a virus or infectious disease and the possibility that it may mutate raises concerns about transmission among humans, with potentially devastating consequences.

The adverse economic effects of a pandemic could be significant, both nationally and internationally. Due to their crucial financial and economic role, financial institutions should have plans in place that describe how they will manage through a pandemic event. Sound planning should minimize the disruptions to the local and national economy and

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[1] The FFIEC comprises principals of the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, and the State Liaison Committee.

should help the institution maintain the trust and confidence of its customers.

DIFFERENCES BETWEEN TRADITIONAL BUSINESS CONTINUITY PLANNING AND PANDEMIC PLANNING

There are distinct differences between pandemic planning and traditional business continuity planning. When developing business continuity plans, financial institution management typically considers the effect of various natural or man-made disasters that may differ in their severity. These disasters may or may not be predictable, but they are usually short in duration or limited in scope.2 In most cases, malicious activity, technical disruptions, and natural/man-made disasters typically will only affect a specific geographic area, facility, or system. These threats can usually be mitigated by focusing on resiliency and recovery considerations.

Pandemic planning presents unique challenges to financial institution management. Unlike natural disasters, technical disasters, malicious acts, or terrorist events, the impact of a pandemic is much more difficult to determine because of the anticipated difference in scale and duration. The nature of the global economy virtually ensures that the effects of a pandemic event will be widespread and threaten not just a limited geographical region or area, but potentially every continent. In addition, while traditional disasters and disruptions normally have limited time durations, pandemics generally occur in multiple waves, each lasting two to three months. Consequently, no individual or organization is safe from the adverse effects that might result from a pandemic event. Experts predict that perhaps the most significant challenge likely from a severe pandemic event will be staffing shortages due to absenteeism. These differences and challenges highlight the need for all financial institutions, no matter their size, to plan for a pandemic event when developing their BCP.

Pandemic plans should be sufficiently flexible to effectively address a wide range of possible effects that could result from a pandemic. Pandemic plans need to reflect the institution's size, complexity, and business activities. The potential impact of a pandemic on the delivery of a financial institution's critical financial services should be incorporated into the ongoing business impact analysis and risk assessment processes.

The institution's BCP should then be revised, if needed, to reflect the conclusions of its business impact analysis and risk assessment.

To address the unique challenges posed by a pandemic, the financial institution's BCP should provide for:

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[2] As evidenced by Hurricane Katrina, while the duration of a specific natural disaster may be relatively brief, the social and economic recovery from such events can be prolonged.

1. A preventive program to reduce the likelihood that an institution's operations will be significantly affected by a pandemic event, including: monitoring of potential outbreaks, educating employees, communicating and coordinating with critical service providers and suppliers, in addition to providing appropriate hygiene training and tools to employees.

2. A documented strategy that provides for scaling the institution's pandemic efforts so they are consistent with the effects of a particular stage of a pandemic outbreak, such as the 6 intervals described by the Center for Disease Control and Prevention (CDC) (*https://www.cdc.gov/flu/pandemic-resources/national-strategy/intervals-framework.html*). The strategy will also need to outline plans describing how to recover from a pandemic wave and proper preparations for any following wave(s). Furthermore, the strategy should include plans for re-entering personnel into the workplace.

3. A comprehensive framework of facilities, systems, or procedures that provide the organization the capability to continue its critical operations in the event that large numbers[3] of the institution's staff are unavailable for prolonged periods. Such procedures could include social distancing to minimize staff contact, telecommuting, redirecting customers from branch to electronic banking services, or conducting operations from alternative sites. Consideration should be given toward visitor procedures and whether restrictions should be implemented for visitors accessing the facilities. The framework should consider the impact of customer reactions and the potential demand for, and increased reliance on, online banking, telephone banking, ATMs, and call support services. In addition, consideration should be given to possible actions by public health and other government authorities that may affect critical business functions of a financial institution.

4. A testing program to ensure that the institution's pandemic planning practices and capabilities are effective and will allow critical operations to continue.

5. An oversight program to ensure ongoing review and updates to the pandemic plan so that policies, standards, and procedures include up-to-date, relevant information provided by governmental sources or by the institution's monitoring program.

The methodologies detailed in the FFIEC's Business Continuity Management (BCM) booklet[4] provide a sound framework for institutions developing and/or updating their

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[3] A planning assumption from The Implementation Plan for the National Strategy for Pandemic Influenza is that rates of absenteeism will depend on the severity of the pandemic. In a severe pandemic, absenteeism attributable to illness, the need to care for ill family members, and fear of infection may reach 40 percent during the peak weeks of a community outbreak, with lower rates of absenteeism during the weeks before and after the peak. Certain public health measures (closing schools, quarantining household) are likely to increase rates of absenteeism.

[4] This guidance was updated in 2019. The FFIEC's Business Continuity Planning booklet was renamed as Business

pandemic plan, as well as a means to integrate these key activities into the final pandemic plan.

The U.S. Government and industry associations have issued extensive and comprehensive guidance to assist institutions of all types in developing plans for pandemic events. Institutions should review the following:

- The National Strategy for Pandemic Influenza (National Strategy) and the Implementation Plan for the National Strategy for Pandemic Influenza (National Implementation Plan) issued by the federal government provide a complete guide to pandemic planning. The documents can be found at: https://www.cdc.gov/flu/pandemic-resources/planning-preparedness/national-strategy-planning.html
- The Department of Homeland Security (DHS) published The Pandemic Influenza Preparedness, Response, and Recovery Guide for Critical Infrastructure and Key Resources. This document is one of the tools DHS developed to enhance pandemic planning. It provides a source listing of primary government and pandemic influenza-specific background material, references, and contacts. Institutions may find the Continuity of Operations – Essential (COP-E) planning process especially useful. The document can be found at:

  https://www.cdc.gov/flu/pandemic-resources/planning-preparedness/national-strategy-planning.html
- The Department of Health and Human Services Center for Disease Control published Community Mitigation Guidelines To Prevent Pandemic Influenza – United States, 2017. This document provides information about community actions that may be taken to limit the impact from pandemic influenza when vaccine and antiviral medications are in short supply or unavailable. Financial institutions may be asked to plan for the use of the identified interventions to help limit the spread of a pandemic, prevent disease and death, lessen the impact on the economy, and keeps society functioning. The document can be found at: https://www.cdc.gov/flu/pandemic-resources/planning-preparedness/national-strategy-planning.html
- The Department of Health and Human Services (DHHS) has published a series of checklists that are intended to aid preparation for a pandemic in a coordinated and consistent manner across all segments of society. Included are checklists for state and local governments, for U.S. businesses with overseas operations, for the Workplace, for Individuals and Families, for Schools, for Health Care, and for Community Organizations. They can also be found at: *http://www.pandemicflu.gov/.*

Continuity Management (BCM). The booklet can be accessed at: http://www.ffiec.gov/ffiecinfobase/booklets/bcp/bcp/bus_continuity_plan.pdf.

PHASES: PLANNING, PREPARING, RESPONDING, AND RECOVERING

Traditional business continuity planning and pandemic planning require management to follow a cyclical process of planning, preparing, responding, and recovering. However, pandemic planning requires additional actions to identify and prioritize essential functions, employees, and resources within the institution and across other business sectors. The issues discussed below highlight the specific challenges faced by management and the mitigating controls that should be considered when developing a pandemic plan.

BOARD AND SENIOR MANAGEMENT RESPONSIBILITIES

As with other BCM activities, pandemic planning should not be viewed as solely an Information Technology (IT) issue, but rather as a significant risk to the entire business. As such, an institution's pandemic planning activities should involve senior business management from all functional, business and product areas, including administrative, human resources, legal, IT support functions, and key product lines.

An institution's board of directors is responsible for overseeing the development of the pandemic plan. The board or a committee thereof should also approve the institution's written plan and ensure that senior management is investing sufficient resources into planning, monitoring, and testing the final plan.

Senior management is responsible for developing the pandemic plan and translating the plan into specific policies, processes, and procedures. Senior management is also responsible for communicating the plan throughout the institution to ensure consistent understanding of the key elements of the plan and to ensure that employees understand their role and responsibilities in responding to a pandemic event. Finally, senior management is responsible for ensuring that the plan is regularly tested and remains relevant to the scope and complexity of the institution's operations.

INCORPORATING PANDEMIC RISK INTO THE BUSINESS IMPACT ANALYSIS

The potential effects of a pandemic should be a part of the financial institution's overall BCM business impact analysis (BIA). The BIA should:

- Assess and prioritize essential business functions and processes that may be affected by a pandemic;
- Identify the potential impact of a pandemic on the institution's essential business functions[5] and processes, and supporting resources;

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[5] The Department of Homeland Security (DHS) Pandemic Influenza Preparedness, Response, and Recovery Guide and is available at: https://www.dhs.gov/sites/default/files/publications/cikrpandemicinfluenzaguide.pdf

- Identify the potential impact of a pandemic on customers: those that could be most affected and those that could have the greatest impact on the (local) economy;
- Identify the legal and regulatory requirements for the institution's business functions and processes;
- Estimate the maximum downtime associated with the institution's business functions and processes that may occur during a pandemic;
- Assess cross training conducted for key business positions and processes; and
- Evaluate the plans of critical service providers for operating during a pandemic. Financial institutions should evaluate the plans and monitor the servicers to ensure critical services are available. Financial institutions may wish to have back-up arrangements to mitigate any risk. Special attention should be directed at the institution's ability to access leased premises and whether sufficient internet access capacity is available if telecommuting is a key risk mitigation strategy.

Incorporating the impact of pandemic risk into the institution's BCP involves additional complexity since typical disaster or emergency response mechanisms and methods may not be feasible. For example, moving employees to an alternate facility that is typically used during a natural disaster or other emergency, may not be an appropriate or feasible way to continue operations in a pandemic. There may be a shortage of available staff to relocate and it is possible that an alternate site might also be affected by the pandemic. DHS provides a list of twelve planning assumptions that institutions should consider when developing the impact analysis.[6]

The pandemic issues considered in the impact analysis also should involve forecasting employee absenteeism and considering family care issues that may affect business operations.[7] DHS believes rates of absenteeism will depend on the severity of the pandemic. In a severe pandemic, absenteeism attributable to illness, the need to care for ill family members and fear of infection may reach 40 percent during the peak weeks of a community outbreak, with lower rates of absenteeism during the weeks before and after the peak. Certain public health measures (e.g. closing schools, quarantining household contacts of infected individuals, or altering or ceasing public transportation schedules) are likely to increase the rate of absenteeism.

A key part of an institution's BIA that addresses pandemics is to examine external factors. For example, assessing the impact of critical interdependencies will involve making planning assumptions regarding the availability of external services and prioritizing the effect of possible disruptions. In addition, potential travel restrictions imposed by health and emergency management officials may limit access to those services, even if they are still operating.

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[6] See The National Implementation Plan at http://www.pandemicflu.gov/plan/community/commitigation.html.

[7] Ibid.

RISK ASSESSMENT/RISK MANAGEMENT

As noted in the main body of this booklet, the institution's risk assessment process is critical and has a significant bearing on whether BCM efforts will be successful. Important risk assessment and risk management steps that are important for pandemic planning include:

- Prioritizing the severity of potential business disruptions resulting from a pandemic, based on the institution's estimate of impact and probability of occurrence on operations;
- Performing a "gap analysis" that compares existing business processes and procedures with what is needed to mitigate the severity of potential business disruptions resulting from a pandemic;
- Developing a written pandemic plan to follow during a possible pandemic event;
- Reviewing and approving the pandemic plan by the board or a committee thereof and senior management at least annually; and
- Communicating and disseminating the plan and the current status of the pandemic to employees.

Specific risk assessment and risk management actions arising from a pandemic include the following:

<u>Coordination with Third Parties</u>

Open communication and coordination with third parties, including critical service providers, is an important aspect of pandemic planning. Financial institutions should coordinate information sharing efforts through participation in business and community working groups and develop coalitions with outside parties to provide support and maintenance for vital services during a pandemic. Efforts could include consideration of cooperative arrangements with other financial institutions within the institution's geographical trade area. In addition, management should coordinate its pandemic planning efforts with local public health and emergency management teams, identify authorities that can take specific actions (e.g., who has the ability to close a building or alter transportation), and plan to alert local and state agencies regarding significant employee absenteeism that may be caused by a sudden pandemic outbreak. Communication with customers and the media is also critical to ensure that accurate information is disseminated about business operations.

Critical interdependency challenges require management to ensure an adequate reserve of essential supplies and to proactively manage maintenance of equipment to ensure sustainability during service disruptions. Management should also monitor its service providers, identify potential weaknesses in the service and supply chains, and develop potential alternatives for obtaining critical services and supplies.

<u>Identification of Triggering Events</u>

A triggering event occurs when an environmental change takes place that requires management to implement its response plans based on the pandemic alert status. Alerts may be issued by various organizations that have developed surveillance systems to monitor the progression of viral outbreaks. Depending on the severity of the alert, management may need to act quickly to implement elements of its pandemic response plans. Therefore, it is important for management to monitor national and international pandemic news sources in order to be aware of potential outbreaks. Management should monitor websites devoted to national health care issues, identify key points of contact for emergency and health care organizations, and assess potential implications for the financial institution if a pandemic occurs. Management also should communicate to employees and key service providers the actions it plans to take at specific triggering points.

Employee Protection Strategies

Employee protection strategies are crucial to sustain an adequate workforce during a pandemic. Institutions should promote employee awareness by communicating the risks of a pandemic outbreak and discussing the steps employees can take to reduce the likelihood of contracting a pandemic virus. The following risk management strategies should be considered:

- Publicize the Centers for Disease Control and Prevention "Cover Your Cough" and "Clean Your Hands" programs or other general hygiene programs;
- Encourage employees to avoid crowded places and public transportation systems;
- Implement "social distancing" techniques to minimize typical face-to-face contact through the use of teleconference calls, video conferencing, flexible work hours, telecommuting, encouraging customers to use online or telephone banking services, ATMs and drive-up windows; and
- Review and consider the use of other non-pharmaceutical interventions developed by the Centers for Disease Control and Prevention (more information is available at: *http://www.pandemicflu.gov/plan/community/commitigation.html*).

Mitigating Controls

Despite the unique challenges posed by a pandemic, there are control processes that management can implement to mitigate risk and the effects of a pandemic. For example, to overcome some of the personnel challenges, management should ensure that employees are cross-trained and that succession plans have been developed. The institution may be able to leverage plans already established as part of traditional business continuity planning.

Remote Access

During a pandemic there may be a high-reliance on employee telecommuting, which could put a strain on remote access capabilities such as capacity, bandwidth, and authentication mechanisms. Moreover, employees who typically work onsite may not have remote access authority or the necessary technology infrastructure to work at home. Analysis of remote access capabilities, mapping of related technology infrastructure to employee needs during a pandemic, assessing the infrastructure at the neighborhood level, and considering internal and external capacity are necessary to help ensure telecommuting strategies will work during a pandemic.

RISK MONITORING AND TESTING

As information from medical and governmental experts about the causes and effects of a pandemic continues to evolve, an institution's pandemic plan must be sufficiently flexible to incorporate new information and risk mitigation approaches. As a result, risk monitoring and testing of the pandemic plan is important to the overall planning process. A key challenge for management is developing a testing program that provides a high degree of assurance that critical business processes, including supporting infrastructure, systems, and applications, will function even during a severe pandemic. A robust program should incorporate testing:

- Roles and responsibilities of management, employees, key suppliers, and customers;
- Key pandemic planning assumptions;
- Increased reliance on online banking, telephone banking, and call center services; and
- Remote access and telecommuting capabilities.

Test results should be reported to management, with appropriate updates made to the pandemic plan and testing program.

Testing for a pandemic may require variations to the scope of traditional disaster recovery and business continuity testing, as potential test scenarios will most likely be different. Alternatives for pandemic testing can include: well-orchestrated "work at home" days for critical and essential employees to test remote access capabilities and infrastructure; crisis management team communication exercises; table top exercises that test various scenarios related to escalated absenteeism rates; additional or modified call-tree exercises; and community, regional or industry-wide exercises with members of the financial services sector to test the financial sector's ability to respond to a pandemic-like crisis.

REFERENCES

In addition to references included above, institutions may find these web sites helpful in their pandemic planning activities:

Centers for Disease Control (CDC)

https://www.cdc.gov/DiseasesConditions/

World Health Organization (WHO)

https://www.who.int/

U.S. Department of Labor: Occupational Safety and Health Administration (OSHA)

https://www.osha.gov/Publications/influenza_pandemic.html

U.S. Department of State

https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/

U.S. Department of Veterans Affairs (VA)

http://www.publichealth.va.gov/flu/pandemicflu.htm

U.S. Department of Health and Human Services (DHHS)

http://www.dhhs.gov/nvpo/pandemics/index.html

Exhibit F

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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512-475-1300 /877-276-5554
www.dob.texas.gov

Media Contact:
media@dob.texas.gov

INDUSTRY NOTICE 2020-04
Date: March 23, 2020

Treasury Memo Designates Financial Services Sector Essential Critical Infrastructure Workers

To: Chief Executive Officers and Presidents

On Sunday, March 22, 2020, the U.S. Treasury Department issued a memo stating that the financial services sector is identified as a Critical Infrastructure Sector by the Department of Homeland Security (DHS). The memo refers to guidance issued by DHS Cybersecurity and Infrastructure Security Agency (CISA) on Thursday, March 19, 2020, that listed essential workers for 16 critical industries. Hopefully, this should provide you some clarity as you work to provide service to your customers.

Per the DHS guidance, critical financial services workers are:

- workers who are needed to process and maintain systems for processing financial transactions and services (e.g. payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities).
- workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g. armored cash carriers).
- workers who support financial operations, such as those staffing data and security operations centers.

Earlier this month, you were provided with the ability and flexibility to modify or close your bank office/branch operations in response to the Coronavirus pandemic and we appreciate you notifying our offices of the changes in operations you have made to safeguard staff, customer, and your services. We continue to collect the Emergency Notification forms from each of you and are monitoring operations throughout your communities and state.

If you have any questions or concerns, please do not hesitate to contact me. Thank you for your continued cooperation.

Charles G. Cooper
Banking Commissioner

Exhibit G

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

March 22, 2020

MEMORANDUM FOR FINANCIAL SERVICES SECTOR

FROM: Secretary Steven T. Mnuchin Steven T. Mnuchin

SUBJECT: Financial Services Sector Essential Critical Infrastructure Workers

The financial services sector is identified as Critical Infrastructure Sector by the Department of Homeland Security (DHS). The attached DHS guidance, dated, March 19, 2020, identifies the essential critical infrastructure workers during the COVID-19 response emergency, and provides guidance to State and local officials as they work to protect their communities while ensuring continuity of critical functions to public health and safety, as well as economic and national security.

Consistent with the President's guidelines, "*if you work in a critical infrastructure sector, as defined by the Department of Homeland Security, you have a special responsibility to maintain your normal work schedule.*" The Essential Critical Infrastructure Workforce for the financial services sector includes workers who are needed to process and maintain systems for processing financial transactions and services, such as payment, clearing and settlement services, wholesale funding, insurance services, and capital markets activities; to provide consumer access to banking and lending services, including ATMs, movement of currency (e.g. armored cash carriers); support financial operations, such as those staffing data and security operations centers; and, key third party providers who deliver core services. These individuals are critical to maintaining safe and efficient financial services and ensuring citizens have access to these services that are necessary to conduct their daily lives.

Companies aligned to the essential critical infrastructure worker definition are expected to maintain their operations and work schedules. Everyone should follow guidance from the Centers for Disease Control and Prevention as well as State and local officials regarding strategies to limit disease spread. We are dedicated to working closely with all of you to ensure the safety of the workforce and ensure the continued operations of the financial services sector in support of our Nation's economy.

U.S. Department of Homeland Security
Cybersecurity & Infrastructure Security Agency
Office of the Director
Washington, DC 20528

March 19, 2020

MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE

FROM: Christopher C. Krebs
Director
Cybersecurity and Infrastructure Security Agency (CISA)

As the Nation comes together to slow the spread of COVID-19, on March 16th, the President issued updated Coronavirus Guidance for America. This guidance states that:

> *"If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule."*

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security's responsibilities as assigned under the Homeland Security Act of 2002 to provide strategic guidance, promote a national unity of effort, and coordinate the overall federal effort to ensure the security and resilience of the Nation's critical infrastructure. CISA uses trusted partnerships with both the public and private sectors to deliver infrastructure resilience assistance and guidance to a broad range of partners.

In accordance with this mandate, and in collaboration with other federal agencies and the private sector, CISA developed an initial list of "Essential Critical Infrastructure Workers" to help State and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list can also inform critical infrastructure community decision-making to determine the sectors, sub-sectors, segments, or critical functions that should continue normal operations, appropriately modified to account for Centers for Disease Control (CDC) workforce and customer protection guidance.

The attached list identifies workers who conduct a range of operations and services that are essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing management functions, among others. The industries they support represent, but are not necessarily limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works.

We recognize that State, local, tribal, and territorial governments are ultimately in charge of implementing and executing response activities in communities under their jurisdiction, while the Federal Government is in a supporting role. As State and local communities consider COVID-19-related restrictions, CISA is offering this list to assist prioritizing activities related to continuity of operations and incident response, including the appropriate movement of critical infrastructure workers within and between jurisdictions.

Accordingly, this list is advisory in nature. It is not, nor should it be considered to be, a federal directive or standard in and of itself.

In addition, these identified sectors and workers are not intended to be the authoritative or exhaustive list of critical infrastructure sectors and functions that should continue during the COVID-19 response. Instead, State and local officials should use their own judgment in using their authorities and issuing implementation directives and guidance. Similarly, critical infrastructure industry partners will use their own judgment, informed by this list, to ensure continued operations of critical infrastructure services and functions. All decisions should appropriately balance public safety while ensuring the continued delivery of critical infrastructure services and functions.

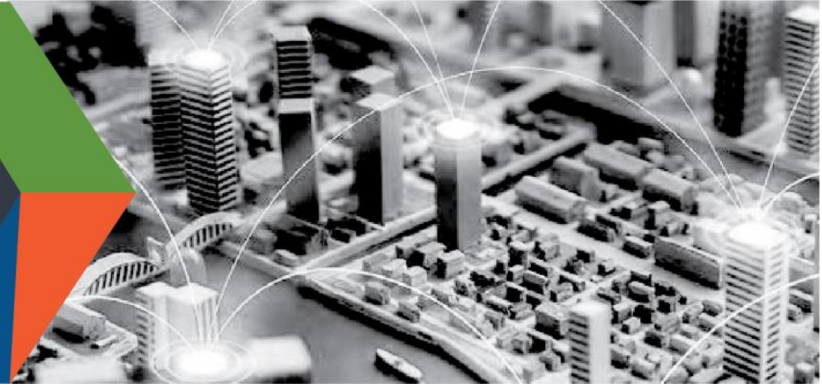
CISA will continue to work with you and our partners in the critical infrastructure community to update this list as the Nation's response to COVID-19 evolves. We also encourage you to submit how you might use this list so that we can develop a repository of use cases for broad sharing across the country.

Should you have questions about this list, please contact CISA at CISA.CAT@cisa.dhs.gov.

Attachment: "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response"

CISA
CYBER+INFRASTRUCTURE

DEFEND TODAY, SECURE TOMORROW



Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response

Version 1.0 (March 19, 2020)

THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and safety as well as community well-being. Certain critical infrastructure industries have a special responsibility in these times to continue operations.

This guidance and accompanying list are intended to support State, Local, and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.

This document gives guidance to State, local, tribal, and territorial jurisdictions and the private sector on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions.

CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, State managed, and federally supported

2. Everyone should follow guidance from the CDC, as well as State and local government officials, regarding strategies to limit disease spread.

3. Workers should be encouraged to work remotely when possible and focus on core business activities. In-person, non-mandatory activities should be delayed until the resumption of normal operations.

4. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not necessarily limited to, separating staff by off-setting shift hours or days and/or social distancing. These steps can preserve the workforce and allow operations to continue.

5. All organizations should implement their business continuity and pandemic plans, or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the health and safety of the employees.

6. In the modern economy, reliance on technology and just-in-time supply chains means that certain workers must be able to access certain sites, facilities, and assets to ensure continuity of functions.

7. Government employees, such as emergency managers, and the business community need to establish and maintain lines of communication.

8. When government and businesses engage in discussions about critical infrastructure workers, they need to consider the implications of business operations beyond the jurisdiction where the asset or facility is located. Businesses can have sizeable economic and societal impacts as well as supply chain dependencies that are geographically distributed.

9. Whenever possible, jurisdictions should align access and movement control policies related to critical infrastructure workers to lower the burden of workers crossing jurisdictional boundaries.

IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of sectors and identified essential critical infrastructure workers are an initial recommended set and are intended to be overly inclusive reflecting the diversity of industries across the United States. CISA will continually solicit and accept feedback on the list (both sectors/sub sectors and identified essential workers) and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. We ask that you share your feedback, both positive and negative on this list so we can provide the most useful guidance to our critical infrastructure partners. **Feedback can be sent to** CISA.CAT@CISA.DHS.GOV.

HEALTHCARE / PUBLIC HEALTH

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response
- Caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists)
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.)
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Rural Health Clinics and Federally Qualified Health Centers)
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products
- Public health / community health workers, including those who compile, model, analyze and communicate public health information
- Blood and plasma donors and the employees of the organizations that operate and manage related activities
- Workers that manage health plans, billing, and health information, who cannot practically work remotely
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely
- Workers conducting research critical to COVID-19 response
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters
- Pharmacy employees necessary for filling prescriptions
- Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident

LAW ENFORCEMENT, PUBLIC SAFETY, FIRST RESPONDERS

- Personnel in emergency management, law enforcement, Emergency Management Systems, fire, and corrections, including front line and management
- Emergency Medical Technicians
- 911 call center employees
- Fusion Center employees
- Hazardous material responders from government and the private sector.
- Workers – including contracted vendors -- who maintain digital systems infrastructure supporting law enforcement and emergency service operations.

FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies and other retail that sells food and beverage products
- Restaurant carry-out and quick serve food operations - Carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Employees and firms supporting food, feed, and beverage distribution, including warehouse workers, vendor-managed inventory controllers and blockchain managers
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

ENERGY

Electricity industry:

- Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission, and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services
- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them

Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers

- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

WATER AND WASTEWATER

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring
- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

TRANSPORTATION AND LOGISTICS

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Mass transit workers
- Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

PUBLIC WORKS

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences
- Support, such as road and line clearing, to ensure the availability of needed facilities, transportation, energy and communications
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste

COMMUNICATIONS AND INFORMATION TECHNOLOGY

Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as

manufacturers and supply chain vendors that provide hardware and software, and information technology equipment (to include microelectronics and semiconductors) for critical infrastructure
- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS

- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Customs workers who are critical to facilitating trade in support of the national emergency response supply chain
- Educators supporting public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning or performing other essential functions, if operating under rules for social distancing
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures

CRITICAL MANUFACTURING

- Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

HAZARDOUS MATERIALS

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

FINANCIAL SERVICES

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

Exhibit I

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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512-475-1300 /877-276-5554
www.dob.texas.gov

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INDUSTRY NOTICE 2020-08
Date: May 29, 2020

Department of Banking Resumes Examination Process in June

On March 16, 2020, we announced that the Department would complete the in-process examinations offsite and suspend future examinations to allow banks to focus on their customers and communities.

By all accounts, Texas banks successfully modified in-person contact to protect customers and employees while continuing to serve their communities. You and your employees are to be commended for this achievement.

While still in process, Texas banks have originated a significant number of loans under the Paycheck Protection Plan (PPP) providing substantial economic benefit to their communities. This is another area where you and your employees have performed admirably under difficult circumstances. The Department has attempted to provide assistance to you as needed, and we continue to seek improvements to the PPP process.

Effective next week, we will resume the examination process. COVID-19 has changed the outlook for examinations as they will be conducted offsite for the near future. To accomplish this, we have reassessed our examination processes and procedures necessary to properly evaluate a bank's condition while being mindful of the burden an examination places on a bank's staff and resources. To that end, we have modified our examination approach and are focusing on the most relevant aspects as conditions dictate. We have also developed analytics to assist with examination planning and scoping as well as to quickly identify core issues to focus on. The success of this process will depend to a great extent on your ability to provide loan and other information electronically. We will work diligently with you to make the process as seamless as possible and in a secure manner. Communication is always an important aspect of an examination, and we are committed to ensuring communication is forthright and effective.

As indicated previously, the Department supports our financial institutions working with their customers in a safe and sound manner. There have been several Financial Institution Letters issued on this topic that will provide guidance to bankers and regulators alike as you evaluate your risks and take appropriate action.

As always, thank you for what to do for your communities.

Charles G. Cooper
Banking Commissioner

Exhibit J

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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INDUSTRY NOTICE 2020-09
Date: June 23, 2020

Interagency Examiner Guidance For Assessing Safety and Soundness Considering the Effect of the COVID-19 Pandemic on Institutions

On June 23, 2020, state and federal banking agencies issued guidance to examiners for assessing the safety and soundness of financial institutions given the impact of the COVID-19 pandemic. The Texas Department of Banking contributed to the development of this guidance and examination staff will be assessing each financial institution following the supervisory principals outlined in the guidance.

Risk assessments are key for financial institutions. Generally, a risk is effectively managed when it is identified, measured, monitored, controlled, and reported. Management should update risk assessments, covering the full scope of the effects of the pandemic on the institution. Examiners will assess an institution's risk identification and reporting processes with consideration given to the institution's asset size, complexity, and risk profile, as well as the industry and business focus of its customers in light of COVID-19. For small community institutions engaged in limited or traditional activities, risk management systems may be less formal in scope and structure.

Examiners will place great emphasis on how well the institution has identified and is managing the risks arising from the pandemic. Changes in strategy, personnel, operations, and outlook should be highlighted. Participation in government programs and regulatory relief issuances should also be incorporated. The institution's capital levels should be considered given losses or potential losses from the pandemic.

If capital shortfalls are possible, the capital plan must establish how the institution's capital levels will be augmented. Credit concentrations or specific loan segments should also be addressed, whether they are long-standing or newly emerging from the pandemic. Senior management is expected to continuously report to the board of directors on the overall risk profile, including aggregate and emerging risks due to the pandemic.

The Department supports our financial institutions working with their customers adversely affected by the pandemic in a safe and sound manner. Examiners will remain focused on the borrower's ability to repay their debts according to reasonable terms and the ultimate collectability of the credits when determining the appropriate classification. Examiners will consider management's reasonable assessment of the borrower's ability to repay when confronted with uncertainty in the borrower's financial condition or collateral position.

The COVID-19 pandemic has changed the Department's approach to examinations. For the immediate future, examinations will be conducted offsite. Examiners will follow the tenets of this guidance while meeting our supervisory responsibilities. To accomplish this, the Department has temporarily revised our examination processes and procedures necessary to properly evaluate an institution's condition while being mindful of the burden an examination places on the financial institution's staff and resources. Communication is always an important aspect of an examination, and we are committed to ensuring communication is forthright and effective.

For questions or additional information about this notice, please email or call Jared Whitson at (512) 475-1354.

Exhibit K

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency
National Credit Union Administration
State Financial Regulators

Interagency Examiner Guidance for Assessing Safety and Soundness Considering the Effect of the COVID-19 Pandemic on Institutions

June 2020

Purpose

The federal financial institution regulatory agencies[1] in conjunction with the state bank and credit union regulators are jointly issuing this examiner guidance to outline the supervisory principles for assessing the safety and soundness of institutions[2] given the ongoing impact of the COVID-19 pandemic.[3] In assessing an institution under the principles in this document, examiners will consider the institution's asset size, complexity, and risk profile, as well as the industry and business focus of its customers.

Examiners will consider the unique, evolving, and potentially long-term nature of the issues confronting institutions and exercise appropriate flexibility in their supervisory response. Stresses caused by COVID-19 can adversely impact an institution's financial condition and operational capabilities, even when institution management has appropriate governance and risk management systems in place to identify, monitor, and control risk. Examiners will continue to assess institutions in accordance with existing agency policies and procedures and may provide supervisory feedback, or downgrade an institution's composite or component ratings, when conditions have deteriorated. In conducting their supervisory assessment, examiners will consider whether institution management has managed risk appropriately, including taking appropriate actions in response to stresses caused by COVID-19 impacts.

The agencies have issued numerous statements related to supervisory policy since the declaration of the national emergency. Appropriate actions taken by institutions in good faith reliance on such statements, within applicable timeframes described in such statements, will not be subject to criticism or other supervisory action.

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[1] The federal financial institution regulatory agencies are the Federal Deposit Insurance Corporation (FDIC), Board of Governors of the Federal Reserve System (Board), Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) (collectively, the agencies).

[2] Institutions include insured depository institutions, U.S. operations of foreign banking organizations (FBOs), bank holding companies, savings and loan holding companies, federally insured credit unions, and Edge Act corporations.

[3] See Proclamation 9994, Declaring a National Emergency Concerning the Novel Coronavirus Disease COVID-19 Outbreak, 85 FR 15337 (March 18, 2020)

Background

The adverse economic effects of the pandemic will likely have a significant impact on the business activities of institutions and their customers for an extended period. The containment measures adopted in response to public health concerns resulted in restrictions on the physical movement of institutions' personnel and those of their service providers and customers, which, in turn, have created significant operational challenges. In addition, government programs and policies intended to provide support and assistance to those affected by the pandemic have impacted institutions' economic and regulatory landscape. The overall impact of, and recovery from, the pandemic could be uneven and highly localized across the country.

Some institutions may face extensive asset quality issues caused by business failures, the loss of jobs, interruptions of borrowers' income streams, increases in borrowers' operating costs, and volatile or declining collateral values. Many institutions have also materially modified operational processes to continue providing products and services while adhering to stay-at-home and social distancing guidelines. These modifications, including extensive use of work-at-home strategies and the need to quickly implement various stimulus programs, may have stressed change management processes. Operational, compliance, and cyber risks may increase for many institutions, and internal controls may need to evolve as risks and operations change.

Overall Supervisory Assessment

It is essential that examiners maintain a clear understanding of the financial condition of each institution and the effectiveness of each institution's risk assessment and response to the economic changes. To promote consistency and transparency across the agencies, examiners will continue to assign supervisory ratings in accordance with the applicable rating system, including the *Uniform Financial Institutions Rating System*, commonly referred to as the CAMELS rating[4] and the interagency *Rating System for U.S. Branches and Agencies of Foreign Banking Organizations*, commonly referred to as the ROCA rating.[5] Similarly, Federal Reserve examiners will apply the principles outlined in this letter in assigning supervisory ratings to bank holding companies, U.S. intermediate holding companies, and savings and loan holding companies using the RFI/C(D) rating system or LFI rating system,[6] as applicable, and to the U.S. operations of foreign banking organizations.[7] In applying the principles in this document, examiners will consider the

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[4] See the Federal Financial Institutions Examination Council's (FFIEC's) Uniform Financial Institutions Rating System, FR 67021 (December 19, 1996). NCUA examiners will refer to NCUA Letter to Credit Unions 07-CU-12, CAMEL Rating System when assigning the CAMEL ratings (December 2007).

[5] See the Board's Supervision and Regulation Letter (SR Letter) Enhancements to the Interagency Program for Supervising the U.S. Operations of Foreign Banking Organizations SR 00-14 (October 23, 2000); the OCC Comptroller's Handbook, Bank Supervision Process, "ROCA Rating System"; and the FDIC's Risk Management Manual of Examination Policies Section 11.1 – International Banking.

[6] See Board's SR Letter 19-4/CA Letter 19-3 Supervisory Rating System for Holding Companies with Total Consolidated Assets Less Than $100 Billion, and SR Letter 19-3/CA Letter 19-2 Large Financial Institution (LFI) Rating System.

[7] Federal Reserve examiners should refer to Footnote 5.

institution's asset size, complexity, and risk profile as well as the industry and business focus of its customers.

Examiners should assess the reasonableness of management's actions in response to the pandemic given the institution's business strategy and operational capacity in the distressed economic and business environment in which the institution operates. When assigning the composite and component ratings, examiners will review management's assessment of risks presented by the pandemic, considering the institution's size, complexity, and risk profile. When assessing management, examiners will consider management's effectiveness in responding to the changes in the institution's business markets and whether the institution has addressed these issues in its longer-term business strategy.

An examiner's assessment may result in downgrading component or composite ratings for some institutions. In considering the supervisory response for institutions accorded a lower rating, examiners will give appropriate recognition to the extent to which weaknesses are caused by external economic problems related to the pandemic versus risk management and governance issues. Examiners will also consider the extent to which institutions have taken actions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of the pandemic.

When considering whether to take a formal or informal enforcement action in response to issues related to the pandemic, the agencies will consider whether an institution's management has appropriately planned for financial resiliency and continuity of operations; implemented prudent policies; and is pursuing realistic resolution of the issues confronting the institution. In instances where a formal or informal supervisory action is warranted, the agencies will tailor their response to the institution's specific issues and the willingness and ability of institution management to resolve the issues.

Effectiveness of Institution's Assessment of Risk

Examiners should evaluate management's initial and ongoing assessment of the risk that the pandemic presents to the institution.[8] Examiners should determine whether management's assessment of credit risk reasonably reflects the institution's asset quality, given the prevailing economic conditions in its business markets. In addition to determining the effect on asset quality, examiners should assess management's understanding of the pandemic's effects on the institution's earnings prospects and capital adequacy, as well as its effect on funding, liquidity, operations, and sensitivity to market risk. The risks associated with the COVID-19 pandemic, as well as impacts of policy responses, can be challenging to assess in real time. Examiners will assess an institution's risk identification and reporting processes given the level of information available and stage of local economic recovery.

[8] See the Interagency Guidelines Establishing Standards for Safety and Soundness (Interagency Safety and Soundness Standards), which indicate that an institution should have an effective risk assessment process as part of its internal controls and information systems that is appropriate to the size of the institution and the nature, scope and risk of its activities. OCC: 12 CFR Part 30, Appendix A; Board: 12 CFR Part 208, Appendix D-1; and FDIC: 12 CFR Part 364, Appendix A. See also the Interagency Guidance on Credit Risk Review Systems. NCUA examiners should also refer to Supervisory Letter (SL) 13-12 on Enterprise Risk Management SL 13-12, shared with federally insured credit unions through Letter to Credit Unions 13-CU-12.

Examiners should determine whether an institution's assessment of risk is sufficient in scope and content. In reviewing the assessments, examiners should recognize that the issues confronting institutions are complex, evolving, and may involve protracted resolution. Examiners also will be mindful that the localized impact of the pandemic may be materially different from regional or national impacts. The examination scope may need to be adjusted depending on the quality and thoroughness of management's assessment of risk. The quality of an institution's risk assessments will be considered, as appropriate, in the examiner's assessment of supervisory ratings.

CAMELS or ROCA Component Ratings

When assessing the component ratings for CAMELS or ROCA, or analogous component ratings for holding companies, examiners will consider the following:

Capital Adequacy[9]

Institutions may experience cash flow decreases, asset losses, operational losses, extraordinary expenses, unexpected deposit growth or declines, and contingent liabilities as a result of the pandemic. The agencies have encouraged institutions to use their capital buffers to promote lending activities and other financial intermediation activities in a safe and sound manner.[10] The agencies recognize institutions may experience significant temporary balance sheet growth due to increased lending, unusually large deposit inflows, or inflows from various government programs. Such growth may result in a temporary decline in institutions' regulatory capital ratios.

Examiners will evaluate capital relative to the nature and extent of the institution's risks. When evaluating the capital component, examiners will consider the institution's capital planning efforts. Examiners will evaluate the institution's capital projections and whether institution management appropriately assesses the institution's capital needs and vulnerabilities related to the pandemic and consistent with the institution's risks. If an institution's risk profile is not supported appropriately by its capital levels, examiners should determine whether management has a satisfactory plan to maintain capital adequacy and, if needed, build capital. Examiners should discuss with management the institution's plans for ensuring capital adequacy. In assessing capital adequacy, examiners will consider the institution's regulatory capital ratios, capital planning and distribution plans, risk management practices, and whether an institution maintains a fundamentally sound financial condition.

[9] Branches and agencies of FBOs do not maintain regulatory capital separate from their foreign parent organizations. Federal branches and agencies of FBOs are instead required to maintain capital equivalency deposits as set forth in 12 CFR 28.15, and state-licensed branches and agencies may be subject to similar requirements through their respective state supervisors.

[10] See Regulatory Capital Rule: Eligible Retained Income. OCC 12 CFR Part 3; Board 12 CFR Part 217; and FDIC 12 CFR Part 324.

Asset Quality

Examination scopes may need to be adjusted to reflect the significance of affected loan and investment portfolios. Examiners will continue to assess credits in line with the interagency credit classification standards,[11] while recognizing the constraints posed by the pandemic. For instance, supporting file documentation may be limited due to unusual circumstances caused by the pandemic. When assessing asset quality, examiners should consider whether management has been able to identify loans and investments substantially affected by the pandemic and recognize any deterioration in a timely manner, including any potential loss exposure.

Examiners will assess management's ability to implement prudent credit modifications and underwriting, maintain appropriate loan risk ratings, designate appropriate accrual status on affected loans, and provide for an appropriate Allowance for Loan and Lease Losses (ALLL) or Allowances for Credit Losses (ACLs), as applicable. In making these assessments, examiners will give consideration to the items below.

Classification of Credits. The assessment of each loan should be based on the fundamental characteristics affecting the collectability of that particular credit, while acknowledging that supporting documentation may be limited and cash flow projections may be highly uncertain. Where this uncertainty exists, examiners will review management's assessment of the borrower's repayment ability and financial condition as well as the institution's collateral protection. Examiners will not subject a renewed, extended, or modified loan to adverse classification solely because the value of the underlying collateral has declined to an amount that is less than the loan balance, provided that the borrower has ability to repay its debts according to reasonable modified terms.

Examiners should apply appropriate credit classification and charge-off standards in cases where the information indicates a loan will not be repaid under reasonable terms. Examiners should also assess the reasonableness of management's plans for workouts and pursuing foreclosure of collateral on nonperforming assets.

Credit Risk Review. Examiners will recognize that the rapidly changing environment and limited operational capacity may temporarily affect the institution's ability to meet normal expectations of loan review (e.g. schedule or scope of reviews). Examiners will assess the institution's support for any delays or reductions in scope of credit risk reviews and consider management's plan to complete appropriate reviews within a reasonable amount of time.

New Loans. Examiners will assess the appropriateness of the institution's underwriting standards. Examiners should assess underwriting by reviewing a sample of loans originated during or after the pandemic, or by reviewing the institution's reports, as appropriate. There may be legitimate reasons why management may have eased underwriting standards during or after the pandemic to address the needs of the institution's customer base. Institutions were encouraged by regulators to work with their borrowers throughout the crisis. Management may need to rely more heavily on

[11] Agency examiners should refer to the Uniform Agreement on the Classification and Appraisal of Securities Held by Depository Institutions (October 2013). Federal Reserve examiners should also refer to the Commercial Bank Examination Manual, sections 2060.1, *Classification of Credits* and 2130.1, *Consumer Credit*. NCUA examiners should refer to the *Credit Risk Rating Systems* content in the NCUA Examiner's Guide.

pro forma financial information from borrowers in making underwriting decisions. Examiners should review management's analysis of borrower projections given the local economic conditions during the recovery. In addition, management may have changed the institution's business strategy to focus on new lines of business or expand into new markets. If the institution's business strategy changed, examiners should consider whether the institution has sufficient controls and expertise for the new or expanded activities.

Paycheck Protection Program. The *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) provided relief to small businesses through loan programs administered by the Small Business Administration (SBA), with the backing of the U.S. Department of the Treasury, including the Paycheck Protection Program (PPP).[12] The agencies view the PPP as an important program to help institutions continue to lend to customers in need, without exposing the institution to credit risk, so long as the institution follows SBA's program guidelines. Moreover, in assessing an institution's safety and soundness, examiners will not criticize institutions that participate in the PPP in accordance with SBA program guidelines. The agencies have been supportive of institutions that elected to participate in the PPP and use the Federal Reserve's PPP Liquidity Facility[13] to fund PPP loans.[14]

Credit Modifications. The agencies have encouraged institutions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of the pandemic.[15] Specifically, the agencies have stated that they view loan modification programs as positive actions that can mitigate adverse effects on borrowers due to the pandemic. Examiners should assess the appropriateness of an institution's policies and procedures for credit renewals, extensions, or modifications. Examiners will not criticize institutions for working with borrowers as part of a risk mitigation strategy intended to improve existing loans, even if the restructured loans have or develop weaknesses that ultimately result in adverse credit classification. In assessing an institution's safety and soundness, examiners will not criticize management for engaging in prudent loan modifications and working with borrowers in a safe and sound manner.

In assessing an institution's loan modification practices, examiners will review loan modifications to evaluate whether management is applying appropriate loan risk grades and making appropriate accrual status decisions on loans affected by the pandemic. Examiners will exercise judgment in reviewing loan modifications and not automatically adversely risk rate credits that were modified.

[12] See SBA's Paycheck Protection Program Interim Final Rule 13 CFR Part 120 (April 2, 2020)

[13] See Federal Reserve's Paycheck Protection Program Liquidity Facility (PPPLF).

[14] The FDIC, Federal Reserve and OCC issued the Paycheck Protection Program Lending Facility and Paycheck Interim Final Rule (April 13, 2020) and the PPPLF/PPP Interim Final Rule Correction (April 23, 2020) to modify the agencies' capital rules to neutralize the regulatory capital effects of participating in the Federal Reserve's PPPLF. Consistent with the agencies' current capital rules and the CARES Act requirements, the interim final rule also clarifies that a zero percent risk weight applies to loans covered by the PPP for capital purposes. See OCC 12 CFR Part 3, Board 12 CFR Part 217, and FDIC 12 CFR Part 324. The NCUA issued an interim final rule to provide consistent capital treatment for credit unions participating in the PPPLF and codify the CARES Act requirement that PPP loans are risk weighted at zero percent for purposes of risk-based net worth. See 85 FR 23212.

[15] See Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised) (Revised Interagency Statement). (April 7, 2020)

When evaluating loan modification practices, examiners will consider the CARES Act and Revised Interagency Statement. Among other things, the CARES Act provides institutions the option to temporarily suspend certain requirements under U.S. generally accepted accounting principles (GAAP) related to troubled debt restructurings for a limited period of time to account for the effects of the pandemic.[16] The Revised Interagency Statement addresses accounting and reporting considerations for loan modifications eligible under the CARES Act and for those that are not eligible, or where the institution elects not to apply the relief provided under the CARES Act.

Nonaccrual. Institutions may allow borrowers affected by the pandemic to defer payment of principal, interest, or both for a reasonable period with the expectation that the borrower will resume payments in the future. The Revised Interagency Statement indicates that during the short-term arrangements, these loans generally should not be reported as nonaccrual. Examiners should confirm that institutions continue to follow applicable regulatory reporting instructions, as well as the institutions' internal accounting policies, when reporting nonaccrual assets in regulatory reports. As information becomes available indicating repayment of a specific loan or accrued interest is in doubt, examiners should review institution practices against appropriate charge-off guidance regarding accrued interest and principal.

Allowance for Loan and Lease Losses (ALLL) or Allowances for Credit Losses (ACLs).[17] Examiners should review an institution's methodology for calculating the ALLL or ACLs, as applicable.[18] In assessing whether the ALLL or ACLs are appropriate, examiners will assess whether management has considered relevant available information about the collectability of the institution's loan portfolio, along with any changes to the institution's lending practices and economic conditions as a result of the pandemic. Examiners should evaluate how an institution considered the effect of the pandemic in its ALLL or ACLs estimation process, as applicable, and whether the resulting estimates are in conformity with GAAP and regulatory reporting requirements. Additionally, examiners will assess management's process for updating estimates of loan losses in the ALLL or ACLs, as applicable, as the institution obtains additional information.

An institution may have difficulty in accurately determining the collectability of certain loans impacted by the pandemic. Therefore, examiners should understand that management may need to consider qualitative adjustments to credit loss estimates for information not already captured in the loss estimation process. These qualitative factor adjustments may increase or decrease management's estimate of credit losses. Examiners will recognize that management may need more time to determine the effect of the pandemic on some borrowers' ability to pay and assess the value of underlying collateral. Examiners should determine whether management has maintained the ALLL or ACLs, as applicable, at an appropriate level within a range of loss estimates even when loan-specific information is not yet available.

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[16] See Section 4013 the *Coronavirus Aid, Relief, and Economic Security Act*, Pub. L. 116-136.

[17] Maintenance of an ALLL or ACLs, as applicable, is not required for branches or agencies of FBOs.

[18] See Interagency Policy Statement on Allowances for Credit Losses (May 8, 2020) and Interagency Policy Statement on the Allowance for Loan and Lease Losses (2006).

Obligations of Taxing Authorities. Examiners should confirm that institutions monitor their risk exposures in municipal bonds to assess whether those bonds continue to be the credit equivalent of an investment grade security and are appropriately classified, consistent with the interagency credit classification standards.[19] Many public obligors and issuers have insurance or have access to debt payment and other reserve funds that help ensure the full and timely repayment of principal and interest for the projected life of the asset or exposure. However, examiners should confirm that management is using relevant information to conduct credit risk assessments that are timely, accurate, and consistent with internal policies, regulatory requirements, and accounting standards.

Examiners should review the institution's loan and investment portfolios to assess credit that has been extended to taxing authorities. For example, communities may be heavily dependent on local sales, hotel, property, and income tax revenues. These sources of revenue have fallen sharply with containment measures, and the ultimate collection of such loans and investments under reasonable terms may be adversely affected. Some loans and bonds may also be tied to limited purpose facilities, such as entertainment or sporting venues, which may not resume operations for an extended period.

Real Estate Values. The economic impact of the pandemic may result in fluctuations in real estate values. For existing and new real estate loans, examiners should assess the institution's policies and practices for valuing collateral in real estate markets that have experienced a substantial, but possibly temporary, change in real estate values as a result of pandemic containment measures. When reviewing an institution's estimates of collateral values, examiners should ascertain whether the values are based on assumptions that are prudent and realistic.

Appraisal and Evaluation Delays. The agencies have temporarily allowed supervised financial institutions to defer obtaining an appraisal or evaluation for up to 120 days after the closing of residential and commercial real estate loans (other than loans for acquisition, development, and construction of real estate).[20] Examiners should evaluate whether an institution is making best efforts to obtain a credible valuation of real property collateral before the loan closing and how any backlog of appraisals or evaluations is being addressed. Examiners will also evaluate if the institution's underwriting is consistent with the principles in the agencies' Standards for Safety and Soundness[21] and Real Estate Lending Standards[22] that focus on the ability of a borrower to repay a loan and compliance with other relevant laws and regulations.

[19] See Footnote 11.

[20] See Interim Final Rule on Real Estate Appraisals (April 14, 2020)

[21] See Footnote 8.

[22] OCC: 12 CFR Part 34, Subpart D, Appendix A; Board: 12 CFR Part 208, Subpart E, Appendix C; FDIC: 12 CFR Part 365, subpart A, Appendix A, and NCUA: 12 CFR Part 722 and §701.21. Institutions should have a program for establishing the market value of real property to comply with these real estate lending standards, which require institutions to determine the value used in loan-to-value calculations based in part on a value set forth in an appraisal or an evaluation.

Management

All institutions have been confronted with unprecedented issues, including limitations on employees' movements, sudden unanticipated financial impacts to their borrowers, limited physical access to facilities and other operational challenges. As part of the institution's risk management assessment, examiners will evaluate institution management based on the reasonableness of management's response to the pandemic. As additional information becomes available, examiners expect management to update risk assessments, measure the effectiveness of its response, and adjust, as necessary.

Examiners will evaluate institution management on its ability to properly identify and prudently manage risks associated with the pandemic. In doing so, examiners will consider the extraordinary circumstances surrounding the decisions made to work with borrowers and the large number of those impacted. Examiners should evaluate the extent to which management factors the results of these efforts into its longer-term business strategy. Strategies could evolve throughout the local and national recovery. Institutions may be compelled to reconsider branching, mergers, or other expansions.

When rating an institution's management, examiners will distinguish between problems caused by the institution's management and those caused by external factors beyond management's control. Provided prudent planning and policies are in place and management is pursuing realistic resolution of the institution's problems, management of an institution with problems largely related to the pandemic may warrant a more favorable rating than management of an institution operating with problems stemming from weak risk management practices that are, or should have been, substantially within the institution's control.

Operational Risk

In response to the COVID-19 pandemic, many institutions have quickly adapted certain operational processes and technology systems to ensure continued delivery of financial services and manage significant volumes of transactions due to government stimulus programs. Rapid changes in operational processes and increasing fraud and cyber threats may result in a heightened operational risk environment. Examiners will review the steps management has taken to assess and implement effective controls for new and modified operational processes. Examiners will assess actions management has taken to adapt fraud and cybersecurity controls to manage heightened risks related to the adjusted operating environment. Examiners will also review how management has assessed institutions' third parties' controls and service delivery performance capabilities post crisis. Additionally, examiners will consider the impacts on the control environment from instances of imprudent cost cutting, insufficient staffing, or delays in implementing needed updates in their assessment of the institution.

Independent Risk Management and Audit

Examiners will consider how COVID-19-related responses may impact plans and schedules for internal audit and independent risk management reviews, including the need to incorporate audits or reviews of new operational processes and programs. Examiners should review the use of remote work technologies and teleconferencing systems for work-at-home arrangements, along with the elimination of physical controls present in many office environments. In addition, examiners should review risk management and audit monitoring of programs to support consumers and businesses such as PPP, mortgage deferrals, loan forbearance, and other new programs that may pose credit, legal, and compliance risks if not properly managed.

Earnings[23]

When evaluating earnings, examiners will consider the duration of any reductions to core earnings caused by the pandemic, including provisions and other expenses that may increase due to asset quality deterioration. Due to the increased level of loan modifications associated with the pandemic, levels of deferred interest in relation to total earnings may be elevated. When assessing earnings, examiners will evaluate how institutions are accounting for and estimating allowances for accrued interest from modified loans, as applicable, in accordance with GAAP and Call Report instructions. Ongoing operational issues, such as increased personnel, legal, IT, and fraud expenses may also impact earnings. Examiners should assess the quantity, quality, and trend of prior earnings as well as the pandemic's influence on earnings prospects. The impact on the institution's major business lines and significant customers should also be assessed. This assessment should consider the adequacy and reasonableness of any revisions to the institution's budget and strategic plan, including projections from participation in government programs related to the pandemic.

Liquidity[24]

There remains considerable uncertainty around the impact of COVID-19 on liquidity profiles. Examiners will consider the nature and timing of pandemic-related inflows and outflows when reviewing the adequacy of an institution's liquidity and be cognizant of how management is employing any influx of liquid resources. Institutions may experience fluctuations in liquidity resulting from the receipt of customers' Economic Assistance Payments, customers' flight to quality, participation in various government lending programs or borrowing facilities, or deposit outflows as depositors, including municipalities, draw on savings or reserves. In addition, collateral requirements for secured funding sources (such as a line of credit from a Federal Home Loan Bank) may be temporarily modified. Examiners will evaluate management's ability to reassess or revise liquidity planning to accommodate changes from the pandemic.

Examiners will not criticize an institution for appropriate use of the discount window or other Federal Reserve lending programs, or the NCUA's Central Liquidity Facility. Similarly, examiners will not criticize an institution's prudent use of its liquidity buffer to support economic recovery, in accordance with the institution's liquidity risk management framework.

Although the ROCA rating does not contain a liquidity component rating, funding, liquidity risk, and risk management are important factors in the assessment of branches and agencies of FBOs. Examiners will assess the effect of a pandemic on liquidity as part of the risk management component of the ROCA rating.

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[23] The ROCA rating does not contain a component rating for earnings.

[24] The ROCA rating does not contain a component rating for liquidity.

<u>Sensitivity to Market Risk</u>[25]

Many institutions may experience temporary shifts in their interest rate risk profiles from changes in cash flows associated with the pandemic. For example, the amount or timing of cash flows may be altered by deterioration in loan and bond portfolios or by deferment agreements or programs.

Examiners will recognize that management may need time to fully assess any changes to the institution's interest rate risk profile and distinguish between permanent structural changes versus short-term fluctuations during a transitional period. Examiners should determine whether management has procedures for reviewing and updating its asset and liability management models for any unusual fluctuations in deposit balances, adjustments to loan payments, changes in interest rates, and other modifications to ensure the integrity, accuracy, and reasonableness of the models.

The ROCA rating does not contain a component for market sensitivity. However, examiners should consider sensitivity in the form of the interest rate risk profile, risk management, and effects from the pandemic in the assessment of the risk management component of the ROCA rating.

Risk Management of a Branch or Agency of an FBO

A pandemic will likely present challenges to the FBO head office of a branch or agency as well as local management. When considering risk management of branches and agencies of FBOs, examiners should focus on the assessment factors outlined in the interagency ROCA rating system, and consider these factors in the context of the pandemic. Examiners should evaluate the level of support provided by the home office in restoring operations and the appropriateness of risk management considering the changing operating environment and economic conditions due to a pandemic.

[25] The ROCA rating does not contain a component rating for sensitivity to market risk. The NCUA uses the CAMEL rating system, which does not include the S – sensitivity to market risk. NCUA examiners will continue to consider sensitivity to market risk and liquidity risk when rating the L component.

Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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INDUSTRY NOTICE 2020-05
Date: March 30, 2020

Business Continuity Planning Considerations – COVID-19

To assist in the review of your operational preparedness in response to the issues presented by COVID-19, the following has been developed in conjunction with the Independent Bankers Association of Texas and the Texas Bankers Association. Each community and therefore, each bank may be experiencing the COVID-19 emergency in unique ways, so this set of recommendations does not constitute required action. This guide contains a list of important areas to consider as you maintain essential business operations during the pandemic.

It is important to view bank business continuity from the enterprise perspective in order to ensure that interdependent operations and the personnel to carry them out are considered.

As you work through the guide, your situation may lead you to other factors that should be evaluated.

Have you identified your critical systems and processes?

Critical systems and processes to consider:

- Core Processing System
- ATM Processing and Replenishment
- ATM / POS Limits (Can these be adjusted remotely?)
- Online Banking System
- Debit/Credit Card Processing
- Cash Letter/Returns
- ACH Processing/Returns
- Wire Processing

Do you have remote access for your critical systems and processes?

Items to consider:

- Virtual Private Network Access (VPN) (Is the capacity adequate?)
- Internet access (Web-based software/applications)
- Telephone system
- Secure remote desktop/laptop
- Remote security:
  - Are there security controls that need to be adjusted for expanded remote operations?
  - Use of multi-factor authentication to minimize risks of remote operations?
  - Have you considered both off-site and off-line backup strategies?
  - Network segmentation policy – Can you control the access and movement of your data with employees working remotely?

- Data backup policy – Have you eliminated unnecessary connections into or out of your backup storage site?

Have you tested remote access of each critical system and process?

Items to consider:

- Multiple users accessing the system at one time
- Remote location Internet capabilities (bandwidth, security, etc.)
- Alternate remote location availability (Internet bandwidth, security, etc.)
- Ability to connect to critical systems and processes from new remote IP addresses and alternative devices

Do you have employees who are trained and cross-trained for all your critical systems and processes?

Items to consider:

- Primary and backup employees who work in the same area could become sick simultaneously.
- Authority and authentication requirements and devices should be current and accessible.
- Written processes and procedures should be current and accessible.
- Remote access devices should have all necessary software and applications installed and updated.
- Training should be current.

Are you prepared to take other staff actions to maintain business continuity?

Items to consider:

- Implementation of staggered shifts (e.g. Employees A and B X hrs. or days; Employees C and D work the opposite).
- Community banks with a smaller staff might explore potential mutual aid agreements to **supplement possible staffing needs,** and other arrangements in order to deliver customer services to the community.
- Adherence to local ordinances regarding social distancing and hygiene – for both employees and customers.
- Enforcement of regular cleaning of surfaces on a rigid schedule throughout the day – particularly at any shift changes.
- Utilization of staff logs to screen for potential employee health (Template).
- Distribution of employee credentials should local authorities close or restrict access by Department of Homeland Security (DHS)/U.S. Treasury designated essential bank personnel (Note: U.S. Treasury recommends the following for credentialing: The combination of the employee's bank ID or letter from bank supervisor + DHS Guidance document + U.S. Treasury Secretary Mnuchin's statement).

Other Important Considerations:

- What other business processes must function to perform these critical processes?
- What is the minimum staff required to be able to serve customers during a business interruption?
- What vendor services do you need to be able to perform these critical processes?
- What systems/equipment do you need to perform these critical processes?
- What software do you need to perform these critical processes?
- What supplies do you need to perform these processes?
- What instructions/manuals do you need to perform these processes?
- Are there alternate ways to perform these critical processes in order to serve your customers?
- Third-party service providers must adhere to the same security policies and protocols for the organization.

Resources:

Centers for Disease Control and Prevention (CDC) – Businesses and Employers
U.S. Department of Homeland Security – Business Continuity Planning
U.S. Department of Homeland Security – CISA Essential Workforce Guidance
U.S. Department of the Treasury – Statement on Financial Services Essential Workforce

Charles G. Cooper
Commissioner

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INDUSTRY NOTICE 2020-07
Date: April 8, 2020

Increased Cyber Activity During Times of Crisis

During times of crisis, cybercriminals and nation-state actors often exploit financial institutions and their customers for financial or political gain. For this reason, the Department of Banking in conjunction with the Independent Bankers Association of Texas and the Texas Bankers Association developed a list of areas that you, your staff, and your customers should consider.

Evaluating cybersecurity readiness can be accomplished by utilizing the PPT model that considers: **People, Processes, and Technology.**

I. People

- Continue to remind your employees that human error as a result of social engineering schemes, rather than the use of sophisticated technologies, remains the top method of cyber attacks. Emphasize key training lessons and regularly remind employees to stay vigilant.
- Let remote workers know when online/virtual meeting platform links are expected and legitimate. If something does not look right, employees should contact the meeting organizer.
- Remind customers and staff that some banks/branches may have adjusted hours or services in compliance with Centers for Disease Control (CDC) guidance, but customers continue to have access to funds and deposits remain FDIC-insured and safe.
- Inform customers and employees that your institution's brand might be used in a fraudulent alert to customers. These fraudulent alerts may state that the customer's bank account has been temporarily suspended. The victim may receive a link that looks like your bank's login screen, encouraging them to log in with their banking username and password.
- Communicate to customers that dis-information campaigns are already underway and to only rely on government and well-established news sources for credible information such as the CDC, the World Health Organization (WHO), and the Department of Homeland Security. Be wary of unreliable websites and random social media posts.
- Inform customers and staff that scams are preying on fear and interest in COVID-19. They should be extra cautious about clicking links and providing sensitive or confidential information. Be extra vigilant to follow secure cyber practices:

- Do not click on attachments or links from individuals or organizations that you are not expecting or from someone you do not know.
- Pay close attention to email and web addresses. Look for misspellings, grammar mistakes or other red flags.
- Hover the mouse cursor over hyperlinks to see where they lead.
- Avoid messages that urge you to *act now*. This sense of urgency is meant to pressure people into making irrational decisions.

- Remind your staff and customers to be cautious of communications with the following or similar subjects:
  - Obtaining U.S. government funding related to Coronavirus relief.
  - Check for an updated Coronavirus map in your city.
  - Coronavirus infection warnings from local school districts/governmental entities.
  - Keep your children safe from Coronavirus.
  - Raise funds for Coronavirus victims – (If you wish to donate money, consider only working with known and established organizations and donate through their official websites or phone numbers. Avoid responding directly to email solicitations.)

II. Processes

- Re-distribute your Information Technology (IT) policy to employees. A reminder about expectations for acceptable/required behaviors is important.
- Anticipate Distributed Denial of Service (DDoS) attacks are often distractions to carry out wire fraud.
- Exercise special caution when honoring customer requests for special/alternative handling of transactions. Requests for wire transfers or ACH account changes should be verified by contacting the business contact on a known phone number, asking a fellow staff member to review the requests, or calling the customer directly.
- Be vigilant against Business Email Compromise (BEC). Attacks typically consist of an email in which an institution executive is impersonated (spoofed) and asks an employee to wire funds to an outside account. Bank policies should be in place to require secondary confirmation of major wires or transactions in-person or by telephone.
- Look out for Corporate Account Takeover (CATO) attempts. The attacks are usually in the form of emails that ask for your credentials. Ensure that bank IT policies contain instructions to contact your IT or Security team before releasing information if a password is requested by email.
- Review your cyber incident response plan. Roles and responsibilities among executives should be clear. Staff should know what they should do and who to contact during an incident/event.
- Be Mindful of Incident Notification Requirements. Under Title 7, Texas Administrative Code §3.24, the Texas Department of Banking requires a state bank to notify the banking commissioner promptly when a material cybersecurity incident occurs whether systems are maintained by the bank or by an affiliate or third-party service provider.

III. Technology

- As you utilize alternative systems/equipment in conjunction with your Business Continuity Plan, remember to follow your standard security protocol.
- Maintain Secure Connections for Remote Workers.
    - Can you assist staff in securing their home Wi-Fi? Remind staff that public Wi-Fi networks should be avoided.
    - If use of personally owned devices for remote access is allowed, help staff bring these devices up to date with the latest security patches and end-point protection.
    - Implement multi-factor authentication for high-risk remote access.
    - Discuss with your managed service provider (MSP) how they are maintaining security to your network with any of their remote workers.

Other Important Considerations

- **Cyber Insurance**
    - Know what your policy(s) covers (e.g. forensic remediation, notification expenses, equipment replacement, reputation repair, etc.).
    - Understand your policy’s exclusions and how the insurer defines “minimum security standards.”
    - Confirm that required security protocols are in place including when employees are working from home.

Exhibit N

Charles G. Cooper
Commissioner

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INDUSTRY NOTICE 2020-06
Date: April 1, 2020

Trust Company Call Report and Certification of Exempt Status

The Texas Department of Banking understands that all financial service providers, including Texas trust companies, have been impacted by COVID – 19. The Department is also mindful of the burden that regulatory reporting requirements may create during a time when most trust company offices are functioning at a reduced staffing level.

Effective immediately, the Banking Commissioner is authorizing the following:

- **Public Trust Companies – Report of Condition and Income**. A 31-day extension is granted for trust companies that need additional time to complete the report. The due date will be May 31, 2020. No formal request by the trust company to the Department is required to extend the submission date.

- **Exempt Family Trust Companies – Annual Report of Condition and Income and Certification of Exempt Status Report**. A 31-day extension is granted for trust companies that need additional time to complete the report. The due date will be May 31, 2020. No formal request by the trust company to the Department is required to extend the submission date.

- Electronic signatures may be used for all submitted reports referenced in this notice. Trust companies should ensure the authority to use the appropriate officer's or director's signature is obtained in advance. All reports can be submitted electronically to TXDOB.Email@dob.texas.gov.

These regulatory reporting modifications are made in light of the adverse effect of the pandemic on critical financial services. The Department is hopeful that these changes will provide greater flexibility to trust companies.

For questions or additional information about this notice, please email or call (512) 475-1330.

Exhibit O

Press Release

For Immediate Release March 25, 2020

Financial Regulators Highlight Coordination and Collaboration of Efforts to Address COVID-19

The Federal Financial Institutions Examination Council continues to monitor and respond to the COVID-19 pandemic to promote the ongoing ability of the nation's financial institutions to support the households and businesses that depend on them.

FFIEC members, who met as a group yesterday, are actively discussing and identifying appropriate measures, both collaboratively and individually, to maintain safety and soundness while protecting consumers. Members note that banks and credit unions of all sizes have built up substantial levels of capital and liquidity over the last decade, positioning them well to support the needs of households and businesses.

The members underscore that the financial services sector provides critical services during the pandemic by ensuring the continued availability of financial resources to consumers and businesses. The members will provide guidance to financial institutions and work with state and local officials on how to identify workers as essential critical infrastructure workers to ensure the security and resilience of the Nation's critical infrastructure.

The agencies understand that financial institutions may need additional time to submit certain regulatory reports in light of staffing priorities and disruptions caused by the Coronavirus Disease 2019 (COVID-19). The federal banking agencies will not take action against any institution for submitting its March 31, 2020, Reports of Condition and Income (Call Reports) after the respective filing deadline, as long as the report is submitted within 30 days of the official filing date. Institutions are encouraged to contact their primary federal regulator in advance of the official filing date if they anticipate a delayed submission.

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The FFIEC was established in March 1979 to prescribe uniform principles, standards, and report forms and to promote uniformity in the supervision of financial institutions. The Council has six voting members: the Board of Governors of the Federal Reserve System, the Federal Deposit

Insurance Corporation, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Consumer Financial Protection Bureau, and the State Liaison Committee. The Council's activities are supported by interagency task forces and by an advisory State Liaison Committee, comprised of five representatives of state agencies that supervise financial institutions.

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STATE OF TEXAS
JOINT FINANCIAL
REGULATORY AGENCIES

TEXAS DEPARTMENT OF BANKING
TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING
TEXAS OFFICE OF CONSUMER CREDIT COMMISSIONER
TEXAS CREDIT UNION DEPARTMENT

Home Equity Lending Guidance: Coronavirus Emergency Measures

***Note: This guidance revises and replaces the home equity lending guidance published by the joint financial regulatory agencies on April 1, 2020*.**

The joint financial regulatory agencies (Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Credit Union Department) issue this guidance on emergency measures for home equity lenders to consider in response to the novel coronavirus and the resulting disease, COVID-19.

On March 13, Governor Greg Abbott declared a state of disaster for all Texas counties due to COVID-19. The agencies anticipate that many lenders will be making new loans to assist in recovery efforts, and may need to adjust terms or temporarily extend maturities of existing loans where circumstances warrant and safety and soundness is not compromised. The agencies encourage lenders to work with borrowers, and support measures that will help borrowers recover and provide an opportunity to ultimately repay their debt. At the same time, lenders must ensure that they comply with Article XVI, Section 50 of the Texas Constitution in order to have a valid home equity lien.

Existing HELOC:

A homeowner with an existing home equity line of credit (HELOC) may be able to obtain an additional advance on the HELOC, based upon the maximum amount and terms of the HELOC at the time the loan was originally closed. The minimum draw on an existing HELOC may not be less than $4,000, as provided by Section 50(t)(2).

Refinance of Home Equity Loan:

An existing home equity loan may be refinanced into another home equity loan without regard to the one-year seasoning requirement if the homestead is located within an area that has been declared a "disaster" by the Governor or the President of the United States, and if the homeowner on oath requests the closing less than one year from the original closing due to the disaster. This disaster exception is described in Section 50(a)(6)(M)(iii). However, lenders are cautioned that the refinance of an existing home equity loan into a loan other than a home equity loan or a reverse mortgage is subject to the requirements of Section 50(f)(2)(A), which also imposes a one-year seasoning requirement but <u>does not</u> include a similar disaster exception.

Modification of Existing Home Equity Loan:

An existing home equity loan may be modified at the request of the homeowner without violating the Texas Constitution if the modification is consistent with the opinion of the Texas Supreme

Court in *Sims v. Carrington Mortg. Services, L.L.C.* 440 S.W.3d 10 (2014). In the context of an existing home equity loan in default, the court held that a new agreement with the borrower that capitalizes past-due interest, fees (late charges), property taxes, and insurance premiums into the principal of the loan (all past-due amounts owed under the terms of the initial loan) and a lowering of the interest rate and the amount of installment payments, but does not involve the satisfaction or replacement of the original note, an advancement of new funds, or an increase in the obligations created by the original note, is not a new extension of credit for purposes of Section 50(a)(6). Further, the court held that the capitalization of past-due interest, taxes, insurance premiums, and fees was not an "advance of additional funds" within the meaning of Section 50(a)(6) if those amounts were among the obligations assumed by the borrower under the terms of the original loan.

As noted in 7 Texas Admin. Code §153.14(2), a home equity loan and a subsequent modification are considered a single transaction for purposes of the home equity lending requirements of Section 50(a)(6), including the percentage cap on loan fees.

Although the *Sims* case did not explicitly involve traditional payment deferrals or an extension of the term of the original note, we believe these to be permissible under the Court's holding that "[t]he Constitution does not prohibit the restructuring of a home equity loan that already meets its requirements in order to avoid foreclosure while maintaining the terms of the original extension of credit." **The agencies recommend that lenders consult with qualified legal counsel before engaging in home equity loan modifications.**

Authorized Closing Location:

Section 50(a)(6)(N) requires a home equity loan to be "closed only at the office of the lender, an attorney at law, or a title company." Section 50(a)(5)(D) contains a similar requirement for home improvement loans. These two provisions do not include an exception for disasters or emergencies.

The agencies recognize that businesses are taking action to protect public safety and minimize the spread of COVID-19. This may include implementing social-distancing recommendations or requirements from local jurisdictions.

For lenders that keep their offices open and choose to continue closing home equity loans at authorized locations, the agencies encourage lenders to consider ways to close loans in accordance with social-distancing recommendations, such as the following:

- Physical separation between the borrower and any employees (which may include physical barriers, partitions, or separate rooms).
- Use of video or audio conference to communicate with the borrower and verify the borrower's identity.
- Use of electronic systems for the borrower to view documents, as well as electronic signatures (in accordance with Texas law and the federal E-Sign Act).
- Use of an online notary (in accordance with Texas law).
- Minimizing the use of paper documents, and limiting the handling of paper documents after execution.
- Implementing enhanced sanitization protocol for areas occupied by the borrower (in accordance with recommendations of health authorities).

Lenders working with consumers on home equity loans must remain cognizant of the requirements in Section 50(a)(5)(D) and 50(a)(6)(N) and work with a qualified attorney to develop a plan to ensure loans are closed appropriately. The agencies agree that a reasonable option may include closing in any area located at the permanent physical address of the office or branch office of the lender, attorney, or title company, as described by the interpretation at 7 Texas Administrative Code §153.15 (e.g., a parking lot).

This guidance is not an interpretation of the Texas Constitution and is not being issued under Texas Finance Code §11.308 and §15.413. This guidance does not provide any safe harbor to avoid potential civil litigation against a lender.

State Regulators to Address Post-Crisis Economic Recovery and Financial Infrastructure

Jun 11, 2020

State financial regulators stood up a COVID-19 Recovery Steering Group to guide multistate efforts to respond to the personal hardships and financial infrastructure risks caused by the global pandemic. The steering group will work through the Conference of State Bank Supervisors (CSBS).

The group, led by Texas Banking Commissioner Charles G. Cooper, will consider changes to bank and nonbank financial services oversight and will share lessons learned and best practices with fellow regulators and the financial services industry. Commissioner Cooper, a former CSBS chairman, also serves as the state banking representative on the Financial Stability Oversight Council.

Charles G. Cooper: “State regulators are committed to our state and local communities’ economic recovery, and we are putting infrastructure in place to ensure that state-chartered banks and state-licensed nonbank financial services companies are positioned to serve their customers. The Recovery Steering Group will stay focused on our role in protecting consumers and supporting our local economies.

“This group of regulators has experience gained in past crises to make systemic changes to banking and financial services oversight.”

Changes to state or federal laws or regulations to improve operational flexibility, information sharing and coordination are also being considered.

COVID-19 Recovery Steering Group members

Kevin Allard, superintendent, Ohio Division of Financial Institutions
Manuel Alvarez, commissioner, California Department of Business Oversight
Charles Cooper, commissioner, Texas Department of Banking
John Ducrest, commissioner, Louisiana Department of Financial Institutions
Tom Fite, director, Indiana Department of Financial Institutions
Mary Gallagher, commissioner, Massachusetts Division of Banks
Greg Gonzales, commissioner, Tennessee Department of Financial Institutions
Rick Green, commissioner of banking, South Carolina State Board of Financial Institutions
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PRESS RELEASE
Date: July 30, 2020

Assessment Reduction

The Texas Department of Banking is committed to fiscal responsibility and conducts comprehensive budget reviews to calculate the minimum required assessment to meet our financial responsibilities.

Based on the most recent review, Commissioner Charles G. Cooper announced today that the 2020 quarterly assessment for the period of June – August is being reduced 60% for all Texas state-chartered banks and foreign bank agencies and branches. Reductions in expenses such as travel due to COVID-19 limitations, sustained growth of state-chartered banks in Texas, and other agency efficiencies are the primary factors that led to the reduction this fiscal year.

The Department, which is headquartered in Austin, staffs approximately one hundred field examiners who operate from one of the four regional offices in Dallas, Houston, San Antonio, and Lubbock. As of July 30, 2020, Texas had 217 state-chartered banks controlling over $298 billion in assets. Additional information about the Texas Department of Banking can be found on their website.