

# ***Depository Agent Application***

## ***For Depository Agent Services***



### ***Texas Department of Banking***

## **NOTICE TO APPLICANTS FOR DEPOSITORY AGENTS**

Texas Finance Code (the “Code”), Chapter 151 (“Chapter 151”), generally requires a person or business to have a license to engage in depository agent services in Texas.

The filing of an Application for a Depository Agent License (“Application”) or requesting an Application or otherwise corresponding with the Texas Department of Banking (the Department) about the need for a license or about your Application, does not authorize you to engage in business activities that require a license under Chapter 151 of the Code. If you are operating without the required license, you are violating Chapter 151 of the Code and you are subject to enforcement action and penalties.

To apply for a Depository Agent License, you must file an Application with the Department. The Application consists of forms and appendices that are attached to or follow this Notice.

The filing fee of \$5,000 must accompany your Application. Your check should be made payable to the Texas Department of Banking. The filing fee is non-refundable. **If you do not submit the filing fee at the same time you submit your application, your application will be returned. Additionally, your application will be returned to you if the application does not include or is not accompanied by:**

1. The applicant’s signature, sworn to before a notary;
2. Certificate from the Texas Comptroller’s Office evidencing that the Comptroller has certified the applicant’s facilities, systems, processes and procedures;
3. The security, as explained in the SECURITY Section of this Notice; and,
4. Financial statements, as explained in the NET WORTH Section of this Notice.

The Application must be fully completed and all of the required information must be provided. You must respond to each question, even if the answer is “None” or Not Applicable”. Be sure to:

1. Provide complete addresses, including zip codes;
2. Sign each form where required;
3. Have signatures notarized as required; and
4. Cross-check the information BEFORE you submit the Application to insure accuracy and consistency in the information provided.

In accordance with the USA PATRIOT Act of 2001 and the Department of Treasury’s Title 31 CFR Chapter X, pertaining to anti-money laundering programs for dealers in precious metals, each applicant must be aware of the requirements of the law. Depository agents who are also dealers in precious metals must be in compliance with these requirements.

Please direct any questions regarding a Depository Agent License Application or a proposed new license to the Texas Department of Banking, Corporate Activities Division, at (512) 475-1342 or [carrie.lemke@dob.texas.gov](mailto:carrie.lemke@dob.texas.gov).

**SECURITY:** Security is the term used in Chapter 151 of the Code to describe the surety bond, irrevocable letter of credit, or deposit required under § 151.308 of the Code for a depository agent license. The original security must accompany the Application when it is submitted to the Department. The required amount is \$500,000.

Please carefully review § 151.304, and § 151.308 of the Code for details about the security requirements.

**NET WORTH:** An applicant for a Depository Agent License must submit a current audited financial statement that demonstrates that the applicant possesses and is likely to maintain the net worth, if the license is granted. The minimum net worth requirement is \$500,000.

The commissioner may increase the required net worth up to a maximum of \$1 million based on the factors set out by rule. The required financial statements must be in English and denominated in U.S. Dollars.

**BACKGROUND CHECKS:** Extensive background checks are conducted on each applicant as well as the control shareholders, principals of the Applicant and responsible individuals. See § 151.002 of the Code for definitions and *Appendix A-Supplemental Forms* for clarification. These checks include law enforcement agencies, credit reports, and other regulators.

Any non-U.S. citizen who is required to submit fingerprints and has not resided in the U.S. for at least the last 10 years, must have an investigative background report prepared by an acceptable search firm in lieu of submitting fingerprints.

U.S. citizens living abroad for more than 2 of the last 10 years must also have an investigative background report prepared by an acceptable search firm in addition to submitting fingerprints. The cost of the report must be borne by the applicant or the individual. **The investigation report must be submitted directly to the Department with a copy of the report provided at the time of submission of the application.** Refer to Search Firm Report instructions in *Appendix A*. Contact the Corporate Activities Division for additional information.

**CONFIDENTIALITY:** Review Chapter 151 of the Code thoroughly prior to completing the application form. If you have any questions, please contact the Corporate Activities Division at (512) 475-1342. Completed application forms should be mailed to:

**Texas Department of Banking  
Corporate Activities Division  
2601 North Lamar Blvd.  
Austin, TX 78705-4294**

Information submitted in connection with the application may be subject to disclosure under the Open Records Act and Chapter 151 of the Code. Confidential information should be clearly marked when submitted.

**APPLICATION INFORMATION**

**DEPOSITORY AGENT LICENSE APPLICATION**

**I. APPLICANT INFORMATION**

\_\_\_\_\_  
*Full Legal Name of Applicant*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*City County State Zip Code*

\_\_\_\_\_  
*Mailing Address if Different from Physical Address*

\_\_\_\_\_  
*City County State Zip Code*

\_\_\_\_\_  
*Website Address*

\_\_\_\_\_  
*DBA or Assumed Names to be Used*

\_\_\_\_\_  
*Federal Tax ID Form of Legal Organization, e.g. Corporation, LLC, or Partnership*

**II. CONTACT INFORMATION**

\_\_\_\_\_  
*Name of Contact Person Title*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*City County State Zip Code*

\_\_\_\_\_  
*Phone Number Email Address*

## DEPOSITORY AGENT LICENSE APPLICATION CHCECKLIST

*The following information must be addressed in each Depository Agent License Application:*

Complete	Depository Agent License Application	Comments/Notes
<input type="checkbox"/>	<b>Application Fee:</b> Submit the \$5,000 application fee.	
Note	<b>Investigation Fees:</b> In addition, the Department may charge investigations fees for processing applications that take longer than normal or where an onsite investigation is necessary. You will be notified before any investigation fees are imposed. The filing fee is non-refundable.	
<input type="checkbox"/>	<b>Application Information:</b> Complete and submit the Application Information form.	
<input type="checkbox"/>	<b>Comptroller’s Certification:</b> Provide a copy of the certificate from the Texas Comptroller’s office evidencing that the Comptroller has certified the applicant’s facilities, systems, processes and procedures. <b>The Department of Banking cannot process an application for a Depository Agent License without receiving evidence of the certification by the Comptroller pursuant to Chapter 2116 of the Texas Government Code.</b>	
<input type="checkbox"/>	<p><b>Financial Statements:</b> Provide audited unconsolidated financial statements as of the last day of <u>the applicant’s</u> fiscal year that ended in the immediately preceding calendar year prepared by an independent certified public accountant in accordance with Generally Accepted Accounting Principles. Please note the audited unconsolidated financial statements requirement also applies to start-up entities. These entities may provide an opening day/initial audited balance sheet only. The audited financial statements must be:</p> <ul style="list-style-type: none"> <li>• For the applicant only, but may include subsidiaries of the applicant. Consolidated financial statements for the parent including the applicant (i.e. as a subsidiary) will not be accepted by the Department. In addition, the application will be returned if the applicant does not meet the minimum net worth requirements at the time of application;</li> <li>• Constructed in accordance with generally accepted accounting principles;</li> <li>• Prepared and certified by an independent certified public accountant registered or licensed to practice as a certified public accountant by the appropriate regulatory authority;</li> <li>• In English and denominated in U.S. Dollars; and</li> <li>• Including: <ul style="list-style-type: none"> <li>• Opinion Letter;</li> </ul> </li> </ul>	

Complete	Depository Agent License Application	Comments/Notes
	<ul style="list-style-type: none"> <li>• Balance Sheet;</li> <li>• Statement of Income and Retained Earnings;</li> <li>• Statement of Changes in Equity;</li> <li>• Statement of Cash Flow;</li> <li>• Related Notes to Such Statements; and,</li> <li>• Name and Address of the independent certified accountant.</li> </ul>	
<input type="checkbox"/>	<p><b>Interim Financials:</b> If the applicant’s fiscal year ended 120 or more days prior to the date of application, then the applicant must provide a quarterly certified financial statement. <u>The interim financial statement covering the most recent quarter-end must be as of a date within 90 days of the date of application.</u> The quarter-ended financial statement must be prepared by the auditor or other qualified party, and certified by a responsible officer. The required financial statements must be in English and denominated in U.S. Dollars.</p> <p>Such statement must contain certification language such as: “I hereby certify under penalty of perjury that the information contained in this confidential financial report, including supplemental schedules, has been carefully examined by me and is correct and complete and further acknowledge that there are no misrepresentation or omissions of material facts.”</p>	
<input type="checkbox"/>	<p><b>Net Worth:</b> Section 151.855 of the Code requires that the financial statement illustrate an applicant has the required minimum net worth required of \$500,000 under applicable rules.</p> <p>The commissioner may increase the required net worth up to a maximum of \$1 million based on the factors set by rule.</p> <p>At least 50% of the applicant’s or license holder’s net worth must be tangible net worth. Indicate if the applicant meets the minimum net worth requirements. Please note that the application will be returned if the applicant does not meet the minimum net worth requirement at the time of application.</p>	
<input type="checkbox"/>	<p><b>Security:</b> Acceptable security may be in the form of a surety bond issued by a company authorized to do business in Texas, deposit in lieu of surety bond or letter of credit issued by an acceptable financial institution in the minimum amount of \$500,000, subject to the additional security requirements of Texas Administrative Code § 33.71.</p> <p>The name of the principal insured on the security must match exactly the full legal name of applicant.</p> <p><b>Note:</b> Security requirements for a depository agent service license are described in Texas Administrative Code § 33.71, and include a surety</p>	

Complete	Depository Agent License Application	Comments/Notes
	<p>bond, irrevocable letter of credit, or deposit required. The original security must be submitted to the Department. The required amount is: The greater of \$500,000 or an amount equal to one percent of the license holder's total yearly dollar volume of depository agent services in this state or the applicant's projected total volume of business in this state for the first year of licensure, up to a maximum of \$2 million. When the amount of the required security exceeds \$1 million, the applicant may, in the alternative, provide security in the amount of \$1 million, plus a dollar for dollar increase in the net worth of the applicant over the amount required under Section 151.855(b)(3).</p> <p>See Appendix A – Security Forms.</p>	
<input type="checkbox"/>	<p><b>Commitment to provide required security:</b> Attach a commitment to increase or supplement the bond, letter of credit, or deposit in lieu of bond to equal the aggregate bond required by the commissioner before issuance of the license. See sample <a href="#">Commitment to Provide Required Security</a>.</p>	
<input type="checkbox"/>	<p><b>Primary Contact Employees:</b> The information for the following individuals must be provided:</p> <ul style="list-style-type: none"> <li>• <b>Primary Regulatory Contact:</b> Provide the name, title, telephone number, and email address of the individual who is to serve as the primary regulatory contact with the Department if the license is granted; and,</li> <li>• <b>Consumer Complaint Contact:</b> Provide the name, title, telephone number, and email address of the individual who is to serve as primary consumer complaint contact with the Department if the license is granted.</li> </ul>	
<input type="checkbox"/>	<p><b>AML/BSA Policy:</b> Provide an Anti-Money Laundering (AML) / Bank Secrecy Act (BSA) Policy that includes a risk assessment. The applicant will have in place a formally adopted and fully implemented written anti-money laundering program that complies with Title 31 Code of Federal Regulations § 1027.210.</p>	
<input type="checkbox"/>	<p><b>Business Plan:</b> Provide a business plan outlining the following information:</p> <ul style="list-style-type: none"> <li>• Marketing strategies;</li> <li>• Products or services you will provide to Texas consumers;</li> <li>• Target markets;</li> <li>• Fee schedule;</li> <li>• Operating structure the Applicant intends to employ;</li> <li>• Method and types of operations including activities and types;</li> </ul>	



Complete	Depository Agent License Application	Comments/Notes
	<ul style="list-style-type: none"> <li>• Projections showing the anticipated total dollar volume of business and in number of transactions for the first year of licensure in Texas;</li> <li>• Provide income and balance sheet projections demonstrating that the applicant will both generate revenue to be profitable and maintain sufficient capital to meet the Department’s minimum net worth requirement; and,</li> <li>• Other information which you believe might impact the commissioner’s decision on the adequacy of the net worth and the security.</li> </ul>	
<input type="checkbox"/>	<p><b>Certificate of Authority/Good Standing Certificate:</b></p> <ul style="list-style-type: none"> <li>• Provide a Certificate of Good Standing in the state or country of incorporation.</li> <li>• Provide a Franchise Tax Account Status from the Texas Office of Comptroller of Public Accounts.</li> </ul>	
<input type="checkbox"/>	<p><b>Document Samples:</b> Provide copies of the following documents, if applicable, used in the regular course of business in connection with certain license types as required by Texas:</p> <ul style="list-style-type: none"> <li>• Consumer complaint notice that complies with the requirements of Texas Administrative Code § 33.51.</li> <li>• Receipt in compliance with Texas Administrative Code § 33.37.</li> </ul>	
<input type="checkbox"/>	<p><b>Management Chart:</b> Provide a Management chart displaying the applicant’s Board of Directors, Board of Managers, or any individuals that otherwise control or direct the activities of the applicant (provide individual name and title).</p>	
<input type="checkbox"/>	<p><b>Organizational Chart/Description:</b> If the applicant is not a sole proprietorship, and is owned 25% or more by any corporate entity, provide a chart showing (or a description which includes) the percentage of ownership of:</p> <ul style="list-style-type: none"> <li>• Direct Owners (total direct ownership percentage must equate to 100%);</li> <li>• Indirect Owners; and,</li> <li>• Subsidiaries and Affiliates of the applicant.</li> </ul>	

Complete	Depository Agent License Application	Comments/Notes
<input type="checkbox"/>	<p><b>Other Trade Name:</b> If operating under a name that is different from the applicant’s legal name (“Assumed Name” or “DBA”), provide copies of the assumed/DBA name filings, as applicable, filed with the Secretary of State and with the clerk of court in the counties where the applicant proposes to do business, if a name other than the legal name of the applicant is to be used in Texas. The Department does not limit the number of other trade names.</p>	
<input type="checkbox"/>	<p><b>Locations:</b> Provide a list of the following information:</p> <ul style="list-style-type: none"> <li>• Anticipated number of locations to be established in Texas by the applicant during the first year of operation; and</li> <li>• Indicate if service is to be provided through (indicate the number of all that apply): <ul style="list-style-type: none"> <li>• Company Owned Outlets;</li> <li>• Subsidiaries or Affiliate;</li> <li>• Internet; and,</li> <li>• Other (explain).</li> </ul> </li> </ul>	
<input type="checkbox"/>	<p><b>List of Other Jurisdictions:</b> Provide the following information:</p> <ul style="list-style-type: none"> <li>• A listing of the other states or jurisdictions in which a license, registration, or similar authorization of any type has been granted, or denied to the applicant or its affiliates. Include the state, year licensed/registered, type of license/registration held, the agency issuing the license/registration, the name, phone number, and email address of the primary regulatory contact and date of last exam, if applicable.</li> </ul>	
<input type="checkbox"/>	<p><b>Background Check Requirements:</b> Extensive background checks are conducted on each Applicant as well as the control shareholders, principals of the applicant and responsible individuals. See § 151.002 for definitions. These checks include law enforcement agencies, credit reports, and other regulators.</p> <p><b>Please note that non-U.S. Citizens who are required to submit fingerprints and have not resided in the U.S. for at least the last 10 years, must have an investigative background report prepared by an acceptable search firm <u>in lieu</u> of submitting fingerprints.</b></p> <p><b>Supplemental Forms:</b> A number of forms are considered supplemental forms and must also be attached to the application. Refer to the instructions below to determine which of these supplemental forms must be completed. Unless indicated to the contrary, all requirements for supplemental forms apply only to individuals.</p> <p><b>Partnerships</b></p>	

Complete	Depository Agent License Application	Comments/Notes
	<p>The applicant, if a partnership, and the general partner must submit IRS Form 4506T. A copy of which may be obtained at <a href="#">Request for Transcript Tax Return</a>.</p> <p><b>Executive Officers and Directors</b></p> <p>Executive officers, directors, general partner, trustee, or manager of the applicant as applicable, must submit:</p> <ul style="list-style-type: none"> <li>• Authority to Release Information– <a href="#">Authority to Release Information</a>;</li> <li>• Statement of Personal History – See Appendix B – Statement of Personal History;</li> <li>• Fingerprints – <a href="#">Fingerprint Instructions</a> and,</li> <li>• Search Firm Report (if applicable)- <a href="#">Instructions</a>.</li> </ul> <p><b>Note:</b> Executive Officer Includes any “responsible individual” as defined in</p> <p>§ 151.002 (b) (20) which states in part, “an individual who has direct control over significant management policy and decision-making authority...”.</p> <p>Refer to the definitions contained in § 151.002(b) for definitions of Executive Officer, Control, Principal and Responsible individual.</p> <p><b>Controlling Individuals and Legal Entities</b></p> <p>Individuals with the power to directly or indirectly vote <b>25%</b> or more (includes an individual whose ownership is through one or more legal entities) of the outstanding voting interest of the applicant must submit:</p> <ul style="list-style-type: none"> <li>• Authority to Release Information – <a href="#">Authority to Release Information</a>;</li> <li>• Statement of Personal History – See Appendix B – Statement of Personal History;</li> <li>• Personal Financial Statement – <a href="#">Personal Financial Statement</a></li> <li>• Fingerprints - <a href="#">Fingerprint Instructions</a>; and,</li> <li>• Search Firm Report (if applicable) – <a href="#">Instructions</a>.</li> </ul> <p>Spouse – applicants who are individuals or wholly owned directly or indirectly by a single individual must have spouses of the controlling owners also submit fingerprints, authority to release information, and statement of personal history.</p> <p>Legal Entities directly or indirectly controlling 50% or more of the applicant must submit a current certified financial statement.</p> <p><b>Note:</b> Personal Financial Statements, whether required only for an individual or for an individual and spouse, may include joint financial</p>	

Complete	Depository Agent License Application	Comments/Notes
	<p>information for both spouses. Joint financial statements must be signed by both spouses.</p> <p><b>Complex Organizational Structures</b></p> <p>Supplemental form requirements for complex organizational structures will be evaluated on a case-by-case basis. Pre-submission of the organizational chart and proposed structure may be necessary to determine the applicability of various forms.</p>	
<input type="checkbox"/>	<p><b>ACH Form:</b> Annual license fees and assessment fees owed to the Department pursuant to § 33.27 of the Texas Administrative Code may only be paid via ACH debit. No other method of payment is accepted by the Department.</p> <p>The ACH form must be attached at the time of application and must be signed by the applicant. Use the following link to access the <a href="#">ACH Debit Form</a>.</p>	

## CERTIFICATION

**I hereby certify that:**

I am authorized to file this application, and that all information submitted to the Commissioner in connection with this application including the forms, schedules, exhibits, attachments and any related correspondence is true, and correct, to the best of my knowledge and belief. In addition, I agree to notify the Commissioner if the facts described in the filing materials change prior to issuance of the license.

A person commits a felony offense if the person intentionally makes an untrue statement of material fact in this application.

\_\_\_\_\_ by \_\_\_\_\_  
*(Applicant)* *(Signature)*

\_\_\_\_\_  
*(Printed or Typed Name)*

\_\_\_\_\_  
*(Title)*

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for said County, of said State, personally appeared: \_\_\_\_\_

known to me to be the person named in, and who executed the foregoing form and made oath that the statements and representations set forth therein are true to the best of his/her knowledge and belief.

\_\_\_\_\_  
*(Notary Public)*

## APPENDIX A – SECURITY FORMS

**MONEY SERVICES BOND**

Policy Number \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS**, that \_\_\_\_\_  
*(Name of Applicant)*

\_\_\_\_\_  
*(Business Address of Applicant)*

of the City of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_ as principal (the "principal" or "license holder") and \_\_\_\_\_ of the City of \_\_\_\_\_ County of \_\_\_\_\_ and State and zip code of \_\_\_\_\_ as surety, are held and firmly bound unto the Texas Banking Commissioner (the "Commissioner") and any customer of the license holder for the use and benefit of the Commissioner and the Texas Department of Banking (the "Department") and any such customer of the license holder for any liability incurred with respect to any depository agent business conducted by the license holder under, subject to, or by virtue of the provisions of the Texas Finance Code, Chapter 151 (the "Code"), including without limitation any delinquent fee, assessment, cost, penalty, or other amount imposed on and owed by the license holder to the Commissioner or the Department, in the penal sum of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_), for the payment of which, will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally by these presents.

**WHEREAS**, the aforesaid principal has applied for a license under the provisions of the aforesaid Code, and,

**WHEREAS**, the aforesaid Code provides, and includes as a precedent to the issuance of a license, that the principal shall furnish a bond in accordance with and that satisfies the requirements of § 151.855(3) of the Code.

**NOW THEREFORE**, if the license holder will faithfully conform to and abide by the provisions of this Code and will honestly and faithfully apply all funds received and perform all obligations and undertakings in connection with any depository agent business under the Code and will pay to the Commissioner and the Department and to any customer or recipient designated by a customer all money that becomes due and owing to the Commissioner and the Department or to such person under the provisions of the Code because of any such business by the license holder under and by virtue of the provisions of the Code, then this obligation will be void; otherwise will remain in full force and effect.

**PROVIDED, HOWEVER,** in no event shall all aggregate liability of the surety under this bond for any and all claims to one or more claimants exceed the penal sum of this bond.

**PROVIDED FURTHER,** that the bond is conditioned that the principal will not violate the Code or a rule adopted pursuant to the Code, as long as the principal holds a license issued by the Department for activities conducted subject to the Code.

The bond shall remain in effect for the entire term of the license in connection with which it is being issued, unless sooner revoked by thirty (30) or more days written notice to the Commissioner.

If the surety herein shall so elect, this bond may be conditionally cancelled at any time by the surety herein by filing with the Commissioner a thirty (30) days written notice of such conditional cancellation, but said surety so filing said notice shall not be discharged from any liability accrued under this bond or which shall accrue herein before the expiration of said thirty (30) day period. The bond shall automatically renew for any succeeding renewals of the license without need of any action or notice by any party.

**IN WITNESS WHEREOF,** we have duly executed the foregoing obligation this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Principal \_\_\_\_\_

By \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Surety \_\_\_\_\_

By \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_



**DEPOSIT IN LIEU OF SURETY BOND**  
*Under the Texas Finance Code Chapter 151*

THIS CONTRACT AND AGREEMENT is entered into in triplicate on \_\_\_\_\_,  
between \_\_\_\_\_ (the "License Holder"),  
a(n) \_\_\_\_\_ organized under the laws of the State of \_\_\_\_\_  
and doing business in the State of Texas, and the Commissioner of the Texas Department of  
Banking (the "Commissioner");

**LEGAL AUTHORITY FOR DEPOSIT INSTEAD OF BOND**

The License Holder is subject to the Texas Finance Code, Chapter 151 (the "Code"),  
regulating the business of depository agent services. Instead of furnishing all or part of the  
surety bond required by the Code, the License Holder is permitted to deposit with the  
Commissioner an aggregate amount (the "Security"), including cash, certificates of deposit and  
interest-bearing securities that equals the total amount of the required bond or the remaining  
part of the bond. The License Holder may deposit the Security with any financial institution  
possessing trust powers that is authorized to conduct a trust business in the State of Texas  
acceptable to the Commissioner.

**THE COMMISSIONER'S FINDING**

The Commissioner finds that \_\_\_\_\_ (the  
"Custodian"), a(n) \_\_\_\_\_, located in \_\_\_\_\_, is  
authorized to conduct trust business in the State of Texas, and is an acceptable Custodian for  
the License Holder's deposit.

## LICENSE HOLDER'S DEPOSIT

The License Holder deposits with Custodian the following Security and all renewals, substitutions and replacements thereof:

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It is agreed between the parties:

1. Subject to the provisions of the Agreement, the Security is deposited for the benefit of the State of Texas and any creditor of the License Holder for any liability incurred by the License Holder under and by virtue of the Code.
2. The Security deposited may be exchanged from time to time for other Security of an equal par value that qualifies under the provisions of the law relating to this deposit, such substituted Security to be with joint written approval of the Commissioner, License Holder, and Custodian.
3. All interest or dividends on all Security deposited will be payable to or in accordance with the instructions of the License Holder, unless the Commissioner gives contrary notice in writing to the Custodian. The Commissioner's notice will be effective two business days after the Custodian actually receives the notice.
4. The original principal amount of the Security deposited under the terms of this Agreement (plus interest accruing after the effective date of any notice given in accordance with paragraph 3 above) will be controlled exclusively by the Commissioner, who has the right from time to time to withdraw it. However, any withdrawal request from the Commissioner must be either:
  - (A) in writing and supported by a certified copy of an order of a court of competent jurisdiction; or
  - (B) by an original or certified copy of a written order of the Commissioner containing the Commissioner's signature.

Withdrawals by the Commissioner must satisfy any liability the Custodian has to the Commissioner and will relieve the Custodian of all liability to License Holder for the amounts withdrawn.

5. If the License Holder will:
  - (A) faithfully conform to and abide by the provisions of the Code;
  - (B) honestly and faithfully apply all funds received and perform all obligations and undertakings for exchange issued and sold under the Code; and

- (C) pay to the State and to any person all money that becomes due and owing to the State or to such person under and by virtue of the provisions of the Code;

then the Commissioner will have no further right in or claim to the Security covered by his Agreement, and must, by written order containing the signature of the Commissioner, notify the Custodian of the termination of the Commissioner's rights in the Security. Unless the Custodian receives an original or a certified copy of a written order from the Commissioner containing the signature of the Commissioner or an order from a court of competent jurisdiction terminating the Commissioner's rights in the Security, Custodian may assume that this Agreement remains in effect and that the rights of the Commissioner in the Security remain in existence.

- 6. The Custodian may rely on any and all certified notices or certified orders of the Commissioner submitted from the Commissioner to the Custodian under this Agreement, purporting to bear the signature of the Commissioner, without further inquiry into the authenticity of the signature or the authority or entitlement of the Commissioner to issue such certified notices or orders.
- 7. All notices or orders to Custodian must be delivered by certified mail, return receipt requested or by overnight or local delivery courier. All notices or orders provided for under this Agreement will be deemed to be received when actually received by the addressee. All parties must promptly notify all other parties of an address change. Notices and orders to the Custodian must be addressed as follows:

---

*(Custodian's Name)*

---

*(Custodian's Address)*

---

<i>(City)</i>	<i>(State)</i>	<i>(Zip Code)</i>
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- 8. Nothing in this Agreement requires Custodian to violate any applicable laws, any court order or the instructions of any bankruptcy trustee.
- 9. The Security is subject to Custodian's terms and conditions of deposit accounts now in existence and as they may be modified in the future, except to the extent that the terms and conditions are specifically inconsistent with this Agreement.
- 10. Custodian is not liable for any indirect damages, lost profits, special, punitive or consequential damages that arise out of or in connection with the obligations contemplated by this Agreement. The provisions of this paragraph will survive termination of this Agreement.

11. This Agreement is executed in triplicate originals, one to be kept by each of the parties hereto, and one to be kept by the Custodian.

SIGNED AND DELIVERED in triplicate on \_\_\_\_\_.

\_\_\_\_\_  
(License Holder)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Texas Department of Banking:**

\_\_\_\_\_  
(Banking Commissioner of Texas)

\_\_\_\_\_, Custodian, hereby acknowledges receipt of the Security described in the foregoing agreement, and covenants and agrees that the same will be held by it for the purposes and subject to the terms and conditions of this agreement, but reserves the right to resign as Custodian by giving 30 days written notice to the signers of the Agreement at the two (2) addresses specified below.

**Banking Commissioner of Texas  
2601 North Lamar Boulevard  
Austin, TX 78705**

And

\_\_\_\_\_  
(License Holder's Name)

\_\_\_\_\_  
(License Holder's Address)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip Code)

Custodian will become bound by the terms of this Agreement only after it receives an original counterpart fully executed by all parties.

\_\_\_\_\_  
(Custodian's Name)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

## MANDATORY LANGUAGE TO BE INSERTED IN LETTERS OF CREDIT

If an applicant proposes to obtain a Letter of Credit from a qualified financial institution acceptable to the Commissioner pursuant to Chapter 151 of the Texas Finance Code, the following language **must be** included in the Letter of Credit.

I, the undersigned, an authorized representative of the Texas Department of Banking, certify that NAME OF LICENSEE, has failed to timely satisfy an obligation arising under Finance Code, Chapter 151, which accrued during the effective period of letter of credit # \_\_\_\_\_, in the amount of \$ \_\_\_\_\_. I further certify that the amount claimed under this draft, including all previous claims under this letter of credit (if any) does not exceed the full amount of the letter of credit.

Also, the language should include the specific expiration provision as follows:

This letter of credit shall expire on DATE, except that drafts will be honored if presented within 60 days following expiration for claims which arose during the effective period of this letter of credit.

**APPENDIX B – STATEMENT OF PERSONAL HISTORY**





**B. EDUCATION:** (Account for all schools attended beyond 12<sup>th</sup> grade.)

Dates	Name and Address of School	Grade Completed

**C. EMPLOYMENT:** (List all employment for the past 10 years in chronological order.)

Dates From: To:	Name and Address of Employer (Include Street, City, State and Zip)	Reason For Leaving

**D. RESIDENCES:** (Show all residences for the past 10 years in chronological order)

Dates From: To:	Street and Number, City, State, and Zip

**E.** List all your occupational or professional licenses, including those surrendered, which have been issued by an agency of **ANY** state, the U.S. federal government, or the government of any other country.

Type of License	Name/Address of Licensing Agency	Original Issuance Date	Expiration Date

**F.** List all your occupational or professional licenses that have been refused, denied, revoked, or suspended by an agency of **ANY** state, the U.S. federal government, or the government of any other country.

Type of License	Name/Address of Licensing Agency	Type of Action	Date of Action

**G.** Have you ever been detained, held, arrested, indicted, or summoned into court as a defendant in a criminal proceeding, or convicted, fined, imprisoned, or placed on probation, or ordered to deposit bail or collateral for the violation of any law, ordinance, police regulation, or military regulation other than for a misdemeanor? Yes \_\_\_\_ No \_\_\_\_ . If the answer is "Yes," complete the following.

Date	Offense	Location of Offense	Disposition

**H.** Have you ever been granted any security clearance in connection with any employment? Yes \_\_\_\_ No \_\_\_\_ . If "Yes," provide details. \_\_\_\_\_

**I.** Have you ever been refused bond or had a bond cancelled or revoked? Yes \_\_\_\_ No \_\_\_\_ . If "Yes," provide details. \_\_\_\_\_

**J.** Have you ever been in a position which required a fidelity bond? Yes \_\_\_\_ No \_\_\_\_ . If any claims were made on the bond, give details. \_\_\_\_\_

**K.** Has an order, injunction or judgment, whether or not final, been entered against you in a civil action on account of fraud, misrepresentation or deceit? Yes \_\_\_\_ No \_\_\_\_ . If "Yes," provide details on a separate sheet.

- L.** Have you been sued in a civil action within the last 10 years? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- M.** Have you filed bankruptcy or served as a principal of an entity that filed bankruptcy within the last 10 years? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- N.** Are you currently the subject of an administrative action or order issued by an administrative agency of this state, the federal government, or any other state or territory of the United States, or the government of any other country? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- O.** Do you owe delinquent taxes to any local, state, or federal government or political subdivision of the government? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- P.** Do you owe the department or any state any delinquent fees, assessments, administrative penalty, or other amount imposed by state or federal court order? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- Q.** Have you or has your spouse been convicted of a felony criminal offense under state or federal law, or a similar law of a foreign country, related to deception, dishonesty, or defalcation? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- R.** Have you or has your spouse been convicted of a felony criminal offense under state or federal law, or a similar law of a foreign country, related to money transmission or other money services, including a reporting, recordkeeping or registration requirement of the Bank Secrecy Act, the USA PATRIOT ACT or Chapter 271? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- S.** Have you or your spouse been convicted of a felony offense under state or federal law, or a similar law of a foreign country, related to money laundering, structuring, or a related financial crime, drug trafficking or terrorist funding? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- T.** Have you or your spouse been convicted of a similar criminal offense to that referenced in **Q – S** under a similar law of a foreign country? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.
  
- U.** Do you owe the Department a delinquent fee, assessment, administrative penalty or other amount imposed by Chapter 151 or a rule or order issued under Chapter 151? Yes\_\_\_\_ No\_\_\_\_. If “Yes,” provide details on a separate sheet.

I hereby certify under penalty of perjury that I am acting on my behalf, and that the foregoing statements are true and correct.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Typed or Printed Name: \_\_\_\_\_