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Commissioner

TEXAS DEPARTMENT OF BANKING

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INDUSTRY NOTICE 2017-11

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Designation of Representative for Notice of an Abandoned Asset

Legislative changes passed in 2015 related to unclaimed property allow for the designation of a representative to receive a notice of an abandoned asset. Changes are effective September 1, 2017.

The Texas Property Code requires that after a specified period of inactivity, if an account holder is unable to be contacted, a financial institution must remit the property in question to the comptroller of public accounts of the State of Texas. Amendments to Sections 72.1021 and 73.103 allow the account holder, or owner of shares of a mutual fund, or owner of the contents of the safe deposit box, to designate a representative to receive the financial institution's notice of presumed abandoned property required in Section 74.1011. The running of the abandonment period would cease if the representative communicates to the financial institution that the representative knows the depositor's or owner's location and that the depositor or owner exists and has not abandoned the account, mutual fund shares or the contents of the safe deposit box.

A representative for notice does not have any rights to the account, mutual fund shares or safe deposit box and may not access the account, mutual fund shares or contents safe deposit box. The abandoned property notice is provided for escheatment purposes only. Account owners are not required to designate a representative to receive this notice.

Pursuant to the new statute, the Texas Comptroller of Public Accounts has prescribed a [form](#) found on the ClaimitTexas.org site which financial institutions may make available to the depositor or owner of the mutual fund shares or property to designate the representative. Financial institutions are not required to provide the form to customers, but are required to accept the form and provide written notice of the presumed abandoned property to not only the depositor or owner of the shares or property, but also the designated representative. Financial institutions will be required to keep a record of the name and last known mailing or e-mailing address of any person designated as a representative for at least ten (10) years. The representative information should be included in the abandoned property reports due on or after July 1, 2018. The form is to be maintained on file with the financial institution. Do not submit the form with the unclaimed property report.

Beginning September 1, 2017, the Texas Department of Banking examination staff will begin assessing compliance with these provisions.