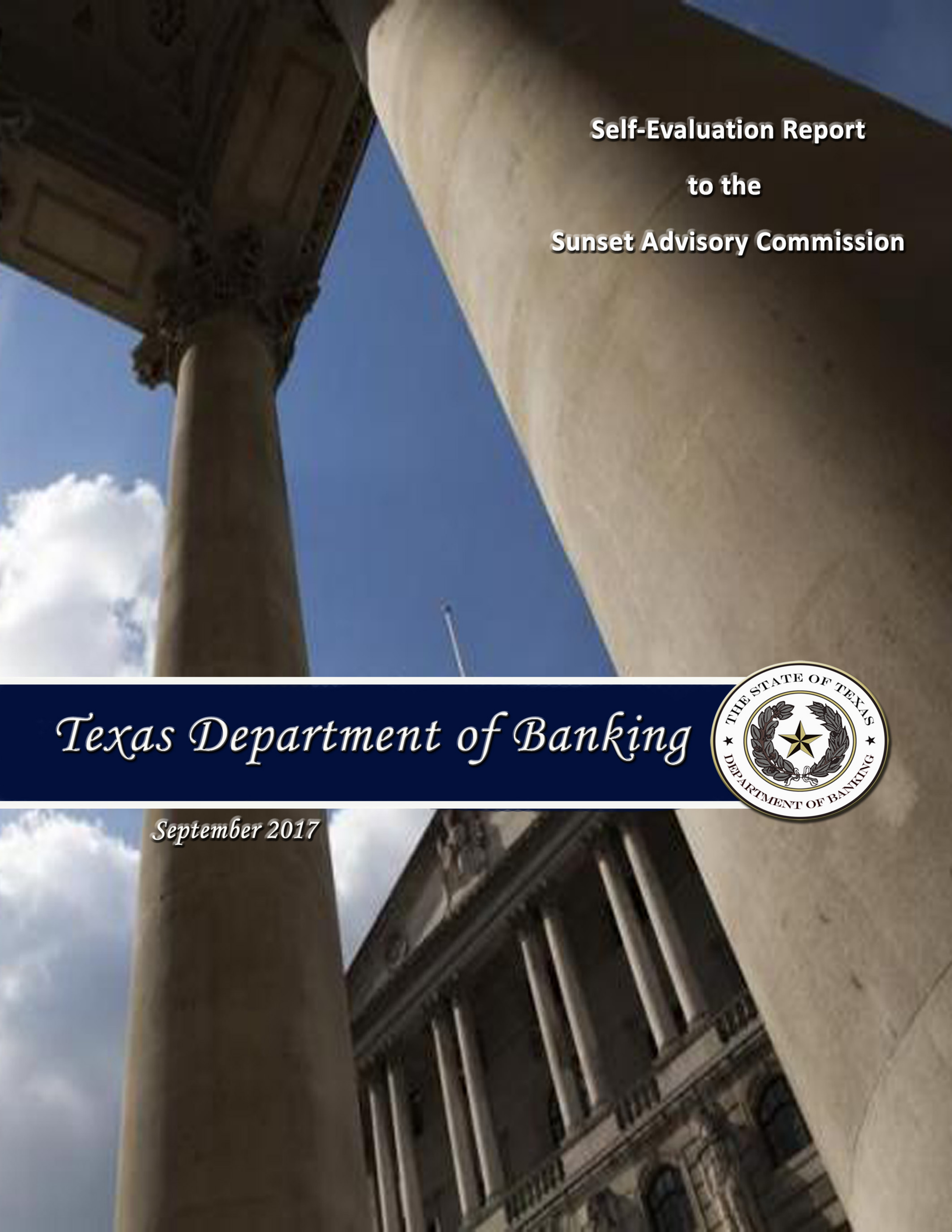


Self-Evaluation Report

to the

Sunset Advisory Commission

Texas Department of Banking

September 2017

Texas Department of Banking
2601 N. Lamar Blvd.
Austin, Texas 78705
877-276-5554
www.dob.texas.gov

TABLE OF CONTENTS

Content

Texas Department of Banking
Self-Evaluation Report

I. Agency Contact Information

A. Please fill in the following chart.

Texas Department of Banking
Exhibit 1: Agency Contacts

Position	Name	Address	Telephone	Email Address
Commissioner	Charles G. Cooper	2601 N. Lamar Blvd. Austin, Texas 78705	512-475-1325	charles.cooper@dob.texas.gov
Sunset Liaison	Stephanie Newberg	2601 N. Lamar Blvd. Austin, Texas 78705	512-475-1280	stephanie.newberg@dob.texas.gov
Sunset Liaison	Wendy Rodriguez	2601 N. Lamar Blvd. Austin, Texas 78705	512-475-1320	wendy.rodriguez@dob.texas.gov

Table 1 Exhibit 1 Agency Contacts

II. Key Functions and Performance

A. Provide an overview of your agency's mission, objectives, and key functions.

MISSION: To ensure Texas has a safe, sound and competitive financial services system.

MOTTO: Tough but fair.

The Texas Department of Banking's (Department) statutory duties include the chartering or licensing, regulation, supervision, and/or examination of:

- State-chartered Commercial Banks;
- State-chartered Trust Companies;
- Bank Holding Companies;
- Foreign Bank Offices;
- Money Services Businesses;
- Perpetual Care Cemeteries (death care provider); and
- Prepaid Funeral Contract Providers (death care provider).

We also register cemetery brokers, check verification companies, and private child support enforcement agencies.

Our primary objective is to ensure the above entities operate in a safe and sound manner in order to protect the public as they interact with these entities.

To fulfill our mission, the Department performs the following functions:

- Conducts comprehensive examinations of regulated entities at established intervals;
- Monitors the economy and how it affects our regulated industries;

- Takes timely correction-oriented enforcement action against unlicensed entities and regulated entities that demonstrate higher than normal weakness or risk;
- Evaluates and acts upon applications related to corporate filings requesting to initiate, expand, control, or modify financial services to Texans in a timely and complete manner;
- Attracts and retains high-quality professionals who can be entrusted to implement regulatory requirements and industry standards and safeguard confidential information;
- Utilizes advanced technologies to perform our duties more effectively and efficiently;
- Provides educational opportunities to support and strengthen the financial services industry; and
- Maintains accreditation status by the Conference of State Bank Supervisors (CSBS).

To meet our objectives or goals, the Department abides by the following core values and operating principles:

- Adhere to the highest ethical and professional standards;
- Be accountable and responsible;
- Anticipate and respond to a dynamic and changing environment;
- Identify and promote innovative practices;
- Operate efficiently and maintain consistent and prudent regulatory standards;
- Communicate effectively;
- Foster teamwork while encouraging individual excellence and career development;
- Provide a desirable work environment that values cultural and individual differences and provides for the proper work/family balance;
- Solicit input from and be responsive to the public, our supervised entities, and State leadership; and
- Adhere to the principle of “tough but fair” regulatory oversight.

B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

Yes, the key functions of the Department serve clear and ongoing objectives. Such functions ensure the safety and soundness of the financial services system in Texas which in turn provides for the safety of the public’s money held and managed by these entities. Without the Department’s oversight, there would be no state administration of this financial system which would be detrimental to Texas and its citizens.

REGULATED ENTITIES THAT ALSO RECEIVE FEDERAL OVERSIGHT

BANKING

The banking system in the U.S. is very diverse, ranging from single-office community banks to global financial conglomerates with thousands of branches and operating centers. Bank organizers can select either a state charter issued by a state agency or a national charter issued by the Office of the Comptroller of the Currency (OCC). This dual banking system is unique in the world financial system and has been in existence since 1863. It encourages innovation and competition in banking. Currently, 78% of bank charters in the U.S. are issued by state banking authorities.

State regulators have a long history of innovation to improve the regulatory and supervisory processes to ensure their state's banking system is safe and sound for its citizens while enabling convenience and fostering economic vitality. Many commonplace bank products and services evolved because of the regulatory flexibility fostered by the dual banking system, which is one of the strengths of the state banking system. Consumers, businesses, and the economy benefit from the ability to choose among a wide range of financial service providers.

The regulation, supervision, and examination of banks in Texas is needed to ensure that their activities are conducted in a safe and sound manner and in compliance with applicable banking laws. Furthermore, community banks in Texas might face local issues that the Department should address rather than a federal regulatory agency that is not sufficiently familiar with regional influences and the local economy. Economic prosperity historically has been tied to local financial institutions and the availability of credit. Small businesses are an engine of growth and job creation for the Texas economy; for small businesses to grow, they require safe and reliable funding.

Both Texas and federal law require that insured depository institutions be examined at set intervals to safeguard the interest of depositors, creditors, and shareholders. The Department's accreditation by CSBS supports the cooperative supervisory agreements with the Federal Deposit Insurance Corporation (FDIC) and Federal Reserve Bank (FRB) and indicates that Texas state examinations meet the qualifications of a federal examination. By agreement, the Department generally alternates bank examinations with the federal banking regulators, with the state performing the examination in one mandatory examination cycle, and the applicable federal agency (either the FRB of Dallas or the FDIC) performing the next mandated examination. Section 31.105 of the Texas Finance Code requires that banks be examined periodically. Supervisory Memorandum 1003 stipulates that well rated banks with total assets above $1 billion receive an on-site examination every 12 months, and well rated banks with total assets equal to or less than $1 billion receive an on-site examination every 18 months. Joint examinations with the FDIC or FRB are typically performed on problem institutions and/or the larger entities, with alternating examinations performed on well rated smaller entities. This program reduces regulatory burden and ensures consistency between federal and state agencies.

The Consumer Financial Protection Bureau (CFPB) also writes and enforces rules for financial institutions and examines specific areas of both bank and non-bank financial institutions. The CFPB focuses primarily on mortgage lending practices, consumer disclosures, and possible deceptive practices. States participate in a limited number of CFPB examinations. Independent examination results are shared with the states. The Department oversees consumer complaints; however, complaints against Texas financial service providers may also be filed with the CFPB. Issues arising with state law are typically referred to the respective state agency for resolution.

Foreign banks provide a significant source of capital and investment for the state. However, they do not traditionally compete with commercial banks for customer deposits as they are statutorily prohibited from accepting deposits less than $250,000 from citizens. Foreign banks also offer limited competition in the lending arena as they primarily make large loans that are above a traditional community bank's lending limit. The regulation, supervision, and examination of foreign bank activities in Texas provide the state the means to monitor, assess, and control the activities of these entities.

With regard to bank holding companies, the Department, along with the FRB of Dallas, has the statutory authority to examine these entities and conduct on-site and off-site examinations. Typically, examinations are conducted concurrently with the affiliated bank's examination.

If banking regulatory functions were performed only at a federal level, there would be oversight inefficiencies, an inferior understanding of local issues and concerns of Texas banks, and Texas banks would have less input on right sized regulations.

MONEY SERVICES BUSINESSES

Money services businesses (MSBs) are vital in providing financial services to Texas consumers and are very diverse in their ownership structures and the products offered to the public. Entities supervised by the Department range from sole proprietor owned entities that only provide currency exchange from a single location to global complex entities that offer multiple products. A primary responsibility of the Department is to ensure Texas consumers' funds are properly and timely delivered to the recipients worldwide for the agreed upon fees.

MSBs have markedly evolved since the Department's oversight of MSBs after the passage of the Texas Money Services Act in 2005. Over the years, the use of technology has increased, ownership composition has become more complex, and the Department has witnessed an influx of licensees with foreign ownership. This evolving MSB landscape allows Texas citizens the ability to transfer funds faster and cheaper. Therefore, the Department must remain vigilant in its oversight of this industry to ensure Texas consumers electing to use MSB services are protected.

The Department's regulation, supervision, and examination of MSBs in Texas is needed not only to ensure the safety and soundness of licensees, but also to prevent money laundering and terrorist financing. Section 151.601 of the Texas Finance Code requires that MSBs be examined periodically. Supervisory Memorandum 1023 stipulates, in general, that well rated MSBs are examined once every 18 months. Lower rated MSBs are examined every 6 to 12 months. Department examinations help ensure license holders possess the financial responsibility and condition, business experience, competence, character, and general fitness to warrant the public's confidence. Department oversight also ensures MSBs conduct operations in compliance with applicable state and federal regulations. The Department ensures that MSBs acknowledge and implement a corrective action plan for all noted examination findings. When necessary, the Department will initiate administrative orders to obtain corrective action.

The activities of MSBs licensees related to the USA PATRIOT Act, Bank Secrecy Act (BSA)and Anti-Money Laundering (AML) are also overseen by the U.S. Treasury through the Financial Crimes Enforcement Network (FinCEN) and the Internal Revenue Service (IRS). However, these federal entities perform only a limited number of examinations each year, and these examinations frequently focus on agent locations and not the licensees. As a result, the Department is primarily responsible for ensuring licensed MSBs comply with BSA/AML regulations to help prevent the use of MSBs for illicit activities. Department examinations ensure that adequate policies and procedures are in place to detect and deter money laundering and other illegal activity. Consumer complaints are another critical function the Department oversees.

Regulated Entities without Federal Oversight

There is no federal regulatory agency or program that establishes requirements for supervision or examination of trust companies, the death care industries, private child support enforcement agencies (PCSEA), check verification companies or cemetery brokers. Entry into the market is the responsibility of the state in which the business is established. By the Department having state licensing, regulation, supervision, and examination authority over these industries, it offers a layer of consumer protection to customers and can help prevent financial losses. Fiduciary and regulatory oversight of these entities is the sole responsibility of the Department. In addition, consumers may file a consumer complaint with the Department.

Trust Companies

Unlike banks or trust departments within a bank, trust companies are not examined by the FDIC or the FRB. Trust companies do not perform commercial or retail banking services, such as extending credit or taking deposits from the public, in the ordinary course of business. Additionally, the FDIC does not insure trust companies. Even though trust companies are not subject to traditional laws and regulations affecting the standard retail deposit and credit side of banking activities, they are subject to other federal regulations, in addition to the applicable laws and regulations regarding trust and asset management activities.

Trust companies require an integrated examination which covers all aspects of their operations. This includes trust and asset management, safety and soundness, consumer compliance, and information technology (IT). By state statute, the Department conducts examinations of state-chartered trust companies to safeguard the interest of clients, creditors, shareholders, participants, and transferees. The general policy as outlined in Supervisory Memorandum 1004 is to conduct an on-site examination at every trust company at least annually. Trust companies which meet certain qualifying criteria may have the examination frequency extended to a maximum of 18 months.

Death Care Industries

Death care providers play a vital role in providing funeral and cemetery services to Texas consumers and are diverse in their ownership structures ranging from sole proprietors to international corporations. The Department is also tasked with ensuring that death care providers licensed by the Department provide the required consumer disclosures, and maintain records necessary to honor commitments years in the future when the person who purchased the contract is most likely deceased. Consumer protection is a vital part of this regulatory scheme because many the purchasers of these financial products are the elderly.

Each time an interment right is sold in a perpetual care cemetery (PCC), a deposit must be made to the cemetery's irrevocable perpetual care trust fund. The income from this fund is to be used for the on-going general care and maintenance of the cemetery. It is the responsibility of the Department to ensure that funds are deposited, then invested within statutory guidelines, and the distributed income is used to maintain the cemetery.

Each time a prepaid funeral contract (PFC) is sold, either the funds are placed in trust or an insurance product to ensure the funds will be available for the funeral to be performed when needed. It is the responsibility of the Department to ensure that prepaid funds are properly handled, then invested, and at the time of need to ensure that the contracted goods and services are delivered at the contracted price.

In addition to financial responsibilities, the Department also promotes consumer protection with regard to the purchase of funeral goods and services by requiring the use of an approved, plain language PFC form and ensuring that the required PFC informational brochure is provided at each sale.

The Department's regulation, supervision, and examination of death care providers in Texas is needed to ensure customer funds are properly handled. Section 154.053 of the Texas Finance Code and Title 7 of the Texas Administrative Code Section 25.14 require that PFCs be examined periodically. In general, well rated PFCs are examined once every 18 months. Lower rated PFCs are examined every 6 to 12 months. Section 712.044 of the Texas Health and Safety Code requires that PCCs be examined periodically. Supervisory Memorandum 1031 stipulates in general, that well rated PCCs are examined once every 18 months. Lower rated PCCs are examined every 6 to 12 months.

In addition, Department examinations help ensure that PCCs and PFCs possess the financial responsibility and condition to fulfill future contract obligations. Department oversight also ensures the PCCs and PFCs conduct their operations in compliance with applicable state regulations. The Department ensures that a PCC and PFC acknowledges and implements a corrective action plan for all noted examination findings. When necessary, the Department will initiate administrative orders to obtain corrective action. Consumer complaints are another critical function the Department oversees.

Registered Entities

The Department is charged with the registration of PCSEAs, check verification companies, and cemetery brokers. The Department does not have direct examination authority over these entities. In the case of PCSEAs, the Department is charged with investigating complaints against the companies and developing guidelines for plain language contracts. For cemetery brokers, the agency is charged with investigating complaints and performing examinations if the complaints so warrant.

In 2015, the Department was given responsibility to license depository agents for the Texas Bullion Depository. The administration of the depository was assigned to the Texas Comptroller of Public Accounts. The entity contracted to maintain the day-to-day operations of the depository was named in June 2017. The Department will be working with the Texas Comptroller of Public Accounts to develop the process and requirements for depository agents over the next several months

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

The Department has adopted certain performance standards that are monitored and reported to the Finance Commission of Texas (Finance Commission). These performance standards consist of metrics associated with conducting examinations when due, processing times for reports of examination, and corporate filings to mention a few. In addition, bank examination ratings are compared to federally assigned risk ratings to detect material changes between the regulatory agencies in identifying and recognizing risk.

The Department utilizes technology to streamline supervisory processes, resulting in more efficient operations that benefits staff, regulatory counterparts, and regulated entities. Examination procedures are completed electronically, and supporting documentation is retained electronically in a document management system. Off-site reviews of credit files and other documents required during an examination are conducted when a financial institution retains documents in an imaging system or in some other electronic format. In 2014, the Department developed a secure electronic portal known as Data Exchange, or DEX, to allow regulated entities and examination staff to easily exchange confidential electronic information. By utilizing the portal, entities and staff reduce delays, on-site review times, and improve workflow distribution.

To reduce duplication and streamline the examination process, the Department operates under cooperative examination arrangements with both the FDIC and FRB for banks and the Money Transmitter Regulators Association (MTRA) Cooperative Agreement and Multi-State Examination Taskforce (MMET) Cooperative Agreement for MSBs. Additionally, the Department continually refines examination procedures and streamlines processes to improve the examination process and experience.

To provide existing and future stakeholders the ability to submit required annual statements, applications, and quarterly financial information, the Department has established web-based programs. By utilizing technology, stakeholders have an improved experience and efficient mechanism to provide routine filings and renewal information.

Annually, the Department seeks stakeholder feedback on communication and interactions with the agency. Feedback received is used to improve departmental operations and services. Historically, the feedback from these surveys has been very positive.

Administratively, the Department shares resources such as building maintenance and receptionist duties with the two other Finance Commission agencies, the Department of Savings and Mortgage Lending and the Office of Consumer Credit Commissioner, to eliminate unnecessary processes and maximize efficiency and productivity.

The Department's overall effectiveness and efficiency is evidenced by our performance measure goal achievement, positive survey feedback, budgetary compliance, enforcement actions taken, limited bank failures, our stellar reputation with other federal and state regulators, and positive audit reports, including the recent State Auditor's Office Self-Directed Semi-Independent Report. In addition, the Department's Bank and Trust (B&T) Supervision Division has been accredited through CSBS since 1993. The accreditation program involves a comprehensive review by CSBS of state banking departments where agencies are evaluated against a set of standards and best practices to ensure they have the authorities, processes, and resources to serve as an effective regulator. The Department is considered one of the premier banking departments in the country.

The Department has an external accounting firm that performs the internal audit function. The current contracted accounting firm is Garza/Gonzalez & Associates, San Antonio, Texas. The firm performs a review/audit of two areas of the Department each fiscal year. In addition, the Department is periodically audited by the State Auditor's Office, Texas Comptroller of Public Accounts, Department of Information Resources (DIR), State Office of Risk Management (SORM), Department of Public Safety and FinCEN. Historically the findings in these audits have been minimal and suggestions for improvements have been implemented.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions?

Yes, the laws reflect the current mission, objectives, and approach to performing our functions.

E. Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

Historically in each session, the Department has been successful in presenting changes in industry products, technologies, and business practices, as well as ideas for improvements to those legislative committees charged with addressing issues for the industries regulated by the Department.

The committees have considered Departmental testimony and research to modernize, remedy problems, and/or clarify state laws related to the industries. In most situations, the ideas embodied in legislation are a result of feedback and research that has been provided by the Department, regulated entities, and consumer groups. In this most recent session, S.B. 1400 – 1403, which passed, were the result of the above process.

F. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

Yes, as discussed in B above and again below, the Department's regulatory functions overlap federal banking and federal MSB authorities in some areas. Regulatory authority is appropriately placed with the Department to oversee financial service activities as we understand regional communities, the economic environments, and the management of regulated entities. Department examination staff is Texas-based and focused on the dynamics and diversification each major sector has on the economy and regulated entities. While federal regulators may be located in Texas, many decisions are made in Washington, D.C., and not within the state. The Department also provides consumer protection for consumers who entrust monies to regulated entities by ensuring the funds arrive at their intended destination. In each situation, constant, open communication, and coordination ensures there is no duplication of efforts.

Furthermore, regulatory constructive competition prevents stagnation and encourages innovation in the industry, while ensuring banks conduct business in a safe and sound manner. Innovation is considered a hallmark of the banking regulatory system, especially for the dual banking system. For example, the dual banking system has promoted competition among state and national banks, and in doing so, has changed the way banking is being conducted. Many of the changes in banking originated at the state level. On numerous occasions, prior state experiments have provided models for federal bank legislation, including the National Bank Act, the use of checks, the federal provisions for bank examinations, and the payment of interest on checking accounts.

BANKS

The Department is the chartering authority for the majority of the banks operating in Texas and by statute is responsible for regulating their compliance with state and federal law. However, because of federal insurance for depositor funds, banks with FDIC insurance also receive FDIC regulatory oversight unless they elect to become a member of the Federal Reserve System, in which the FRB would provide regulatory oversight. Oversight by other federal agencies such as the CFPB occurs in certain instances.

To reduce regulatory burden, the Department operates under cooperative examination arrangements with both the FDIC and FRB. These comprehensive agreements are effectively implemented and serve to provide a seamless but cooperative system of supervision for state banks in Texas. As described in B above, the Department typically alternates examination of smaller entities and conducts joint examinations of larger organizations and/or problem institutions.

The four regional directors (Lubbock, Dallas, Houston, and San Antonio) work closely with the FDIC and FRB managers to schedule examinations and facilitate the flow of information between the agencies. The scheduling process for banks under the continuous examination process, which includes three institutions exceeding $20 billion, is led by the appointed central point of contact (CPC) for the Department and the FRB. Scheduling for the examination cycle (annual) is submitted by the Department's CPC for approval by the director of B&T Supervision and the deputy commissioner. Headquarters staff is in constant contact with FDIC and FRB managers in Dallas about problem issues that arise and supervisory actions that are contemplated and monitored.

Most states have a form of centralized oversight of depository chartering authorities (including credit unions), either through a single agency or under an umbrella oversight board, like the Finance Commission. The structure of oversight of credit regulators and authorities over death care services and MSBs are unique to each state. The states also handle consumer protection for these industries.

Money Services Businesses

As discussed in B above, MSBs must demonstrate compliance with the USA PATRIOT Act, BSA, and establish AML programs. The Department evaluates compliance with federal law as well as compliance with state law. Examination results with federal laws are shared with FinCEN on a quarterly basis, and joint examinations are performed when appropriate. Examination information is shared with the CFPB when requested.

In 2014, the Money Remittances Improvement Act of 2014 was signed into law that allows the U.S. Treasury Secretary to depend on BSA/AML examinations performed by state agencies of MSBs. This law acknowledges a state's examination for BSA/AML purposes. Coordination with state and federal regulators allows the Department to effectively and efficiently regulate MSBs in a timely manner. Examination results are shared quarterly between state and federal regulators.

Death Care Providers – Prepaid Funeral Contracts and Perpetual Care Cemeteries

There is no federal agency performing oversight of these industries; however, the Texas Funeral Service Commission (TFSC) has authority to register non-PCCs and licenses funeral homes that may have permits to sell PFCs. The Department of Insurance (TDI) also licenses insurance companies that may have affiliates that have a permit to sell PFCs. The three agencies operate under a Memorandum of Understanding (MOU) to share examination, investigative, and complaint information.

Other Consumer Protection

The CFPB collects and tracks consumer complaints on a number of financial industries. This would include banks, trust companies, and MSBs. The Department also accepts complaints on its regulated entities. In general, complaints that pertain to state law are referred to the state, where the necessary research is performed to properly respond to a consumer. Further discussion of complaint activities and processes for the various regulated entities can be found in Section VII. for each of the respective programs.

G. In general, how do other states carry out similar functions?

State banking authorities are organized differently from state to state. The 2016 Profile of State-Chartered Banking issued by CSBS, shows 22 of the 54 reporting banking departments (including the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands) operate independently from a parent agency.

The Texas Department of Banking is one of 51 departments that regulate trust companies and one of 29 departments that regulate foreign bank organizations. As of 2016, thrifts or savings banks are supervised by all state banking departments, or in some cases the department of financial institutions. The states of Colorado and Texas have separate agencies that supervise thrifts. Seventy percent of credit unions are supervised by state banking departments.

Chartering criteria, examination time frames, and fees vary between states. Most states conduct a bank examination program in generally the same manner as the Department. All state and federal banking regulators use a common bank rating system and conduct on-site bank examinations, with some variations in the frequency and scope. An alternating examination schedule is used for efficiency by some states; however, not all states have the authority or ability to utilize this type of examination program with federal regulators.

The Department uses the Uniform Interagency Trust Rating System to evaluate the condition of state-chartered trust companies and offers an exemption from certain requirements for trust companies that do not offer services to the public. Exempt trust companies are subject to an annual certification/verification that they are not offering their services to the public and an on-site examination must be conducted every 24 months. Well rated nonexempt trust companies with less than $10 billion in administered assets are subject to examinations every 18 months. When administered assets increase over $10 billion, annual on-site examinations are required.

The Department has the statutory authority to supervise and examine technology companies that provide services to Texas state-chartered banks and trust companies. Most of these examinations are conducted jointly with the federal bank regulatory authorities. Where foreign banking activity is present, the state normally licenses, regulates, and examines these entities. The state and federal regulators use a common set of rating criteria to evaluate their condition. These activities are generally uniform among the states. The Department coordinates supervision and examination of these entities with the FRB of Dallas.

Per the MMET 2016 Annual Report, there were 49 states, as well as the District of Columbia and Puerto Rico, that have some type of licensing or regulations over the MSBs industry. Most states include this type of regulation within their bank regulatory agency.

The majority of the MSBs licensed by the Department also hold similar licenses in other states. Like Texas, other states' regulatory systems of MSBs are set up to ensure customer protection, safety and soundness, and compliance with BSA/AML regulations. The Department works closely with other states to coordinate efforts to ensure compliance with state and federal regulations. The Department achieves this by participating in the MMET which coordinates and facilitates multi-state supervision of entities operating in more than one state. The MMET facilitates coordinated examinations among states as well as in partnership with the CFPB and FinCEN.

As previously mentioned, the Department is a member of MTRA, which also helps coordinate efforts to promote uniform regulatory oversight. The MTRA provides periodic examiner training courses to promote consistency in regulation. The Department often participates as an instructor and has examiners attending the courses. CSBS also provides entry level online examiner courses. Through these coordinated efforts, the Department can foster consistency, coordination, and communication among the various states.

The Department alternates leading multi-state joint examinations and participating in joint examinations. To lessen the burden on MSBs, the Department may accept reports of examination from other states that meet specific criteria outlined in Supervisory Memorandum 1024. Examination results are shared quarterly between state and federal regulators.

The Federal Trade Commission enforces the Funeral Rule which centers around disclosures and information to prevent fraud and abuse in the funeral industry. There are varying degrees of contract regulation and supervision among the states. While most states have enacted licensing and regulatory programs like the one in Texas, our fiduciary oversight and review is more extensive than most states. Some states' regulatory oversight provides only minimal consumer protection, while other states have more extensive licensing and examination requirements. Only a few other states perform on-site examinations of their licensees. This regulation is housed with various agencies in other states.

There are no federal laws pertaining to the regulation of PCCs. There are varying degrees of such contract regulation and supervision among the states. While most states have enacted licensing and regulatory programs like the one in Texas, our fiduciary oversight and review is more extensive than most states. Some states' regulatory oversight provides only minimal consumer protection, while other states have more extensive licensing and examination requirements. Only a few other states perform on-site examinations of their licensees. This regulation is housed with various agencies in other states.

There are no federal laws pertaining to the registration of PCSEAs, check verification companies, bullion depository agents or cemetery brokers. We are unaware how regulation of these entity types is handled in other states.

H. What key obstacles impair your agency's ability to achieve its objectives?

- Recruiting, hiring, and retaining qualified staff including specialty examiners;
- Replacing retiring tenure staff and management through a succession plan; and providing a work life balance for traveling examiners;
- Evolving and constant advances in technology and payments systems;
- Training in technology advancements and new payments systems;
- Advancing our use of technology while managing cybersecurity risks and threats; and
- Inflexibility and overreach of federal counterparts.

I. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).

ANTICIPATED CHANGES IN FEDERAL LAW

Federal banking law continues to evolve. Changes or the repeal of all or portions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and the passing of the Financial CHOICE (Creating Hope and Opportunity for Investors, Consumers, and Entrepreneurs) Act in the U.S. House of Representatives could impact the banking industry as well as small businesses.

OUTSTANDING COURT CASES

In April 2017, CSBS, representing the states, filed a complaint against the OCC. The suit, *Conf. of State Bank Supervisors v. Office of the Comptroller of the Currency, No. 1:17-cv-00763-JEB*

(D.D.C. filed Apr. 26, 2017), lays out the state regulators' fundamental complaint against the OCC charter, namely that the agency does not have statutory authority to create a special-purpose charter. States argue that the charter would preempt their authority to impose consumer protection requirements, such as usury caps, on financial technology (fintech) companies that might obtain the national charter in lieu of state MSB licenses. Citing the National Bank Act, CSBS argues that the OCC has the authority to charter only those firms engaged in the "business of banking." The agency would need "specific congressional approval" to create a charter for nondepository institutions.

If the OCC prevails, it is possible that some of the MSBs regulated by the Department could opt for a national charter versus a state license.

J. What are your agency's biggest opportunities for improvement in the future?

- Enhancing the use of technology to perform certain examination procedures off-site would allow the Department to reduce overnight travel, travel costs, and improve examiner morale. Many financial examiners cite travel as a reason for leaving employment with the Department.
- Working with other states to harmonize MSBs regulations would allow for a more seamless and cooperative regulatory system.
- Increasing recognition by the U.S. Congress that state banking departments play a critical role in financial institution regulation and that our input in the legislative process is critical.

K. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures. Please provide information regarding the methodology used to collect and report the data.

The Department is not subject to appropriations as a Self-Directed, Semi-Independent (SDSI) agency. However, we continue to use performance measures to evaluate the Department. These measures are reported to the Finance Commission. The methodology for the performance measures was submitted with the Department's 2017-2021 Strategic Plan (Appendix II-K). Fiscal Year 2016 key performance measure statistics are on the next page.

Texas Department of Banking
Exhibit 2: Key Performance Measures — Fiscal Year 2016

Key Performance Measures	FY 2016 Target	FY 2016 Actual Performance	FY 2016 % of Annual Target
BANK AND TRUST SUPERVISION			
Outcome Measures (Annual)			
Percentage of Banks Receiving Examinations When Due	87.50%	96.57%	110.37%
Percentage of Foreign Bank Agencies Receiving Examinations When Due	95.00%	100.00%	105.23%
Percentage of Trust Companies Receiving Examinations When Due	90.00%	77.78%	86.42%
Percentage of Problem Institutions with Appropriate Supervisory Actions in Place	100%	100%	100%
Certificate of Accreditation by CSBS Maintained in Good Standing	Yes	Yes	Yes
Output Measures (Quarterly)			
Number of Bank and Foreign Bank Examinations Performed	115	107	93.04%
Number of Trust Co., Trust Dept. & IT Exams or Cert. & Other Specialized Reviewed Performed	234	226	95.58%
Efficiency Measures (Annual)			
Average Cost Per Bank Examination	$86,400.00	$91,853.67	106.31%
Assets Examined Per Examiner Day (in Millions)	$7.75	$9.02	116.39%
Explanatory Measures (Annual)			
Percentage of Banks Classified Safe and Sound	97.00%	95.14%	98.08%
Number of State-Chartered Banks in Texas	246	247	100.41%
Total Assets (Dollars in Billions) in State-Chartered Banks in Texas	$315.00	$305.90	97.11%

Texas Department of Banking
Exhibit 2: Key Performance Measures — Fiscal Year 2016

Key Performance Measures	FY 2016 Target	FY 2016 Actual Performance	FY 2016 % of Annual Target
SPECIAL AUDITS			
Outcome Measures (Annual)			
Percentage of Money Services Businesses Licensees Examined by Special Audits When Due	90.00%	90.48%	100.53%
Percentage of Prepaid Funeral Contract Licensees Examined by Special Audits When Due	90.00%	97.30%	108.11%
Percentage of Perpetual Care Cemetery Licensees Examined by Special Audits When Due	90.00%	93.72%	104.13%
Percentage of PCC and PFC Applications Competed within Statutory Period	95.00%	100.00%	105.26%
Output Measures (Quarterly)			
Number of Special Audits Licensees Examined	560	568	101.43%
Number of Special Audits Licensees	760	778	102.37%
Efficiency Measures (Annual)			
Average Direct Cost Per Prepaid Funeral Contract and Perpetual Care Cemetery Licensee Examination	$2,500.00	$2,600.61	104.02%
Explanatory Measures (Annual)			
Dollar Amount (Billions) of Prepaid Funeral Contracts in-force	$3.30	$3.90	118.18%

Texas Department of Banking
Exhibit 2: Key Performance Measures — Fiscal Year 2016

Key Performance Measures	FY 2016 Target	FY 2016 Actual Performance	FY 2016 % of Annual Target
APPLICATION PROCESSING (CORPORATE ACTIVITIES)			
Outcome Measures (Annual)			
Percentage of B&T, MSB, Check Verification Company, PCSEA Registration & Renewal Applications, and Cemetery Broker Registrations Complete within Statutory Time Periods	95%	95.32%	110.34%
Output Measures (Quarterly)			
Number of B&T Applications, Notices, and Filings, MSB Licenses, Check Verification Company, and PCSEA Registration & Renewal Applications and Cemetery Broker Registrations Completed	284	288	112.82%
Explanatory Measures (Annual)			
Number of Requests for Information Received	6	6	100%

Table 2 Exhibit 2 Key Performance Measures

L. Please discuss any "high-value data" your agency possesses, as defined by Section 2054.1265 of the Government Code. In addition, please note whether your agency has posted those data sets on publicly available websites as required by statute.

The Department's website contains a supervised, registered, and licensed company listing, as well as a search for corporate activities in a format that is easily accessible to the public. Furthermore, legal opinions are also listed on the website.

III. History and Major Events

In 1845, the first Constitution of the State of Texas provided that "[n]o corporate body shall hereafter be created, renewed, or extended, with banking or discounting privileges," and this prohibition against the chartering of banks was carried forward into the Constitutions of 1861 and 1866, deleted in the Constitution of 1869, and added back into the present-day Constitution of 1876 as Article XVI, Section 16. Banking certainly existed during these periods but was dominated by private, unincorporated banks, many of which issued their own currency.

In 1865, the first national bank in Texas was organized in Galveston.

During the period 1869-1876, a number of state-chartered banks were created by special acts of the Legislature. Ten additional state banks were established under a general law passed in 1874. Only a few of these banks ever actually opened for business. From 1876 to 1900, banking in Texas was conducted by private banks, existing state banks, and national banks.

As of 1890, 148 private banks were operating in Texas.

As of 1900, 440 national banks existed in Texas.

In 1904, Article XVI, Section 16, of the Constitution was amended to permit state-chartered banks, by permitting the Legislature to authorize the incorporation and regulation of corporate bodies with banking and discounting privileges. The amendment imposed personal liability on stockholders for debts of such corporate bodies at the time of stock purchase, and prohibited foreign corporations from exercising banking or discounting privileges in this state.

In 1905, the 29th Legislature adopted by general law a system of corporate state bank chartering and regulation, as authorized by constitutional amendment. State bank charters were obtained by filing articles with the Secretary of State, and supervision of state banks was assigned to the Commissioner of Agriculture, Insurance, Statistics, and History, under the title of Superintendent of Banking (for which duties the commissioner was paid an additional $500 annually). Bank examinations were directed to be conducted once each year. The Superintendent was given authority to direct the discontinuance of "illegal and unsafe and unauthorized practices," the correction of improper entries, and the repayment of illegal disbursements (essentially the equivalent of the modern "cease and desist order.") The failure of an entity to comply with the directions given would be referred to the Office of Attorney General for appropriate action.

In 1907, the 30th Legislature created the Department of Agriculture and the former agency was renamed the state Department of Insurance and Banking.

By the end of 1907, there were more than 300 state banks operating in Texas.

In 1909, due to public agitation created by the 1907 panic, the 31st Legislature passed the Texas Guaranty Law to implement a bank deposit protection system with mandatory bank participation. The Texas Guaranty Law was administered by the newly created State Banking Board, comprised of the Attorney General, the State Treasurer, and the Commissioner of Insurance and Banking. Charters were still obtained without investigation from the Secretary of State. This act placed the duty on the Commissioner of Insurance and Banking to examine each bank every three months and authorized the Commissioner to hire bank examiners. No employee of the Department of Insurance and Banking could have a direct or indirect financial interest in a supervised entity.

In 1909, the 31st Legislature created the Texas Library and Historical Commission, transferring to it the duties of statistical and historical work from the Insurance and Banking Commissioner.

In 1913, in response to overcrowded banking and unsafe practices, the 33rd Legislature enacted revisions that transferred chartering authority to the State Banking Board. The Board was required to investigate and verify the financial and moral integrity of the incorporators and make findings very similar to those in the law today, i.e., that a public necessity existed for the bank and that the incorporators were acting in good faith.

In 1913, the 33rd Legislature enacted laws relating to the incorporation and regulation of state building and loan associations, assigning responsibility to the Commissioner of Insurance and Banking. State building and loan associations existed prior to 1913, but had all been created by special acts of the Legislature.

In 1913, the 33rd Legislature authorized formation of "rural credit unions," and assigned chartering and supervisory authority to the bank commissioner and the State Bank Commission. At this point, there was no "Bank Commissioner" with that title, so presumably it was the Commissioner of Insurance and Banking which was intended.

In 1915, the banking division staff of the Department of Insurance and Banking consisted of five clerical employees and 17 field examiners.

In 1917, the 35th Legislature created loan and investment companies and placed supervisory authority with the Commissioner of Insurance and Banking.

In 1923, the 38th Legislature created the office of banking commissioner and the state Department of Banking, formerly part of the state Department of Banking and Insurance. This is the origin of the present Texas Department of Banking. The banking commissioner was appointed by the governor to a two-year term with the advice and consent of the Senate. Examination frequency was reduced to at least once every four months. Perhaps due to an oversight, state building and loan associations were not mentioned in the act. Accordingly, regulation of these entities was not transferred to the Texas Banking Department.

In 1923, Department staff numbered 38, with 950 state banks and $377 million in total assets.

In 1923, the Legislature prohibited the operation of private banks, but enacted a grandfather clause allowing the continued operation of certain existing private banks, notwithstanding the general prohibition on that type of institution.

In 1925, the Legislature amended the requirements for a grandfathered private bank, as originally enacted in 1923, but retained the general prohibition on private banks. The Department liquidated the last known private banks in the early 1990s, and is unaware of any remaining private banks. At least theoretically, a private bank could still exist if it was (a) in operation on June 16, 1923, or (b) operated for any period of 20 years prior to June 16, 1923, and resumed operations not later than June 23, 1924. See Texas Finance Code §31.004(b).

In 1927, the 40th Legislature repealed the Texas Guaranty Law. The opportunity for repeal had existed in 1925 but the bill failed, ultimately damaging the state banking system. The crucial problem was a provision for annual special assessments against member banks, which created concern because the guaranty fund had been technically insolvent since the business depression of 1921. Many state banks converted to national banks during the period 1925-1927.

In 1929, the 41st Legislature revised the law relating to regulation of state building and loan associations, and transferred regulatory jurisdiction to the Texas Department of Banking.

In 1929, the 41st Legislature modified bank examination frequency to require two examinations annually.

In 1933, Congress amended the Federal Reserve Act to institute the system of federal deposit insurance on a temporary basis, and created the FDIC, owned by the Federal Reserve System. Historically, all banks which were members of the Federal Reserve System on or before July 1, 1934, were required to become stockholders of the FDIC by such date. No state bank was eligible for membership in the Federal Reserve System until it became a stockholder of the FDIC, and thereby became an insured institution, with required membership by national banks and voluntary membership by state banks.

In 1935, Congress amended the Federal Reserve Act to provide for a permanent deposit insurance fund; the stock of the FDIC to be purchased by the Secretary of the Treasury on behalf of the U.S., and the deposit insurance system to be maintained through assessments directly on the insured institutions.

In 1937, Article XVI, Section 16, of the Constitution was amended to eliminate personal liability of stockholders, an attribute deemed no longer necessary because of federal deposit insurance.

In 1943, the 48th Legislature enacted The Texas Banking Code of 1943 and created the Finance Commission. The Finance Commission appointed the banking commissioner with the advice and consent of the Senate. The banking commissioner served at the pleasure of the Finance Commission, and was statutorily labeled as both an employee of the Finance Commission, subject to its orders and directions, and the chief executive officer of the Banking Department, a pre-existing agency. The nine members of the Finance Commission were appointed by the governor to six year terms, one-third of which expired every two years. The Finance Commission consisted of two sections, a six-member Banking Section, and a three-member Building and Loan Section. These sections were at least "quasi-state agencies" in that each section had rulemaking authority over its related industry. Examination frequency of state banks was at least twice a year. The banking commissioner was given authority to: conduct charter investigations and report findings to the State Banking Board (who acted on the application); investigate and act on merger applications; and declare financial moratoriums or impose statewide withdrawal limitations on all financial institutions (with the consent of the Governor). The banking commissioner was also given authority to remove officers, directors, and employees of state banks as an enforcement tool (Art. 342-101 et seq., Vernon's Texas Civil Statutes).

In 1945, the 49th Legislature granted authority to the banking commissioner to demand statements under oath regarding trust fund investments of PCC associations, to review those statements, and to report violations to the Office of Attorney General (Art. 912a, Vernon's Texas Civil Statutes).

In 1950, Congress passed the Federal Deposit Insurance Act and removed deposit insurance law from the Federal Reserve Act.

In 1955, the 54th Legislature expanded the authority of the banking commissioner over trust funds of PCC associations, including the power to examine trust fund records.

In 1955, the 54th Legislature granted authority to the Banking Department to license, examine, and regulate the sale of prepaid funeral services and merchandise. (Art. 548b, Vernon's Texas Civil Statutes).

In 1956, Texas Attorney General Will Wilson issued his Opinion No. WW-324, holding that Senate confirmation of the Insurance Commissioner's appointment by the Insurance Board violated the separation of powers principles of Tex. Const. Art. II, §1. However, this confirmation practice apparently continued with respect to statutory confirmation requirements applicable to other state officers, including the banking commissioner's appointment by the Finance Commission.

In 1956, Congress enacted the Bank Holding Company Act of 1956, to bring bank holding companies under the jurisdiction of the Federal Reserve System for the purpose of limiting the activities of a bank holding company to those of a financial nature, i.e., "closely related to banking," to prevent unsafe or unsound practices, and to prevent the undue concentration of banking resources in the hands of a few companies.

In 1957, the 55th Legislature enacted Article 1513a regarding trust companies and repealed former trust company provisions in Chapter 7 of the Insurance Code. The banking commissioner was granted limited authority to approve securities deposited with the State Treasurer.

In 1962, the Department supervised 4,013 entities, of which 553 were banks with assets of $3.4 billion.

In 1963, the 58th Legislature replaced the Attorney General as a member of the State Banking Board with a citizen appointed by the Governor to a two-year term with the advice and consent of the Senate. The other members of the State Banking Board continued to be the State Treasurer and the banking commissioner as chairman.

In 1963, the 58th Legislature granted authority to the banking commissioner to license, examine, and regulate sellers of money orders, travelers checks, and similar instruments, under the Sale of Checks Act (Art. 489d, Vernon's Texas Civil Statutes).

In 1963, the 58th Legislature created the Texas Savings and Loan Department, formerly part of the Banking Department (Art. 852a, Vernon's Texas Civil Statutes). The Savings and Loan Department became a sister agency to the Banking Department, both under the jurisdiction of the Finance Commission.

In 1963, the 58th Legislature passed the Texas Regulatory Loan Act, creating the Office of Regulatory Loan Commissioner to license, examine, and regulate the business of consumer lending. A regulated loan was essentially a secured or unsecured loan involving a cash advance of $1,500 or less. Former law subjected these lenders to fee-based examination by the banking commissioner but did not require a license. The Office of Regulatory Loan Commissioner became a sister agency to the Banking Department, both under the jurisdiction of the Finance Commission.

In 1967, the 60th Legislature amended Article 1513a regarding trust companies and provided for examination authority of the banking commissioner, but subject to an exemption from examination if the company did not sell its securities to the public, requiring the banking commissioner to accept a filed financial statement instead.

In 1969, the 61st Legislature revised the examination frequency applicable to state banks to three times in 24 months and no more, except as otherwise deemed necessary.

In 1969, the 61st Legislature created the Texas Credit Union Commission and transferred responsibilities over credit unions from the Banking Department. This was a complete split, with no continuing role for the Finance Commission (Art. 2461-1.01 et seq., Vernon's Texas Civil Statutes).

In 1974, the Department purchased the building at 2601 North Lamar Boulevard. Title was vested in the name of the Banking Section of the Finance Commission. Prior to that, the Department's headquarters office was in the John H. Reagan Building on 15th Street in Austin.

In 1980, Congress enacted the Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA). The problems in the thrift industry were already becoming apparent, and DIDMCA was an attempt to alleviate them, by lifting interest rate ceilings, authorizing thrifts to offer checking and negotiable order of withdrawal, or NOW accounts, and granting powers to thrifts formerly reserved for commercial banks, including allowing savings and loans to enter into consumer loan and credit card businesses, and mutual savings banks to make business loans and accept demand deposits. The DIDMCA also preempted state usury laws concerning several kinds of loans, including new 12 U.S.C. §1821d, the "most favored lender" doctrine for state banks. Overlooked at the time but crucial to later developments was the increase in deposit insurance from $40,000 to $100,000.

In 1980, the OCC significantly changed its chartering policy for national banks to focus more on the organizing group and its business plan and less on the ability of the community to support a new bank, which led over the next few years to an immediate and substantial increase in new national bank charters, many of which were in Texas. While state bank chartering fluctuated within a narrow range, the OCC granted over 25 Texas-based charters in 1980, over 50 in 1981, almost 70 in 1982, almost 120 in 1983 and 1984, and 75 in 1985. The FDIC was required to approve deposit insurance for state charters, a factor which had a limiting effect on state regulator ability to match OCC chartering enthusiasm.

In 1980, Article XVI, Section 16, of the Constitution was amended to add bank authority to have unmanned teller machines within the city or county of its domicile.

In 1981, Congress enacted the Economic Recovery Tax Act of 1981, which included several provisions that improved the rate of return on commercial real estate and increased demand for these investments by lowering marginal income tax rates (the highest rate was reduced from 70 to 50 percent), lowering capital gains rates (from 28 to 20 percent), and by permitting the use of accelerated depreciation for commercial properties.

In 1981, oil prices peaked at $36.95 per barrel, up from $2.75 per barrel in 1973.

In 1982, Congress enacted the Garn-St. Germain Depository Institutions Act of 1982 (Act). The thrift industry was now perceived as in crisis. The Act broadened sources of funds for thrifts, mandated creation of money market accounts, allowed federal, state, and local governments to hold NOW accounts, allowed federally chartered savings and loans (S&Ls) to offer demand deposits, eliminated remaining interest rate differentials between what banks and thrifts could offer for deposits, and granted additional powers to federal thrifts, including the power to invest up to five percent of assets in commercial loans. S&Ls were also allowed to invest up to 30 percent of assets in consumer loans. With respect to national banks, the Act liberalized lending limits and removed real estate lending restrictions. The Act also allowed the FDIC to authorize emergency interstate acquisitions of failed commercial banks, although it imposed some priorities tending to favor in-state bids. The significance of thrifts entering areas formerly the province of commercial banks was the increase in competition that encouraged more aggressive practices to preserve market share. Bank market share losses in commercial loans began to be replaced by commercial real estate loans and energy loans.

In 1983, the 68th Legislature revised the examination frequency applicable to state banks to one examination annually and no more, except as otherwise deemed necessary.

In 1983, Article 1513a was amended to include two sections that provided the banking commissioner the power to invoke sanctions against a trust company as if it were a state bank. Chartering of trust companies remained through the Secretary of State's office. The Banking Department did not have a comprehensive list of those institutions, and many companies filed financial statements with the Banking Department annually in lieu of examinations.

In 1983, the 68th Legislature changed the number of members and composition of the Finance Commission to 12 by adding the three-member Consumer Credit section. The section had two individuals who held either a lending or pawnshop license and one member of the general public.

In 1983, Texas Attorney General Jim Mattox issued his opinion JM-38, confirming Opinion No. WW-324 through a broader holding that any attempt by the legislature to broaden its constitutional authority to confirm governor appointments of state officers, by extending it to state officers not appointed by the governor, violated the separation of powers principles of Tex. Const. Art. II, §1. Senate confirmation of the banking commissioner's appointment by the Finance Commission, as required by the Banking Code, is no longer required.

From 1979 to 1984, both the FDIC and the OCC reduced field examination staff by almost 20 percent. This substantial reduction in staff came about primarily through a series of freezes on new hires because of the agencies' policies of increased reliance on off-site surveillance and the desire of both the Carter and Reagan administrations to reduce the size of the federal government.

In 1984, Congress enacted the Secondary Mortgage Market Enhancement Act of 1984 (PL 98-440, 98 Stat. 1689), codified to 15 U.S.C. §§77d (5), 77r-1, 78c(a)(41). By this Act, Congress removed perceived regulatory barriers inhibiting the development of a private market for residential mortgage-backed securities. The Act (Title I, §106) preempted blue sky laws requiring registration of mortgage-backed securities and other regulatory statutes restricting or otherwise affecting investment in mortgage-backed securities under state law, for trustees, governmental entities, corporations, etc., including state-chartered financial institutions. Congress included a provision reserving a seven-year period during which the states could enact legislation overriding either or both federal preemptions. Texas did not act.

In 1984, Article XVI, Section 16, of the Constitution was amended to add new Subsection (c), granting state banks "the same rights and privileges that are or may be granted to national banks of the U.S. domiciled in this State."

In 1984, the Department created its Corporate Activities Division, to process applications affecting bank corporate structure and ownership and to serve as the repository of permanent bank files.

In 1985, the 69th Legislature revised the examination frequency applicable to state banks to permit the banking commissioner to defer an annual examination for up to six months if considered necessary to efficient administration.

In 1985, the 69th Legislature amended Article 489d to increase the net worth and bonding requirements for a sale of checks licensee from $10,000 to $500,000, add permissible investment restrictions, audit requirements, and impose a trust on monies held from sale of money orders pending disbursement. This action arose out of the failure and bankruptcy of a large money order company that resulted in extensive losses to money order purchasers.

In 1986, Congress enacted the Tax Reform Act of 1986, eliminating accelerated depreciation on commercial real estate and prohibiting deduction of "passive losses." One effect was to dampen demand for commercial real estate investments, which acted to soften real estate prices. Real estate limited partnerships had emerged in 1980 as a major investment vehicle as a result of the Economic Recovery Tax Act of 1981, growing five-fold from 1980 to a high of $16 billion in new capital in 1985, only to fall precipitously over the next few years, gathering only $1.5 billion in new capital in 1989 (nationwide).

In 1986, Article XVI, Section 16, of the Constitution was amended to substitute "state banks" for "corporate bodies" throughout and to ease branching restrictions slightly.

In 1986, oil prices that had averaged approximately $30 a barrel in November 1985 plunged to less than $13 a barrel by March 1986 and to $10 a barrel by August 1986, the lowest price for oil since 1974.

In 1986, to facilitate bank resolutions and ensure continued banking capital during a period of massive bank failures, the 69th Legislature authorized acquisition of Texas banks by out-of-state bank holding companies. From 1982 through 1986, 54 banks failed in Texas, 26 of which were state banks.

In 1986, a case was decided that allowed one prepaid funeral benefits licensee to withdraw all earnings from trust on a monthly basis, based on a holding that the Department did not have authority to reopen a prior final order based on changed circumstances. Sexton v. Mount Olivet

Cemetery Ass'n, (MOCA)720 S.W.2d 129 (Tex. App. – Austin 1986, writ ref'd n.r.e.). This unique treatment of this one licensee continues. Quarterly, MOCA withdraws all earnings on its PFC trust fund and uses those funds for its current operating purposes. It is the only company doing so.

In 1987, Congress enacted the Competitive Equality Banking Act of 1987. The primary motive was to aid the deteriorating Federal Savings and Loan Insurance Corporation (FSLIC), but provisions affecting commercial banks were included. The "nonbank bank" provision in the Bank Holding Company Act was closed. (By limiting the authority of certain subsidiaries to exclude them from the definition of "bank" in the Bank Holding Company Act, banking institutions were evading interstate banking limitations.)

In 1987, Texas Attorney General Jim Mattox issued an opinion (JM-630) holding that legislation authorizing acquisition of Texas banks by out-of-state bank holding companies was constitutional under Tex. Const. Art. XVI, §16(a). The opinion distinguished between foreign corporate "ownership" of a Texas bank (permitted) from foreign corporate "operation" of a Texas bank (prohibited).

In 1987, Article 1513a was repealed by the enactment of Chapter XI of the Texas Banking Code. Under Chapter XI, all trust companies were required to submit their charters to the Banking Department for substitution before September 1, 1990. During 1987 and 1988 the Secretary of State's Office delivered approximately 220 trust company charter files to the Banking Department. Prior to 1987 the majority of the Texas trust companies operated with minimum regulatory supervision. Only in the most critical situations would the Banking Department have become involved and that being under questionable authority.

In 1987, the 70th Legislature modernized the statutes governing the prepaid funeral industry, and created the Guaranty Fund to guarantee performance by sellers of trust-funded prepaid funeral benefits contracts under their obligations to the purchasers (Acts 1987, 70th Leg, ch. 747, effective August 31, 1987).

In 1988, restricted bank branching was federally preempted. Texas v. Clarke, 690 F. Supp. 573 (W.D. Tex. 1988). Underlying doctrine and policy of competitive equality permits branching authority for a national bank equal to that authorized by state law for a "state bank" under 12 U.S.C. §36, but the definition of "state bank" is a matter of federal law. Following Department of Banking and Consumer Fin. v. Clarke, 809 F.2d 266 (5th Cir.), cert. denied, 90 S.Ct. 3240 (1987), the court held that "state bank" must be defined "by a targeted functional analysis" and in accordance with federal law. Because essential banking business consists of receiving deposits, making commercial loans, and negotiating checks and drafts, and because Texas savings associations operate as functional banks, they are "state banks" under 12 U.S.C. §36(c) and national banks could adopt the statewide branching pattern of the state savings associations. In response to arguments that competitive equality no longer existed for commercial state banks, the court noted that Tex. Const. Art. 16, §16, "governs the branching ability of Texas commercial state banks. Section 16(c) reads, "[A] state bank created by virtue of the power granted in this section, notwithstanding any other provision of this section, has the same rights and privileges that are or may be granted to national banks of the United States domiciled in this State." . . . A reasonable construction of section 16(c) results in the conclusion that commercial state banks may branch statewide because national banks also may branch Texas-wide."

In 1988, pursuant to Article XVI, Section 16(c), of the Constitution, the Finance Commission adopted a rule authorizing statewide branching for state banks, notwithstanding constitutional and statutory provisions to the contrary. By implication, the case also affected permitted unmanned teller machine locations. Prior to this time, a bank could not have a second location; thus, each bank office was its own charter, with its own president, board of directors, and capital base.

In 1988, 175 Texas banks with assets of $47.3 billion (state and national) failed— 25 percent of the state's 1987 year-end banking assets.

In 1989, 134 Texas banks with assets of $23.2 billion (state and national) failed— 13.6 percent of the state's banking assets.

In 1989, Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, significantly restructuring the regulation of thrifts, abolishing the FSLIC, and transferring its insurance authority to the FDIC. The Act also significantly strengthened the enforcement authority of the FDIC, created cross-guarantee provisions making affiliated institutions in a bank holding company group liable for losses incurred by a failed institution in the group. The Act also mandated an increase in the newly created Bank Insurance Fund, resulting in a doubling of assessments imposed on commercial banks.

In 1989, the 71st Legislature enacted the Texas Health and Safety Code, a nonsubstantive codification of health and safety statutes. Regulatory provisions relating to cemeteries were codified as Chapters 711-714. Chapter 712 related to PCCs and incorporated the duties and responsibilities of the banking commissioner.

In 1989, the 71st Legislature eliminated the Banking Section and Building and Loan Section, which dated back to 1943, as well as the relatively new Consumer Credit Section (created in 1983), which were subdivisions of the Finance Commission, and reduced membership from 12 to nine.

Between 1985 and 1990, 440 banks failed in Texas, 38% of which were state banks. During that period, 22 trust companies were also closed. In addition, a number of trust companies failed to exchange their charters as required by 1987 legislation and therefore ceased to exist.

In 1991, Congress passed the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). What began in 1980 as deregulation resulted in "reregulation" under FDICIA. The ability of the states to grant new banking powers to state banks was limited for the first time by preventing state bank activities as principal beyond those permitted to national banks unless the FDIC found the activity to be safe and sound. FDICIA added "prompt corrective action" provisions eliminating some regulatory discretion and requiring enforcement actions in certain circumstances, required annual on-site examinations by federal regulators and audited financial statements of institutions of more than $150 million in assets, mandated the adoption of uniform standards for real estate lending by depository institutions, and put new restrictions on the use of brokered deposits.

In 1991, the 72nd Legislature amended the Texas Banking Code of 1943 to permit statewide branching, as already permitted by rule and constitutional parity.

In 1991, the 72nd Legislature granted authority to the banking commissioner to license, examine, and regulate currency exchange and transmission businesses under the Currency Exchange Act (Art. 350, Vernon's Texas Civil Statutes).

In 1993, the 73rd Legislature expanded the enforcement authority of the Banking Department with respect to the sale of prepaid funeral services and merchandise, and imposed investment restrictions on prepaid funeral benefit trust funds. It also expanded enforcement authority in the prepaid area and primarily included broader discretion to issue cease and desist orders for unlicensed activity.

In 1993, the Department was officially accredited by CSBS.

In 1993, the method of revenue generation for the bank examination program changed from examination fees (per examiner day), to annual assessments billed quarterly based upon an institution's size and condition.

In 1993, the 73rd Legislature created the "limited banking association" as a charter option, modeled after limited liability company statutes, to allow bank owners to eliminate corporate double taxation and take advantage of pass-through features of federal income taxation of partnerships. Acts 1993, 73rd Leg., ch. 765, eff. Aug. 30, 1993.

In 1994, Congress enacted the Reigle Community Development and Regulatory Improvement Act of 1994 (PL 103-325). Sections 202-207 and 347, codified in part to 15 U.S.C. §§77r-1 and 78c(a)(41) and (53), added "small business related security" (securitized small business loans) and "commercial mortgage related security" to preempt blue sky and investment limit statutes (see discussion of 1984 Secondary Mortgage Market Enhancement Act above). States have a seven-year period to override the additions and prohibit or set limits on these investments, expiring Sept. 23, 2001. The Department added "opt out" language to the Texas Banking Act of 1995, see Texas Finance Code §34.101(d)(4) and (g). The Community Development and Regulatory Improvement Act also reduced federal examination frequency to 18 months for certain "small" institutions. The Department was required to similarly reduce examination frequency for reasons of competitive parity. Supervisory Memorandum 1003 and Texas Finance Code §31.105 provide further details.

In 1994, Congress enacted the Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994 (PL 103-328). The Act broadly grants interstate branching rights by merger and preempts restrictive state branching law unless a state "opts out" in the manner permitted by the Act. The prohibition on foreign corporate banking set forth in Tex. Const. Art. XVI, §16(a) is preempted.

In 1995, the IRS issued a private letter denying pass-through tax treatment to Texas limited banking associations. The IRS rejected the state's interpretation of its own constitution and imposed its own view that Texas was restricted by Art. XVI, §16(a), to creating only "corporate" banks. Priv. Ltr. Rul. 95-51- 032 (Sept. 27, 1995).

In 1995, the 74th Legislature enacted the modernized Texas Banking Act and repealed the Texas Banking Code of 1943 (except for Chapter XI, relating to trust companies). The State Banking Board was eliminated and its responsibilities transferred to the banking commissioner. The Banking Department of Texas was renamed the Texas Department of Banking. The banking commissioner's authority to issue interpretive statements and legal opinions was reinforced by explicit statutory language, and the authority to investigate unauthorized activities was expanded (Art. 342-1.001 et seq., Vernon's Texas Civil Statutes).

In 1995, the 74th Legislature prohibited interstate mergers and branching in Texas until September 1, 1999, in a bill designed to comply with the federal Riegle-Neal Interstate Banking and Branching Act of 1994 (Art. 489f, Vernon's Texas Civil Statutes).

In 1995, the 74th Legislature expanded the scope of the Currency Exchange Act to include currency transportation as an activity to be licensed and regulated by the banking commissioner.

In 1995, the Department began conducting annual customer surveys of banks and trust companies.

In 1996, although Texas was one of two states to "opt out" of interstate branching, in anticipation of future needs and to endorse the unified view of state regulators regarding multi-state supervision of interstate state banks, the banking commissioner signed a Nationwide Cooperative Agreement and Nationwide State/Federal Supervisory Agreement for the coordinated supervision of multi-state, state-chartered banks. The FDIC and the Federal Reserve were also signatories.

In 1996, the Department established its internet website (www.banking.state.tx.us), which contains the statutes, rules, published interpretive opinions, and examination procedures used in the oversight of the supervised entities. The website also contains the text of testimony and speeches presented by agency employees, information on how to file a consumer complaint, answers to the most commonly asked consumer questions, and information on supervised entities.

In 1996, the banking commissioner sued Commercial National Bank, Texarkana, Arkansas, and the OCC for allowing a national bank to relocate its main office to Texas and retain branches in Arkansas, in violation of Texas law opting out of interstate branching (Article 489f, Vernon's Texas Civil Statutes). The U.S. District Court ruled in favor of the commissioner. Ghiglieri v. Ludwig, 1996 WL 315947, 1996 U.S. Dist. LEXIS 8321 (N.D. Tex. 1996), rev'd 125 F.3d 941 (5th Cir. 1997), cert. denied 118 S.Ct. 1361 (1988).

In 1996, the banking commissioner sued Sun World National Bank (a subsidiary/affiliate of NationsBank) and the OCC for allowing a national bank to relocate its main office to New Mexico and retain branches in Texas. The U.S. District Court ruled in favor of the commissioner. Ghiglieri v. Sun World, N.A., 942 F. Supp. 1111 (W.D. Tex. 1996), rev'd 117 F.3d 309 (5th Cir.1997), cert. denied 118 S.Ct. 1361 (1988).

In 1997, the 75th Legislature enacted the Texas Finance Code, a nonsubstantive codification of financial regulatory statutes. The regulatory provisions of the Texas Banking Act were codified as Subtitle A, Title 3, Texas Finance Code (Chapters 31-39, 59). Regulation of sale of checks, currency exchange, and sale of prepaid funeral benefits was codified as Subtitle E, Title 3, Texas Finance Code (Chapters 152-154). The agency's enabling statutes were codified to Chapter 12 in Title 2, Texas Finance Code. Trust company statutes, formerly located in Chapter XI of the Texas Banking

Code of 1943, were codified as Chapter 151, but the source law was simultaneously repealed and replaced by another bill.

In 1997, the 75th Legislature enacted the Texas Trust Company Act, a complete system of laws governing state trust companies. The banking commissioner continued to have chartering, examination, and regulatory authority over state trust companies (Art. 342a-1.001 et seq., Vernon's Texas Civil Statutes).

In 1997, the Finance Commission Salary Administration Plan was discontinued by action of the 75th Legislature.

In 1997, the Fifth Circuit overturned the District Court decisions (Ghiglieri v. Ludwig and Ghiglieri v. Sun World) and found in favor of the OCC. The Supreme Court denied writ of certiorari in 1998. One ground for the decision was that federal law required all banks to be treated equally for an effective "opt out" statute, and the applicable definition in the Federal Deposit Insurance Act includes state savings banks. Article 489f did not mention state savings banks. This result is legally correct but not anticipated by Congress, as evidenced by statements to the contrary in the Congressional Record. However, a state (but not federal) savings bank had been added to the definition of "state bank" by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, originally for the narrow purpose of granting the FDIC regulatory jurisdiction over state savings banks and the Savings Association Insurance Fund in connection with the merger of the FSLIC into FDIC.

In 1997, the banking commissioner filed a lawsuit against NationsBank of Texas, N.A. and NationsBank, N.A., Charlotte, North Carolina, to prevent the merger of the two banks in violation of Texas opt out law. In the 1996 Sun World litigation, Sun World National Bank was owned by NationsBank, and after the relocation, Sun World was merged into NationsBank, N.A., Charlotte, North Carolina. The result was that NationsBank, North Carolina, had branches in El Paso, Texas. It was argued that the merger was proper as an "intrastate" merger because both banks were "located" in Texas.

In 1997, Article XVI, Section 50, of the Constitution was amended to allow home equity loans, effective January 1, 1998. Because of extensive and complex consumer protection provisions directly in the Constitution, Department examiners began to closely monitor state bank home equity lending practices.

In 1998, in cooperation with the federal banking regulators, the Department began conducting Year 2000 Readiness assessments of state-chartered banks, trust companies, and foreign bank agencies (FBA) in addition to the normal examinations. These efforts were to ensure that there was no disruption in banking services on January 1, 2000.

In 1998, the U.S. District Court for the Northern District of Texas issued an order denying a preliminary injunction, ruling that the state had not shown a likelihood of prevailing on the merits on its claim that the merger of NationsBank, North Carolina, and NationsBank of Texas was not an "intrastate" merger, because NationsBank, North Carolina, was clearly located in Texas through its El Paso branches (formerly SunWorld branches, acquired through merger). NationsBank, Texas became a branch of NationsBank, North Carolina.

In 1998, citing constitutional parity and the federal preemption of Article 489f for its failure to address state savings banks, the banking commissioner announced that the Department would accept applications for interstate merger and branching transactions for state-chartered banks.

In 1999, CSBS re-accredited the Department. As of January 1, 1999, the Department had 135 employees, and exercised oversight responsibility of 397 commercial banks with total assets of $51.2 billion. The Department also had oversight of 33 trust companies doing business with the public, 14 FBAs, 447 PFCs, 226 PCCs, 39 sale of checks licensees, and 80 currency exchange licensees.

In 1999, the 76th Legislature enabled interstate mergers, branching, and fiduciary activities for financial institutions, including trust companies, effective September 1, 1999. The bill added new Subtitle G to Title 3, Texas Finance Code (Chapters 201-204), to govern interstate acquisitions of banks, interstate mergers between banks, interstate branching of banks, and foreign bank branching in Texas, effective September 1, 1999. Regulation was committed to the banking commissioner with rulemaking authority and appellate jurisdiction vested in the Finance Commission. The bill also amended trust company statutes to authorize interstate fiduciary activities, and revised other laws regarding public deposits, probate, and the civil process to conform to an interstate bank operating environment. Governor George Bush signed the Interstate Banking and Branching Bill for Texas on July 16, 1999.

In 1999, the 76th Legislature expanded currency exchange, transmission, and transportation licensing requirements to transportation of financial instruments and non-bank owned automated teller machines.

In 1999, voters approved to modify the definition of an urban homestead from one to ten acres. Reverse mortgages were required to comply with U.S. Department of Housing and Urban Development and secondary market standards. The Finance Commission was required to conduct studies of the availability and quality of home equity loans.

In 1999, the Gramm-Leach-Bliley Act of 1999 (GLBA), also known as Gramm-Leach-Bliley Financial Services Modernization Act (Pub.L. 106-102, 113 Stat. 1338), was passed by Congress. The regulation attempted to update and modernize the financial industry. The main function of the GLBA was to repeal the Glass-Steagall Act that said banks and other financial institutions were not allowed to offer financial services, like investments and insurance-related services, as part of normal operations. The Department worked with the Texas Department of Insurance, State Securities Board, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and the Texas Credit Union Department to coordinate cooperative supervisory efforts between the agencies to implement a functional regulatory environment to comply with GLBA.

In early 2000, the Finance Commission established its own website.

In 2001, the 77th Legislature passed S.B. 314, the sunset bill for the Texas Department of Banking. S.B. 314 enacted standard sunset provisions regarding conflicts of interest, standards of conduct, equal employment opportunity, information on the State Employee Incentive Program, and consumer complaints. The bill enhanced regulatory authority over PFCs and PCCs, and rulemaking authority with respect to these two industries was transferred to the Finance

Commission. Several statutory changes regarding PFCs were designed to enhance consumer protection, including mandatory model plain language contracts, additional consumer disclosures, and provisions regarding the extent to which contract modifications could be permitted after death of the beneficiary. The statutory changes also included expanded enforcement actions to impose administrative penalties for willful or repeat offenders. Two significant changes made with respect to PCCs were to expand the Department's examination authority and to expand enforcement authority to permit imposition of administrative penalties for willful or repeat offenders. A floor amendment to the bill added a new section to the Texas Business and Commerce Code that requires a bank to pay checks drawn on that bank at "par value", meaning the bank could not charge a fee to a non-accountholder that cashes a check drawn on that bank at its facilities. This provision was later preempted by federal law.

In 2001, the 77th Legislature allowed the continuation of the Finance Commission. The bill removed the Commission as a state agency and made it a policy-making body for the Finance Agencies. The composition of the Commission was also changed as recommended by the Sunset Advisory Commission. The requirement of two bankers and two thrift members was changed to one banker and one thrift executive member, one representative of the consumer credit industry and a mortgage broker. Other provisions of significance included the addition of Section 11.305 to the Texas Finance Code which requires the Texas Department of Banking and the Texas Savings and Loan Department (the name at the time) to jointly conduct a continuing review of the condition of the state banking system on a periodic basis and the addition of 11.307 requiring regulated entities to provide consumers information on filing complaints with the respective state regulatory agency in the annual privacy notice.

In 2001, the 77th Legislature enacted H.B. 2155, conforming Texas law to the GLBA. This included authority for state banks to conduct financial activities or activities incidental or complementary to financial activities. State-chartered bank and trust companies are granted the minimum authority permitted by GLBA, with authorization for activities beyond those allowed for national banks and their subsidiaries, but within the bounds of safety and soundness. The bill further made administrative subpoenas confidential.

In 2001, the 77th Legislature passed H.B. 626 which added protections to lenders when their collateral becomes subject to state asset seizure laws.

In 2001, the 77th Legislature expanded the Department's responsibilities to include the supervision of PCSEAs. These entities are subject to registration and renewal by the Department. The Department will also investigate complaints against PCSEAs and may revoke their registration after following a formal hearing process. The Department is also tasked with implementing plain language contracts for this industry.

In 2001, the federal district court for the western district of Texas granted a permanent injunction restraining the effectiveness of a new Texas statute purporting to prohibit banks from charging a teller's fee for cashing a check drawn on an account with that bank (i.e., an "on us" check cashing fee). Several banks brought the case against the Texas banking commissioner. The OCC filed a brief amicus curie in favor of the plaintiff's position. Wells Fargo Bank Texas v. Randall James, No. 01-CA-538-JRN (U.S.D.C., W.D. Tex.) (December 3, 2001).

In 2001, Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or USA PATRIOT Act and on October 26, 2001, President Bush signed the Act into law. The Act contains strong measures to prevent, detect, and prosecute terrorism and international money laundering. Provisions affecting banking organization and MSBs are generally set forth as amendments to the Bank Secrecy Act.

In 2001, the Texas Attorney General's Opinion JC-0417 determined that the provisions of Chapter 154 of the Texas Finance Code were applicable to religious organizations that sold prepaid funeral benefits and did not violate the Establishment Clause or Free Exercise Clause of the First Amendment to the U.S. Constitution. Based on this Opinion, the Department was able to negotiate and subsequently enter into an Agreed Order with a religious organization in late 2002 to fund $2,156,000 collected from customers related to previously sold contracts that contained preneed funeral merchandise and services that had not been properly deposited into restricted accounts.

In 2002, the Department through administrative action facilitated the recovery of approximately $182,000 for 300 consumers related to misappropriated funds from two MSBs.

In 2002, the Department signed a cooperative agreement with the MTRA to promote a nationwide framework for cooperation and coordination among state money transmitter regulators that have concurrent jurisdiction over a regulated entity.

In 2002, Congress passed the Sarbanes–Oxley Act of 2002 (Pub.L. 107–204, 116 Stat. 745), federal law that set new or expanded requirements for all U.S. public company boards, management, and public accounting firms. There were several provisions of the Act that also apply to privately held companies. The bill, which contains eleven sections, was enacted as a reaction to a number of major corporate and accounting scandals, including Enron and WorldCom. Sections of the bill cover responsibilities of a public corporation's board of directors, which includes publicly traded financial institutions, adds criminal penalties for certain misconduct, and required the Securities and Exchange Commission to create regulations to define how public corporations are to comply with the law. The Department began reviewing corporate governances and evaluating external audit work papers.

In 2002, the Finance Commission Chair announced the commencement of a study of agricultural business lending in Texas. The study provided any overview of historical trends along with current perceptions and experience of industry professionals and participants. The conditions, opinions and experiences of agricultural producers operating in the state were included in the results. The study concluded that credit facilities are sufficiently available to all financially responsible agricultural producers.

In 2002, the Department issued 14 certificates of registration for 14 PCSEAs with 15 offices. To help administer Chapter 396 of the Texas Finance Code, the Finance Commission adopted Title 7 of the Texas Administrative Code Chapter 31 which covers topics as (1) how to register a PCSEA; (2) responsibilities of a registered PCSEA; (3) adding, closing or relocating a PCSEA office; (4) transferring control of a PCSEA; (5) cessation of a PCSEAs business; (6) exercise of the Department's enforcement authority; (7) foreign PCSEA agencies; and (8) civil remedies for a violation of Chapter 396.

In 2002, the Department participated in its first joint state examination of a MSB with the California Division of Financial Institutions.

In 2002, FinCEN promulgated an interim final rule, Title 31 Code of Federal Regulations (CFR) Part 103, which mandates that MSBs must develop and implement an anti-money laundering program no later than July 24, 2002. A license holder and agent under either Chapter 152 or 153 of the Texas Finance Code are considered an MSB under the Federal definition. MSB license holders were notified in July 2002 that examination procedures had been added to verify compliance with these requirements at each Department examination.

In 2003, the 78th Legislature passed S.B. 300 which amended 712 of the Texas Health and Safety Code and increased the rates for required perpetual care deposits. It further required the timely placement of markers or monuments in a PCC.

In 2003, S.B. 1583 added a new chapter (Chapter 278) to the Texas Finance Code requiring additional disclosure information be given to consumers who elect to transmit money.

In 2003, a major court case, Wells Fargo v. James, involved a claim by plaintiff banks that Texas Business and Commerce Code §4.112 is preempted by the National Bank Act, 12 U.S.C. §21 et seq., and 12 C.F.R.§7.4002 (a). Section 4.112 prohibits a bank from charging fees to non-account holders for cashing checks drawn on that bank. The U.S. Court of Appeals for the Fifth Circuit, affirming a decision noted below, held that the National Bank Act, specifically, 12 U.S.C. 24 (Seventh), preempts state law prohibiting the charging of fees for cashing on-us checks. Wells Fargo v. James, 321 F.3d 488 (5th Cir. 2003). The OCC participated as amicus in the litigation. It was reaffirmed that national banks may charge a non-accountholder a convenience fee for using a bank teller to cash an “on us” check. An “on us” check is a check drawn on the bank by one of the bank’s customers. The fee is essentially compensating the bank for making cash immediately available to the payee; otherwise the payee would have to wait for the check to clear through the payment system.

In 2003, Article XVI, Section 50, of the Constitution was amended to allow a home equity line of credit and the refinancing of a home equity loan with a reverse mortgage. The Constitution was also amended to allow the Finance Commission and Credit Union Commission interpretative authority of home equity laws and permitted lender cure provisions. The amendments were part of S.B. 1067, S.J.R. 42 and H.J.R. 23 in the 78th Regular Session. On September 13, 2003, voters approved the provisions.

In 2003, the Check Clearing Act for the 21st Century was passed. The law facilitates check truncation by removing the legal obstacles that require financial institutions to physically present and return original checks. The Check Clearing Act for the 21st Century also authorizes substitute checks and provides that a properly prepared substitute check is the legal equivalent of the original check.

In 2003, the Finance Commission approved a rule authorizing state banks to offer and sell debt cancellation contracts and debt suspension agreements. This was a result of S.B. 1445 which amended Texas Finance Code 342 to authorized licensed lenders to offer debt cancellation and debt suspension agreements to borrowers of consumer loans not secured by real property.

In 2003, State of Texas v. the Marmon Mok Partnership et al. filed in 1995 against the contractor, architectural firm and structural engineering firm involved in the renovation of and third floor addition to the Finance Commission Building, to remedy recently-discovered design flaws and contraction defects was settled. The defendants' offer to settle in 2003 was accepted by the State of Texas.

In 2003, the method of revenue generation for the PFC program changed from examination fees (per examiner day), to annual assessments that may be billed quarterly or fewer times based upon outstanding contracts.

In 2003, CSBS re-accredited the Department for the third time. The Department had 152 employees, and exercised oversight responsibility of 338 commercial banks with total assets of $61.5 billion. The Department also had oversight of 28 trust companies doing business with the public, 8 FBAs, 423 PFCs, 233 PCCs, 64 sale of checks licensees, and 79 currency exchange licensees.

In 2003, the method of revenue generation for the PCC program changed from examination fees (per examiner day), to annual assessments that may be billed quarterly or fewer times based upon the outstanding statutory trust fund balance reflected on the PCC's statement of funds in their annual renewal report.

In 2003, Equitable Trust Co. v. Finance Commission and Department of Banking was affirmed. The suit sought to reduce the trust company's 1999 examination fees and challenged the Department's fee structure on the basis that the method of calculating fees did not meet statutory requirements. In 2003, the Austin Court of Appeals affirmed a district court decision upholding the validity of the Department's methodology for calculating examination fees and finding that the specific examination fees charged to the trust company were reasonable.

In 2004, representatives of the Department travelled to Mexico City, at the request of the Mexican Senate Committee on North American Affairs, to give an overview of how money remittance statutes operate in Texas.

In 2004, the Department investigated an individual company selling preneed mausoleums and misappropriating funds. The agency solicits assistance from the Consumer Protection Division of the Office of Attorney General. One cemetery involved was placed in receivership in 2005. The individual who misappropriated the funds filed for bankruptcy, and the defalcation directly resulted in additional legislation being enacted in 2005.

In 2004, the OCC issued two regulations regarding the applicability of state law to national banks. The first rule specifies which state laws generally apply to national bank operations and which laws do not. The second rule provides that the visitorial powers of the OCC are exclusive for national banks and national bank operating subsidiaries. The rules prohibit states from regulating national banks with regard to receiving deposits, lending, and licensing. Under these rules, state laws regarding contracts, torts, criminal law and right to collect debts, acquisition and transfer of property, taxation, and zoning only apply to national banks to the extent they incidentally affect the exercise of national bank powers. The rules also bar states from licensing, examining or regulating state-chartered corporations that are subsidiaries of national banks.

In 2005, the 79th Legislature passed S.B. 1173 creating a new subchapter in 712 of the Texas Health and Safety Code to limit how a cemetery corporation could directly or indirectly sale or offer for sale an undeveloped mausoleum space to the public. S.B. 1173 also amended 712 of the Texas Health and Safety Code to grant the Department examination authority to verify compliance with the new subchapter.

In 2005, a district court issued a Temporary Restraining Order and appointed a Temporary Receiver to run the day-to-day activities for a PCC previously discussed in the 2004 summary noted above. The court appointed a permanent receiver on April 20, 2006 and the court executed a final order to terminate the receivership on January 19, 2011. This court action allowed a new owner to take possession of the cemetery.

In 2005, the Department facilitated the recovery of misappropriated funds for PFCs of approximately $249,500.

In 2005, the Department executed a MOU with FinCEN and the IRS to allow for the exchange of certain BSA information between the agencies. The purpose of the MOUs was to help facilitate a more efficient oversight of the MSB industry.

In 2005, the Department celebrated its one-hundred-year centennial anniversary. The Department chartered or licensed 329 state-chartered banks, 8 FBAs, 24 trust companies, 424 PFCs, 239 PCCs, 69 currency exchangers, 68 money transmitters. The Department had 150 employees. The Department also developed and produced a written history of the first 100 years of Texas banking and agency operations entitled “Without Compromise, Fear or Favor.”

In 2005, Hurricane Rita made landfall on the eastern Texas Gulf Coast. Financial institutions as far inland as 100 miles suffered disruptions. Some banking facilities in and around the area had a difficult time opening for normal business. In the wake of this disaster, oil and gas prices rose dramatically.

In 2005, the Texas Money Services Act (Act of May 26, 2005, 79th Leg., R.S., H.B. 2218, §1) was enacted. The Act consolidated chapters 152 and 153 relating to MSBs into Chapter 151 of the Texas Finance Code and repealed the Sale of Checks and Currency Transmission Act. The Act also reduced the amount of net worth and security required of currency exchangers; changes the method of computing the new worth requirements for money transmitters; and changes the method of computing the security and permissible investment requirements of money transmitters. The Act also provided the Finance Commission the authority to adopt rules regarding authorized delegates as well as examination authority over authorized delegates.

Between the 78th and 79th Legislature, the House Financial Institutions Committee sought to identify those areas in Texas’ laws that discouraged major lending institutions from locating in Texas and discouraged commercial lending by Texas-based institutions. The Finance Commission and the Credit Union Commission conducted a study to compare Texas laws related to financial institutions with federal laws and determine which state laws may be preempted or invalidated by federal law. As a result, H.B. 955 made changes to 27 chapters of the Texas Finance Code, including consumer and commercial lending, usury reform, enforcement and penalties, and the powers of each state regulatory agency.

In 2005, the Federal Financial Institutions Examination Council (FFIEC) released a comprehensive examination manual for BSA/AML. The Department adopted these procedures in order to perform BSA/AML examinations. The Department focused on educating and training financial institutions, MSBs, and its examination staff.

In 2006, the banking commissioner adopted Supervisory Memorandum 1023. This memorandum expands the examination frequency to an 18-month cycle for certain qualifying MSB license holders. In 2006, the Department seized the records and funds of an entity operating a MSB without a license. The district court appointed a Temporary Receiver to run the day-to-day activities of this company. The internet company that offered electronic money orders had 17,000 customers with deposits of approximately $7,000,000, of which 600 were Texas customers with approximate account balances totaling $500,000. The settlement repaid customer funds.

In 2006, the banking commissioner issued Supervisory Memorandum 1021 concerning consumer awareness about fraud-induced wire transfers. The memorandum provides guidance and establishes best practices for MSB license holders with regards to developing customer awareness programs to combat fraud-induced wire transfers.

In 2006, the Department facilitated a meeting between representatives from FinCEN, the Office of the Attorney General, and the currency transmission industry to focus on the current inconsistencies between federal and state recordkeeping requirements applicable to MSBs. Several suggestions made during the meeting were adopted into the final MSB recordkeeping rules.

In 2006, the Department opted to take a proactive approach to financial education in Texas by creating a financial education coordinator position to serve as the point of contact for information exchange to address financial education issues in Texas. This was done to support the 79th Legislature's actions to enact law requiring the incorporation of financial literacy into Texas high schools.

Between 2006 and 2007, the subprime lending crisis developed. Federal regulators issued two guidances regarding nontraditional mortgage products and sub-prime mortgage lending.

In 2007, the Department facilitated the recovery of approximately $340,522 related to the misallocation of PFCs.

In 2007, the 80th Legislature amended the Texas Finance Code to encourage financial literacy programs initiated by banks, allow for examination scheduling priorities and flexibility, revised the legal lending limit calculation, addressed the classification of mineral or royalty interest, aligned deposits eligible for asset pledging to maintain parity with other financial institutions, and allowed for regulatory authority to facilitate disaster recovery.

In 2007, H.J.R. 72 proposed a constitutional amendment to clarify certain provisions relating to the making of a home equity loan and use of home equity loan proceeds in Texas. The resolution clarified the designation of an agricultural exemption, the permissibility of electronic loan applications, the right of an owner to voluntarily use proceeds to pay off other debt, and the provisions regarding blanks in the agreement. H.J.R. 72 also amends the provisions regarding open-end home equity loans related to the methods for disbursing funds. It modifies the provision prohibiting the use of a preprinted solicitation check to a prohibition on the use of a solicitation check with any amount preprinted.

In 2007, the Legislature created a new system for banks to use to report on customers who are victims of identity theft. The bill required the Department to establish a notification system for the sole purpose of facilitating compromised accounts information to a check verification company by a financial institution. Check verification companies are required to register with the Department in order to obtain the information (Chapter 35 of Texas Business and Commerce Code, Chapter 11 of Texas Finance Code).

In 2007, new regulations were established to report mortgage fraud in Texas. H.B. 716 requires a lender to provide each applicant a written notice of penalties for making false or misleading written statements, as well as establishing a penalty in the Texas Penal Code for such statements. The legislation further established the Texas Residential Mortgage Fraud Task Force, which includes the Texas Department of Banking as a member. The Task Force was disbanded by the 85th Legislature in 2017.

In 2007, the national financial crisis began and a series of major financial institutions failed.

In 2007, Comerica Bank became a part of the Texas state banking system. Comerica Bank became the largest Texas-based bank, with assets of $60.1 billion, and over 400 branches in Michigan, California, Texas, Florida, and Arizona.

In 2008, the Department facilitated the recovery of approximately $548,215 in misappropriated funds related to PFCs.

In 2008, the Department entered an Agreed Order with a license insurance-funded permit holder to stop selling PFCs in Texas and at the same time the TDI issued a Hazardous Financial Condition Order against two insurance companies that funded PFCs in several states, including Texas. In November 2013, six individuals associated with these companies were sentenced to prison terms from 18 months to 10 years for defrauding purchasers of preneed funeral contracts of more than $450 million in several states, including Texas. This defalcation ultimately resulted in significant revisions to the PFC statutes enacted in 2009.

In 2008, the House Committee on Financial Institutions was charged to study insurance-funded PFCs. The agency participated in the hearings, hosted stakeholder meetings, and gathered information for the committee. Revisions to this area of regulation were incorporated in a bill filed during the 81st Regular Session.

In 2008, FinCEN released the first MSB BSA/AML Examination Manual with the goal of achieving consistency in the application of BSA requirements among states and the IRS when performing MSB examinations. The Department worked closely with FinCEN along with the IRS and various other state representatives during the development stages and was one of a few selected states to field test the manual.

In 2008, the Department seized the records from an entity for selling prepaid funeral benefit trust-funded contracts without a permit and for failing to deposit $329,599 in money collected from these sales. At the criminal trial where the Department was the prosecutor's main witness, this person was found guilty and was sentenced to 10 years in prison.

In 2008, the banking commissioner and FDIC executed an information-sharing agreement to enhance the ongoing working relationship between the two agencies.

In 2008, the Department launched the Closed Account Notification System or CANS. As of March 1, 2008, account holders at depository institutions in Texas can request that their closed account information be submitted via the system.

In 2008, CSBS re-accredited the Department for the fourth time. As of June 30, 2008, the Department had 169 employees, and exercised oversight responsibility of 328 commercial banks with total assets of $153.9 billion. The Department also had oversight of 22 trust companies doing business with the public, 8 FBAs, 413 PFCs, 242 PCCs, and 130 MSBs. Other registered entities not subject to examination included 12 PCSEAs and 6 check verification companies.

In 2008, the Housing and Economic Recovery Act was signed into law by President Bush. The Act was aimed at addressing the nation's real estate and economic crisis. Housing finance reform, foreclosure prevention, and tax provision are included in the Act. Of interest is the Secure and Fair Enforcement (S.A.F.E.) Mortgage Licensing Act which established minimum licensing requirements for all residential mortgage loan originators, including bank and bank holding company employees.

In 2008, the Emergency Economy Stabilization Act was enacted by Congress and signed by President Bush. The Act granted broad powers to the U.S. Treasury, FRB, and FDIC. Several programs were created as a result to help stabilize the financial services system. The Department monitored the programs and routinely reported the information to the Finance Commission. One programs temporarily increased the FDIC deposit insurance coverage from $100,000 to $250,000.

In 2008, two Texas financial institutions failed – one state-chartered bank and one state-chartered thrift. These are the first Texas state-chartered institutions to fail since 2002.

In 2009, the number of problem banks nationwide rose from 171 at year-end 2008 to 702 at year-end 2009. A total of 140 banks failed nationwide; the highest annual total since 1992. Of these, five were Texas banks – three state-chartered banks, one national bank and one federal thrift. MSBs also suffered during the economic downturn, forcing some to surrender their license or raise additional capital.

In 2009, four state financial regulatory agencies, including the Finance Commission agencies, were granted SDSI status in the 81st Regular Session. H.B. 2774 allows the agencies' oversight boards to set the spending authority or limits for the agencies. The Department established contracts with the Office of Attorney General and Texas Comptroller of Public Accounts for services.

In 2009, the 81st Legislature passed S.A.F.E., a compliant legislation as required by the federal S.A.F.E. Act. To ensure Texas was complying, H.B. 10, H.B. 2774, and H.B. 2779 were enacted.

In 2009, H.B. 3762 amended Chapter 154 of the Texas Finance Code, establishing requirements for sellers of PFCs. The bill also amended sections relating to PFC premiums and insurance-funded contracts, and added a new section establishing requirements for insurance policies. The examination period was extended to 18-months with provision for the commissioner to extend or reduce the period six months. The bill further required examination ratings to be adopted by rule, expanded the PFC guaranty fund to include insurance-funded contracts, required qualitative standards for issuance of new permits and renewal of existing permits, increased oversight in the transfer of an existing permit holder's business, created an informational brochure and a new website for consumers, created an eight member Advisory Committee to review and make recommendations regarding the regulation of insurance-funded contracts, and required the Department to develop and publish an examination manual with input from the Advisory Committee.

In 2009, H.B. 1031 amended Section 712.007(c) of the Texas Health and Safety Code to specifically reference that cemetery property roads are included in the definition. As a result, all cemetery sales contracts, certificate of ownership forms, and any other cemetery contract issued after September 1, 2009 had to include the revised definition.

In 2009, the U.S. Treasury released a proposal for reforming the financial regulatory system. This includes the creation of the CFPB.

In 2010, the banking commissioner acted against an entity operating an alternative payment system that was designed to mobilize the value of gold without the required Texas MSB license. The entity was also investigated by the U.S. Secret Service, IRS Criminal Investigation, and the Federal Bureau of Investigation (FBI)**.** Three principal directors and owners of the company plead guilty to criminal charges relating to money laundering and the operation of an illegal money transmitting business.

In 2010, the Department assisted the Department of Aging and Disability Services in the recovery of approximately $252,000 in misappropriated prepaid funeral funds.

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 was signed into law. The Act changed the regulatory structure of the U.S. financial regulatory system and is categorized into sixteen titles, requiring regulators to create approximately 243 rules, conduct 67 studies, and issue 22 periodic reports. The Act formally created the CFPB. Certain provisions were not immediately effective, however, some provisions that impact state law became effective on the "Transfer Date" (July 21, 2011), including the ability to allow states to bring consumer protection lawsuits against national banks and federal thrifts.

In 2010, the Department launched the prepaid funeral contract website, as required by H.B. 3762, to provide information to enable consumers to make informed decisions relating to the purchase of preneed funeral contracts including descriptions of the trust and insurance funding options.

In 2010, the Department published an informational prepaid funeral brochure as required by 81st Legislature. In developing a brochure titled *Information About Prepaid Funeral Planning*, the Department solicited input from the prepaid funeral industry and consumer groups. Beginning in early summer, the brochure must be presented to each potential purchaser of a prepaid funeral benefits contract.

In 2010, the Department aligned the domain names of each website it maintains as required by the DIR policy. Sites are to follow the [state].gov. naming convention.

In 2010, the banking commissioner formed the Electronic Crimes Task Force in cooperation with the U.S. Secret Service to address the growing risk of cyber-attacks through Corporate Account Takeovers. The Task Force's initial objective was to address Corporate Account Takeover problems and issuing best practices.

In 2010, the total number of Texas state-chartered problem banks peaked at 58. Nationally, 154 banks failed, of which one was a Texas national bank.

In 2010, the Department completed its first fiscal year as a SDSI agency in August.

In 2011, the banking commissioner with the assistance of the TDI and local district attorney facilitated the recovery of misappropriated prepaid funeral funds of approximately $172,000.

In 2011, 92 banks across the nation failed. One of those banks was a Texas state-chartered bank.

In 2011, S.A.F.E. Act and Mortgage Loan Originators (MLOs) Training was conducted by the Department. The new mortgage loan originator registration system for bank MLOs began operation, at which time banks had six months to complete their MLO registration. MLOs are prohibited from originating residential mortgage loans until they successfully complete the federal registration process.

In 2011, S.B. 249 of the 82nd Legislature increased the size of the Finance Commission from nine members to eleven members. One of the new members must be a banking executive. S.B. 1008 also amended the makeup to allow the seat dedicated to a mortgage broker could be held by a residential mortgage loan originator.

In 2011, H.B. 3004 amended Chapter 154 of the Texas Finance Code to extend guaranty fund coverage to third-party funeral providers who enter a PFC after the effective date of the bill.

In 2011, H.B. 2495 amended Chapters 711 and 712 of the Texas Health and Safety Code, resulting in amendments to Title 7 of the Texas Administrative Code Chapter 26. A significant change was the implementation of ongoing minimum capital and financial fitness requirements for all PCCs. For PCC certificate holders who incorporated after September 1, 1993, they must maintain a minimum equity or net worth of $75,000.

In 2011, H.B. 1146 was enacted establishing standards related to appraisal reports on residential properties in Texas. Registration of appraisal management companies was required after March 1, 2012.

In 2011, S.B. 1165 was approved to enhance the banking commissioner's ability to ensure the safety and soundness of the Texas banking industry by allowing the commissioner to increase penalties against banks and individuals. The limit for banks increases from $500 to $10,000 for each violation for each day the violation continues, and a person other than a bank is subject to $5,000 following the same criteria. In addition to the per day limit, S.B. 1165 also imposed a maximum total administrative penalty of (1) for a bank, the lesser of $500,000, or one percent of the bank's assets and (2) for a person other than a bank, $250,000.

In 2011, S.B. 762 mandated that the Finance Commission study the fees, costs, interest, and other expenses charged to property owners by property tax lenders in conjunction with the transfer of property tax liens and the payoff of loans secured by property tax liens.

In 2011, the Department signed a MOU between the CSBS and CFPB to establish and enhance the cooperative relationship between the CFPB and state regulators of consumer financial products and services.

In 2011, the first concurrent MSB examination was conducted with the IRS.

In 2011, the Department initiated free financial education webinars as an outreach program for financial institutions and Texas consumers. The inaugural webinar was co-hosted with the FDIC.

In 2012, the banking commissioner and the U.S. Secret Service Dallas Field Office jointly announced efforts to assist financial institutions in adopting practices designed to reduce the risks of corporate account takeover. Working with the Electronic Crimes Task Force and Texas banks, the U.S. Secret Service launched “Operation Texas Money Mule,” a global undercover operation.

In 2012, the Department announced a new online service allowing all entities licensed by the Special Audits Division the option to renew their license online, bringing the benefits of e-government to these entities.

In 2012, Frost Bank, a banking subsidiary of Cullen/Frost Bankers, Inc. with assets of $20.4 billion, completed its conversion from a national bank to a Texas state-chartered bank.

In 2012, FinCEN established a working group to review and provide suggestions for revisions to the BSA/AML examination. The Department was appointed as a member of the working group.

In 2012, the Department signed the Nationwide Cooperative Agreement for MSB Supervision. The agreement created the MMET.

In 2013, the Department uncovered the misallocation of MSB funds related to accelerated mortgage payments. In July 2013, a district court issued a Receivership Order and on October 27, 2016, the district court granted the Receivers’ Motion for Discharge and to Close Case. Consumers received only pennies on the dollar as a recovery.

In 2013, the banking commissioner issued Supervisory Memorandum 1035 concerning licensing of foreign-located money transmitters under Texas Finance Code Chapter 151.

In 2013, the Texas Electronic Crimes Task Force was reconvened by the banking commissioner to elevate the priority and broaden the scope of the banking industry’s engagement in addressing cyber threats.

In 2013, the Department and CFPB entered the State-Supervisory Coordination Framework Agreement which detailed the responsibilities and coordinating rules between the parties, examination process, corrective actions, and other supervisory procedures.

In 2013, CSBS partnered with the FRB of St. Louis to research Community Banking in America in the 21st Century. The Department supported the initiative and hosted town hall meetings around the state to gather input from the industry.

In 2013, the 83rd Legislature enacted S.B. 661 which amended Chapters 711 and 712 of the Texas Health and Safety Code relating to cemeteries. The bill amended definitions and removed platting requirements when the only change is the addition of a small multiple cremains receptacle. Additional amendments clarified that the minimum capital requirements apply to each cemetery owned by a cemetery corporation; made unauthorized multiple burials in a cemetery plot or unauthorized removal of remains from a plot a second-degree felony criminal violation; and clarified that a change in ownership of 51% or more of the business requires an application for a new certificate of authority (COA).

In 2013, S.B. 297 amended Chapter 154 of the Texas Finance Code to clarify procedures for administrative hearings and court hearings, allow the banking commissioner to issue subpoenas for particular investigations and to prohibit wrongdoers from participating in the sale of prepaid funeral benefits.

In 2013, Chapters 151 and 278 of the Texas Finance Code are amended by the 83rd Legislature to clarify and correct language, eliminate conflicts with federal regulations, allow the use of a national registry for MSB licensing, and generally improve the efficiency of administering the statutes.

In 2013, H.B. 52 amended Chapter 711 of the Texas Health and Safety Code, adding the definition of a cemetery broker; registration requirements of a cemetery broker with the Department; requirements for handling consumer complaints; and termination of registration. The bill also added a section on the powers and duties of the Department relating to cemetery brokers which includes administration, fees, and examination of records.

In 2013, H.B. 3068 was passed, prohibiting a surcharge on purchases made using a debit card or stored value card instead of cash, credit card or a similar means of payment. The Department investigated and responded to 23 complaints in which merchants appeared to be acting contrary to the law.

In 2013, the Department launched the Corporate Application Filing Entry System (CAFE) to allow supervised entities to submit applications or notices electronically. The system eliminates the time and expense of printing, copying, and mailing documents and allows for a higher level of efficiency.

In 2013, CSBS announced the Department's fifth re-accreditation. As of June 30, 2013, the Department had 191 employees and exercised oversight responsibility of 288 commercial banks with total assets of $203.3 billion. The Department also had oversight of 21 trust companies doing business with the public, 10 FBAs, 390 PFCs, 243 PCCs, and 137 MSBs. Other registered entities not subject to examination included 11 PCSEAs, 3 cemetery brokers, and 3 check verification companies.

In 2013, the Department conducted its first joint MSB examination with FinCEN.

In 2013, of the 24 bank failures in the U.S., Texas accounted for two; both were national charters.

In 2014, oil prices fell by nearly 50% in the second half of 2014, as a flood of crude from U.S. shale activity disrupted the global oil market. While this downturn affected a relatively small number of state-chartered banks, it created uncertainty regarding the indirect impact it would have on the broader state economy going forward.

In 2014, Deputy Commissioner Newberg was elected President of MTRA.

In 2014, the banking commissioner facilitated the recovery of approximately $380,270 in funds related to the misappropriation of PFC fund benefits.

In 2014, the banking commissioner issued Supervisory Memorandum 1038 setting out the Department's interpretation of what it means for a money transmission license holder to conduct business through an authorized delegate under the Texas Finance Code. The memorandum also establishes key criteria the Department will use when determining if a license holder is conducting its business through an authorized delegate.

In 2014, five cemetery brokers registered with the Department.

In 2014, the Department issued Supervisory Memorandum 1037, becoming the first state to issue guidance and establish the regulatory treatment of cryptocurrency currencies under the existing money transmitter laws.

In 2014, the Department held an Executive Leadership of Cybersecurity seminar to discuss the current cyber threat landscape, the collection and sharing of cyber threat intelligence and best practices in cybersecurity management. Community bank chief executive officers and senior executive leadership attended the event. U.S. Treasury Deputy Secretary Sarah Bloom Raskin was the keynote speaker. This program was replicated in several states nationwide.

In 2014, the Department's website was redesigned and featured more information, easier navigation, and improved accessibility. In addition, the new format gave the Department the ability to develop an official portal called DEX to communicate and share documents securely with entities regulated by the Department.

In 2014, the Department began accepting MSB applications through the Nationwide Multistate Licensing System & Registry (NMLS) system.

In 2014, the fee assessment schedule applicable to all licensed MSBs, was modified to reflect two revised schedules, one applicable to money transmission licensees and one applicable to currency exchange licensees, to make it more equitable for each type of MSB license. The annual license fee was also included in the assessment fee rather than separately charged and collected.

In 2015, Commissioner Charles G. Cooper testified before the House Financial Institutions' Subcommittee on Financial Institutions and Consumer Credit in Washington, D.C. The subject matter of the hearing dealt with examining the regulatory burdens from a regulator's perspective.

In 2015, the commissioner issued Supervisory Memorandum 1040 to provide MSB license holders with industry best practices regarding the documentation of authorized delegate (AD) compliance monitoring efforts. In addition, it is the intent of this memorandum to offer general guidance for AD file content and structure to facilitate more efficient and effective regulatory review, to improve MSB compliance, and to reduce the demands on limited license holder resources.

In 2015, the commissioner issued an Emergency Order to Cease and Desist Activity, to Seize Records and Funds, and to Cancel a Permit, relating to the misappropriation of approximately $290,250 in PFC funds. The local police department also investigated the situation.

In 2015, the Department notified financial institutions of the expectations regarding cybersecurity assessments. Examination staff began reviewing completed cyber assessments performed by state-chartered banks and continued these reviews at regularly scheduled examinations and special off-site reviews.

In 2015, Texas Finance Code §§12.101 and 13.002 were amended by the 84th Legislature to clarify that the Finance Commission appoints the Banking and Savings and Mortgage Lending Commissioners by a majority vote.

In 2015, the Texas Bullion Depository was established by the 84th Legislature. The administration of the depository was assigned to the Texas Comptroller of Public Accounts. The law further expanded the definition of a MSB to include activities of a depository agent and creates a licensing requirement for depository agents under the regulation of the Department.

In 2015, H.B. 3555 amended Chapters 31, 35, 181, 185 and 202 of the Texas Finance Code. Primarily, the bill clarifies prohibition authority against individuals with felony convictions and authorizes injunctive relief in cease and desist orders.

In 2015, the 84th Legislature approved changes for trust companies. These included the requirements for restricted capital; aligning examination authority with that for banks; establishing confidentiality of statement of condition and income for exempt trust companies and streamline reporting requirements; expanding the scope of family members and interests that may be served by private trust companies; and establishing other guidelines for exempt trust companies.

In 2015, Chapter 712 of the Texas Health and Safety Code was amended, authorizing the commissioner to petition a court for modification of trust and transfer of funds to an entity taking over a cemetery. The amendments further clarify the authority to bring injunctive actions and requirements for emergency orders.

In 2015, S.B. 899 amended Chapter 151 of the Texas Finance Code. The bill clarified the licensing exclusions for persons engaged in currency transportation and clarified the definition of money transmission. The bill further increased the amount of security required for an internet currency exchange applicant and license holder; and authorized county prosecutors to pursue criminal violations.

In 2015, Title 7 of the Texas Administrative Code Section 3.37(a) was amended to adjust the way assessments applicable to state banks are calculated (40 TexReg 7620). The first annual inflationary adjustment is set for September 1, 2017.

In 2015, the first concurrent MSB examination was conducted with the CFPB.

In 2016, Commissioner Charles G. Cooper was elected Chairman of the CSBS Board.

In 2016, total assets for Texas state-chartered banks were $254.6 billion as of December 31st, up $7.7 billion over the previous year. This growth occurred despite a reduction of eight state banks in 2016 to 244 state banks.

In 2016, depressed oil prices impacted the energy sector industry. With over two years of an oversaturated oil market, oil and gas companies were led to bankruptcy, as they were unable to make a profit due to depressed barrel prices. Seventy oil and gas producers filed for bankruptcy. Problem banks increased from a low of seven in 2015 to a high of 14 in 2016.

In 2016, the banking commissioner executed seven separate Consent Orders to seven different entities for providing online money transmission services to Texas customers without the required Texas MSB license.

In 2016, the banking commissioner issued Supervisory Memorandum 1013 that authorizes MSB license holders to release examination reports to banks under certain conditions. This memorandum was issued to assist MSB license holders with opening or maintaining bank accounts.

In 2016, the banking commissioner issued Supervisory Memorandum 1015 which clarifies that under the Texas Money Services Act, an MSB license holder must have an in-house Chief Compliance Officer, but may outsource other BSA compliance functions.

In 2016, the Department was named as a Temporary Receiver to run the day-to-day activities of a troubled PCC; the District Court approved the Receiver's request to transfer the cemetery to Dawson County and the proposed plan of distribution of funds to claimants.

In 2016, the State Auditor's Office completed its audit report on the Texas Department of Banking: A Self-Directed, Semi-Independent Agency (Summary of Report 17-012).

In 2017, the banking commissioner executed two separate Consent Orders to two different entities for providing online money transmission services to Texas customers without the required Texas MSB license.

In 2017, the Department approved the first de novo bank application since 2009.

In 2017, the banking commissioner testified before the Senate Committee on Banking, Housing and Urban Affairs in Washington, D.C. The subject matter of the hearing dealt with a call to end the one-size-fits-all bank regulation and instead tailor regulations to different kinds of banks.

In 2017, several bills became law that affect the Department and the entities it regulates. A detailed discussion of those bills is located in Part B of Section VIII. Statutory Authority and Recent Legislation.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Texas Department of Banking
Exhibit 3: Policymaking Body

Member Names	Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)	Qualification *(e.g., public member, industry representative)*	City
Stacy G. London Chair	Term Expires: Feb 1, 2020 Appointment Date: June 26, 2008 Governor	Mortgage Industry Representative	Houston
Robert (Bob) Borochoff	Term Expires: Feb 1, 2022 Appointment Date: Feb. 23, 2016 Governor	Public Member	Houston
Hector J. Cerna	Term Expires: Feb 1, 2020 Appointment Date: Dec. 16, 2015 Governor	Banking Industry Representative	Eagle Pass
Margaret (Molly) Curl	Term Expires: Feb 1, 2022 Appointment Date: Feb. 23, 2016 Governor	Public Member - CPA	Richardson
Phillip A. Holt	Term Expires: Feb 1, 2022 Appointment Date: Feb. 23. 2016 Governor	Consumer Credit Industry Representative	Bonham
William M. (Will) Lucas	Term Expires: Feb 1, 2018 Appointment Date: Sept. 27, 2011 Governor	Savings Bank Industry Representative	Center
Lori B. McCool	Term Expires: Feb 1, 2020 Appointment Date: Feb. 27, 2009 Governor	Public Member	Boerne
Matthew (Matt) Moore	Term Expires: Feb 1, 2022 Appointment Date: Feb. 23, 2016 Governor	Public Member	Amarillo
Paul Plunket	Term Expires: Feb 1, 2020 Appointment Date: June 26, 2008 Governor	Public Member	Dallas
Vince E. Puente, Sr.	Term Expires: Feb 1, 2018 Appointment Date: Aug. 25, 2016 Governor	Public Member	Ft. Worth
Hilliard (Jay) Shands, III, Vice Chair	Term Expires: Feb 1, 2018 Appointment Date: Aug. 23, 2010 Governor	Banking Industry Representative	Lufkin

Table 3 Exhibit 3 Policymaking Body

COMPOSITION DETAILS ON POLICYMAKING BODY

The Finance Commission of Texas (Finance Commission) originated in 1943 and derives its authority from Chapter 11 of the Texas Finance Code. The Finance Commission is not a state agency, but an oversight body of Texas citizens. The Finance Commission consists of eleven members appointed by the Governor, subject to Senate confirmation. Members serve overlapping, six-year terms. Effective September 1, 2011, the Commission is to include two banking executives, one savings executive, one consumer credit executive, one residential mortgage loan originator and six public members, one of whom must be a certified public accountant. Not more than two members may be residents of the same state senatorial district.

Prior to 1943, the policymaking authority was the State Banking Board. The history of the Finance Commission as it relates to the Texas Department of Banking is outlined in Section III.

B. Describe the primary role and responsibilities of your policymaking body.

The Finance Commission is responsible for overseeing and coordinating the Texas Department of Banking, the Department of Savings and Mortgage Lending, and the Office of Consumer Credit Commissioner (the Agencies) and serves as the primary point of accountability for ensuring that state depository and lending institutions function as a system, considering the broad scope of the financial services industry.

The Finance Commission appoints, monitors, and evaluates the performance of the banking commissioner, savings and mortgage lending commissioner, and consumer credit commissioner.

The Finance Commission is responsible for implementing policies through its rulemaking authority carried out in accordance with the Administrative Procedures Act, Texas Government Code, Chapter 2001. The Finance Commission advocates and exercises a system of open communication and broad stakeholder engagement for rulemaking.

C. How is the chair selected?

The Governor appoints the presiding officer. The duties of the presiding officer or chair are outlined in Texas Finance Code §11.107. Stacy G. London, a residential mortgage loan originator from Houston, Texas, was appointed chair in February 2016. In furtherance of providing for the orderly operations of the Finance Commission, the chair designates a vice-chair who performs this function in the chair's absence. The chair appointed Hilliard (Jay) Shands, III, a banking executive, as vice-chair in April 2016.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

The Finance Commission appoints an agency commissioner to serve as the executive director to the Finance Commission. Banking Commissioner Charles G. Cooper was appointed to serve as the executive director effective May 2014. All administrative functions of the Finance Commission are performed by the staff of the executive director. An attorney from the Office of Attorney General is assigned to assist the Finance Commission on legal matters.

Other responsibilities:

(1) The Finance Commission selects a firm to perform the internal audit functions for the Agencies and supervises the activities of the internal auditor. The Finance Commission reviews all audit reports from both the internal auditor and other state and federal agencies and approves and monitors corrective actions, if any.

(2) The Finance Commission is required to prepare and periodically update a strategic plan for coordination of the state financial system. The last five-year plan was prepared and adopted in August 2016.

(3) Appeals of certain actions taken by an Agency may be heard by the Finance Commission.

(4) The Finance Commission may instruct an Agency to conduct research on the availability, quality, and prices of financial services, including lending and depository services, offered in Texas to agricultural businesses, small businesses, and individual consumers and the practices of business entities in Texas that provide financial services to agricultural businesses, small businesses, and individual consumers.

(5) The Finance Commission reviews the Office of Consumer Credit Commissioner's reports on high-cost lending in Texas and the Texas Department of Banking's and Department of Savings and Mortgage Lending's semi-annual *Condition of the Texas State Banking System* reports.

Finance Commission members serve without remuneration but do receive travel expense reimbursements.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2016? In FY 2017?

Texas Finance Code §11.106 requires that the Finance Commission meet at least six times a year. In fiscal year 2016, the Commission met six times. In December 2015, meetings were made available via live streaming for the public. All meeting packet information, agendas, minutes, and related audio are available on the Finance Commission website. In fiscal year 2017, the Finance Commission met six times, with the sixth meeting being held on August 18, 2017.

F. What type of training do members of your agency's policymaking body receive?

A one-day orientation is conducted for new Finance Commission members before their first meeting, which includes a review of: statutory responsibilities of the Finance Commission and its members, including laws related to public officials and conflicts of interest; open meetings procedures; open records and public information laws; ethics; administrative procedure law; disciplinary and investigatory authority; state accounting procedures; and instructions on preparation of travel vouchers and accessing electronic packets. Each of the Agencies also familiarizes the new members with the activities, programs, roles, functions, budget, results of recent audits, and policies of their respective Agency.

Each member must also complete the online training related to the Public Information Act, the Open Meetings Act, Governing Bodies Responsibilities, and the Public Funds Investment Act. The executive director maintains confirmation of this training.

Periodically, the Agencies conduct briefing sessions for Finance Commission members to provide an in-depth review of specific areas of operation for each agency. The last briefing session was held February 2017.

Additionally, members are notified of and encouraged to attend any seminars conducted by the Governor's Office or the Office of the Attorney General related to oversight body member duties.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

The Finance Commission has a Policy and Procedures Manual (Manual) that outlines the duties and responsibilities of the members and the separation of functions of the Finance Commission and the three commissioners. The Manual also includes a code of conduct and ethics section that members must adhere to. The Manual was last updated in December 2015.

Further, the roles of the Finance Commission members are outlined in Texas Finance Code §§11.101-112. In general, the Finance Commission adopts rules, reviews policy, and monitors performance of the Agencies through its direct supervision of the commissioners. Each agency's commissioner operates as the chief executive officer of his/her respective agency, and is responsible for the daily operations. The executive director of the Finance Commission is responsible for administrative support and the preparation of all required reports and records of the Commission.

Per Texas Finance Code §11.204, the Finance Commission is authorized to use the staff, equipment, and facilities of the Agencies to the extent necessary to carry out their duties. To reduce administrative costs, the Agencies share staff, equipment, and facilities to the extent that the sharing contributes to cost efficiency without detracting from the staff expertise needed for individual areas of responsibility. For example, the Agencies share the Finance Commission building, a receptionist, building manager, and imaging system.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

Meeting information and a detailed packet is provided to members (electronically) and the public on the Finance Commission's website prior to the scheduled meeting date. The Finance Commission regularly receives an update on: the overall condition of the state's depository financial industry; state of the industries regulated by each of the Agencies; legislation that may affect an Agency or a regulated industry; internal and external audits performed along with discussion of outstanding audit issues; the Texas Financial Education Endowment Fund activities; Agencies' operations, including divisional memorandums that document and discuss examination activities, application and licensing activities, legal activities, staffing, consumer complaint activities; and recaps or minutes of advisory committee meetings.

The Agencies also provide financial statements with budget comparisons, performance measure data and investment officer reports quarterly. The Agencies annually present a budget proposal and semi-annually the accomplishment reports.

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

Meetings of the Finance Commission are conducted with decorum and respect for all parties attending and appearing before the Finance Commission. The Finance Commission follows Robert's Rules of Order when conducting its meetings.

The Finance Commission obtains public input through its open meetings and the rulemaking process. Notices of Finance Commission and committee meetings are posted in the Texas Register in accordance with the Open Meetings Act and on the Finance Commission's website. Meetings are generally held in the Hearing Room at the Finance Commission Building, which can seat approximately 40 members of the public.

Time is set aside at each meeting for public comment on any subject. Persons wishing to speak or comment go through a sign-in process and must state their name and who they represent for the record when speaking.

In addition to the formal comment period provided in the Administrative Procedures Act, many rule proposals are distributed by the Agencies for pre-comment among identified interested parties as a means of achieving negotiated, consensus solutions. Pre-comments are summarized for the Finance Commission prior to a vote to propose a rule, and comments received on proposals are provided and summarized for the Finance Commission before a vote to adopt. Further, if deemed necessary, the Finance Commission can hold a special meeting to receive public comment on any rule proposal.

The Agencies hold a public hearing each year to present their proposed budgets and seek input from interested parties. Certain members of the Finance Commission attend these hearings and a recap of the hearing is provided to all members at the next Finance Commission meeting.

Interested parties are also invited to participate in the Finance Commission studies of financial services and home equity lending.

The Finance Commission is provided access to industry surveys conducted by the Agencies to evaluate the effectiveness of the Agencies. Each of the Agencies holds or participates in industry or stakeholder meetings. From time to time, a Finance Commission member may attend and hear directly from the regulated industries outside of regular commission meetings.

All public input is evaluated and considered when making Agency decisions.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart. In addition, please attach a copy of any reports filed by

your agency under Government Code Chapter 2110 regarding an assessment of your advisory committees.

Finance Commission of Texas
Exhibit 4: Subcommittees and Advisory Committees

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose/Duties	Legal Basis for Committee
Audit Committee	Three members appointed by Chair, one of which is a Certified Public Accountant; Chair also appoints Chairperson of the committee.	Provide oversight of the Agencies' internal audit function including; (1) interviewing and recommending the selection of an internal auditor, (2) reviewing and recommending the actions to be taken as a result of the annual risk assessments performed by the internal auditor, (3) reviewing, with the internal auditors, the audit scope and plan of the internal auditors, and (4) reviewing and recommending the actions to be taken on the audit plan resulting from the annual internal audit reports, including management's responses thereto, and monitoring the Agencies' corrective actions. Review and monitor the action plans resulting from external audits conducted by state and federal agencies, including management's responses thereto, and corrective actions. Review and recommend the actions to be taken on the annual operating budgets, quarterly financial statement reports, and investment officer reports. Provide oversight and administration of the Texas Financial Education Endowment, including recommending the actions to be taken on the investment of funds and awarding of grants that support the objectives of the endowment.	Texas Finance Code §11.107 (c)(3)

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose/Duties	Legal Basis for Committee
Strategic Planning Committee	Three members appointed by Chair; Chair also appoints Chairperson of the committee.	Provide direction for and review of the strategic plans developed by each Agency and recommend action on the plans. Define the scope and development of the Finance Commission's strategic plan and recommend action on the plan. Participate in legislative hearings, if requests are made. Oversee selection process for the Agency head and recommend action.	Texas Finance Code §11.107 (c)(3)
Study Committee	Three members appointed by Chair; Chair also appoints Chairperson of the committee.	Request and review research studies and recommend action. Monitor and oversee Legislative Interim Studies. Monitor and oversee self-directed, semi-independent status. Review and recommend updates to policies and procedures of the Finance Commission. Oversee and monitor Agencies' Sunset Review Process.	Texas Finance Code §11.107 (c)(3)
Ad Hoc Committee	Three members appointed by Chair.	Coordinate evaluations of the Agency commissioners and recommend action. Performs short term assignments as needs arise.	Texas Finance Code §11.107 (c)(3)
Texas Financial Education Endowment Grant Advisory Committee	Seven members recommended by the Office of Consumer Credit Commissioner and approved by the Finance Commission.	Provide advice and recommendations to the Finance Commission concerning grant administration and awards of the Texas Financial Education Endowment Fund.	Texas Finance Code §11.107 (c)(3) and §393.628

Table 4 Exhibit 4 Subcommittees and Advisory Committees

While not a subcommittee or advisory committee to the policymaking board, Texas Finance Code §154.355 created an advisory council (Prepaid Funeral Guaranty Fund Advisory Council) to supervise the operation and maintenance of the Guaranty Funds. The banking commissioner (or his/her designee) is a member of the Council, and two representatives of the prepaid funeral industry, one of whom represents trust-funded prepaid funeral benefits contract sellers and one of whom represents insurance-funded prepaid funeral benefits contract sellers, and one consumer representative are appointed by the Finance Commission. The Advisory Council does not report to the Finance Commission.

The Advisory Council meets on a periodic basis as determined by the banking commissioner, but not less than once annually, to fulfill the requirements of supervising the operation and maintenance of the Guaranty Funds. The Advisory Council reviews PFC claims presented from Texas consumers wanting reimbursement of their contract funds from seized or insolvent PFC permit holders. If the claims are approved, the Advisory Council authorizes the Department to withdraw restitution from the applicable Guaranty Fund to settle the pending claims.

Pursuant to Government Code Chapter 2110, a copy of the assessment of the advisory committee report was filed with the Department's 2017-2021 Strategic Plan (Appendix IV–J).

See discussion of Advisory Committee related to the Department of Savings and Mortgage Lending in their Sunset Self-Evaluation Report.

V. Funding

A. Provide a brief description of your agency's funding.

The Department operates as a SDSI agency and is therefore self-funding and receives no General Revenue. Assessments and examination fees from regulated entities account for the majority of the agency's revenues. Other revenues include application fees, certain examination travel reimbursements, fines, and interest earned.

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

The B&T Supervision and Special Audits Divisions are statutorily required to cover the cost of operations of the Department. Accounting records are maintained in a manner to ensure that each division covers its direct and indirect costs.

B. List all riders that significantly impact your agency's budget.

Not applicable.

C. Show your agency's expenditures by strategy.

Texas Department of Banking
Exhibit 5: Expenditures by Strategy — 2016 (Actual)

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Bank and Trust	$15,382,481.63	71.98%	$878,990.68
Special Audits	$2,048,565.66	9.59%	$10,409.07
Corporate Activities	$637,442.98	2.98%	$1,710.83
Administrative	$3,302,041.51	15.45%	$265,684.58
GRAND TOTAL:	**$21,370,531.78**	**100.00%**	**$1,156,795.16**

Table 5 Exhibit 5 Expenditures by Strategy

D. Show your agency's sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.

Texas Department of Banking
Exhibit 6: Sources of Revenue — Fiscal Year 2016 (Actual)

Source	Amount
Bank and Trust Assessments	$22,036,114.27
Bank and Trust Examination Fees and Travel Reimbursements	$1,388,222.94
Prepaid Funeral Contract Assessments	$783,697.00
Prepaid Funeral Examination Fees and Travel Reimbursements	$120,236.76
Perpetual Care Cemetery Assessments	$602,816.41
Perpetual Care Cemetery Examination Fees and Travel Reimbursements	$9,909.28
Money Service Business Assessments	$778,001.00
Money Service Business Examination Fees and Travel Reimbursements	$182,022.40
Special Audits Fines and Penalties	$445,143.45
Corporate Activities	$458,150.00
Interest Earnings	$23,224.89
Miscellaneous Fees	$4,564.28
TOTAL	**$26,832,102.68**

Table 6 Exhibit 6 Sources of Revenue

E. If you receive funds from multiple federal programs, show the types of federal funding sources.

Texas Department of Banking
Exhibit 7: Federal Funds — Fiscal Year 2016 (Actual)

Type of Fund	State / Federal Match Ratio	State Share	Federal Share	Total Funding
Not Applicable	N/A	N/A	N/A	N/A
	TOTAL	N/A	N/A	N/A

Table 7 Exhibit 7 Federal Funds

F. If applicable, provide detailed information on fees collected by your agency.

Texas Department of Banking
Exhibit 8: Fee Revenue — Fiscal Year 2016

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons/ Entities Paying fee	Fee Revenue	Where Fee is Deposited (*e.g. General Revenue Fund*)
Assessment Fees/Bank/§31.003(a)(4) TFC & §3.36 - 3.37 TAC	See table §3.37 TAC / None	256	$21,036,633.03	Texas Treasury Safekeeping Trust Company
Charter Investigation Fee/Bank/§32.004(b) TFC & §15.2 (d) TAC	$10,000/$10,000	2	$20,000.00	Texas Treasury Safekeeping Trust Company
Trust Co Exempt Certification/Bank/§182.013 TFC/§21.2 (b) 20 TAC	$100/$100	15	$1,500.00	Texas Treasury Safekeeping Trust Company
Foreign Bank Agency Assessment/Bank/§201.005(a)(5), §204.003(b) TFC & §3.36 & §3.38 TAC	See table §3.38 TAC / None	10	$977,981.24	Texas Treasury Safekeeping Trust Company
Specialty Bank Exam Fees & Fee Sharing/Bank/§187.301 TFC & §3.36(h) TAC	$110 per hour + Expenses / $110 per hour + Expenses Fee Sharing - NA / None	2	$98,823.28	Texas Treasury Safekeeping Trust Company
Trust Dept. Exam Fees/Bank/§31.003(a)(4) TFC & §3.36(h) TAC	$110 per hour + Expenses / $110 per hour + Expenses	22	$477,581.48	Texas Treasury Safekeeping Trust Company
Trust Co. Exam Fee/Bank/§31.003(a)(4), §181.105 TFC & §3.36(h) TAC	$110 per hour + Expenses / $110 per hour + Expenses	26	$733,692.45	Texas Treasury Safekeeping Trust Company
Trust Exam Fee IT/Bank/§31.003(a)(4), §181.105 TFC & §3.36(h) TAC	$110 per hour + Expenses / $110 per hour + Expenses	16	$78,125.73	Texas Treasury Safekeeping Trust Company
Bank Charter Conversion/ Corporate/§31.003 TFC & §15.2 TAC	$15,000 for bank charter/$15,000 $5,000-$25,000 for conversion/$25,000 $100-$15,000 other filings/$15,000	162*	$235,500.00	Texas Treasury Safekeeping Trust Company
Check Verification Entities/Corporate/§11.309 TFC & §35.14 TAC	$100/$100	2	$200.00	Texas Treasury Safekeeping Trust Company
Private Child Support Enforcement Agencies Initial Application/ Corporate /§396.051, §396.052 TFC & §31.32, §31.51, §31.11, §31.53, §31.92 TAC	$500 for initial registration/$500 $250 - $500 for other filings/$500	11	$5,250.00	Texas Treasury Safekeeping Trust Company

** Each filing is listed separately, therefore there may be multiple filings by the same entity.*

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons/ Entities Paying fee	Fee Revenue	Where Fee is Deposited (*e.g. General Revenue Fund*)
Cemetery Brokers/ Corporate/§711.012 Texas Health and Safety Code & §24.1 TAC	$100/$100	14	$1,400.00	Texas Treasury Safekeeping Trust Company
Trust Charter Application Fee/ Corporate/§181.003 TFC & §21.2 TAC	$10,000 for trust charter/$10,000 $10,000 for conversion/$10,000 $100-$10,000 other filings/$10,000	6	$33,300.00	Texas Treasury Safekeeping Trust Company
Foreign Bank Agency Representation Office Assessments/ Corporate/§201.005(a)(5), §204.003(b) TFC & §3.36 TAC	$2,500/$2,500	11	$27,500.00	Texas Treasury Safekeeping Trust Company
Money Service Business Application Fee/Corporate/§151.102 TFC & §33.27 TAC	$5,000-$10,000 for new applications/$10,000 $1,000 for change of control/$1,000	23	$155,000.00	Texas Treasury Safekeeping Trust Company
Interest on Local Deposits/Admin/§404.024 and §404.106 TGC	Based on the interest rates available in competing investments, the demand for funds from Texas banks, and the state's liquidity requirements.	1	$23,224.89	Texas Treasury Safekeeping Trust Company
Sale of Publications/Admin/ §2052.301 TGC	May not be greater than an amount considered sufficient by the publishing department or agency to reasonably reimburse the state for the actual expense of printing the publication or printed matter.	19	$1,788.38	Texas Treasury Safekeeping Trust Company
Fees for Copies/Admin/§552.261-§552.275 TGC, §70.3(d), (e), (i) TAC	$0.10/page or part of a page, Labor per §552.261-§552-275 TGC, and overhead charge based on 20% of labor.	28	$2,280.90	Texas Treasury Safekeeping Trust Company
Returned Check Fees/Admin/ TFC § 16.003(b), (c)	Recoupment of fees charged to our agency.	26	$495.00	Texas Treasury Safekeeping Trust Company
Money Service Business Assessments/Special Audits/§151.102 TFC & §33.27 TAC	See tables §33.27(e)(1) & (2) TAC / $21,250	136	$778,001.00	Texas Treasury Safekeeping Trust Company
Money Service Business Exam Fee/ Special Audits/§151.102 TFC & §33.27 TAC	$75 per hour + Expenses / None	30	$87,223.25	Texas Treasury Safekeeping Trust Company
Money Service Business Travel Reimbursement/Special Audits /§151.102 TFC & §33.27 TAC	$75 per hour + Expenses / None	46	$94,799.15	Texas Treasury Safekeeping Trust Company

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons/ Entities Paying fee	Fee Revenue	Where Fee is Deposited (*e.g. General Revenue Fund*)
Perpetual Care Cemetery License Renewal Fee/ Special Audits/§712.008 Texas Health and Safety Code & §26.1 TAC	See table §26.1(b)(2) TAC / $1,000	246	$169,100.00	Texas Treasury Safekeeping Trust Company
Perpetual Care Cemetery Assessment/ Special Audits/§712.008 Texas Health and Safety Code & §26.1 TAC	See table §26.1(b)(4) TAC / $7,600	247	$430,716.41	Texas Treasury Safekeeping Trust Company
Perpetual Care Cemetery License Application Fee/ Special Audits/§712.008 Texas Health and Safety Code & §26.1 TAC	$500	6	$3,000.00	Texas Treasury Safekeeping Trust Company
Perpetual Care Cemetery Exam Fee/ Special Audits/§712.008 Texas Health and Safety Code & §26.1 TAC	$75 per hour + Expenses / None	5	$7,087.50	Texas Treasury Safekeeping Trust Company
Perpetual Care Cemetery Travel Reimbursement/ Special Audits/§712.008 Texas Health and Safety Code & §26.1 TAC	$75 per hour + Expenses / None	3	$2,821.78	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract Review Fee/ Special Audits/§154.051 TFC & §25.5 TAC	$250	2	$500.00	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract Permit Renewal Fee/ Special Audits/§154.051 TFC & §25.23 TAC	See table §25.23(b)(2) TAC / $3,000	378	$219,001.00	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract Assessment/ Special Audits/§154.051 TFC & §25.24 TAC	See table §25.24(b)(1) TAC / $15,000	383	$559,696.00	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract Application Fee/ Special Audits/§154.051 TFC & §25.23 TAC	$500	7	$3,500.00	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract Insurance Conversion/ Special Audits/§154.051 TFC & §25.23 TAC	$1,000 / $2,000	1	$1,000.00	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract Exam Fees/ Special Audits/§154.051 TFC & §25.24 TAC	$75 per hour + Expenses / None	36	$53,503.46	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract Travel Reimbursement/ Special Audits/§154.051 TFC & §25.24 TAC	$75 per hour + Expenses / None	36	$66,733.30	Texas Treasury Safekeeping Trust Company

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons/ Entities Paying fee	Fee Revenue	Where Fee is Deposited (*e.g. General Revenue Fund*)
Money Service Business Penalties/ Special Audits/§151.707 TFC	The amount of the penalty may not exceed $5,000 for each violation or, in the case of a continuing violation, $5,000 for each day that the violation continues. Each transaction in violation of this chapter and each day that a violation continues is a separate violation.	9	$410,305.00	Texas Treasury Safekeeping Trust Company
Prepaid Funeral Contract/ Special Audits/§154.406 and §154.4061	The amount of the penalty for each violation may not exceed $1,000 for each day the violation occurs.	2	$34,838.45	Texas Treasury Safekeeping Trust Company

Table 8 Exhibit 8 Fee Revenue

TFC – Texas Finance Code
TAC – Texas Administrative Code
TGC – Texas Government Code

VI. Organization

A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division. Detail should include, if possible, Department Heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.

Appendix VI-A contains the organizational charts for the Department.

B. If applicable, fill in the chart below listing field or regional offices.

Texas Department of Banking
Exhibit 9: FTEs by Location — Fiscal Year 2016

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2016	Number of Actual FTEs as of August 31, 2016
Austin	2601 N. Lamar Blvd., Austin, TX 78705	Yes	80	**66.13**
Dallas	12000 Ford Road, Suite 200, Dallas, TX 75234	Yes	44	**39.33**
Houston	8588 Katy Freeway, Suite 345, Houston, TX 77024	Yes	27	**32.75**
San Antonio	2700 NE Loop 410, Suite 616, San Antonio, TX 78217	Yes	27	**26**
Lubbock	4413 82nd St., Suite 215, Lubbock, TX 79424	Yes	21	**20**
		Total FTEs	**199**	**184.21**

Table 9 Exhibit 9 FTEs by Location

C. What are your agency's FTE caps for fiscal years 2016–2019?

2016 – 199; 2017 – 192; 2018 – 190; and 2019 – not yet set.

D. How many temporary or contract employees did your agency have as of August 31, 2016? Please provide a short summary of the purpose of each position, the amount of expenditures per contract employee, and the procurement method of each position.

At fiscal year-end 2016, the Department had a contract employee to perform investigative services ($33,104.33), a contract employee to perform administrative law judge services ($520.00), a contract with the State of Michigan's Department of Insurance and Financial Services (MDIFS) to assist with Comerica Bank examinations in Detroit ($25,968.00), and a contract with a public accounting firm to perform the internal audit function of the Department ($36,625.00). The administrative law judge and public accounting firm were procured through a Request for Proposal (RFP) process. The investigator was originally procured through a RFP process in 2012; however, the current contract was secured under Government Code §2254.003. The contract with the MDIFS was secured through an interstate cooperative supervision agreement pursuant to Texas Finance Code §201.005.

In addition to the above, in fiscal year 2017, the Department contracted with a staffing company, TEKsystems, Inc., to retain the services of a contract IT programmer for $83,200. This contract was procured through the DIR listing of information technology staff augmentation services and in accordance with Texas Government Code §2157.068.

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.

Texas Department of Banking
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2016

Program/Function	Number of Budgeted FTEs FY 2016	Actual FTEs as of August 31, 2016	Actual Salary Expenditures
Bank and Trust Supervision	139	126.83	**$12,183,819.25**
Special Audits Supervision – Prepaid Funeral Contracts and Perpetual Care Cemeteries	12	12	**$894,846.52**
Special Audits Supervision – Money Service Businesses	9	9	**$679,767.78**
Corporate Activities	8	7	**$601,317.98**
Administration	31	29.38	**$2,556,254.44**
TOTAL	**199**	**184.21**	**$16,916,05.97**

Table 10 Exhibit 10 List of Program FTEs and Expenditures

VII. Guide to Agency Programs – Bank and Trust Supervision

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *B&T Supervision*

Location/Division: *Austin / B&T Supervision Division*

Contact Name: *Kurt Purdom, Director*

Actual Expenditures, FY 2016: *$15,382,482*

Number of Actual FTEs as of June 1, 2017: *122.83 (8 FTEs are Division of Strategic Support)*

Statutory Citation for Program:
Texas Finance Code Chapters 12, 16, 31-37, 180, 181-187, 201-204, 274, 395
Agriculture Code § 54.006, Chapter 56
Government Code §§603.002, §§603.004 and §§2001.223(2)
Business Organizations Code §23.071
Business and Commerce Code §4.112
Occupations Code §53.0211
Property Code §74.704
Tax Code §171.259

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of this program is to safeguard the interests of depositors, creditors, and shareholders of banks and trust companies chartered by the Department and to ensure that offices of foreign banks operating in Texas are conducting business in a safe and sound manner and in compliance with applicable laws. The division utilizes six major strategies to achieve these objectives:

- **On-site examinations** are the primary strategy utilized by the division to ensure that financial service providers are operating in a safe and sound manner and in compliance with all applicable statutes and rules. B&T Table 1 on the next page provides a listing of the statutory reference for the division's examination authority and the Department's policies addressing examination frequency. This strategy involves the largest outlay of the Department's resources. The process requires extensive off-site planning before the on-site examination begins, gathering information from other strategies to ensure the scope of the on-site examination is effectively tailored to assess the risks within the entity and on-site staffing has the necessary experience and ability to properly evaluate the entities specific operations and operating environment. An experienced Examiner-in-Charge (EIC) is assigned to lead the examination for the division and be responsible for the final work product and report findings. After the on-site examination has concluded, the EIC meets with both senior management and the board of directors to convey the findings of the examination. The EIC also authors a detailed report of examination (ROE) that is transmitted to bank management and the board of directors. Refer to Part F. of this section for more detailed information about the on-site examination process.

B&T Table 1: Examination Authority and Policy Directives for Examination Frequency

Entity Type:	Statute or Rule:	Policy:
Bank Bank Holding Company	Section 31.105, TFC Sections 31.107 and 202.005, TFC	SM 1003 AM 2041 – Tied to the examination of the lead bank.
Foreign Bank	Section 204.003, TFC	AM 2039
Trust Company Exempt Trust Company Trust Company Subsidiary	Section 181.104, TFC Section 182.103, TFC Section 181.106, TFC	SM 1004 SM 1004
Third-Party Service Provider	Section 31.107, TFC	SM 1020

TFC – Texas Finance Code
AM – Administrative Memorandum
SM – Supervisory Memorandum

- **Off-site monitoring procedures**, as described in Administrative Memorandums[1] 2022 and 2045, are performed each quarter on banks and trust companies to ensure that any significant changes that occur in the entity's financial condition between on-site examinations are recognized, evaluated, and if necessary, corrective actions initiated in a timely manner. Information derived from the off-site monitoring program may result in either a special on-site visitation to the institution or moving up the next on-site examination to an earlier date. Information derived from off-site monitoring is also used to help develop the scope of the next on-site examination.

  For state banks, call report[2] data is downloaded and filtered for 16 different exceptions. For instance, after call report data is screened, if it is determined that an individual bank's past due loans have increased above 5% of total loans, then an exception is noted. This exception would then be researched by the appropriate regional office, typically by calling the bank to determine the cause of the increase in past due loans. The regional office inputs the cause of the increase into an internal computer program. Even if a bank's call report data does not result in an exception, the bank can be placed on the Bank Watch List and reviewed each quarter for areas of concern.

[1] Administrative Memorandums provide detailed guidance on internal procedures to Department employees about enforcing laws and implementing the agency's policies.
[2] A call report contains financial information about a bank and must be filed by all regulated financial institutions in the U.S. on a quarterly basis.

Quarterly, state trust company call reports are reviewed to determine the extent to which business operations have changed and whether there are any concerns regarding restricted capital, required liquidity, fixed asset limitations, balance sheet composition, income and expense changes, or variations in fiduciary accounts. Adjustments to the division's supervisory strategy can be made based upon these findings.

- **Special monitoring procedures** are employed for select institutions or a group of institutions when circumstances warrant. The most recent example of a group of banks that were subject to special monitoring were associated with the recent downturn in the oil and gas industry. Since the downturn in the price of crude oil, the division conducted special monitoring on 59 state banks to determine the extent to which lower oil prices affected the institution. Two surveys were completed on banks with significant oil and gas exposure beginning in January of 2015. We continue to receive quarterly information from approximately 25 banks; the information relates to the level and quality of the bank's oil and gas loan portfolio. Special visitations were conducted for select banks that were perceived to have heightened exposure.
- **Consumer complaint follow-up and investigations** are conducted on entities or individuals targeting specific issues when suspicious activities or unusual circumstances warrant. When circumstances warrant, special investigations are initiated. Each month, division staff downloads Suspicious Activity Reports (SARs) filed by state banks concerning officers and employees. These SARs are reviewed, and a determination is made whether to investigate the circumstances of the SAR filing. Consumer complaint information may also prompt a special investigation into the circumstances relating to the complaint. The Department maintains a Whistleblower webpage on its website to allow directors, officers, or employees of regulated entities to notify the Department of suspicious activity within their institution.

  Division staff works closely with the Division of Strategic Support (DSS) to research and resolve consumer complaints received by DSS that require further investigation. A more in depth discussion on the consumer complaint process can be found below in Part O. of this section. A summary of the number of complaints received for each entity type can be found in Part P. of this section.
- **Banker call program procedures**, as described in Administrative Memorandum 2022, are utilized to contact banks between on-site examinations if the entity has not already been contacted during the off-site monitoring program. Regional office personnel make contact with bankers in the period between on-site examinations following the division's Call Monitoring Program procedures. If the bank has already been contacted as a result of an exception being produced, then no additional call is made. The purpose of the call is to obtain feedback about the industry, local economy, management changes, or deviations from the bank's typical business plan. Information from these calls is entered into the division's internal program called E.D.I.S.O.N. (discussed on page 72) and is used to develop the scope for the next on-site examination.

- **Enforcement authority measures**, both informal or formal, are initiated when an institution's risk profile becomes a regulatory concern, usually a 3, 4, or 5 CAMELS[3] rating. Informal actions are a Board Resolution, Commitment Letter, or MOU, while formal actions are a Consent Order, Cease and Desist Order, Order of Supervision, or Order of Conservatorship.

  The commissioner also has the authority to prohibit an individual from serving as a director, officer, or employee in cases of dishonesty, breach of trust, disregard for the law, or issue an administrative penalty, etc. B&T Table 2 below shows the Department's statutory authority to issue enforcement actions, along with the applicable policy that provides further information to the industry about the types of enforcement actions.

B&T Table 2: Enforcement Authority and Policy Directives

Entity Type[4]:	Statute or Rule:	Policy:
Bank	Chapters 35-36, TFC	SM 1005
Bank Subsidiary	Chapter 35, TFC	Not Applicable
Bank Holding Company	Chapters 201 and 202, TFC	SM 1005
Foreign Bank	Chapter 204, TFC	Not Applicable
Trust Company	Chapters 185-186, TFC	SM 1030
Exempt Trust Company	Chapters 182 and 186, TFC	Not Applicable
Trust Company Subsidiary	Chapter 185, TFC	Not Applicable
Out-of-State Trust Company	Chapter 187, TFC	Not Applicable
Unauthorized Activity	Chapter 35, TFC	Not Applicable

TFC – Texas Finance Code
SM – Supervisory Memorandum

In addition, the division performs other activities primarily relating to tracking issues that could affect chartered entities, providing guidance to entities, and maintaining effective and efficient operations of the division. These activities, which are further explained below, are also critical to fulfilling the Department's mission:

- **Monitoring conditions**. The division conducts several activities that are related to monitoring changing conditions in the B&T industries.

[3] CAMELS is an acronym representing for the following factors used by examiners to rate financial institutions: capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk.
[4] Persons affiliated with the specified entities may also be subject to enforcement actions.

- *Economic and Business Survey* – Division staff sends out a quarterly Economic and Business Survey to approximately 60 bankers. The survey seeks feedback about economic and banking conditions in the banker's area. Results from the survey, which are posted to the Department's website, serve as a valuable tool in monitoring conditions in the banking industry and the economy.
- *Community Banking Initiative* – The division supports the efforts of the Community Banking in the 21st Century initiative by CSBS and the FRB of St. Louis. DSS staff sends notices and reminders to bankers about a nationwide banker survey, which has been conducted each year since 2013. Town hall meetings are also held each year leading up to the policy and research conference held at the FRB of St. Louis in the fall. Four town hall meetings were conducted between July and August of 2017.
- *Cybersecurity* – With the rise in cybersecurity incidents around the world, the division has monitored significant cybersecurity events and has been a leader in addressing cybersecurity risk within the banking industry. IT examination procedures were updated by an interagency committee for implementation in January 2016. The interagency committee included state representation through CSBS, with significant input from the division's IT specialists. The procedures were updated with an emphasis on evaluating cybersecurity risk and maturity levels at each institution. Additionally, on September 15, 2015, Commissioner Cooper issued Industry Notice 2015-8, setting forth the Department's expectations regarding cybersecurity assessments. Since that time and with the adoption of the updated IT examination procedures, IT examinations have focused on working with management to ensure that all institutions achieve baseline cybersecurity standards as set forth by the FFIEC. The IT examination process verifies that cybersecurity gaps are identified and satisfactory remediation plans exist to close those gaps. When necessary, IT specialists work one-on-one with financial institutions to educate them about what needs to be accomplished to achieve the baseline standards. Overall, regulated financial institutions are cognizant of the need to achieve baseline preparedness, with only a few institutions below baseline.

- **Tracking changes to statutes, rules, guidance, and accounting treatments.** The division closely tracks changes in statutes, rules, guidance, and accounting treatments through many different sources. Listed below are some of the sources the division utilizes to accomplish this:
  - For Texas legislative issues, the Department utilizes the Texas Legislative Service and Texas Legislature Online;
  - Trade publications and subscriptions;
  - CSBS committee interaction, written guidance, and training events;
  - Communications with federal regulatory authorities; and
  - For accounting changes, the Department utilizes a Financial Accounting Standards Board subscription and external training classes.

- **Conducting outreach activities.** The division performs several activities that are designed to seek feedback from and inform the directors, officers, and employees of supervised entities.
    - *Cybersecurity* – The Department took a leading role in 2010 in addressing cybersecurity when the Department and the U.S. Secret Service formed a task force of Texas bankers to address corporate account takeovers. The best practices for reducing these thefts developed by the task force were unlike anything previously developed, and were distributed nationally by CSBS and the Financial Services Information Sharing and Analysis Center (FS-ISAC). The best practices helped reduce this type of theft nationally over the next few years.

      The task force of Texas bankers reconvened in 2013 with the U.S. Secret Service to address the need to ensure that the banking industry fully focused on growing cyber threats. The task force determined that the key step was for a bank's executive management to lead and promote cybersecurity, rather than asking the IT staff to do so. This initiative, known as Executive Leadership of Cybersecurity (ELOC), was a significant shift in thinking. The Deputy Secretary of the U.S. Treasury was the keynote speaker for the Texas launch of ELOC. CSBS also offered the initiative to other state banking departments. In total, 30 other states hosted similar events, reaching more than 2,800 senior banking executives.

      Cybersecurity for all financial service providers is intertwined. A loss of public confidence in the banking system by an incident anywhere in the U.S. threatens a loss of confidence in banking in Texas. Therefore, the Department has taken an active role in leading and participating in national initiatives.

      In 2013, the FFIEC established the Cybersecurity and Critical Infrastructure Working Group (CCIWG). The Department's director of IT Security Examinations has served as one of the six voting members of this working group since it was formed. The CCIWG has produced dozens of alerts, notices, webinars, and guidance papers regarding cybersecurity to the banking industry. Our representative has insured that the information meets the needs of Texas banks.

      A Department representative is also a member of the U.S. Treasury's Financial and Banking Information Infrastructure Committee (FBIIC), which was chartered under the President's Working Group on Financial Markets. The primary focus of FBIIC is cybersecurity. The Department representative attends monthly classified video briefings at the FBI field office. Commissioner Cooper is a member of the Senior FBIIC Group, which is composed of the heads of the major financial regulatory agencies.

      In 2016, Commissioner Cooper reconvened the Bankers Electronic Crimes Task Force. Due to the broad nature of cyber threats, banking commissioners of 13 other states and the U.S. Secret Service were included to expand the task force to bank chief executive officers from other states. The task force of bank executives identified four cyber threats of particular concern for community banks and developed best practices to assist them in defending against those threats. CSBS distributed the best practices to the other state banking commissioners for dissemination to banks in their state. Department representatives are also working with the national bank trade associations to assist in the distribution.

Cyber threats are a constantly evolving challenge. By staying at the forefront, the Department plans to better protect the banking industry and public from the loss of funds or confidence in the payments system.

- *Town Hall Meetings* – As mentioned above, B&T and DSS staff coordinate banker town hall meetings in different geographic locations. These meetings give bankers an open forum to discuss issues affecting their financial institutions and have been held since 2013. Finance Commission members are invited to attend these meetings.
- *Notices to the Industry* – The IT division developed a program referred to as Authorized Contact and Email System, or ACES, which allows state banks and trust companies to update and maintain their contact information with the Department. DSS extracts the contact information to periodically send notifications intended to keep managers informed about industry matters, such as policy changes or events.
- *Publications* – Pursuant to Texas Finance Code §11.305(d), the Department, in conjunction with the Department of Savings and Mortgage Lending, produces the *Condition of the Texas State Banking System* report on a semi-annual basis. The report reviews all available national and state economic forecasts and analyzes changing banking conditions, banking legislation, regulatory concerns, as well as actions taken to oversee the industry. Another way of conveying changes and important regulatory news relating to the B&T industries is through periodic publications. One such publication is the *Texas Banking Report*. These reports focus on towards hot topics or important events that can affect the industry or future examinations. The report also contains vital financial data utilized by entities to measure the overall performance of community banks. Another report that is utilized by bankers and examiners to maintain an awareness of developments with regulatory authorities is the *Supervisory Update News Summary*, or SUNS. This monthly report contains information about select press releases, regulatory issuances, publications, and other items issued primarily from federal bank regulatory agencies. Each of the publications mentioned are available on the Department's website.
- *Financial Education* – The Department is active in promoting financial education through its Financial Education Coordinator. The Coordinator works closely with various partners in the community, including the bank trade associations, FDIC, and the FRB to promote financial education initiatives. The Department dedicates a section of its website to financial education material and is updated with events periodically. To encourage financial education among state-chartered banks, the Finance Commission adopted a rule in October 2008 allowing in-school banking programs called Center of Monetary Education for

Texans (COMET). The rule is identical to the FDIC's rule with the exception that the in-school banks are referred to as COMETs. Over the years, the Coordinator has been active in community outreach activities and has been asked to participate in a variety of speaking engagements and training events in English and Spanish.

- **Maintaining policies and procedures.** The division continuously reviews its policies and procedures to ensure effective examinations are conducted and applicable statutes and rules are enforced.
- **Conducting examinations of third-party service providers.** Department staff conducts examinations of larger third-party service providers that offer critical services to the entities we regulate. These examinations primarily focus on information security and controls and are typically joint examinations with federal bank supervisory authorities.
- **Retaining a well-trained and experienced staff.** As addressed elsewhere in this section, B&T supervision has become more complex as new statutes, rules, and guidance are issued. Additionally, technological advances allow for more sophisticated products and services to be offered, while cybersecurity risks increase. It is critical that financial examiners have the experience they need and receive adequate training to perform their duties to capably assess the risks in the industry. Responsibilities for training are well defined within the organization, and key aspects of training are effectively monitored. The Department utilizes a variety of providers for training examination staff, including federal and state government sources, CSBS, and trade associations.

  The Department has also developed and periodically conducts internal schools designed to enhance employee performance and advancement. Some internal schools are taught exclusively by internal staff, while others are a combination of internal and external speakers. The division works closely with DSS to formulate material and agendas for these schools to ensure an examiner is prepared to fulfill their duties and responsibilities. The IT Division has also implemented a learning platform on the in-house training portal which allows staff to have access to training material.

- **Maintaining CSBS Accreditation.** Accreditation involves a comprehensive review of the Department's activities by an independent third-party, evaluated against a set of standards and best practices, to ensure that the division has the authorities, processes, and resources to serve as an effective regulator. Accreditation is important not only as an assessment of the competency of the division, but also serves to establish credibility with other state and federal bank regulatory agencies. Accreditation allows the federal bank regulatory authorities to accept the Department's reports of examination under an alternating examination process, which in turn greatly reduces regulatory burden to supervised banks and bank holding companies. In accordance with Section 349 of the Riegle Community Development and Regulatory Improvement Act of 1994, the FFIEC issues guidelines that establish standards for determining the acceptability of state banking authority reports of examination under Section 10(d)(3) of the Federal Deposit Insurance Act. As established in FDIC policy, the FDIC is required to consider, among other key issues, the adequacy of state banking department budgets; examiner staffing and training; and examination reports, reviews, and follow-up procedures. Accreditation of a state banking department by CSBS is also considered.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.

PERFORMANCE MEASURES AND INTERNAL AUDITS

To be effective, the division conducts thorough on-site examinations in a timely manner and issues appropriate supervisory actions for institutions that develop problems. Timely identification of troubled institutions is critical as it allows for remedial actions to be implemented in a prompt manner, and the affected institution to return to providing quality financial products and services. As such, performance measures primarily relate to the timely examination of supervised entities and the percent of problem institutions operating under an appropriate supervisory action.

Part K. of Section II. Key Functions and Performance provides information on the division's key performance measures and results. The description and methodology for the performance measures was submitted with the Department's 2017-2021 Strategic Plan (Appendix II-K)

In fiscal years 2015 and 2016, the division met all outcome performance measures with the exception of completing trust company examinations when they were due in fiscal year 2016. Trust examiner turnover resulted in completing 78% of on-site trust company examinations when they were due, compared to the target of 90%. The eight trust company examinations that were started after their respective due date averaged thirteen days behind schedule. Three additional trust examiners were hired in fiscal year 2016, thus improving compliance. Through nine months of fiscal year 2017, 100% of trust companies received examinations when due.

The division is timely in identifying troubled or problem institutions, which the Department defines as any state-chartered bank, foreign bank, or trust company with a Composite Uniform Financial Institutions Rating (for banks), Rating for U.S. Branches and Agencies of Foreign Banking Organizations (for foreign banks), or Uniform Interagency Trust Rating (for trust companies), respectively, of 3, 4, or 5.[5] As of December 31, 2016, problem banks, foreign banking offices and trust companies totaled 14, or approximately 5% of the total number of supervised entities.

An enforcement action serves as the framework to guide a troubled entity back to financial health or back into compliance with applicable laws and guidance. The division has acted expeditiously to implement appropriate supervisory enforcement actions for all state-chartered banks, foreign banks, and trust companies for those rated 3, 4, or 5, or those that present other unsatisfactory

[5] Supervisory Memorandum 1001 provides rating system definitions for commercial banks, trust departments of commercial banks, foreign banking offices, and electronic data processing operations. Supervisory Memorandum 1002 provides rating system definitions for trust companies.

circumstances or noncompliance with laws, rules, policies, and procedures. The Department is also authorized to issue an enforcement action against a bank holding company that owns a state-chartered bank. B&T Table 2 on page 64 shows the Department's statutory authority to issue enforcement actions, along with the applicable policy that provides further information to the industry about the types of enforcement actions.

All problem entities are either currently operating under an appropriate enforcement action or one is in the process of being implemented. Part P. in this section illustrates the types of enforcement actions outstanding at the end of each fiscal year. The commissioner may enter into a wide array of enforcement actions, all designed to refocus the board's and management's attention toward actions that will strengthen the safety and soundness of the institution. The institution will file quarterly written responses with the Department to monitor remediation progress. In more dire situations, the commissioner, by authority of Texas Finance Code §35.101, may appoint a supervisor to provide daily on-site supervision of an institution's operations and activities. A supervisor has extensive and ultimate authority including the approval of loans and investments and liabilities. The supervisor program was a very effective tool during the most recent recession in preventing several institutions from becoming insolvent.

While not a direct indicator of the performance or effectiveness of the Department, it is relevant to review its activity during times of economic stress. Conditions in the banking sector generally lag the economy. The Great Recession started in December 2007 and ended in June 2009. During this time, the number of problem banks under the Department's supervision increased from 14 in August 2007 to a high of 58 in November 2010 as shown in Appendix VII-C1. Nationwide, bank failures increased from three in 2007 to a high of 154 in 2010. Total bank failures nationwide during the 2007 to 2013 timeframe totaled 438. During this same period, only 11 banks failed in Texas with only five of these regulated by the Department. Appendix VII-C2 provides further details. Texas fared fairly well during this recession and the Department performed well these under stressful conditions by executing many of its supervisory and enforcement tools efficiently and prudently.

An associated outcome of the division's work is the promotion of a strong and vibrant economy, fueled in part by financial service providers supplying competitive financial products and services in a safe and sound manner. B&T Table 3 on the next page shows that in 2016 Texas state-chartered banks have originated almost $20 billion in small business loans, representing 13% of their total loans, compared to the national average of 7% of total loans. In addition, commercial loans represent 31% of Texas state-chartered banks' lending volume compared to 22% for the national average. Businesses use these loans to build new facilities, expand products and services, and hire new employees, which in turn supports the broader economy.

B&T Table 3: Bank Lending Volume

Loan Type	Texas State-Chartered Banks (Dollar volume / % of Total Loans) *($ in millions)* 12/31/2016	All Commercial Banks - Nationwide (Dollar volume / % of Total Loans) *($ in millions)* 12/31/2016
Small Business Loans	$19,968 / 13%	$627,427 / 7%
Commercial Loans	$46,740 / 31%	$1,868,115 / 22%
Consumer	$3,309/ 2%	$1,448,237 / 17%
Single Family Residential Loans	$23,948 / 16%	$2,155,888 / 25%

Source: FDIC Statistics on Depository Institutions

Maintaining accreditation for the bank supervisory functions through CSBS is a performance measure. The division has maintained accreditation since it was initially accredited in 1993.

In fiscal year 2017, Garza/Gonzalez & Associates audited the bank examination function of the division. The results were positive and presented to the Finance Commission at the August 2017 meeting.

Other Measures of Effectiveness and Efficiency

Efficient Operations by Leveraging Technology: To reduce the regulatory burden on supervised entities and improve examiner efficiencies, the division self-evaluates processes and systems to maximize its use of technology. Previous efforts to reduce regulatory burden for supervised entities has yielded the following technology platforms or systems:

- Examination Tools Suite (ETS) Software, DEX, and Digital Documentation – ETS is an examination management software program developed by the FDIC after significant input from state banking departments and the FRB. Implemented in late 2016, ETS utilizes modern technology for online collaboration, handling of digital documents, and addressing encryption/security concerns. To gather examination information electronically from banks and share information with staff and federal examiners, the Department created DEX. DEX is a digital “data vault” for regulated entities to securely transmit requested documents to the Department. Previously, examination request items were submitted in paper form and sometimes consumed several boxes resulting in expensive shipping costs for the institution. By utilizing DEX, bank employees can transmit digital documents in a secure manner to the examination team, without leaving their work station. Bank management can also assign and delegate more effectively by utilizing confidentiality restriction features within DEX for the bank personnel authorized to transmit documents. Each folder’s access level can be restricted per employee by the primary bank contact.

- Off-site Examination Process – Traditionally bank examinations were conducted entirely at the bank, but as technology has been adopted in favor of cost savings by eliminating some travel, it has enabled examiners to utilize the imaging platform at these institutions. Examination teams can conduct a portion of the examination off-site, and go on-site for meetings after the documents are reviewed. This not only improves the ability for senior examiners to provide training while in the office, but it also improves the communication between the entity and examiners, while decreasing business disruptions for the entity.
- Website Application and the Examination Request Process – Enhancement projects are in process to allow regulated entities to complete online applications or forms for submission through a secure portal.
- E.D.I.S.O.N. – The term E.D.I.S.O.N. stands for Examination Database Information System on the Network and is the division's examination tracking and data retrieval software program. Access to the program is restricted to specific employees and requires a password. Improvements to this program over the last few years have reduced paperwork and improved system utilization. All post-examination related documents such as processing logs and critiques are accessed through this program. Recently, a user-based query system was developed and implemented.
- Digital Document Processing – The Department utilizes electronic documents and strives to eliminate as much of the paper process as possible. This reduction in paperwork results in significant savings in shipping costs and speeds up delivery of the document. In addition, the division saves files using the Portable Document Format (PDF). PDF is a file format used to present and exchange documents reliably, independent of software, hardware, or operating system. By saving files as a PDF, our imaged files take up less hard drive storage space on the servers and individual computers, requires less bandwidth, improves network speed, and prevents unauthorized editing. Additionally, by utilizing scanners in the field, examiners can create PDFs and submit their expense vouchers from locations other than their assigned duty point. By printing documents to PDF and utilizing digital documents, imaging station work time has been reduced.

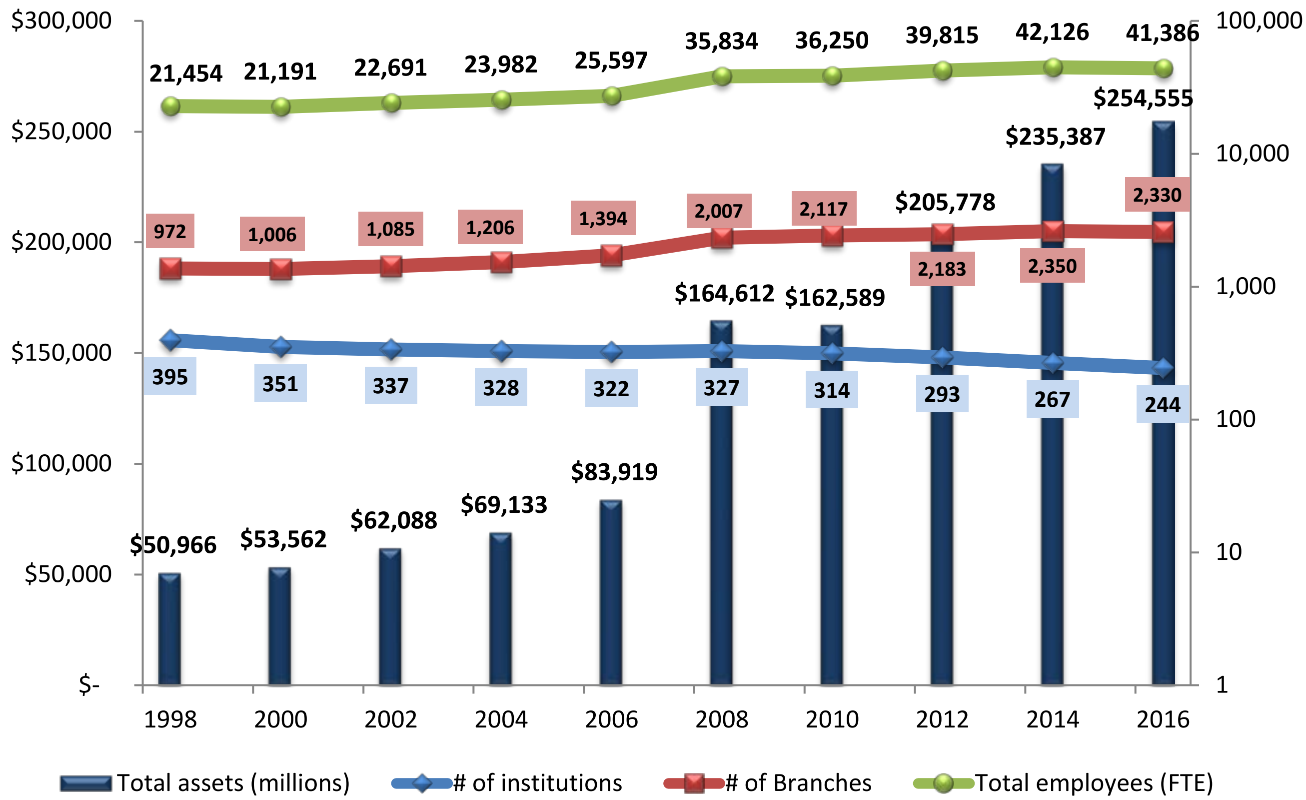
D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

INDUSTRY CONSOLIDATION

Bank merger activity in recent years has been significant and is expected to continue as institutions look for growth and seek economies of scale to improve profitability. Consolidations are also attributed to the increasing costs of compliance stemming in large part from the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as well as regulatory fatigue as some bank managers become overwhelmed by the mandates of new regulations. B&T Graph 1 on the next page shows that over the last ten years, banks chartered by the Department have decreased from 322 to 244, a 24% decline. The largest decline in the number of Texas banks due to merger activity has been in banks with total assets under $250 million. The changing regulatory environment with increased related compliance costs, as well as thin net interest margins, has significantly impacted the earnings capacity of smaller community banks. Small rural, family-owned banks are also finding it increasingly difficult to recruit successors interested in operating a bank in a rural area. Banks in this category may see a merger or acquisition as an opportunity to continue serving their community while incorporating the benefits of economies of scale that a larger institution can afford. In part, due to this difficult community banking environment, there has been a clear absence of de novo bank applications since 2009.[6]

Nominally offsetting the decline in banks chartered by the Department is a continuing interest in conversion from national to state bank charter. Three national banks converted to a state charter in fiscal years 2015 and 2016.

B&T Graph 1: Texas Commercial Banks



Due to bank mergers, the profile of supervised banks has changed. Although the number of banks has decreased, the asset size and complexity of the remaining banks has increased dramatically. As indicated by B&T Graph 1 above, branches of Texas state-chartered banks have increased from 1,394 in 2006 to 2,330 in 2016, an increase of 67%. Banks are larger in size, have more branches, operate offices in more diverse geographic locations, and offer more products and services. In addition, they rely more on technology, and internal operations are generally more complex than in previous years. To effectively supervise these larger and more complex institutions, the profile

[6] The first de novo bank charter since 2009 was approved by Commissioner Cooper on May 9, 2017 and opened in July of 2017.

of the division's workforce has shifted to more experienced and specialized examiners who can assess the condition of these entities.

TECHNOLOGY

Due to competitive pressures, financial service providers are required to continuously update their technology, both hardware and software, to provide the latest products and services to their customers. Through the internet and advances in technology, financial service providers continually change the way they interact with their customers. Services such as online banking, money transmission via mobile devices, and remote deposit capture provide customers with fast and convenient ways to transact business. However, this increased reliance on technology poses new challenges in managing the associated risks. Financial records and monetary transmission systems are increasingly vulnerable to unauthorized access by hackers, terrorists, and other cybercriminals. Losses can be incurred not only from this criminal activity but also from system failures. Banks and trust companies are challenged to properly manage technology risks to ensure that personal private information is protected and maintained as confidential, and losses are not realized from an unauthorized breach. The division is challenged to keep pace with changes in technology and cybercrime and must hire and retain specialized examiners who can assess the risks posed by technological vulnerabilities. As of June 30, 2017, the division employed 11 IT specialists.

Nonbank financial service providers, often called fintech companies or marketplace lenders, are changing the competitive landscape for commercial banks. Most fintech companies specialize in a narrow product or service, like mortgage lending, and provide their services almost exclusively through online channels. They often have faster approval times and lower overall operating costs. This speed and pricing has placed additional competitive pressures on traditional brick and mortar banks. While many fintech companies have access to funding through venture capital firms, some have partnered with traditional banks which have access to a more stable source of funding. Financial products provided through online channels are expected to continue to influence the traditional bank environment that the division supervises. As more of the division's financial service providers begin to offer similar products or services or partner with fintech companies to provide the same, the division will be challenged to hire and retain specialized examiners who can capably evaluate the potential risk posed by this technology.

FEDERAL SUPERVISORY POLICIES AND PRACTICES

The Department participates in an alternating examination program in cooperation with the FDIC and the FRB in an effort to reduce regulatory burden and improve examination efficiency. If the institution is a member of the FRB of Dallas, then the division alternates on-site examinations with the FRB of Dallas. If the bank is not a member of the FRB of Dallas, then the division alternates examinations with the FDIC. This program works well given the resources available to each agency. In times of crisis, however, federal regulators have shifted resources to other examination areas or other states, impacting the Department's operations. When federal resources are shifted, the division is still required to meet its examination mandates. To meet these mandates, the Department makes adjustments to examination activities in order to make up for the shortfall in resources. These adjustments can include completing more limited or highly risk-focused examinations for historically well-managed institutions, completing more examination work off-site, and temporarily reducing staff training. A shift in federal resources occurred as recently as 2017, when the division was notified by a federal regulator that it would not be able to begin some examinations when they were due. The division plans to shift resources to pick up at least some of the banks that would otherwise go past due for examination.

The Department also conducts specialty examinations, which include foreign banks, trust, and IT. Foreign bank examinations, for instance, are conducted jointly with the FRB of Dallas. If the FRB of Dallas decides to reallocate resources to other banking issues not related to foreign banks, the Department would still be responsible for conducting these examinations.

Shifts in resources for IT and trust examinations can also impact the Department. With advances in technology and the increase in electronic crimes, federal regulators could focus more resources on IT examinations and less on other areas. A shift in specialty resources from the federal regulators would impact the Department.

Resource requirements for monitoring compliance with BSA/AML regulations for entities licensed by the division has increased. Since the September 11, 2001 terror attack, an increased emphasis has been placed on identifying potential terrorist financing arrangements. In addition, a rise in financial crimes, advances in technology in the payments arena, and persistent drug activity along the Texas border has heightened the need for early identification of potential threats. As FinCEN issues supplemental guidance to address current issues, additional resources may be needed to ensure our regulated entities comply with these regulations. Information sharing agreements with the IRS and FinCEN have placed further requirements for monitoring and reporting on the Department's resources. BSA/AML training is a required core training class for the division's examiners, and the division relies heavily on two BSA specialists to assist with high risk institutions. Moving forward, additional BSA specialists may be required to address this increasing area of risk.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The B&T Supervision Division program affects consumers and business owners in Texas and other states who use the products and services of the financial service providers that are chartered and supervised by the Department. Banks chartered by the Department are active in providing several types of commercial credit facilities to small and large businesses in Texas and other states, which in turn, drives job growth and economic prosperity. Offices of foreign banks provide products that stimulate the Texas economy and trade with other countries. Public trust companies offer safe avenues to facilitate estate planning and guardianships.

Directors, officers, employees, shareholders, and creditors of Texas state-chartered banks, foreign banks, and trust companies also directly benefit from the activities and information provided by the division. As noted previously in B&T Graph 1, banks supervised by the division employed over 41,000 people in 2016. Efforts by the division allow these individuals to make more informed decisions about the financial service provider, or implement corrective measures directed by the division to return the institution back to a satisfactory condition.

B&T Table 4 below provides a statistical breakdown of state banks, trust companies, and offices of foreign banks chartered or licensed by the Department. For specific information about the qualifications and eligibility requirements for persons or entities affected, refer to Section VII. Corporate Activities.

B&T Table 4: Texas Commercial Banks

Banks

	December 31, 2015	*December 31, 2016*
Asset Size	*# / Combined Assets (millions)*	*# / Combined Assets (millions)*
$100 million or Less	61 / 3,497	59 / 3,479
$100 million to $500 million	133 / 31,031	127 / 31,226
$500 million to $1 billion	31 / 21,886	31 / 22,065
$1 billion to $10 billion	24 / 68,036	24 / 72,226
Over $10 billion	3 / 122,482	3 / 125,560
Total	**252 / 246,932**	**244 / 254,556**

Public Trust Companies *(Fiduciary Assets Under Administration)*

	December 31, 2015	*December 31, 2016*
Asset Size	*# / Combined Administered Trust Assets (millions)*	*# / Combined Administered Trust Assets (millions)*
$100 million or Less	6 / 259	4 / 69
$100 million to $500 million	3 / 602	3 / 644
$500 million to $1 billion	1 / 767	0 / 0
$1 billion to $10 billion	8 / 24,824	9 / 30,618
Over $10 billion	2 / 70,980	2 / 75,816
Total	**20 / 97,432**	**18 / 107,147**

Exempt Trust Companies

	December 31, 2015	*December 31, 2016*
Number	**17**	**17**

Offices of Foreign Banks

	December 31, 2015	*December 31, 2016*
Type of Office	*# / Combined Assets (millions)*	*# / Combined Assets (millions)*
Branch	1 / 68,564	1 / 53,795
Agency	8 / 9,377	9 / 8,452
Representative Office	15 / NA	14 / NA
Total	**24 / 77,941**	**24 / 62,247**

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

INITIAL CHARTER – APPLICATION, INVESTIGATION, AND APPROVAL

Refer to Section VII. Corporate Activities for information about the application process to obtain a state bank, foreign bank, trust company charter, branch, or representative office.

EXAMINATION PROCESS – PLANNING, ON-SITE, OFF-SITE, AND BOARD MEETING

The Department schedules examinations of banks, foreign banks, and trust companies according to the requirements of the Texas Finance Code. The specific Texas Finance Code examination authorizations and policies regarding examination frequency can be found in B&T Table 1.

Preplanning for the examination is conducted by the appointed EIC following the guidance provided by the division's Planning and Control Examination Procedure. Generally, pre-examination request packages are sent to the institution at least 45 days prior to the examination start date. When possible, a prep week is utilized where examiners conduct a portion of the examination off-site prior to beginning the on-site portion of the review. The examination is performed in accordance with the scope determined and approved by the regional director during the planning process. The scope memo will outline which examination procedures will be completed and the loans/accounts/investments that will be reviewed. When the examination is complete, the EIC holds a meeting with senior management to convey the tentative examination findings. Then, a meeting with the Board of Directors of the institution is scheduled to present the tentative examination findings. The findings and assigned ratings of an examination are not considered final until the review process has been completed, and the ROE is issued. Examination ratings are assigned based on the rating definitions set forth in Supervisory Memorandum 1001 and Supervisory Memorandum 1002. After the examination, the EIC prepares the ROE in the ETS software program and submits it for review to the regional office.

REVIEW PROCESS – REGIONAL OFFICE AND AUSTIN HEADQUARTERS OFFICE (AHQ)

The report submission and processing guidelines are contained in Administrative Memorandum 2009. Reports are processed and submitted to regulated entities at both the regional office and AHQ levels. Administrative Memorandum 2009 sets guidelines for reports that qualify to be processed under delegated signature authority by the regional office and reports that do not qualify for processing under delegated signature authority that must be processed at AHQ. It also establishes the scheduled processing time allotted for reports processed by the regional office and AHQ. Generally, reports for regulated entities under $2 billion in assets with a proposed uniform composite institutions rating of 1 or 2, and without an outstanding or proposed enforcement action can be processed by the regional office. However, regardless of rating or size, the director of B&T Supervision can require that the report be processed by AHQ.

Generally, a document is prepared for vetting during the weekly regional director conference call vetting meeting for any entities that do not qualify for regional office processing. This "Call-In Sheet" document provides a summary of the examination ratings, significant findings, and recommendations. During this vetting meeting, the examination findings and proposed ratings are discussed between Commissioner Cooper, Deputy Commissioner Bacon, director of B&T Supervision, regional directors, review examiners, and, when necessary, the EIC. This process ensures that regulatory consistency is maintained among all regional offices, as well as with the FDIC and FRB.

All reports are now processed and reviewed within ETS. Since ETS was implemented at the end of 2016, some procedures and guidelines that are specific to the Department have been developed. These procedures/guidelines were released after testing was completed and feedback was received. Recently completed ETS guidelines are available on the Department's intranet to provide staff with detailed step-by-step instructions for report review and submission processes, as well as how to set up examinations, and perform other tasks in the program.

Reports processed by the regional office are submitted by the EIC to the regional office via ETS. The report receives an initial review, typically by the regional review examiner, then a final review by the regional director before processing and mailing. A copy of the final report is mailed to the regulated entity and the appropriate federal regulator. A final imaged copy of the report is provided via email to AHQ for uploading to the Department's imaged document management system called Document Manager, reviewed by a review examiner assigned to that entity, and then the examination is closed out in E.D.I.S.O.N.

Reports processed by AHQ are first reviewed by the regional office in the same fashion as regional office reports are processed. Then, the regional office submits the report via ETS to AHQ for review and processing. The review examiner reviews and makes any necessary edits to the report within ETS. The report is then reviewed and edited as necessary by the director of B&T Supervision and if required by signature authority, the Deputy Commissioner Bacon. The report is then finalized, signed, and mailed to the regulated entity and appropriate federal regulator. The final report is uploaded into ETS and Document Manager, and E.D.I.S.O.N. is updated accordingly. Signature authority is detailed in Administrative Memorandum 2023.

Administrative Action Process – Vetting Examination Results and Working with FDIC/FRB Counterparts

When examination findings warrant, an EIC may recommend the issuance of an enforcement action or regulatory response. Enforcement actions are used to address and correct specific problems identified within the financial and operational affairs of a regulated entity. During the vetting of the examination findings and the report review and processing, the appropriate type of regulatory response is determined in accordance with Supervisory Memorandum 1005 for a bank, or Supervisory Memorandum 1030 for a trust company. The federal regulator is provided the opportunity to join any action that is initiated by the division, if the federal regulator has statutory authority for the action. When one of the federal agencies initiates an enforcement action, the division is given the opportunity to join as well. Typically, enforcement actions require ongoing reporting by the regulated entity to the Department on the status of corrective actions taken to address the weaknesses identified in the ROE.

Other Monitoring Processes

As previously discussed in Part B. of this section, the Department employs a variety of techniques to maintain awareness of, and contact with, all state-chartered banks between on-site examinations. This is referred to as the Institution Review Process which is outlined in Administrative Memorandum 2022 and consists of three distinct components:

1. Off-site Bank Monitoring Program, wherein quarterly analysis is performed on banks which are identified as exceptions or potential problems;
2. Bank Watch List, which is updated quarterly with banks that are adversely risk rated or have been identified as potential problems through the off-site bank monitoring program; and
3. Bank Call Program, through which regional office personnel maintain informal contact and communications with bank managers.

Additional special monitoring is utilized for specific risks that pose a threat to regulated institutions arising from a decline in a specific industry or the overall economy. For example, the recent downturn in the oil and gas industry prompted the quarterly monitoring of banks with concentrations in oil and gas lending to ensure that risk management strategies were effectively implemented and further deterioration in asset quality did not occur. Each quarter the banks identified are required to send the Department updated data on their oil and gas loan portfolio that would not be available in the bank's quarterly call report data. In the last several issuances of the *Condition of the Texas State Banking System* report, the Department dedicated a section to the energy sector, which provided historical details on price fluctuations and other pertinent information about the industry.

Division staff works closely with DSS to follow-up on complaints received. If warranted, division staff will contact entities that are the subject of the complaint to investigate suspicious activities or abuse. If necessary, problem issues are researched during a special on-site investigation or during the next on-site examination.

Monthly, division staff monitors SARs that are filed by banks. If warranted, division staff will follow-up on SARs involving bank officers, directors, employees, or principal shareholders either through a special investigation or during the next on-site examination.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding, and receives no General Revenue. In accordance with Texas Finance Code §16.003, the agency's budget is submitted and approved by the Finance Commission annually, and the agency is responsible for all direct and indirect costs of the agency's existence and operation. As such, all revenues go to support the mission and strategies of the Department and are not part of the general appropriations process. In situations where the revenues are projected to exceed the costs of supervision, the quarterly assessment (usually the last quarterly assessment for the fiscal year) is reduced accordingly.

The B&T Supervision Division's budget is submitted as part of the overall budget to the Finance Commission. For monitoring purposes, the division's budget is divided into the following functional area: Dallas Region; Houston Region; Lubbock Region; San Antonio Region; Trust Operations; IT Operations; and AHQ. Significant variances from budgeted amounts are tracked monthly and reported quarterly to the Finance Commission.

All sources of revenue used to implement the strategies of the division, which in turn fulfill the mission of the Department, are derived from assessments or other fees imposed upon the chartered/licensed entities. The only exceptions in fiscal year 2016 were:

- $9,761 received in fiscal year 2016 from the Mississippi Department of Banking and Consumer Finance pursuant to a fee sharing agreement to reimburse the division for assistance provided for the supervision of a Mississippi state-chartered bank with branch offices located in Texas.
- $60,000 reimbursement the Department received from the FRB for tuition and travel expenses for FRB and FFIEC training courses attended by Department staff members. For calendar year 2018, the reimbursement will decrease to $35,000. This is accounted for as a reduction in Employee Training and Registration Fees.

State-chartered banks and foreign banks are billed under a quarterly assessment process based upon on-balance sheet and off-balance sheet assets. Trust companies and state banks with trust departments are billed for trust examinations based upon an hourly rate for examinations, plus travel expenses. The hourly rate for trust examinations is $110. In fiscal year 2016, trust examination fees totaled $1,289,400.

Nontrust specialty examination fees, which are in addition to the normal assessment fees, are charged when the activities of the licensed entity require a specialized review or investigation. The hourly rate for specialty examinations is $110. In fiscal year 2016, specialty examination fees totaled $89,062.

Part D. of Section V. Funding provides additional information regarding the division's assessment rates for banks and offices of foreign banks operating in Texas.

Under the Department's supervisor or conservator programs, the entity is required to pay all approved expenses directly to the assigned supervisor or conservator.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Even though the Department is the chartering authority, Texas state-chartered banks also have a primary federal regulator. The FDIC and FRB perform similar supervisory activities as the Department for banks and foreign banking offices. The applicable federal regulator depends on whether the bank is a member of the FRB. If the bank is a member of the FRB, then the primary federal regulator is the FRB. If the bank is not a member of the FRB, then the primary federal regulator is the FDIC.

To reduce regulatory burden, the Department and the applicable federal agency, alternate examinations for smaller banks with a Uniform Financial Institutions Composite Rating of 1 or 2. For banks with ratings of 3, 4, or 5, examinations are more frequent. For these examinations, the Department and the applicable federal agency typically jointly examine the bank and issue a single ROE. However, primary report processing responsibilities alternate between the Department and federal agencies for joint examinations. The scope of these examinations is very similar and each agency utilizes the same risk grading system (CAMELS); however, each agency has slightly different standards and processes to adhere to. Although examinations are largely similar, the state and federal agencies have different jurisdictions with regard to specific areas as well as different levels of authority, such as approving holding period extensions for certain classes of nonearning assets.

For national bank charters, federal savings banks, and national trust companies, the OCC is the sole regulatory authority for nationally chartered entities and provides similar regulatory oversight as the Department.

For state savings banks, the Department of Savings and Mortgage Lending conducts similar activities as the Department.

For bank holding companies that own a Texas state-chartered bank, the Department has supervisory authority, along with the FRB of Dallas. The Department typically conducts examinations of these entities either jointly with the FRB of Dallas or, in the case of smaller bank holding companies, independently.

For offices of foreign banks operating in Texas, the Department has supervisory authority, along with the FRB of Dallas. The Department typically conducts examinations of these entities jointly with the FRB of Dallas.

For state-chartered credit unions, which offer similar products and services as banks, the Texas Credit Union Department conducts similar activities as the Department. For nationally chartered credit unions, the National Credit Union Administration, or NCUA, conducts similar activities as the Department.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The bank examination program coordinates schedules with the FDIC and FRB of Dallas on a frequent basis. These examination schedules are based on standards or triggers described in Supervisory Memorandum 1003 and Administrative Memorandum 2041. The division's four regional directors communicate with their federal counterpart to ensure that as problem banks are identified, examination schedules are adjusted to accommodate a more frequent examination cycle. Information sharing agreements are in place with the FDIC and FRB of Dallas, which allow for more transparency and improve cooperation among all agencies. The Department has engaged in other MOUs and interagency agreements with multiple government agencies, which are reviewed/updated periodically. The Department also has interagency cooperative examination and information sharing agreements with other state banking departments to provide for the effective supervision of entities that maintain branches or offices in multiple states.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The division's examination program/function involves working frequently with state and federal agencies. Whether its other regulatory agencies or law enforcement agencies, the Department often serves as a liaison, or provides leadership and expertise. For example, when cybersecurity problems became widespread, the Department coordinated with various federal agencies (other than the FDIC and FRB of Dallas). The Department was able to provide substantial leadership and work with the U.S. Secret Service, FBI, National Security Agency, and other financial regulatory entities to develop guidance and improve the cyber defense posture at all financial institutions. For BSA/AML examinations of compliance with the USA PATRIOT Act, coordination with FinCEN is required, as well as with FDIC and FRB of Dallas. The Department has also worked with other non-Finance Commission related state agencies such as the Texas Comptroller of Public Accounts, Texas State Securities Board, the Office of the Attorney General, and other local law enforcement offices.

The Department also coordinates with other state banking departments to conduct examinations of larger financial institutions, share in training costs, and provide expertise in multiple specialty examination areas.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The Department contracts with a retired FBI special agent to assist with the investigation of suspected white collar crime incidents. The expenditures related to this contract totaled $21,499 and $33,104 for fiscal years 2015 and 2016, respectively. In accordance with the contract, which covered both fiscal years, the investigator is reimbursed $100 per hour, plus travel expenses. These services were procured following the delegated authority from the Texas Comptroller of Public Accounts to procure services under Government Code §§2155.131, and §§2156.121 - 125, and Title 34 of the Texas Administrative Code Section 20.41. In addition, the Department has the authority to enter contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes under Texas Finance Code §16.006. The investigator submits a monthly timesheet and expense voucher which is reviewed and approved by a deputy commissioner and assistant general counsel. The deputy commissioner instructs personnel in the Administrative Services Division to reimburse the investigator.

The Department operates under an interagency agreement with the MDIFS, a Michigan state governmental agency, to provide assistance with the loan review of an entity with offices in Michigan. The purpose of this assistance is to provide local knowledge and expertise of lending issues in Michigan. The expenditures under this interagency agreement totaled $13,150 and $25,968 in fiscal years 2015 and 2016, respectively. In accordance with the interagency agreement, the MDIFS is reimbursed an hourly rate of $75 per on-site examiner with 10 years or more of regulatory experience and an hourly rate of $50 per on-site examiner with less than 10 years of regulatory experience, plus travel expenses. The MDIFS submits an invoice to the Department for reimbursement under the terms of this agreement. A financial analyst reviews the invoice and recommends approval to a deputy commissioner for payment. The deputy commissioner instructs personnel in the Administrative Services Division to reimburse MDIFS.

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C of Section V. Funding.

The division is not currently experiencing any problems relating to contracted services.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

EXAMINER RETENTION

As chartered and licensed entities become larger and more complex, maintaining an experienced workforce becomes critical to fulfilling the Department's mission, especially with regards to the supervision of state banks with complex operations or assets above $10 billion.

Examiners with a specialization in capital markets, model risk management, trust, white collar crime, accounting, capital analysis, IT, and BSA/AML compliance are in high demand in the industry and with other regulatory agencies. Formal training for these specialty areas is particularly critical considering the complexity and continuously evolving nature of these specializations. Though the division provides some internal training resources for specialists, most is provided through outside sources. The division utilizes several providers for this training including the CSBS, FFIEC, FDIC, and FRB. Most of these training opportunities for specialty examiners require out-of-state travel expenditures.

Due to retirements and extensive overnight travel required to effectively implement the program's primary strategy to conduct on-site examinations, examiner retention is a challenge. Retirements of experienced examiners, turnover in lower level examiners, and a lack of experienced applicants for job openings strains the resources needed to fulfill the division's critical supervisory functions. Experienced examiners used to staff the more complex banks are very limited, which results in less than ideal staffing for some examination assignments. Due to the complexity of modern day bank regulation and the breadth of knowledge required to effectively function as a commissioned examiner, the average time required to effectively train an assistant financial examiner, one who is able to examine a smaller community bank, is approximately four years. Larger banks require examiners who have at least seven years of experience. As a result, a focus on retaining entry-level and mid-level examiners is critical. B&T Table 5 below provides a summary of the turnover rates for financial examiners in the division for the last two fiscal years and through nine months of the current fiscal year.

Strategies initiated to help reduce examiner turnover include:

- retaining qualified employees through a competitive salary program;
- performing pre-employment screening of candidates to better identify those individuals who are best suited for the position;
- performing more off-site examination work to reduce overnight travel;
- providing a flexible work schedule;
- providing a travel stipend for examiners who are required to travel overnight more than 50 nights per year (Administrative Memorandum 2038);
- providing a tuition reimbursement expense program for employees who wish to seek additional training or degrees; and
- partnering with undergraduate banking programs at Texas A&M University, College Station, Sam Houston State University, Huntsville, Baylor University, Waco, and University of Houston, Houston, to provide internships and help identify candidates who have an interest in a career in bank or trust supervision.

There are no outdated or ineffective state laws that impede the program.

B&T Table 5: B&T Financial Examiner (FE) Turnover by Fiscal Year

	FY 2015	FY 2016	FY 2017 (5/31)
Number of B&T FE's as of August 31st Previous FY	109	105	107
Number of B&T FE Separations	14	11	11
Percentage Turnover	*12.84%*	*10.48%*	*10.28%*

MANAGEMENT SUCCESSION

Several key division managers and senior level examiners are either currently eligible to retire or will reach retirement eligibility in the next five years. Of the division's directors, 63% are currently eligible to retire, and 13% will become eligible in the next five years. Of the division's examiners, 15% are currently eligible to retire, and 8% will become eligible over the next five years.

The Department is challenged to manage the transition of these experienced leaders into retirement so that the division's operations are maintained at their current level and institutional knowledge is transferred. Strategies implemented to accomplish this include:

- mentoring and training mid-level managers to perform some of the duties of more senior managers;
- allowing field examiners to complete a temporary review examiner rotation at the AHQ;
- exposing mid-level managers and senior examiners to the activities and functions of CSBS;
- exposing less tenured examiners to additional functions normally considered above their grade; and
- providing additional off-site training.

DECLINING NUMBER OF COMMUNITY BANKS

We have lost 1,854 banks nationwide and 159 banks in Texas since 2010. Most of these have been community banks with a majority of the loss being through acquisition or consolidation.

A real concern exists that the continued decline in the number of community banks will have a negative impact on the economy. Collectively, community banks are responsible for 45% of loans to small businesses in the U.S. and nearly three-fourths of agriculture lending. In some counties, community banks are the only financial institutions available to the public.

There are several reasons for this consolidation: lack of de novo entries; economies of scale; lack of management succession; and regulatory burden.

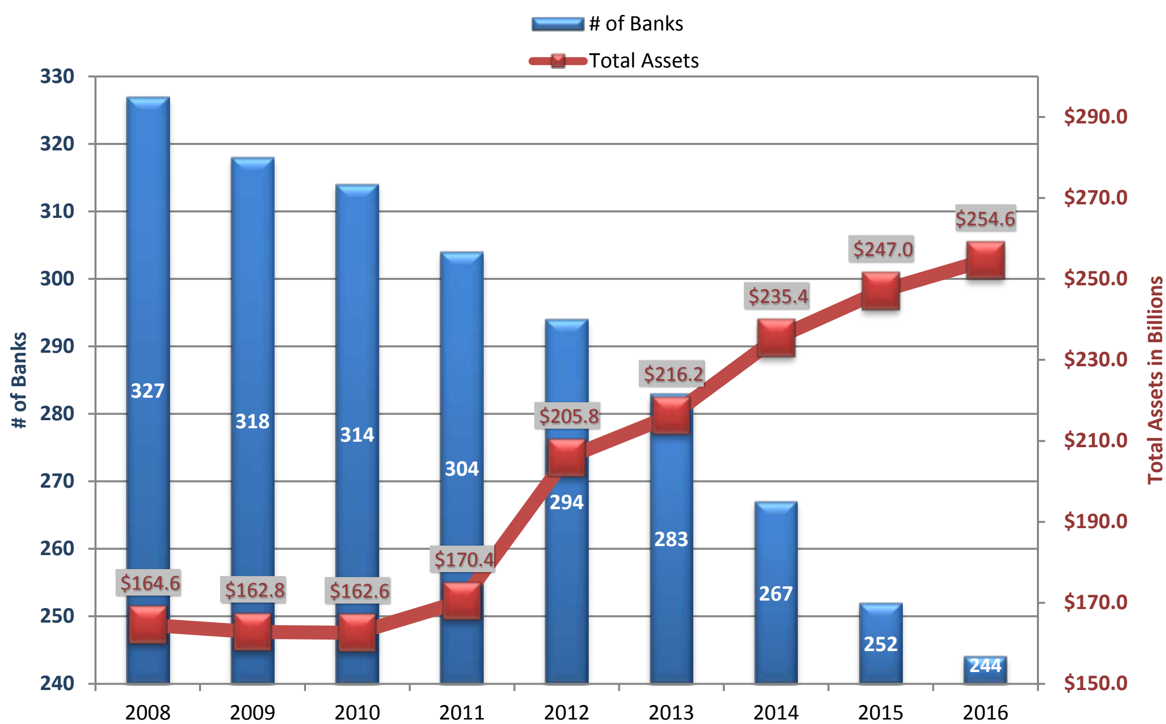
The Dodd-Frank Wall Street Reform and Consumer Protection Act passed in 2010, creating a multitude of regulations that were designed to prevent another financial crisis, but many of the regulations were more properly aimed at larger institutions. An unintended consequence has been that this increase in regulations has disproportionately burdened community banks. More regulatory decisions by the federal agencies have been made in Washington, D.C. resulting in a one-size-fits-all regulatory approach.

This regulatory approach at the federal level has certainly contributed to the decline in the number of community banks through consolidation due to increased cost and just overall frustration.

The bank trade groups and the banks themselves have reached out to their congressional delegation seeking regulatory relief. The Department along with other state banking departments in conjunction with CSBS has supported right-sized regulation for community banks. Many bills have been filed in Congress, but to date little relief has occurred.

As of December 31, 2016, the number of banks regulated by the Department declined to 244. While the number is down, the assets controlled by these banks has increased to a high of $254.6 billion as depicted in B&T Graph 2 below. This also indicates that the banks the Department regulates have generally been the “acquirers” and have also grown organically.

B&T Graph 2 State-Chartered Bank Numbers and Total Assets (2008-2016)



B&T Table 6 on the next page depicts the history of the decline in the number of banks and the size of the banks remaining.

B&T Table 6 Number of FDIC Insured Banks in Texas by Size

	12/31/2004	12/31/2006	12/31/2008	12/31/2010	12/31/2012	12/31/2014	12/31/2015	12/31/2016	% Change Between 2004 & 2016
$100M or less	381	332	275	223	171	133	112	105	(72%)
$100M-$250M	183	185	211	206	184	164	159	152	(17%)
$250M-$500M	51	63	80	96	107	102	95	89	75%
$500M-$1 billion	35	34	38	44	46	54	60	62	77%
Over $1 billion	31	36	40	46	54	54	54	56	81%
Total	**681**	**650**	**644**	**615**	**562**	**507**	**480**	**464**	**(32%)**

In millions

As mentioned previously, another reason for the decline in the number of banks has been the lack of de novo entries. The Department approved a new charter in March 2017 and subsequently the FDIC approved deposit insurance. The bank opened for business in July 2017. This was the first de novo bank to be opened in Texas since 2009. Only six banks have opened nationwide since 2009.

Many blame the lack of de novo entries on the unwillingness of the FDIC to grant deposit insurance and the concern about regulatory burden in general. Continuation of this consolidation trend may have a material impact on the economy. Resolution of this situation will necessitate Congressional action.

The Department will continue to support right-sized federal regulation through responses to inquiries from members of Congress and through testimony and our work with CSBS.

The Department will continue to do its job in an appropriate manner utilizing our "tough but fair" regulatory approach. This includes attempts to moderate federal regulatory overreach as it is encountered.

The Department will continue to encourage de novo bank applications and respond appropriately.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

COMMISSIONING PROCESS FOR EXAMINATION STAFF

For a financial examiner to advance from being an assistant examiner (Financial Examiner I – III) to a commissioned examiner (Financial Examiner IV – VII), they must first successfully complete the division's Bank Examination Testing System (BETS) commissioning process. Financial examiners begin to prepare for the BETS commissioning process by acting as EIC at several banks under the supervision of a commissioned examiner. The sole purpose of the BETS test is to ensure that a candidate has acquired the basic skills necessary to assume the increased responsibilities of an EIC before promotion to Financial Examiner IV. The testing process is administered by DSS.

BETS is a self-referral process in which the assistant examiner notifies his or her regional director when they are prepared to be tested. Candidates seek advice, recommendations for improvement, and/or counseling from their regional director concerning their preparedness. The BETS process is split into four phases for commercial examiners: (1) General Knowledge, (2) Loans, (3) Panel, and (4) Test Bank. Trust and IT examiners have a similar testing structure.

Once a candidate passes all four phases of the process, they are promoted to Financial Examiner IV, or commissioned examiner. Over the years, the process has been refined to better assess a financial examiner's abilities to carry out the Department's mission. Over the last five years, the average time to complete the BETS process and be promoted to Financial Examiner IV is 63 months.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Regulation and oversight is needed because the entities under the supervision of the Department involve the safekeeping of funds and/or assets from the public. In many instances, the loss of these funds would be catastrophic to the owner. It is therefore imperative that the persons involved in the ownership and management of the chartered entities have sufficient experience, ability, standing, trustworthiness, and integrity to operate in a safe and sound manner and in compliance with applicable laws. Additionally, banks are a primary driver of economic health and growth. The economic stability of the state is at risk should these entities lack sufficient financial and managerial resources to honor customer demands or safeguard the assets of the public.

The B&T Supervision Division is charged with directly supervising these financial service providers and ensuring that they operate in a safe and sound manner, and in compliance with applicable state and select federal laws and guidance. The examination planning and inspection process is fully described in Part F. of this section. Follow-up activities are initiated when an institution is found to be operating in an unsafe or unsound manner, or is in noncompliance with applicable statutes, rules, or supervisory guidance. As described previously, an informal or formal administrative action may be issued depending upon the severity of the circumstances. Supervisory Memorandum 1005 and Supervisory Memorandum 1030 provide the framework and describe the circumstances for deployment of these different actions. Sanctions available to the Department include Cease and Desist Order, Order of Supervision, Order of Conservatorship, Order of Removal or Prohibition, and Administrative Penalties.

No individuals are issued licenses by this division. However, removal and prohibition actions may be sought when the commissioner finds that a present or former officer, director, employee, or controlling shareholder committed or participated in violations of law and unsafe and unsound banking practices or made false entries to the entity's records.

As previously discussed, division staff works closely with DSS to follow-up on consumer complaints when the circumstances warrant. The Department receives complaints and inquiries on a variety of entities, including our regulated entities. Although the Department does not perform compliance examinations, it does investigate consumer issues to the fullest extent possible.

Texas Finance Code §12.108 requires the Department to retain consumer complaint information and provide consumers with the agency's policies and procedures for resolving complaints. Furthermore, Title 7 of the Texas Administrative Code Sections 11.37 and 33.51 require that regulated entities post notices on how consumers can file a complaint.

A section of the Department's website is devoted to procedures for filing a complaint against a regulated entity. Additionally, the Department has a dedicated email address and toll free number for consumers to easily contact us with questions prior to filing a formal complaint. As an added convenience, the website has frequently asked questions to help consumers with their questions or concerns.

Should a consumer want to file a formal written complaint, the Department developed a form for consumers to complete and submit. The form is designed to extract pertinent information needed to process the consumer's complaint. Complaints are discussed with the regulated entity and consumer. For more complex cases, financial institutions are given 10 business days to provide a written response. Consumer assistance specialists are responsible for reviewing the response and any applicable laws or rules that may apply in each situation. If necessary, specialists may consult with other Department staff, including staff in the B&T Supervision Division and the Legal Division. A final determination is made with respect to the merit of the complaint, and a formal response is provided to the complainant.

All complaint and inquiry statistics are published in each Finance Commission packet. The Finance Commission meets six times per year. General statistical information can be found in Part P. of this section.

The Department has executed information sharing agreements with the OCC and the FDIC to provide a mechanism for sharing consumer complaints between the agencies. In 2011, the Department entered a MOU with the CFPB and CSBS for sharing information for consumer protection purposes. This includes examination related information. In December 2012, the CFPB announced its plans to share complaint data it receives with state regulatory agencies. The Department worked in conjunction with CSBS and the CFPB to finalize a nationwide agreement to permit the sharing of complaints with other states. The Department signed the finalized agreement for complaint sharing and portal access in March 2013.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Texas Department of Banking
Bank and Trust Supervision
Exhibit 11: Information on Regulated Entities
Fiscal Years 2015 and 2016

State-Chartered Banks	Fiscal Year 2015	Fiscal Year 2016
Total number of regulated entities	256	247
Total number of entities examined	118	106
Total number of complaints received from the public	905	686
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	1,441	1,070
Number of jurisdictional formal written complaints found to be without merit	5	7
Number of complaints resolved	905	686
Average number of days for complaint resolution	21	9

State-Chartered Trust Companies	Fiscal Year 2015	Fiscal Year 2016
Total number of regulated entities	36	35
Total number of entities examined	28	31
Total number of complaints received from the public	3	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional formal written complaints found to be without merit	0	0
Number of complaints resolved	3	0
Average number of days for complaint resolution	7	0

Foreign Bank Agencies	Fiscal Year 2015	Fiscal Year 2016
Total number of regulated entities	9	10
Total number of entities examined	2	2
Total number of complaints received from the public	0	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional formal written complaints found to be without merit	0	0
Number of complaints resolved	0	0
Average number of days for complaint resolution	0	0

Enforcement Actions – State-Chartered Banks	Fiscal Year 2015	Fiscal Year 2016
Administrative/Enforcement Actions[7]		
MOU	7	10
Board Resolution	8	10
Written Agreement	1	0
Consent Order	2	0
Supervisor/Conservator	3	1
Total Administrative/Enforcement Actions	**21**	**21**
Prohibition Orders	2	3

Enforcement Actions – Trust Companies	Fiscal Year 2015	Fiscal Year 2016
Administrative/Enforcement Actions		
MOU	1	1
Board Resolution	1	1
Supervisor/Conservator	1	1
Total Administrative/Enforcement Actions	**3**	**3**
Prohibition Orders	0	0

Table 11 Exhibit 11 Information on Complaints Against Regulated Entities

[7] B&T Table 2 list the applicable statutes that address the Department's enforcement authority. Supervisory Memorandum 1005 (banks) and Supervisory Memorandum 1030 (trust companies) describe the types of enforcement actions.

VII. Guide to Agency Programs – Money Services Businesses

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *MSB Supervision*

Location/Division: *Austin / Special Audits Division*

Contact Name: *Russell Reese, Director*

Actual Expenditures, FY 2016: *$904,238.99*

Number of Actual FTEs as of June 1, 2017: *9*

Statutory Citation for Program:
Texas Finance Code Chapter 151 Regulation of MSBs

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of this program is to protect the interests of Texas consumers using the services of MSBs licensed by the Department, oversee the safety and soundness of these MSBs, and help protect against drug trafficking, terrorist funding, and money laundering as outlined in Texas Finance Code Section 151.102.

The major activities the Department utilizes to meet the objectives regarding MSBs are:

- **Licensing of MSBs.** Before a MSB can operate in Texas, it must first complete a thorough application process with the Department. Section 151.302 of the Texas Finance Code requires a person that engages in the business of money transmission in this state to be licensed. Section 151.502 of the Texas Finance Code requires a person that engages in the business of currency exchange in this state to be licensed. In evaluating the application and an applicant's qualifications, the Department must ensure it possesses the financial and business experience, competence, character, and general fitness to warrant the public's trust and confidence.

  The division assists the Corporate Activities Division (this is the division within the Department that reviews, processes, and approves MSB applications) during the application review and approval process to ensure compliance with Texas licensing requirements outlined in Section 151.202 of the Texas Finance Code. Section VII. Corporate Activities provides details regarding the application process for MSBs.

- **Examinations of licensed MSBs.** Examinations are the primary strategy utilized to ensure MSBs are operating in a safe and sound manner and in compliance with applicable state and federal regulations. As outlined in Section 151.601 of the Texas Finance Code, the Department examines MSBs and their authorized delegates to ensure they adhere to:
  - Chapter 151 of the Texas Finance Code;

- Title 7 of the Texas Administrative Code Chapter 33;
- Chapter 278 of the Texas Finance Code; and
- Other applicable state and federal regulations, including regulations such as BSA/AML, USA PATRIOT Act, and CFPB consumer receipt disclosure requirements.

A MSB license holder may conduct business regulated under Chapter 151 of Texas Finance Code through an authorized delegate (AD) appointed by the license holder. The Department's MSB examination frequency policy and examination rating system is further detailed in Part C. of this section.

The division conducts on-site and off-site examinations both independently and in conjunction with other state and federal agencies in accordance with the MTRA Cooperative Agreement; the Nationwide Cooperative Agreement for MSB Supervision; and MOUs with FinCEN, the IRS, and the CFPB. These agreements allow for the exchange of information related to the regulation of MSBs.

- **Corrective Actions.** MSBs are required to correct apparent violations cited during examinations either through formal or informal actions. A licensee found to be operating in an unsafe manner or out of compliance with state and federal requirements may face Department initiated administrative enforcement actions, such as the suspension and revocation of a MSB license as outlined by Section 151.703 of Texas Finance Code, Cease and Desist Orders as allowed by Section 151.705 of the Texas Finance Code, and/or Consent Orders.
- **Off-site Monitoring.** Sections 151.603 and 151.604 of the Texas Finance Code require MSBs to submit written reports to the Department when they know or have reason to know of a material change in the information previously reported to the Department. Further, MSBs are also required to submit annual reports to the Department for review as required by Section 151.207 of the Texas Finance Code. A MSB's annual report contains information related to its financial condition, transaction volume, and a list of its Texas AD. The division reviews the information to ensure the MSB complies with net worth and security requirements. The information related to Texas ADs is utilized by Department examiners when performing the risk assessment of the MSB for an upcoming examination.

  The division also participates in MMET and MTRA discussions, including the Licensing/Emerging Issues Committee, which provides a forum for various member state agencies to discuss issues surrounding MSBs licensed in multiple states. The division reviews this information and ensures that any significant matters are identified, investigated, and resolved in a timely manner.

  MSB license holders must maintain adequate permissible investments, security coverage, and quarterly reports that include financial statements, permissible investments calculations, and transmission volume activity. Although these reports are not required to be submitted quarterly, the Department has the authority to require MSBs identified with certain risks and/or concerns to submit these reports quarterly for review.

- **Investigations.** Section 151.104 of the Texas Finance Code allows the Department to conduct investigations to determine if a person has violated Chapter 151 or determine whether a license or AD should be terminated. As authorized by Section 151.702 of the Texas Finance Code, the Department continues to proactively identify and contact companies that may be conducting MSB transactions in Texas without the required license. Once an entity is identified, the division will conduct research and obtain information on the business to determine if an "unlicensed activity" letter is warranted. For entities that the Department concludes have engaged in unlicensed money transmission, the Department may assess fines as authorized by Section 151.707 of the Texas Finance Code.
- **Information Sharing.** The Department shares information with other state and federal agencies through an established framework. Information sharing is an effective tool in the coordinated supervision of MSBs. Section 151.105 of the Texas Finance Code allows the Department to cooperate, coordinate, and share information with other state, federal, or foreign government agencies. The goal of this process is to be more efficient, effective, and lessen the regulatory burden on MSBs.
- **Consumer Complaints.** The Department reviews and processes written Texas consumer complaints filed against licensed MSBs. The Department ensures that MSBs timely respond to consumer complaints. Once a response is received, the Department reviews the information to ensure compliance with applicable regulations. When necessary, the Department will require corrective action.

To further assist the Department with effectively fulfilling the division's mission, the following activities are also performed:

- **Maintaining policies and procedures.** The Department has established policies and procedures to ensure examinations are conducted and applicable statutes and rules are enforced. The Department has established work programs, policies, and procedures to ensure examinations are thorough, consistent, and reliable.

- **Monitoring conditions.** The Department monitors developments in the MSB industry and the economy for issues that could pose a threat to the safety and soundness of MSBs.

- **Tracking changes to statutes, rules, and regulations.** The Department monitors amendments to existing regulations and new regulations at both the state and federal level that may affect compliance requirements for licensed MSBs.

- **Conducting outreach activities.** As needed, the Department offers training and assistance to directors and managers of MSBs to help them understand developments in the industry, the risks posed by certain business activities, or compliance with state and federal laws and regulations.

- **Maintaining a well-trained and experienced staff.** Maintaining a well-trained staff to properly oversee licensed MSBs is critical in protecting the interests of Texas consumers.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.

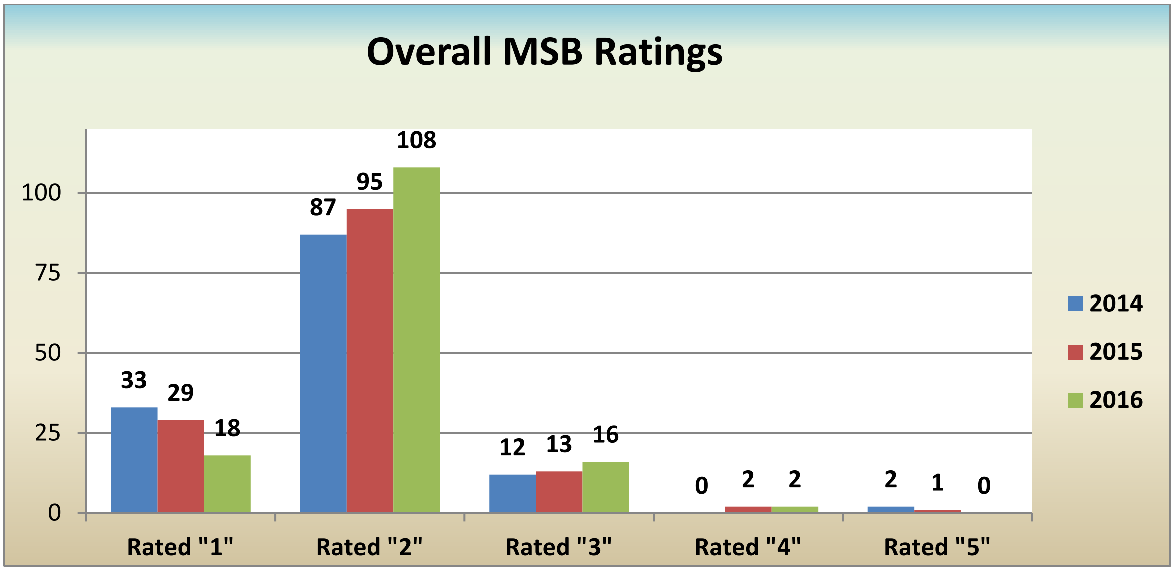
The effectiveness of the division's program is evidenced through the examination of licensed MSBs. The purpose pf the examination is to ensure the safety and soundness of the MSBs, deter money laundering, and ensure MSBs are operating in compliance with applicable state and federal regulations. As such, performance measures are in place that relate to the timely examination of MSBs. Notably, in fiscal year 2016, the division performed 117 examinations and met key performance measures. Furthermore, through the second quarter of fiscal year 2017, the division performed 53 examinations and met all performance measures.

Part K. of Section II. Key Functions and Performance provides information on the division's key performance measures and results. The methodology for the performance measures was submitted with the Department's 2017-2021 Strategic Plan (Appendix II-K).

The division optimizes effectiveness by conducting thorough examinations in a timely manner, issuing appropriate ROEs, and ensuring that noted deficiencies are corrected. Timely identification and examination of poorly rated MSBs is critical. Section 151.601(b)(1) of the Texas Finance Code provides that MSB license holders may be examined annually or as often as the Department may reasonably require. Supervisory Memorandum 1023 further describes the Department's MSB examination frequency policy, and Supervisory Memorandum 1022 details the Department's MSB examination rating system. These two supervisory memorandums outline the Department's methodology used to effectively examine higher risk MSBs. Higher risk MSBs, those rated 3, 4, and 5, are on a 12-month full scope examination frequency. MSBs rated 4 or 5 present an even higher risk and require six-month limited scope examinations to assess corrective actions and compliance with the prior examination findings. In general, MSBs who receive 1 (strong) and 2 (satisfactory) ratings qualify for an 18-month examination frequency.

MSB Graph 1 on the next page is a recap of ratings assigned to all MSB license holders for the past three years.

MSB Graph 1 Overall MSB Ratings



The division also optimizes efficiencies by enhancing automated systems, where possible, to improve the quality and speed of the information exchanged internally and between the Department, its stakeholders, MSBs, and the various federal and state agencies through the following three methods.

- The Department communicates and performs joint and/or concurrent examinations, through established information sharing protocols, with various state and federal agencies to promote efficiency and effective supervision. The Department's coordination of examinations (with other states through participation in various calls and committees with MMET and MTRA, and MOUs with FinCEN and IRS) promotes more efficient oversight of the MSB industry.
- In fiscal year 2014, the Department developed a secure electronic portal called DEX that enabled licensed MSBs to share examination documents securely with the Department. DEX allows MSBs to provide examination records in a fast, secure, and efficient manner.
- The Department also maintains the division's software program called Special Audits Regulatory Application (SARA), which allows both management and non-management staff to enter and update specific data items associated with the collection of planned and completed examinations. SARA also provides various weekly, monthly, and quarterly managerial reports to monitor the division's effectiveness.

Further, to promote efficiency and lessen the burden placed on licensed MSBs, the Department issued Supervisory Memorandum 1024 which clarifies the Department's policy related to the acceptance of ROEs of other state agencies. Section 151.601(b)(4) of the Texas Finance Code provides that the Department may accept the examination report of another state agency, which upon being accepted is considered for all purposes as an official report of the commissioner. However, before a ROE may be accepted, the conditions outlined in Supervisory Memorandum 1024 must be met.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

In Texas, the following MSB activities and products are licensable: money transmissions, money orders/travelers checks, currency exchangers/dealers, currency transporters, third-party bill payers, gift cards (in open systems), and prepaid access card products that are not issued by insured financial institutions. Examples of activities not licensable in Texas are check cashing, prepaid access card products that are issued by an insured financial institution, and gift cards (in closed systems).

The MSB industry continues to grow and expand the products and services offered as well as the states and countries serviced. The MSB sector has been an evolving area for years, as companies explore new methods for providing old and new products to consumers. The payment system is becoming more complex resulting in an increased growth in emerging innovations such as mobile products. Internet and mobile payment volumes have grown exponentially, as consumers and merchants have embraced cashless payment options like mobile wallets and mobile credit card readers. Innovations in financial technology, also known as fintech, (the industry composed of companies that use new technology and innovation to compete against traditional financial institutions) hope to provide solutions to consumer challenges in having access to or being dissatisfied with traditional banking services. Fintech companies consist of both startups and traditional financial and technology companies trying to replace or enhance the usage of financial services. Evolving technology, the complexity of MSBs, and cyber-security threats requires the division to continually enhance our supervisory skills to better understand the activities of traditional and emerging payment systems, including the multi-layer structure of parties involved in a payment system. This is vital to ensure the public safety and confidence in the various payment systems.

With the number of MSBs that operate solely through a website or mobile application increasing, the Department found it necessary to issue Supervisory Memorandum 1041, which clarifies the expectations for MSBs that do not have traditional brick and mortar offices. Additionally, Supervisory Memorandum 1035 addresses the licensing of foreign-located MSBs that, although not located in the U.S., conduct business with Texas consumers. These foreign-located MSBs must therefore obtain a Texas license.

On April 3, 2014, the Department issued Supervisory Memorandum 1037, which concludes that virtual currencies do not meet the definition of money or monetary value under Chapter 151 of the Texas Finance Code. Thus, this activity is not regulated in Texas.

As noted throughout this section, although MSBs are required to register at the federal level, the Department performs examinations to ensure compliance with applicable BSA/AML federal regulations. Increased emphasis on reviews for BSA/AML compliance heightened after the terror attacks of September 11, 2001.

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act expanded the scope of the Electronic Fund Transfer Act's requirements to apply to certain international fund transfers. These transactions are referred to as "remittance transfers." As a result, the CFPB issued a rule that requires most companies providing remittance transfers to give their customers certain disclosures and establishes cancellation and error resolution procedures. These requirements were incorporated into the Department's examination procedures related to consumer complaint disclosures. Prior to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Texas MSB regulations already required consumer complaint disclosures.

On March 1, 2011, FinCEN transferred its regulations from Title 31 CFR Part 103 to Title 31 CFR Chapter X. FinCEN has delegated its examination authority to the IRS which conducts examinations to determine BSA/AML compliance. On a quarterly basis, the Department shares examination results with both the IRS and FinCEN. In addition, on an annual basis, the Department provides FinCEN with an annual report that summarizes the Department's activities of its regulated entities.

On February 23, 2012, FinCEN required that reports such as the Currency Transaction Report, SAR, and the Registration of Money Services Business be electronically filed starting on July 1, 2012. As part of the Department's examination process, review procedures are performed to ensure MSBs are complying with FinCEN reporting requirements.

To reduce the regulatory burden on MSBs, the Money Remittances Improvement Act of 2014 was signed into law that allows the U.S. Treasury Secretary to rely on BSA/AML examinations performed by state agencies of MSBs. Examination results are shared quarterly between state and federal regulators. Coordination with state and federal regulators allows the Department to regulate MSBs effectively and efficiently.

Section 151.402(a) of the Texas Finance Code allows for a MSB to conduct business through an AD, but ultimately, the license holder is responsible for the acts of the AD that are conducted pursuant to the authority granted by the license holder. However, when the division became aware of certain MSBs that attempted to apply the AD provision to unrelated companies to avoid MSB licensing requirements, the Department found it necessary to issue Supervisory Memorandum 1038. This issuance clarifies what the Department considers a proper license holder and AD relationship. Further, on October 29, 2015, the Department issued Supervisory Memorandum 1040 that provided guidance to MSBs that conduct business through ADs, foreign agents and counterparties, and gateway agents. The guidance informed MSBs that AD files are reviewed to assess compliance with the requirements of Section 151.402 of the Texas Finance Code, Title 31 CFR 1022.210, and FinCEN Interpretive Release 2004-1. On March 11, 2016, FinCEN issued FIN-2016-G001 Guidance on Existing AML Program Rule Compliance Obligations for MSB Principals with Respect to Agent Monitoring. The guidance states that to establish effective AML procedures and controls, a MSB license holder must implement agent monitoring policies and procedures. Department examinations ensure that MSBs comply with both FinCEN and Texas regulations related to ADs.

The Department is aware that some banks have terminated their bank accounts/services with MSBs because of the perceived higher money laundering risk. This process has been termed "derisking" and has impacted many MSBs licensed in Texas. Most banks cite higher onboarding, enhanced due diligence, and monitoring costs relating to complying with AML/CFT (Combating the Financing of Terrorism) as the reason. On November 10, 2014, FinCEN issued a statement addressing derisking, which stated that it does not support the blanket termination of MSB accounts and notes that a MSB's risks and the bank's ability to manage the risk should be analyzed before making such decision. To help address this challenge, on February 22, 2016, the Department issued Supervisory Memorandum 1013, which allows MSBs to request the approval of the commissioner to share a ROE issued by the Department with a bank. MSBs can provide a copy of a Department issued ROE if a bank's management requests a copy as part of its due diligence procedures or if the MSB wants to demonstrate to the bank its compliance with state and federal statutes. A licensed MSB may also share its ROE with management of a bank it has approached about opening an account for its MSB business.

Cyber-events and cyber-enabled crime is a major concern and threat to Texas consumers and MSBs. FinCEN has issued advisories to institutions to emphasize the importance of BSA reporting to assist law enforcement combat cyber-events and cyber-enabled crime. The division is challenged to keep pace with changes in technology and cybercrimes and must continue to keep abreast of new tactics utilized by criminals.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The program affects consumers and business owners in Texas and other states who use the products and services of MSB providers that are licensed by the Department. MSBs serve an important role in providing financial services to consumers, particularly those who are less likely to use traditional financial institutions. For example, MSBs allow consumers to pay bills, pay for items purchased online, and send funds domestically and abroad. The division ensures that Texas MSBs services do not place consumers, businesses, the payment system, or national security at risk. The licensing and ongoing regulation of MSBs by the Department provides stability and assurance to consumers that the entity can be entrusted to fulfill financial obligations. The division also serves the citizens of Texas by maintaining a listing of licensed MSBs on the Department's website for consumers to easily verify if an entity is authorized to conduct business in Texas.

To offer MSB products and services in Texas, applicants must complete a thorough application process, which includes background checks for all proposed controlling individuals, officers, and directors to determine if the individuals proposed have the experience, personal and financial integrity, and financial ability to direct and/or lead a MSB's affairs in a safe, sound, and legal manner. For additional details regarding qualifications to obtain a MSB license, refer to Section VII. Corporate Activities.

The division also ensures MSBs continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission or currency exchange license. For additional details regarding ongoing monitoring, refer to Part F. of this section.

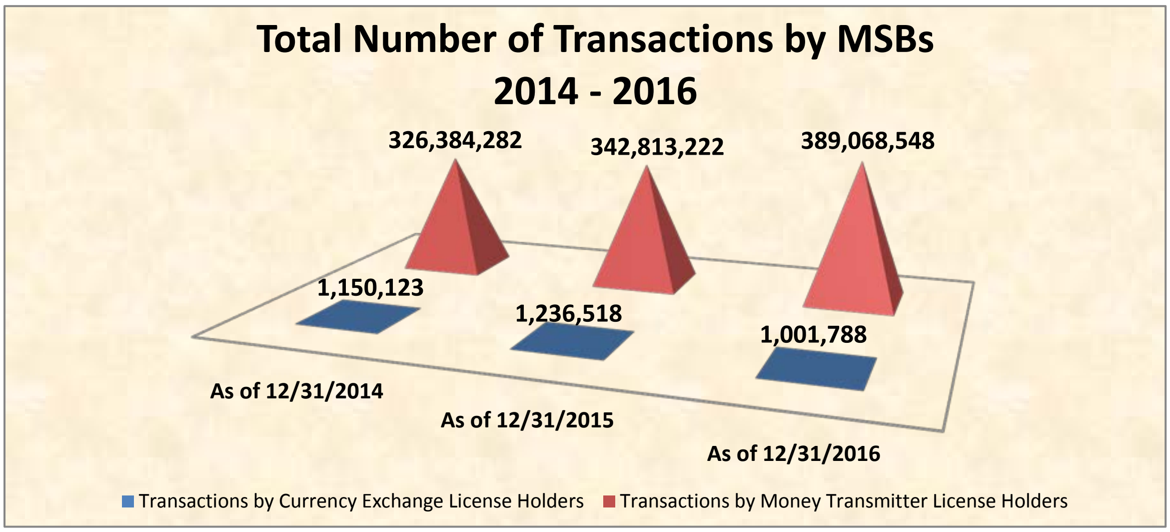
MSB Table 1 on the next page provides a breakdown of MSB license holders in Texas by type as of December 31, 2016.

MSB Table 1 Licensee Information

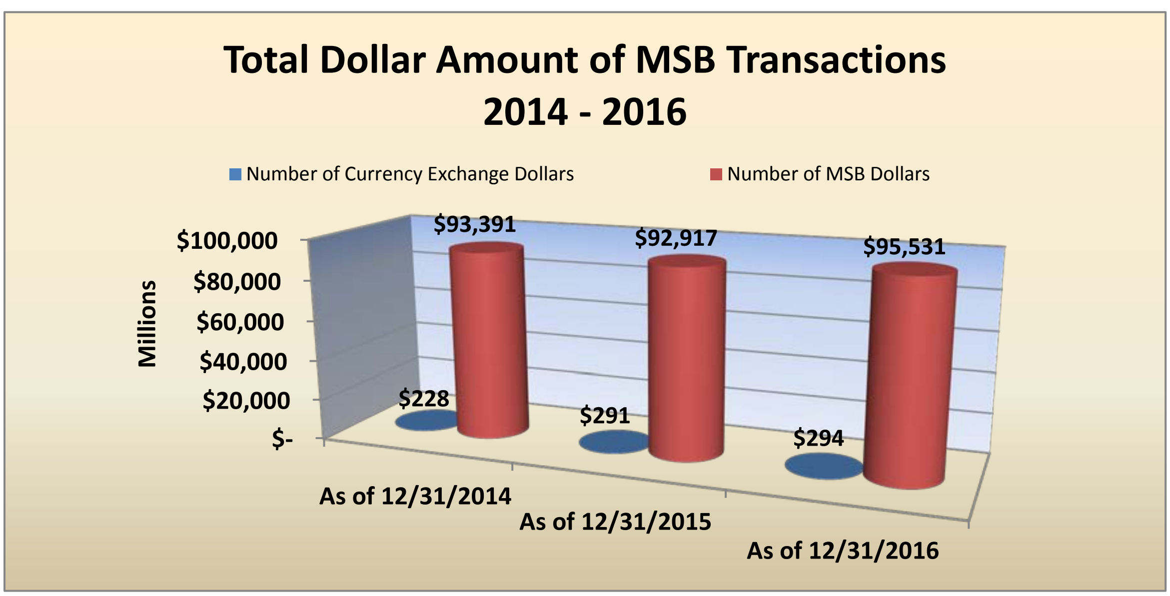
Currency Exchangers	Money Transmitters
Number of license holders: 33	Number of license holders: 118
Total Assets reported: $30,506,361	Total Assets reported: $112,028,763,605
Number of transactions: 1,001,788	Number of transactions: 389,068,548
Transaction Volume: $293,610,416	Transaction Volume: $95,531,497,073

MSB Graphs 2 and 3 below are a recap of transactions reported by MSB license holders for the past three calendar years:

MSB Graph 2 Total Number of Transactions by MSB 2014 -2016



MSB Graph 3 Total Dollar Amount of MSB Transactions 2014 -2016



F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The director of Special Audits is responsible for the operations of the division. The director reports to Deputy Commissioner Newberg. Examinations of MSBs are performed by seven examiners, with the assistance of one review examiner and one administrator.

INITIAL ISSUANCE OF LICENSE – APPLICATION, INVESTIGATION, AND APPROVAL

Refer to Licensing MSBs section in Part B. of this section and Section VII. Corporate Activities for details regarding MSB licensing.

EXAMINATION PROCESS – PLANNING, ON-SITE OR OFF-SITE REVIEW, AND EXIT MEETING WITH MANAGEMENT

The division schedules examinations of MSBs in accordance with the requirements of Section 151.601(b)(1) of the Texas Finance Code and Supervisory Memorandum 1023 which was previously discussed in Part C. of this section.

Pre-planning for the examination is conducted by the appointed EIC and generally pre-examination request notices are sent to the MSB at least 45 days prior to the examination start date. Typically, an examiner will conduct pre-examination off-site procedures prior to beginning the on-site portion of the examination. The examination is performed utilizing the MTRA examination procedures, work program, and manual in conjunction with the Department's specific procedures. For multi-state joint examinations, the Cooperative Examination Protocol for Money Transmitter Supervision is utilized to guide joint and concurrent examinations.

The scope of an examination is developed during the pre-examination review. Among other factors, the examination plan will take into consideration the MSBs organizational structure and risk profile, the institution's regulatory history, the quality of the institution's internal control/compliance functions, any external or other state audits, and any relevant recent industry and/or entity specific news or developments.

The main attributes or components examined for compliance by division examiners are:

I. Financial Condition – which includes a review of the MSB financial statements to determine:
   a. compliance with permissible investment requirements;
   b. the adequacy of AD receivables and outstanding obligation calculations;
   c. compliance with minimum capital requirements;
   d. the overall financial condition of license holder; and
   e. the adequacy of the security.

II. Management – which includes a review of:

a. the corporate and committee minutes;

b. the internal audit findings and corrective actions;

c. the AD monitoring policies and procedures;

d. the disaster recovery and business continuity plans;

e. the IT policies and procedures; and

f. enforcement actions issued by other regulatory agencies.

III. Compliance – which includes a review of:

a. the current MSB registration with FinCEN;

b. abandoned property reporting;

c. the MSBs risk assessment;

d. the AML program;

e. AD onboarding and monitoring policies;

f. consumer disclosures and postings;

g. policies and procedures concerning foreign agents, counterparties, and subagents;

h. SAR, Currency Transaction Report, Report of International Transportation of Currency or Monetary Instruments, and Report of Foreign Bank and Financial Accounts filings;

i. receipt disclosures;

j. Office of Foreign Assets Control screening procedures;

k. federal and state recordkeeping requirements for MSB transactions; and

l. privacy and GLBA requirements.

When the examination is complete, the EIC holds a meeting with senior management to convey the tentative examination findings. The findings and assigned ratings of an examination are not considered final until the review process has been completed and the ROE is issued. After the examination, the EIC prepares a draft of the ROE and submits it to the Special Audits administrator in Austin for processing. The administrator updates SARA (the Department's MSB software program previously discussed in Part C. of this section) and forwards a draft of the ROE to the review examiner.

Review Process

Reports are processed and reviewed by the appropriate individuals prior to being issued to the regulated entities. Typically, all ROEs are first reviewed by the review examiner and then by the director of Special Audits. The director can sign and issue 1 and 2 rated ROEs. ROEs for entities rated 3, 4, or 5 must also be reviewed by a deputy commissioner prior to being issued. All examination findings and proposed ratings are reviewed, and if necessary, may also be discussed with the deputy commissioner and/or commissioner.

For joint examinations, the participating states discuss the findings and ratings to reach a consensus. The lead state agency will then provide a draft of the ROE to the participating states for review and comment. Each state must then review the ROE draft and provide a response to the lead state agency before the ROE is issued to the MSB.

All ROEs, which contain examination data and ratings, are processed and recorded in SARA. Once all required information is properly entered into SARA, and the ROE has been reviewed by the required individuals, the ROE is mailed to the regulated entity. If required, the division will follow-up with the MSB to ensure the cited violations are properly corrected and any applicable fees are paid.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding and receives no General Revenue. In accordance with Texas Finance Code §16.003, the agency's budget is submitted and approved by the Finance Commission of annually, and the agency is responsible for all direct and indirect costs of the agency's existence and operation. As such, all revenues go to support the mission and strategies of the Department and are not part of the general appropriations process. In situations where the actual revenues are projected to exceed the costs of supervision, the final assessment for that fiscal year is reduced accordingly.

The MSB budget is part of the combined Special Audit's budget that is submitted as part of the overall budget to the Finance Commission. For monitoring purposes, the division's budget is divided into MSB and PFC/PCC. Significant variances from budgeted amounts are tracked monthly and reported quarterly to the Finance Commission.

The primary source of revenue used to implement the strategies of the division is derived from assessments. As required by Section 151.207(b)(1) of the Texas Finance Code, MSBs must pay an annual assessment to cover the costs incurred by the Department to examine a license holder and administer Chapter 151 of the Texas Finance Code. Title 7 of the Texas Administrative Code Section 33.27 provides additional information and tables explaining the assessments due for currency exchangers and money transmitters. MSBs must also pay all associated travel expenses if the Department must travel out-of-state to conduct the examination. If more than one examination is necessary in a fiscal year, and in other limited situations explained in Title 7 of the Texas Administrative Code Section 33.27, MSBs are billed an hourly rate of $75. The division collects fees sufficient to cover the direct and indirect costs for administering Chapter 151.

Another source of revenue is fines and penalties imposed upon licensed MSBs found in apparent violation of Chapter 151 of the Texas Finance Code and for entities operating without the required MSB license. Section 151.707 of the Texas Finance Code allows the Department to assess an administrative penalty against a person that has violated Chapter 151 or a rule adopted or order issued and has failed to correct the violation not later than the 30th day after the Department sends written notice. In determining the penalty amount, the Department considers factors that include the seriousness of the violation, the person's compliance history, and the person's good faith in attempting to comply. All fines and penalties collected by the division are utilized to lower the assessment costs to MSBs.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Because MSBs are generally required to be licensed in all states where they operate, the Department actively participates in the nationwide framework for cooperation and coordination among MSB state regulators that have concurrent jurisdiction over the MSB. Most other states regulations have safety and soundness requirements and ensure the MSB is qualified and able to do business in that state in order to encourage stability in the states' payment systems.

A MSB that conducts business in multiple states is often required to obtain licensing in those states and is required to register with FinCEN; however, the Department is the only agency responsible for ensuring the MSB complies with Texas regulations. While oversight of a MSB's compliance with BSA/AML and other federal regulations may be shared, state agencies are responsible for ensuring the MSB complies with their own state specific regulations. In Texas, no other state or federal agency is responsible for administering and overseeing compliance with Chapter 151 of the Texas Finance Code. Also, as previously mentioned, the Money Remittances Improvement Act of 2014 was signed into law that allows the U.S. Treasury Secretary to accept and rely on BSA/AML examinations performed by Texas and other state agencies of MSBs.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

To minimize the conflicts with other non-Texas state agencies that have various frequency cycles for conducting examinations, the division coordinates with other state agencies through MTRA and MMET. To accomplish this goal, the MMET is required to facilitate and maintain joint examination schedules based upon statutory requirements, assessed risk, available resources, participating state regulator requests, and other relevant factors. To accomplish this, the MMET collects examination scheduling information from each state and organizes and disseminates it to the member states. To ensure continuous discussion on this multi-state schedule, the MMET convenes scheduling calls on a quarterly basis for participating states. The purpose of the coordinated efforts is to minimize regulatory burden and expense for MSB license holders and to foster consistency, coordination, and communication among the states.

As noted throughout this section, MSB examination schedules are coordinated with other member states and federal agencies. The various information sharing agreements and MOUs discussed earlier in Part B. of this section, allow for more transparency and improve cooperation among state and federal agencies. In 2008, FinCEN released the first MSB BSA/AML Examination Manual with the goal of achieving consistency in the application of BSA requirements among states and the IRS when performing MSBs examinations. The division worked closely with FinCEN, the IRS, and various other state representatives during the development stages and was one of a few selected states to field test the MSB BSA/AML Examination Manual.

Since the Department is the only agency responsible for overseeing Chapter 151 of the Texas Finance Code, no duplication exists related to ensuring licensed MSBs comply with Texas regulations. Whenever possible, the following factors are considered when scheduling examinations for MSBs that operate in multiple states:

- Identifying MSBs by risk profile based on the business plan, volume of operations; scope of operations, allegations of fraud, complaints, and other risk factors;
- Communicating of planned examinations to and from other state regulators; and
- Coordinating joint and/or concurrent examinations of MSBs.

In summary, the division cooperates and coordinates with other state regulators that have concurrent jurisdiction over a MSB to conserve regulatory resources and minimize the regulatory burden on supervised entities.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

As noted throughout this section, the Department's supervision of MSBs involves working frequently with other state and federal agencies. On occasion, the Department is contacted by local, state, or federal law enforcement agencies regarding questions, concerns or issues surrounding BSA/AML matters involving MSBs. In addition, local and state law enforcement also contact the Department when they are attempting to determine if a person is conducting MSB activities in Texas without the required license.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The Department contracts with a retired FBI Special Agent to assist with the investigation of suspected white collar crime incidents. Part K. of Section VII. Bank and Trust Supervision provides details of this contract.

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C. of Section V. Funding.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

HARMONIZATION OF STATE LICENSING REQUIREMENTS FOR MSBS

In the U.S., MSBs are governed by a patchwork of disparate state statutes and regulations. For a new MSB to access the full U.S. market, it must first obtain 52 different licenses (one in every state except Montana, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands). This licensing process is particularly burdensome and expensive as every jurisdiction has its own distinct requirements. For example, in Texas a MSB is required to provide security in an amount of no less than $300,000, whereas in Hawaii the same MSB is only required to provide security of no less than $1,000. Finally, in Pennsylvania each MSB is required to provide security in the amount of $1,000,000. This complex licensing scheme not only creates a barrier to access to the national market, but also stifles competition and innovation, as this licensing scheme is too expensive or daunting for some to take on and they simply give up on their business idea. For those that do forge ahead, the state-by-state licensing impacts consumer experience. MSBs are available in some states but not others since a MSB may receive licensing quickly in some states but it may take years in others.

Particularly for new internet or app-based MSBs that want to offer their services to consumers nationwide immediately upon launch, this state-by-state licensing regime has become a significant point of contention. These MSBs are pushing for a federal license that will grant immediate access to the national market. In 2016, the OCC introduced the idea of special purpose national bank charters for fintech companies. For MSBs, this national charter is viewed as an opportunity to deal with one regulator and a single set of requirements, reducing licensing costs and time to market. States are aware of the problems with the current licensing process and are taking steps to address them. In May 2017, CSBS announced Vision 2020, a series of initiatives to modernize state regulation of non-banks, including MSBs. Through Vision 2020, state regulators hope to streamline the licensing process, harmonize supervision, and engage fintech companies to support business innovation, local and national economic growth, and essential protections for consumers and taxpayers. Texas is a willing and active participant in Vision 2020.

EXAMINER RETENTION

As the business plans, products, and services of MSBs become more complex, maintaining an experienced workforce becomes critical to fulfilling the Department's mission. Examiners with an extensive knowledge of BSA/AML regulations and fintech products are in high demand in the industry and with other regulatory agencies. Formal training for these specialty areas is particularly critical considering the complexity and continuously evolving nature in this industry. Although the division provides on-the-job training, additional training must also be obtained from outside sources. The division utilizes several providers for this training including the CSBS, FFIEC, FDIC, and FRB. Most of these training opportunities for examiners require out-of-state travel expenditures.

The extensive overnight travel required to effectively implement the program's primary strategy to conduct on-site examinations makes examiner retention a challenge. Although the division is currently fully staffed, historically, the division has experienced examiner turnover.

Strategies initiated to help reduce examiner turnover include:

- retaining qualified employees through a competitive salary program;
- performing off-site examination duties whenever possible to reduce overnight travel;
- providing a flexible work schedule;
- providing a travel stipend for examiners who are required to travel overnight more than 50 nights per year (Administrative Memorandum 2038); and
- providing a tuition reimbursement expense program for employees who wish to seek additional training or degrees.

MANAGEMENT SUCCESSION

The division's director and a senior level examiner are currently eligible to retire. As experienced examiners become eligible for retirement, the Department must prepare lower level examiners to fulfill the division's supervisory functions in the future. Typically, experienced examiners are assigned the more complex MSB examinations. The Department will be challenged to manage the transition of these experienced leaders into retirement so that the division's operations are maintained at their current level and the institutional knowledge is transferred. Strategies implemented to accomplish this include:

- allowing field examiners to periodically complete a temporary rotation at the AHQ; and
- exposing less tenured examiners to higher complex examinations with adequate supervision.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Responsibilities for training are well defined within the organization and key aspects of training are effectively monitored. The Department utilizes a variety of providers for training examination staff, including federal and state sources. However, obtaining MSB specific training is a challenge. Expertise in the regulation of MSBs is obtained through on-the-job training. External training is typically coordinated with CSBS and MTRA. The division works closely with DSS to identify and enroll examiners in schools that will assist in their career development.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Regulation and oversight of MSBs is needed because consumers entrust these entities with their funds and expect them to be delivered to the designated beneficiary. The loss of these monies could significantly impact the financial well-being of consumers. As a result, it is crucial that the Department ensure Texas consumers' funds are properly and timely delivered to recipients worldwide for the agreed upon fees.

A discussion of the scope of the examinations performed and follow-up procedures for noncompliance can be found in Part F. of this section.

Enforcement actions vary depending on the type and nature of the violation. It is important to note that enforcement is subject to appeal with an administrative hearing, ensuring MSBs are afforded due process. The Department and the MSB might agree to a consent order acknowledging the violation and setting forth a corrective action plan. For more serious violations, temporary or permanent Cease and Desist orders may be issued, potentially limiting, or even halting a MSB's ability to operate. In more egregious circumstances, civil monetary penalties may be imposed in addition to any consumer restitution.

A section of the Department's website is devoted to procedures for filing a complaint against a regulated entity. Additionally, the Department has a dedicated email address and toll free number for consumers to easily contact us with questions prior to filing a formal complaint. As an added convenience, the website has frequently asked questions to help consumers with their questions or concerns.

Should a consumer want to file a formal written complaint, the Department developed a form for consumers to complete and submit. The form is designed to extract pertinent information needed to process the consumer's complaint. Complaints are discussed with the regulated entity and consumer. MSBs are given thirty (30) business days to provide a written response. The division is responsible for reviewing the response and any applicable laws or rules that may apply in each situation. If necessary, the division may consult with the commissioner, deputy commissioner, or other Department staff, including the Legal Division. A final determination is made with respect to the merit of the complaint, and a formal response is provided to the complainant.

All complaint and inquiry statistics are published in each Finance Commission packet. The Finance

Commission meets six times per year. General statistical information can be found in Part P. of this section.

Texas Finance Code §12.108 requires the Department to retain consumer complaint information and provide consumers with the agency's policies and procedures for resolving complaints. Furthermore, Title 7 of the Texas Administrative Code Section 33.51 requires that regulated entities post notices on how consumers can file a complaint.

In 2011, the Department executed a MOU with the CFPB and CSBS for the purposes of sharing information for consumer protection purposes, including examination related information. In December 2012, the CFPB announced its plans to share complaint data it receives with state regulatory agencies. The Department worked in conjunction with CSBS and the CFPB to finalize a national agreement to permit the sharing of complaints with the states. The Department signed the finalized agreement for complaint sharing and portal access in March 2013.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Texas Department of Banking
Money Services Businesses Supervision
Exhibit 11: Information on Regulated Entities
Fiscal Years 2015 and 2016

MSB - Complaints	Fiscal Year 2015	Fiscal Year 2016
Total number of regulated entities	142	155
Total number of entities examined	106	117
Total number of complaints received from the public	25	58
Number of complaints pending from prior years	3	2
Number of complaints found to be non-jurisdictional	2	2
Number of jurisdictional formal written complaints found to be without merit	1	2
Number of complaints resolved	23	51
Average number of days for complaint resolution	38	34

MSB - Enforcement Actions	Fiscal Year 2015	Fiscal Year 2016
Administrative Penalties	$482,615	$158,440
Commissioner's Orders Total	5	5
Breakdown		
Consent Order issued for entity operating without a MSB license	4	5
Consent Order issued for entity failing to correct examination violations	1	0

Table 12 Exhibit 11 Information on Complaints Against Regulated Entities

VII. Guide to Agency Programs – Prepaid Funeral Contracts and Perpetual Care Cemeteries

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *PFC and PCC Supervision*

Location/Division: *Austin / Special Audits Division*

***Contact* Name:** *Russell Reese, Director*

Actual Expenditures, FY 2016: *$1,144,326.67*

Number of Actual FTEs as of June 1, 2017: *12*

Statutory Citation for Program:
Texas Finance Code Chapter 154 for the Regulation of PFC
Texas Health and Safety Code Chapters 711 and 712 for the Regulation of PCC

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the PFC program is to ensure: (1) the funds paid by Texas consumers for the prepayment of funeral services are protected and safeguarded and (2) that the purchaser receives the contracted goods and services at the time of need at the contracted price. Section 154.101 of the Texas Finance Code and Title 7 of the Texas Administrative Code Chapter 25 provide the regulatory framework to require a person selling PFCs to obtain a permit from the Department. There are two permit forms: trust-funded and insurance-funded. A trust-funded permit requires purchaser contract payments to be deposited in an interest-bearing account, while an insurance-funded permit requires the purchaser contract payments to be invested in an insurance policy.

The objective of the PCC program is to: (1) protect the interests of persons purchasing internment rights in a cemetery and (2) ensure each time an interment right is sold that the required deposit is made to the cemetery's irrevocable trust fund, the fund is invested within statutory guidelines, and the distributed income from the fund is used to maintain the cemetery. Chapters 711 and 712 of the Texas Health and Safety Code and Title 7 of the Texas Administrative Code Chapter 26 provides the regulatory framework that requires a cemetery to hold a COA to operate a PCC.

The major activities the Department utilizes to meet the objectives regarding PFCs and PCCs are:

- **Licensing.** The division reviews and processes all applications and notices filed by PFCs and PCCs that operate in Texas. Licensees range from sole proprietors to large multi-national corporations.

- *PFC Permit Holders*

  Before an entity can sell, accept money or premiums for, or solicit the sale of PFC in Texas, it must first obtain a permit from the Department. The applicant must submit a completed application as required by Section 154.102 of the Texas Finance Code. To apply for a PFC permit, the applicant must either be a funeral provider, an insurance company, or an insurance holding company. In evaluating the application and the applicant's qualifications, the division must ensure it possesses the business ability, experience, character, financial condition, and general fitness to warrant the public´s confidence.

- *COA Holders*

  Before a PCC can operate in Texas, it must first obtain a COA from the Department by submitting a completed application as required by Section 712.0033 of the Texas Health and Safety Code. In evaluating the application and the applicant's qualifications, the Department must ensure it possesses the business ability, experience, character, financial condition, and general fitness to warrant the public's confidence.

  Additional details regarding the application process for PFCs and PCCs can be found in Part E. of this section.

- **Examinations.** Examinations are the primary strategy utilized to ensure PFCs and PCCs operate in a safe and sound manner and are in compliance with state regulations. The division conducts independent on-site examinations and reviews various records and documents to ensure PFC permit holders and PCCs are safeguarding the interests of Texas consumers.

  As outlined in Section 154.053 of the Texas Finance Code, the division examines PFC permit holders to ensure they adhere to Chapter 154 of the Texas Finance Code and Title 7 of the Texas Administrative Code Chapter 25. The Department's PFC examination frequency policy and examination rating system are further detailed in Part C. of this section.

  Also, as outlined in Section 712.044 of the Texas Health and Safety Code, the division examines PCCs to ensure they adhere to Chapters 711 and 712 of the Texas Health and Safety Code and Title 7 of the Texas Administrative Code Chapter 26. The Department's PCC examination frequency policy and examination rating system are further detailed in Part C. of this section.

- **Corrective Actions.** PFC permit holders and PCCs are required to correct apparent violations cited during examinations within thirty (30) days. If the licensed entity does not correct the violation within the required timeframe, the Department can take formal action. A licensee found to be operating in an unsafe manner or out of compliance with state requirements may face Department initiated administrative enforcement actions such as Cease and Desist orders as outlined by Sections 154.408 of Texas Finance Code and 712.0443 of the Texas Health and Safety Code.

The Department may initiate a civil action against a person who has not corrected a violation within thirty (30) days after written notice, as allowed by Section 712.0441 of the Texas Health and Safety Code. Any such civil action may be brought in a district court of Travis County or a county in which a PCC is operating. The Department may also request that the Texas Secretary of State remove the corporation from the active records or cancel the corporation's registration.

- **Off-site Monitoring.**
  - *PFCs*

    Permit holders are required to notify the Department within seven days of executing a contract to voluntarily transfer 25% or more of its ownership of the business and within one day of receiving notice related to the involuntary transfer of ownership or foreclosure proceedings as required by Section 154.106 of the Texas Finance Code. If the proposed new entity will own 51% or more of the business and it does not hold a permit from the Department, it must apply for a prepaid funeral benefits permit.

    PFC permit holders are also required to annually renew their permit with the Department as required by Section 154.107 of the Texas Finance Code. The items and information that PFC permit holders must submit with a renewal application include:

    a. a completed renewal questionnaire signed by an officer which, among other things, requests information regarding any material changes and/or events since the last examination or filing;
    b. if applicable, current assumed name certificates filed with the Secretary of State and/or County Clerk;
    c. verification of the PFCs status with the Texas Comptroller of Public Accounts; and
    d. financial statements to demonstrate financial fitness to continue to sell PFCs as outlined in Section 154.107 of the Texas Finance Code.

    PFC permit holders must also submit an annual report to the Department as required by Section 154.052 of the Texas Finance Code. The report provides a summary of the activity for the calendar year, along with a signed statement from the financial institution holding the trust-funded PFC funds or a signed statement from the insurance company holding the insurance policies, verifying the total of trust funds deposited or the insurance dollars in-force for the PFC. Assessments to the Guaranty Funds are also collected with the annual reports.

  - *COA Holders*

    PCCs are required to notify the Department within seven days of executing a contract to voluntarily transfer 25% or more of its ownership of the business and within one day of receiving notice related to the involuntary transfer of ownership or foreclosure proceedings as required by Section 712.0039 of the Texas Health and Safety Code. If the proposed new owner will own more than 50% and it does not hold a COA from the Department, it must apply for a COA.

PCCs are also required to annually renew their COA to operate a PCC as required by Section 712.0037 of the Texas Health and Safety Code. The items and information that PCCs must submit with a renewal application include:

a. a completed annual statement required by Section 712.041 of the Texas Health and Safety Code and a questionnaire signed by an officer which, among other things, requests information regarding any material changes and/or events since the last examination or filing;
b. the required perpetual care fund total at the end of the calendar year, along with a signed statement from the financial institution affirming the amount in trust;
c. if applicable, current assumed name certificates filed with the Secretary of State and/or County Clerk;
d. verification of COA's status with the Texas Comptroller of Public Accounts; and
e. financial statements to demonstrate compliance with financial requirements outlined in Section 712.003 of the Texas Health and Safety Code.

The required annual reports, renewal applications, filings and notices provide the division with the off-site tools to effectively monitor PFC permit holders and PCCs. The division reviews this information and ensures that any significant matters are identified, investigated, and resolved in a timely manner.

- **Investigations.** Section 154.400 of the Texas Finance Code allows the Department to conduct investigations if reasonable suspicion of a misallocation or defalcation of prepaid funeral funds or an unauthorized sale of prepaid funeral benefits exists. The majority of the investigations initiated by the Department are consumer complaint driven and upon receipt, the division fully investigates the matter and when necessary, seeks restitution for the affected consumers. For entities that the Department concludes have engaged in unlicensed PFC sales, the Department may also assess fines as authorized by Section 154.406 of the Texas Finance Code.

  The Department can also perform an investigation if an unlicensed cemetery represents that it is a PCC. This occurrence is quite rare.

- **Information Sharing.** When applicable, the Department shares information with other state agencies to promote an effective oversight of the death care industry. Title 7 of the Texas Administrative Code Section 25.22 details the Joint Memorandum of Understanding (JMOU) between the TFSC, TDI, and the Department. Pursuant to Occupations Code Section 651.159, the three agencies have adopted a JMOU relating to prepaid funeral benefits as defined in Chapter 154 of the Texas Finance Code. The intention of the JMOU is to assist the three agencies in their regulatory activities. Information sharing is an effective tool in the coordinated supervision of PFCs and PCCs.

- **Consumer Complaints.** The division reviews and processes written consumer complaints filed against PFC permit holders and PCCs. The JMOU mentioned above allows for the sharing of information with TDI and TFSC, ensuring the appropriate agency can act upon a consumer's complaint efficiently and effectively. Once a complaint is received, the division reviews the information to determine if the Department has jurisdiction over the matter. If it is deemed that the complaint is not related to regulations overseen by the Department, the division will determine if the complaint should be forwarded to TDI or TFSC. If the Department has jurisdiction over the matter, the division ensures that our licensed entities timely respond to consumer complaints and when necessary, require corrective action.

To further assist the Department with effectively fulfilling the division's mission, the following activities are also performed:

- **Maintaining policies and procedures.** The Department has established policies and procedures to ensure examinations are conducted and applicable statutes and rules are enforced. The Department has established work programs, policies, and procedures to ensure examinations are thorough, consistent, and reliable;
- **Monitoring conditions.** The Department monitors developments in the death care industry for any new consumer trends that may impact consumer contracts and issues that could pose a threat to the safety and soundness of the licensed entities;
- **Tracking changes to statutes, rules, and regulations.** The Department monitors amendments to existing regulations and new regulations at the state level that may affect compliance requirements for licensed entities;
- **Conducting outreach activities.** The Department offers training and assistance to funeral homes, insurance companies, and cemetery operators to help them understand developments in the regulation of the PFC and PCC industry, or compliance, as needed; and
- **Maintaining a well-trained and experienced staff.** Maintaining a well-trained staff to properly oversee licensed entities is critical in protecting the interests of Texas consumers.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.

The effectiveness of the division's program is evidenced through the examination of licensed PFC and PCC entities that operate in Texas. These examinations protect consumers, ensure the safety and soundness of PFCs and PCCs, and ensure overall compliance with PFC and PCC regulations. As such, performance measures are in place that relate to the timely examination of PFCs and PCCs in accordance with established examination frequency policies. Notably, in fiscal year 2016, the division performed 451 PFC and PCC examinations and met key performance measures. Furthermore, through the second quarter of fiscal year 2017, the division performed 230 PFC and PCC examinations and met key performance measures as well.

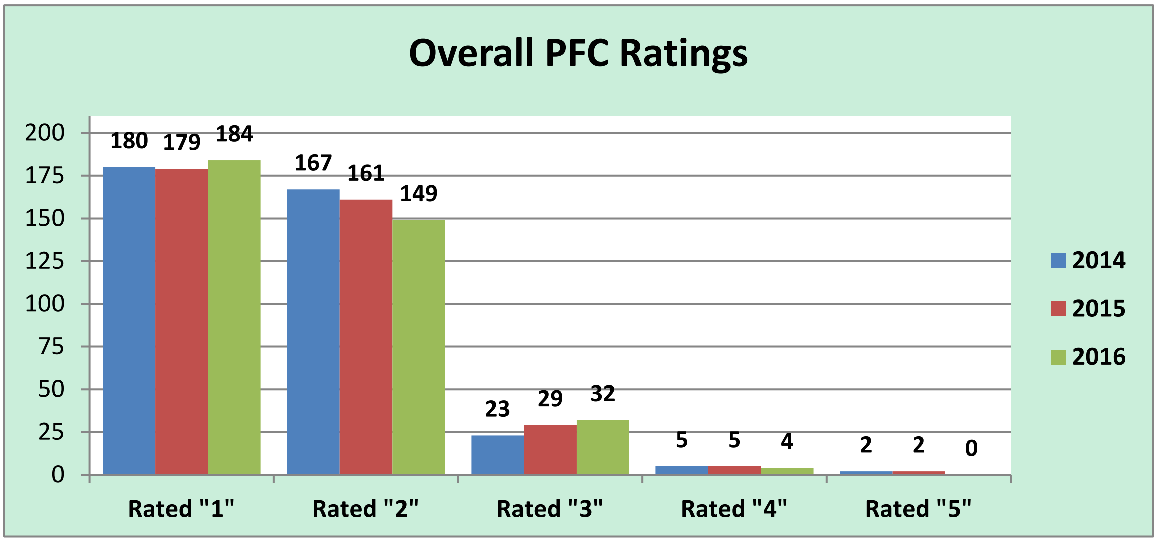
Part K. of Section II. Key Functions and Performance provides information on the division's key performance measures and results. The methodology for the performance measures was submitted with the Department's 2017-2021 Strategic Plan (Appendix II-K).

The division optimizes effectiveness by conducting thorough examinations in a timely manner, issuing appropriate ROEs, and ensuring noted deficiencies are corrected. Timely identification and examination of poorly rated PFCs and PCCs is critical. Section 154.053 of the Texas Finance Code provides that PFC permit holders may be examined at least once every 18-months and Title 7 of the Texas Administrative Code Section 25.14 details the Department's PFC examination rating system. Section 712.044 of the Texas Health and Safety Code states that the Department may examine PCCs on a periodic basis as deemed necessary to protect the interest of plot owners and ensure compliance with Chapters 711 and 712 of the Texas Health and Safety Code. Supervisory Memorandum 1031 further describes the Department's PCC examination frequency policy, and Supervisory Memorandum 1014 details the Department's PCC examination rating system.

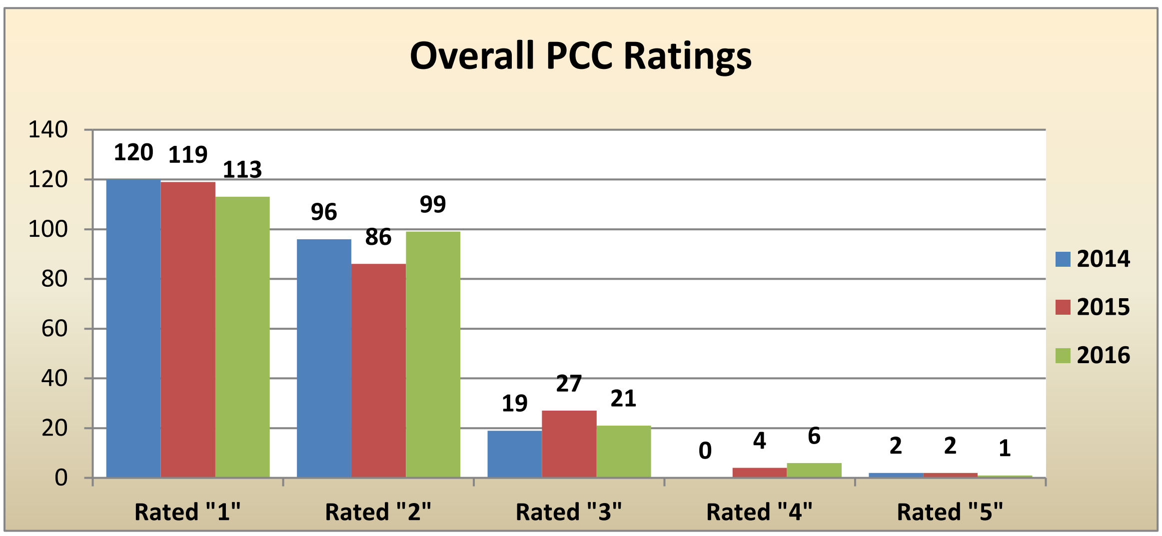
These guidelines outline the Department's methodology used to effectively examine higher risk entities. Lower rated PFCs and PCCs, those rated 3, 4, and 5, and cemeteries with a PCC trust fund of $1 million or more are considered higher risk and are on a 12-month full scope examination frequency. PFCs and PCCs rated 4 or 5 present an even higher risk to Texas consumers. In addition to 12-month full scope examinations, three month limited scope examinations are required to assess corrective actions and compliance with the prior examination findings. In general, PFCs and PCCs (the trust fund of PCCs must be less than $1 million) who receive 1 (strong) and 2 (satisfactory) ratings qualify for an 18-month examination frequency.

PFC/PCC Graph 1 and PFC/PCC Graph 2 on the next page are a recap of ratings assigned to all PFC and PCC entities for the past three fiscal years:

PFC/PCC Graph 1 Overall PFC Ratings



PFC/PCC Graph 2 Overall PCC Ratings



The division also optimizes efficiencies by enhancing automated systems, where possible, to improve the quality and speed of the information exchanged internally and between the Department, its stakeholders, and its licensees.

- Through established information sharing protocols, the Department communicates with various state agencies to promote consistency and effective supervision.

- In fiscal year 2014, the Department developed a secure electronic portal called DEX that enabled licensed PFCs and PCCs to share examination documents securely with the Department. DEX allows the Department's license entities to provide examination records in a fast, secure, and efficient manner.

- The Department also maintains the division's software program SARA, which allows both management and non-management staff to enter and update specific data items associated with the collection of planned and completed examinations. SARA also provides various weekly, monthly, and quarterly managerial reports to monitor the division's effectiveness.

To further promote consistency in the regulation of the PFC industry, the Department issued Supervisory Memorandum 1026 which clarifies the methodology to calculate PFC modifications at the time of death as allowed by Section 154.1551(b) of the Texas Finance Code. Supervisory Memorandum 1028 provides guidance to PFC sellers regarding the proper completion of PFCs in accordance with Section 154.1511 of the Texas Finance Code. Further, Supervisory Memorandum 1027 provides guidance to PCCs regarding the Department's expectations regarding the proper maintenance of a marker, monument list, or log to comply with Title 7 of the Texas Administrative Code Section 26.4.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

In September 1993, state law was amended to require a cemetery established after September 1, 1993, to obtain a COA from the Department to operate a PCC unless it meets one of the following exemptions:

- a family, fraternal, or community cemetery that is not larger than 10 acres;
- an unincorporated association of plot owners not operated for profit;
- a church, a religious society or denomination, or an entity solely administering the temporalities of a church or religious society or denomination; or
- a public cemetery owned by this state, a county, or a municipality.

This change did not impact the number of COA applications received.

In accordance with Section 154.1511 of the Texas Finance Code, a PFC may contain guaranteed and non-guaranteed funeral goods and services. Items in the guaranteed section of a PFC are considered frozen in price. Beginning in September 1, 2009, amendments to PFC regulations allowed funeral providers to charge the current price at the time of need for the non-guaranteed items purchased on the PFC. For example, catering is now seen as a non-guaranteed item on PFCs. Non-guaranteed items have led to larger average contract totals. After this law change, division examinations began to see PFC permit holders including certain goods and services in the non-guaranteed section of PFCs which appeared more to be guaranteed items. To clarify the goods and services that qualify as non-guaranteed cash advance items, Title 7 of the Texas Administrative Code Section 25.1 was amended and became effective in July 2014 to define the term third-party provider.

For several years leading up to 2013, the death care industry experienced ongoing mergers and consolidation. The last significant merger was finalized in 2014 when the largest funeral care provider in North America acquired its largest competitor. The acquisition resulted in the surviving entity owning 1,653 funeral homes and 515 cemeteries in the U.S., including eight in Canada and Puerto Rico, with estimated revenue of approximately $3 billion and preneed funds exceeding $9 billion. It is estimated that the combined entity owns approximately 20% of all funeral homes and cemeteries in the U.S. In 2015, cremations surpassed traditional burial rates in the U.S. for the first time in history and this trend is expected to continue. Texas also continues to experience a year-to-year increase in the number of cremations, with the rate being reported at 41% in 2015. The rise in cremations can be attributed to several factors, but one of the most prevalent is the lower cost to consumers to purchase a cremation service when compared to a traditional funeral service. As the shift in consumer demand continues, the death care industry is adjusting their business models to accommodate the changing landscape by offering specialized products and services to replace this lost revenue.

The low interest rate environment for the past several years has had a negative impact on the trust earnings that are available to PCCs. The income generated from the amounts held in trust is earmarked to be used for the general maintenance of a PCC. Most cemeteries' trust earnings are not at a level to provide complete and adequate maintenance of the cemetery. Therefore, PCCs have continued to augment this income with day-to-day operating cash. H.B. 1948 and S.B. 1402 were passed this Legislative session to help alleviate this problem. A discussion of these bills can be found in Part B. of Section VIII. Statutory Authority and Recent Legislation.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The program affects Texas consumers who use the products and services of PFC sellers and PCC and the business owners who provide these services to the public. PFCs and PCCs serve an important role in providing death care services to Texas consumers during difficult times. The division ensures that PFC sellers and PCCs who offer prepaid funeral benefits and cemetery services do not place consumers at risk. The licensing and ongoing regulation of these entities by the Department provides stability and assurance to consumers that these licensed entities can be entrusted to fulfill their contractual obligations. The division also serves the citizens of Texas by maintaining a listing of licensed PFCs and PCCs on the Department's website for consumers to verify if an entity is authorized to conduct business in Texas.

Also, as required by Section 154.132 of the Texas Finance Code, the Department established and maintains the Texas Prepaid Funeral Contracts website. The website is intended to provide information to Texas consumers to help them make informed decisions relating to the purchase of preneed funeral contracts. The division also ensures that PFC sellers provide the required informational brochure to Texas consumers before executing a PFC.

PFC PERMIT HOLDERS

In order for an entity to obtain a PFC permit to sell prepaid funeral benefits contracts in Texas, applicants must complete a thorough application process. This includes background checks for proposed principal shareholders, officers, and directors to determine if the individuals proposed have the business ability, experience, character, financial condition, and general fitness to warrant the public´s confidence.

Per Section 154.102 of the Texas Finance Code, to obtain a permit to sell or continue selling prepaid funeral benefits, an applicant must:

- be one of the following:
  - a funeral provider;
  - an insurance company; or
  - the insurance holding company for an insurance company, if the insurance company does not have the authority under its domiciliary law to directly hold a permit issued under this chapter.
- file an application with the Department for a permit that includes:
  - completed questionnaire;
  - financial statement information;
  - proof of compliance with the Texas Comptroller of Public Accounts; and
  - plain language contract form.
- for insurance-funded applicants, the following is also required:
  - TDI approved insurance policies;
  - insurance company's most recent annual statement filed with the Association of Insurance Commissions; and
  - insurance company's statement acknowledging the requirements of Chapter 154 of the Texas Finance Code.
- for trust-funded applicants, the following is also required:
  - if the funds will be held in a formal trust account, a copy of the written investment plan and trust agreement;
  - executed depository acknowledgement; and
  - if applicable, corporate charter and Articles of Incorporation.
- pay a filing fee.
- if applicable, pay extraordinary expenses required for out-of-state investigation of the person.

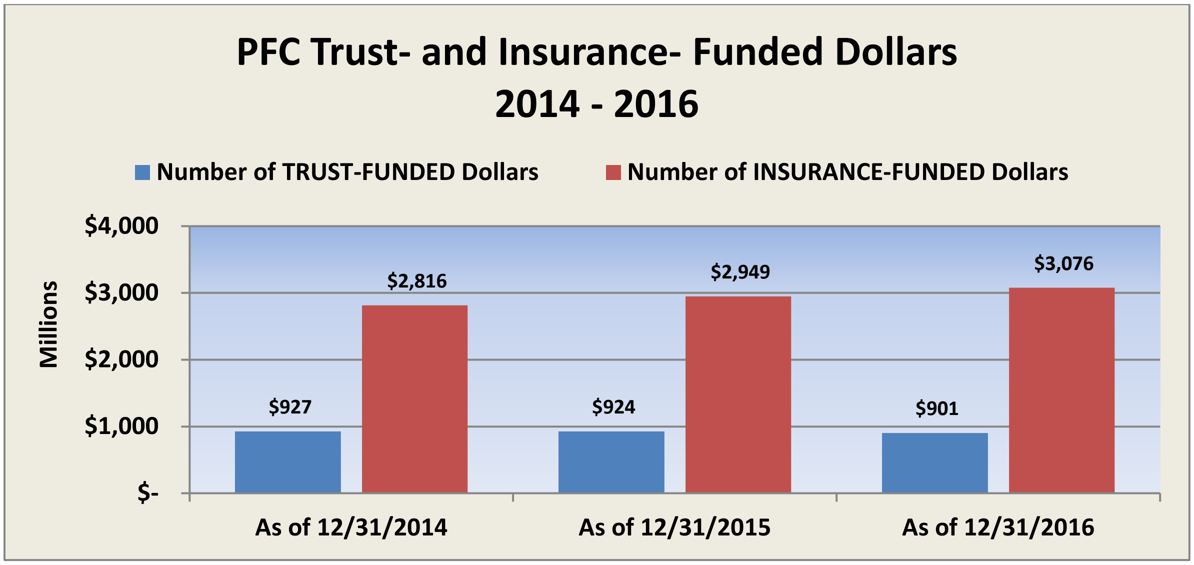
The PFC/PCC Table 1 below illustrates PFC permit holder information as of December 31, 2016:

PFC/PCC Table 1 Permit Holder Information

Trust-funded PFCs	Insurance-funded PFCs
Number of permit holders: 318	Number of permit holders: 56
PFC funds on deposit: $901,125,669	PFC insurance in-force: $3,075,980,683
Total PFCs outstanding: 351,470	Total PFCs outstanding: 601,332

PFC/PCC Graph 3 is a recap of preneed funds reported by PFC permit holders for the past three calendar years.

PFC/PCC Graph 3 PFC Trust and Insurance-Funded Dollars 2014-2016



COA TO OPERATE PCC

For an entity to obtain a COA to operate a PCC in Texas, applicants must complete a thorough application process. This includes background checks for all proposed principal shareholders, officers, and directors that own at least 25% controlling interest to determine if the individuals proposed have the business ability, experience, character, financial condition, and general fitness to warrant the public's confidence. To qualify for a COA, as required by Section 712.0034 of the Texas Health and Safety Code, the applicant must also demonstrate compliance with the following requirements:

- the cemetery manager must have at least two years of experience in cemetery management;
- the applicant, a principal of the applicant, or a person who controls the applicant does not owe the department a delinquent fee, assessment, administrative penalty, or other amount imposed under this chapter or a rule adopted or order issued under this chapter; and
- the applicant corporation must be:
  - in good standing and statutory compliance with this state;
  - authorized to engage in the PCC business in this state; and
  - not owe any delinquent franchise or other taxes to this state.

If the COA applicant meets the qualifications outlined above, per Section 712.0035 of the Texas Health and Safety Code, before issuing a COA, the Department must also confirm that:

- the applicant's cemetery business will be conducted fairly and lawfully, according to applicable regulations, and in a manner commanding the public's trust and confidence;
- the issuance of the COA is in the public interest;

- the documentation and forms required to be submitted by the applicant are acceptable; and
- the applicant has satisfied all requirements for issuance of a COA.

An applicant's application for a COA includes:

- completed questionnaire;
- compliant Articles of Incorporation;
- executed perpetual care agreement;
- evidence the corporation applicant owns the cemetery property;
- the applicant's financial statement information; and
- samples of the cemetery contracts and conveyance documents.

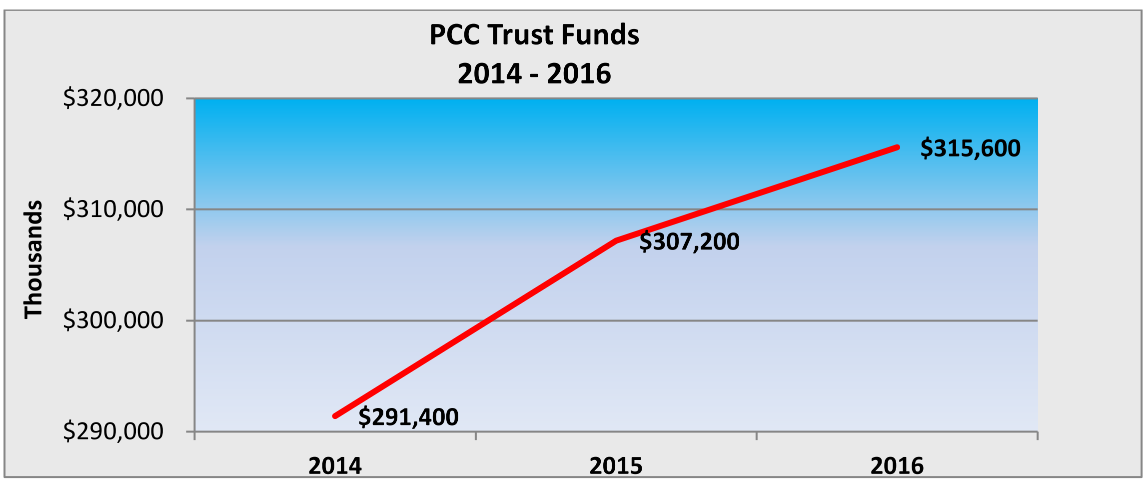
PFC/PCC Table 2 provides the COA information as of December 31, 2016:

PFC/PCC Table 2 COA Holders

Number of license COAs:	243
Total funds on deposit:	$315,585,803

PFC/PCC Graph 4 provides a recap of trust funds on deposit reported by COA's for the past three years:

PFC/PCC Graph 4 PCC Trust Funds



F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The director of Special Audits is responsible for the operations of the division. The director reports to the Deputy Commissioner Newberg. Examinations of PFCs and PCCs are performed by nine examiners, with the assistance of one review examiner, and two administrators.

INITIAL ISSUANCE OF LICENSE – APPLICATION, INVESTIGATION, AND APPROVAL.

Refer to Part E. of this section for details regarding the licensing of PFCs and PCCs.

EXAMINATION PROCESS – PLANNING, ON-SITE OR OFF-SITE REVIEW, AND EXIT MEETING WITH MANAGEMENT

The division schedules examinations of PFCs and PCCs per the requirements of Sections 154.053 of the Texas Finance Code and 712.044 of the Texas Health and Safety Code, along with Supervisory Memorandum 1031, which were previously discussed in Part C. of this section.

Pre-planning for the examination is conducted by the appointed EIC and generally pre-examination request notices are sent to licensed entities at least 14 days prior to the examination start date. Typically, an examiner will conduct pre-examination off-site procedures prior to beginning the on-site portion of the examination. The examination is performed utilizing the division's examination procedures and work programs.

The scope of an examination is developed during the pre-examination review. Among other factors, the examination plan will take into consideration the entity's organizational structure and risk profile, the institution's regulatory history, the quality of the institution's internal control/compliance functions, any external or other state audits, and any relevant recent industry and/or entity specific news or developments.

The main attributes or components examined for compliance by PFC and PCC examiners are:

I. Financial Condition – which includes a review of the PCC's and PFC permit holder's financial statements to determine the overall financial condition of license holder. For PCCs, compliance with minimum capital requirements as outlined in Texas Health and Safety Code Section 712.003 is also verified.

II. Management – which includes a review of:
   a. the corporate and committee minutes;
   b. the internal audit findings and corrective actions;
   c. enforcement actions issued by other regulatory agencies;
   d. departmental filings, including annual report and renewals;
   e. compliance with departmental orders and/or agreements;
   f. compliance with consumer complaint requirement;
   g. PFC and PCC deposit calculation accuracy and timeliness; and
   h. corrective actions for previously cited deficiencies and violations.

III. Compliance – which includes a review of:
   a. abandoned property reporting for PFCs;
   b. required consumer disclosures;
   c. new contract/policy issuance completion and documentation;

d. timely and accurate issuance of cemetery conveyance documents;
e. the delivery of the goods and services included in a PFC at the time of need;
f. accurate and timely payment of cancellation benefits;
g. trust or custodial deposit account reconciliations;
h. consumer payment processing;
i. the use of trust funds;
j. required recordkeeping;
k. establishment and investment of PCC and PFC funds;
l. the sale of undeveloped mausoleum spaces; and
m. marker and monument ordering and setting.

When the examination is complete, the EIC holds a meeting with senior management to convey the tentative examination findings. The findings and assigned ratings of an examination are not considered final until the review process has been completed and the ROE is issued. After the examination, the EIC prepares a draft of the ROE and submits it to the Special Audits administrator in Austin for processing. The administrator updates SARA (the division's software program previously discussed in Part C. of this section) and forwards a draft of the ROE to the review examiner.

REVIEW PROCESS

Reports are processed and reviewed by the appropriate individuals prior to being issued to the regulated entities. Typically, all ROEs are reviewed by the review examiner first and then by the director of Special Audits. The director can sign and issue 1 and 2 rated ROEs. ROEs for entities rated 3, 4, or 5 must also be reviewed by a deputy commissioner prior to being issued. All examination findings and proposed ratings are reviewed and if necessary, may also be discussed with the deputy commissioner and/or commissioner.

All ROEs, which contain examination data and ratings, are processed and recorded in SARA. Once all required information is properly entered in SARA, and the ROE has been reviewed by the required individuals, the ROE is mailed to the regulated entity. If required, the division will follow-up with the entity to ensure the cited violations are properly corrected and any applicable fees are paid.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding and receives no General Revenue. In accordance with Texas Finance Code §16.003, the agency's budget is submitted and approved by the Finance Commission annually, and the agency is responsible for all direct and indirect costs of the agency's existence and operation. As such, all revenues go to support the mission and strategies of the Department and are not part of the general appropriations process. In situations where the actual revenues are projected to exceed the costs of supervision, the final assessment for that fiscal year is reduced accordingly.

The PFC/PCC budget is part of the combined Special Audits budget that is submitted as part of the overall budget to the Finance Commission. For monitoring purposes, the division's budget is divided into MSB and PFC/PCC. Significant variances from budgeted amounts are tracked monthly and reported quarterly to the Finance Commission.

The primary source of revenue used to implement the strategies of the division is derived from assessments. As required by Section 154.051 of the Texas Finance Code, the Department may collect fees from permit holders to pay for the administration of Chapter 154 of the Texas Finance Code. Title 7 of the Texas Administrative Code Sections 25.23 and 24.24 provide additional information and tables explaining the fees that PFC permit holders must pay. As required by Section 712.008 of the Texas Health and Safety Code, the Department may collect fees from PCCs to pay for the administration of Chapter 712 of the Texas Health and Safety Code. Title 7 of the Texas Administrative Code Section 26.1 provides additional information and tables explaining the fees that PCCs must pay. If more than one examination is necessary in a fiscal year and in other limited situations explained in the Texas Administrative Code, PFCs and PCCs are billed an hourly rate of $75. The PFC/PCC area collects fees sufficient to cover the direct and indirect costs for administering the chapters.

Another source of revenue is fines and penalties imposed upon entities found in violation of Chapter 154 of the Texas Finance Code and Chapters 711 and 712 of the Texas Health and Safety Code. Section 154.406 of the Texas Finance Code and Section 712.0441 of the Texas Health and Safety Code allows for the Department to assess an administrative penalty against a person that has violated Chapter 154 of the Texas Finance Code, Chapters 711 and 712 of the Texas Health and Safety Code, or a rule adopted or order issued and has failed to correct the violation not later than the 30th day after the date the Department sends written notice. In determining the amount of the penalty, the Department considers factors that include the seriousness of the violation, the person's compliance history, and the person's good faith in attempting to comply. All fines and penalties collected by the division are utilized to lower the assessment costs to PFCs and PCCs.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The Department is the only agency responsible for protecting the interests of Texas consumers that purchased PFCs and ensuring PFC permit holders in Texas comply with Texas PFC regulations. Section 154.051 of the Texas Finance Code grants authority to the Department to administer Chapter 154 and adopt rules to aid in the enforcement and administration of the chapter. PFC permit holders that have outstanding contracts for prepaid funeral benefits must maintain records for the Department to examine in order to ensure compliance with applicable PFC regulations.

The Department is also the only agency responsible for protecting the interests of Texas consumers that utilize the services of licensed PCCs and for ensuring PCCs comply with Texas regulations. Sections 712.008 and 711.012 grant authority to the Department to adopt rules to aid in the enforcement and administration of the chapters. COA license holders must maintain records for the Department to examine in order to ensure compliance with applicable PCC regulations.

There are no other programs, internal or external, that enforces Chapter 154 of the Texas Finance Code or 712 of the Texas Health and Safety Code.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Title 7 of the Texas Administrative Code Section 25.22 details the JMOU between the TFSC, TDI, and Department. Pursuant to Section 651.159 of the Occupations Code, the three agencies adopted the JMOU to assist in their regulatory activities, and to ensure the appropriate agency can act upon a consumer's complaint efficiently and effectively. To achieve this goal, where not statutorily prohibited, the three agencies share information about a consumer complaint involving an entity that may be subject to a particular agency's jurisdiction. For example, a funeral home provider must have a license issued by the TFSC to operate the funeral home but must also have a PFC permit from the Department if it intends on selling prepaid funeral benefits contracts. Each license allows the funeral provider to perform specific actions that are not otherwise granted.

To minimize the conflicts with other state agencies that may have jurisdiction over the same entity, the JMOU outlines the responsibilities of each of the three agencies. The JMOU specifies the following:

The TFSC is responsible for the following:

- licensing funeral directors, embalmers, provisional funeral directors, provisional embalmers, crematory, and funeral establishments. The TFSC may refuse to license a person or establishment that violates Chapter 154 of the Texas Finance Code and Section 651.460(b)(3) of the Occupations Code;
- acting under Section 651.460(b)(3) of the Occupations Code against any licensee violating Texas Finance Code Chapter 154; and
- acting under Section 651.460(b)(3) of the Occupations Code against any funeral director in charge, crematory owner, and/or funeral establishment owner for violations of Chapter 154 of the Texas Finance Code, by persons directly or indirectly connected to the crematory or funeral establishment.

The Department is responsible for administering Chapter 154 of the Texas Finance Code and Title 7 of the Texas Administrative Code Chapter 25, including, but not limited to, the following:

- bringing enforcement actions against any person, including licensees of the TFSC and TDI, who violates Chapter 154 of the Texas Finance Code and/or Title 7 of the Texas Administrative Code Chapter 25; and
- all other actions authorized by Chapter 154 of the Texas Finance Code and Title 7 of the Texas Administrative Code, Chapter 25.

TDI is responsible for the following:

- regulating insurers that issue or propose to issue life insurance policies or annuity contracts which may fund PFCs;
- regulating any person that performs the acts of an insurance agent as defined in Chapters 101 and 4001 of the Insurance Code;
- regulating insurance policies and annuity contracts that may fund PFCs;
- regulating unfair trade practices relating to the insurance policies and annuity contracts that may fund PFCs pursuant to the Chapter 542 of the Insurance Code; and
- regulating unfair claims settlement practices by insurance companies pursuant to the Chapter 542 of the Insurance Code.

The purpose of the coordinated efforts is to protect consumers and ensure the appropriate agency properly investigates consumer complaints to avoid conflict between the agencies. In summary, the Department cooperates and coordinates with other state agencies to conserve regulatory resources and minimize the regulatory burden on supervised entities.

However, the Department is the only agency with statutory authority to examine PFCs and assess compliance with PFC regulations.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

As noted above, the Department coordinates the supervision of PFC permit holders to better protect the interests of Texas consumers. On occasion, the oversight of PFC permit holders and COA license holders requires the division to discuss matters with other state agencies such as:

- the Secretary of State to verify compliance with assumed name certificate filings;
- the Texas Comptroller of Public Accounts to verify compliance with state tax requirements; and
- the Office of Consumer Credit Commissioner to verify compliance with creditor registration requirements, if applicable.

In performing PFC examinations, the Department also refers to funeral guidelines issued by the Federal Trade Commission, referred to as the Funeral Rule. The Funeral Rule went into effect on April 30, 1984 and requires funeral homes to give consumers accurate, itemized price information and various other disclosures about funeral goods and services. In addition, the Funeral Rule prohibits funeral homes from misrepresenting legal, crematory, and cemetery requirements; embalming for a fee without permission; requiring the purchase of a casket for direct cremation; requiring consumers to buy certain funeral goods or services as a condition for furnishing other funeral goods or services; and engaging in other deceptive or unfair practices.

As discussed in Part I. of this section, the division coordinates with TDI when appropriate to effectively regulate insurance-funded PFCs. For example, in 2008, the Department entered an Agreed Order with a license insurance-funded permit holder to stop selling PFCs in Texas and at the same time, TDI issued a Hazardous Financial Condition Order against two insurance companies that funded the PFCs in several states, including Texas. Because of these administrative actions, the estimated 39,000 Texas consumers of PFCs funded by insurance policies written by the insurance-funded permit holder were paid up to the face amount of their insurance policy and the successor funeral provider must service the outstanding contacts.

When deemed appropriate, the Department also coordinates with district attorneys to obtain restitution for consumers. As an example, after completion of a Departmental investigation related to a PFC funeral provider failing to deposit consumer PFC funds and forward consumer paid insurance premiums to the insurance-funded permit holder as required, the matter was referred to the local District Attorney who subsequently initiated a criminal suit against the owner of the funeral home.

Another example of Department coordination involved a funeral home provider that failed to adequately respond to division requests regarding its responsibility to comply with PFC contractual obligations. This funeral home was the contracted provider of an insurance-funded PFC. However, since the funeral home provider did not hold a trust-funded permit from the Department, the funeral home owner was not responding to our requests. Thus, the matter was referred to the TFSC who licenses funeral directors. With the TFSC's assistance and direct authority over funeral director licensing, the funeral home provider ultimately complied.

The division is a member of the North American Death Care Regulators Association (NADCRA). The NADCRA is comprised of state and provincial government employees who regulate the prepaid funeral industry and cemeteries. The NADCRA holds annual conferences and conference calls to allow members to discuss every day matters and concerns with death care regulations. The NADCRA is a method for our division to stay informed of industry trends and concerns faced by other agencies that regulate cemeteries and PFC sellers in their respective states.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The Department contracts with a retired FBI Special Agent to assist with the investigation of suspected white collar crime incidents. Details of this contract can be found in Part K. of Section VII. Bank and Trust Supervision.

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C. of Section V. Funding.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

EXAMINER RETENTION

The extensive overnight travel required to effectively implement the program's primary strategy to conduct on-site examinations makes examiner retention a challenge. Although the division provides on-the-job training, additional training from outside sources is a challenge to obtain because of the uniqueness of the regulation of PFCs and PCCs. The division relies on several providers to obtain training including the CSBS, FFIEC, FDIC, and FRB. Most of these training opportunities for examiners require out-of-state travel expenditures. Although the division is currently fully staffed, historically, the division has experienced examiner turnover.

Strategies initiated to help reduce examiner turnover include:

- retaining qualified employees through a competitive salary program;
- performing off-site examination duties whenever possible to reduce overnight travel;
- providing a flexible work schedule;
- providing a travel stipend for examiners who are required to travel overnight more than 50 nights per year (Administrative Memorandum 2038); and
- providing a tuition reimbursement expense program for employees who wish to seek additional training or degrees.

MANAGEMENT SUCCESSION

The division's director is currently eligible to retire and as experienced examiners become eligible for retirement, the Department must prepare lower level examiners to fulfill the division's supervisory functions in the future. Typically, experienced examiners are assigned the more complex examinations. The Department will be challenged to manage the transition of the director into retirement so that the division's operations are maintained at their current level and the institutional knowledge is transferred. Strategies implemented to accomplish this include:

- allowing field examiners to periodically complete a temporary rotation at the AHQ; and
- exposing less tenured examiners to higher complex examinations with adequate supervision.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Responsibilities for training are well defined within the organization and key aspects of training are effectively monitored. The Department utilizes a variety of providers for training examination staff, including federal and state sources. However, obtaining PFC/PCC specific training is a challenge. Expertise in the regulation of PFC/PCC is obtained through on-the-job training. The division works closely with DSS to identify and enroll examiners in schools that will assist in their career development.

PREPAID FUNERAL GUARANTY FUND

Chapter 154 of the Texas Finance Code mandates that the Department establish and maintain funds to guarantee performance by sellers of prepaid funeral benefits contracts and funeral providers under those contracts to Texas consumers. There are two separate accounts that the division administers: trust-funded and insurance-funded accounts. Section 154.352 of the Texas Finance Code requires that the division assess $1 for each new PFC sale until each fund reaches $1 million. The trust-funded fund has reached $1 million and no assessments have been made to the industry in numerous years. The insurance-funded guaranty fund was established in 2011 and has not reached the $1 million threshold; therefore, each year, insurance–funded permit holders must pay $1 for each new PFC sold to be deposited in the fund. As of February 28, 2017, the balance of the trust-funded account is $1,237,457.93 and $441,647.88 for the insurance-funded account.

The Prepaid Funeral Guaranty Fund Advisory Council (Advisory Council) is the body ultimately responsible for the oversight of the Guaranty Funds. The Advisory Council is made up of one consumer representative, one insurance-funded PFC representative, and one trust-funded PFC representative. After appropriate review of documents and if it is determined a claim is valid, a memorandum recommending the withdrawal of funds from the Guaranty Fund is prepared. Claims under $6,500 may be processed prior to approval by the Council but must be approved by two individuals at a director level or above at the Department and must also be approved by the commissioner. Moreover, all withdrawals are presented to the Advisory Council for review and ratification regardless of the amount. All Guaranty Fund activity is reviewed and approved by members of the Advisory Council. Historically, the Advisory Council meetings are held at least once a year. The most recent meeting was held in May 2017. The total of the trust-funded Guaranty Fund claims processed for fiscal year 2016 was $5,698.70 and $33,555.25 for the period of September 1, 2016 to February 28, 2017. There have been no claims processed against the insurance-funded Guaranty Fund account since its inception.

Deputy Commissioner Newberg and the division's review examiner serve as the Investment Officers for the funds. Administrative Memorandum 2016 outlines the investment policy for both funds. The most recent revisions to the investment policy were reviewed and approved by the Advisory Council at the May 2017 meeting. Per Texas Attorney General Opinion No. DM-489, these funds do not fall under the Public Funds Investment Act.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Regulation and oversight of prepaid funeral benefits sellers and PCCs are needed to ensure consumers' interests and funds are safeguarded, and the contractual obligations are delivered. The loss of funds paid by consumers could significantly impact their financial well-being and could leave them unable to ensure a family member's final disposition is properly carried out. Thus, it is crucial that the division ensure these licensed entities operate in a safe and sound manner and in compliance with applicable state regulations.

A discussion of the scope of the examinations performed and follow-up procedures for noncompliance can be found in Part F. of this section.

Enforcement actions vary depending on the type and nature of the violation. It is important to note that enforcement is subject to appeal in an administrative hearing, ensuring PFC permit holders and PCCs are afforded due process. The Department and these licensed entities might agree to a consent order acknowledging the violation and setting forth a corrective action plan. For more serious violations, temporary or permanent Cease and Desist orders may be issued, potentially limiting, or even halting a PFC/PCC's ability to operate. In more egregious circumstances, civil monetary penalties may be imposed in addition to any consumer restitution.

A section of the Department's website is devoted to procedures for filing a complaint against a regulated entity. Additionally, the Department has a dedicated email address and toll free number for consumers to easily contact us with questions prior to filing a formal complaint. As an added convenience, the website has frequently asked questions to help consumers with their questions or concerns.

Should a consumer want to file a formal written complaint, the Department developed a form for consumers to complete and submit. The form is designed to extract pertinent information needed to process the consumer's complaint. Complaints are discussed with the regulated entity and consumer. PFCs/PCCs are given thirty (30) business days to provide a written response. The division is responsible for reviewing the response and any applicable laws or rules that may apply in each situation. If necessary, the division may consult with the commissioner, deputy commissioner, or other Department staff, including the Legal Division. A final determination is made with respect to the merit of the complaint and a formal response is provided to the complainant.

All complaint and inquiry statistics are published in each Finance Commission packet. The Finance Commission meets six times per year. General statistical information can be found in Part P. of this section.

Section 12.108 of the Texas Finance Code requires the Department to retain consumer complaint information and provide consumers with the agency's policies and procedures for resolving complaints. Furthermore, Title 7 of the Texas Administrative Code Section 33.51 requires that regulated entities post notices on how consumers can file a complaint.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Texas Department of Banking
Prepaid Funeral Contracts and Perpetual Care Cemeteries Supervision
Exhibit 11: Information on Regulated Entities
Fiscal Years 2015 and 2016

Prepaid Funeral Contracts and Perpetual Care Cemeteries	Fiscal Year 2015	Fiscal Year 2016
Total number of regulated entities	626	623
Total number of entities examined	472	451
Total number of complaints received from the public	98	87
Number of complaints pending from prior years	4	2
Number of complaints found to be non-jurisdictional	10	5
Number of jurisdictional formal written complaints found to be without merit	11	9
Number of complaints resolved	52	40
Average number of days for complaint resolution	33	33

Prepaid Funeral Contracts and Perpetual Care Cemeteries Enforcement Actions	Fiscal Year 2015	Fiscal Year 2016
Administrative Penalties	$212,500	$0
Commissioner's Orders Total	6	0
Breakdown		
Failed to remit funds to insurance-funded permit holder	3	
Sold PFCs without a permit	1	
Failed to submit annual report	1	
Failed to correct examination violations	1	

Table 13 Exhibit 11 Information on Complaints Against Regulated Entities

VII. Guide to Agency Programs – Corporate Activities

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *Corporate Activities*

Location/Division: *Austin / Corporate Activities Division*

Contact Name: *Dan Frasier, Director*

Actual Expenditures, FY 2016: *$637,442.98*

Number of Actual FTEs as of June 1, 2017: *5.75*

Statutory Citation for Program:
Texas Finance Code Chapters 11, 31-34, 151, 181-184, 187, 201-204, and 396
Texas Health and Safety Code Chapters Chapter 711

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the Corporate Activities Division is to ensure that financial service providers operating in Texas are properly vetted and then authorized to ensure a safe and sound financial system. The division evaluates and acts upon corporate filings requesting to initiate, expand, or modify financial services.

The division performs three key functions to achieve this objective.

(1) The review and processing of all application and notice filings by state banks, foreign banks, trust companies, bank holding companies, MSBs, and registrations by PCSEAs, check verification companies, and cemetery brokers that operate in Texas.

(2) The receipt, review, and approval of all statutory documents to be filed in the official corporate records (i.e., Certificate of Formation, Certificate of Merger, Amendments to Certificate of Formation) for Texas state banks and trust companies. The division also maintains these permanent bank files and corporate records for the Department and provides documentation for information requests including open records requests.

(3) The review of background checks is appropriate to determine that proposed individuals who would have positions of authority with our regulated entities have the experience, personal and financial integrity, and financial ability to direct and/or lead a financial institution's or MBS's affairs in a safe, sound and legal manner.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.

The effectiveness of the division is evidenced by the division's review and processing of applications and notice filings in a timely and thorough manner. Performance measures are in place that relate to the timely processing of filings according to processing timeframes established in statutes and rules. In fiscal year 2016, the division met all performance measures. In addition, in fiscal year 2016, Corporate Activities processed 185 background checks.

Part K. of Section II. Key Functions and Performance provides for information on the division's key performance measures and results. The methodology for the performance measures was submitted with the Department's 2017-2021 Strategic Plan (Appendix II-K).

The division optimizes application processing efficiencies by enhancing automated systems, where possible, to improve the quality and speed of information exchanged internally and between the Department, its stakeholders, applicants, and the various federal and state agencies with which we coordinate processing applications. Within the last five years, the following technology and process improvements have been implemented:

- Two web-based programs were implemented to allow applicants to submit applications and notice filings electronically. The NMLS is used to receive electronic applications for MSBs, and the CAFE program is used to receive electronic filings for all other regulated entities. In addition, the NMLS may be utilized to process fingerprint information and electronic surety bonds;
- Corporate activity information has been automated, going from static weekly reports to a dynamic and searchable real-time system that is more user-friendly to the public;
- B&T history information was similarly moved from a static report to an online dynamic and searchable real-time system; and
- An automated reporting system was implemented to create and deliver various weekly and monthly corporate reports to Department staff and other regulators.

The division's software program, Corporate Application Tracking System or CATS, tracks application and notice filings (including processing deadlines), and serves as an aid to the analyst and management.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

In 1905, the Legislature adopted a general law of state bank chartering and regulation. In 1984, the Department created its Corporate Activities Division to process applications affecting banks' and trust companies' corporate structure, business activities and ownership, and to serve as the repository of permanent bank files and official corporate records for Texas banks and trust companies. The program has existed in several incarnations since that time. While the original intent has not changed, the services and functions have evolved over time with additional licensing functions added as the statutes have been amended to provide for additional B&T

powers, authority to license MSBs, registration of check verification companies, PCSEAs, cemetery brokers and Texas bullion depository agent services.

Refer to Section III. for detailed information on how the division's services and functions have changed over time.

The division took over processing MSB license applications from the Special Audits Division in 2000. The division began processing check verification company registrations in 2007, PCSEA registrations and other related filings in 2001, and cemetery broker registrations in 2014. To date, we have not begun licensing or registering bullion depository agents.

In 2013, Chapter 151 of the Texas Finance Code was amended by the 83rd Legislature to allow the use of the NMLS, a web-based national registry for MSB licensing. Beginning September 2, 2014, the Department began accepting new applications for money transmission licenses via NMLS. New applicants and existing license holders utilize the NMLS on a voluntary basis. Therefore, applicants not conducting a multi-state business or choosing not to use NMLS may apply using our Money Transmission License Application (with exhibits and instructions). A total of 24 money transmission license applications were received in fiscal year 2016, 13 of which were submitted via the NMLS.

Also, in 2013, the Department launched the CAFE program to allow supervised entities, other than MSBs, to submit applications or notices electronically. This web portal allows applicants and regulated entities to deliver applications and accompanying documentation securely and expediently. The portal eliminates the time and expense of printing, copying, and mailing documents and allows for a higher level of efficiency. For fiscal year 2016 there were 34 registered CAFE users from 21 different regulated entities or law firms. During the same period, out of the 338 total filings received, 27 were submitted via CAFE.

The division implements changes in law that affect activities conducted by the division while concurrently reducing regulatory burden when possible and consistent with risk and prudence. Many statutory filings have been streamlined with an expedited process and notice-only provisions have been enacted, where possible, in lieu of detailed application requirements.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The division affects Texas state-chartered banks, public and exempt trust companies, foreign banks, MSBs, check verification companies, PCSEAs, cemetery brokers, and entities in Texas who must obtain a "no objection" letter from the Department to use the word "bank" or "trust" in their name.

The division also serves the citizens of Texas by maintaining a history of Texas state-chartered bank and trust companies and information related to applications filed with the Department. Both history information and application filing information are available on the Department's website as previously mentioned.

Qualification requirements for each regulated entity are provided below. Requisite fees are prescribed by rule and updated frequently.

QUALIFICATION REQUIREMENTS

ALL ENTITIES REGULATED BY THE DEPARTMENT

Section 35.007(a) of the Texas Finance Code provides that without the prior written approval of the banking commissioner, a person subject to a final and enforceable removal or prohibition order issued by the banking commissioner, or by another state, federal, or foreign financial institution regulatory agency, may not:

(1) serve as a director, officer, or employee of a state bank, state trust company, or holding company of a state bank, or as a director, officer, or employee with financial responsibility of any other entity chartered, registered, permitted, or licensed by the banking commissioner under the laws of this state;

(2) directly or indirectly participate in any manner in the management of such an entity;

(3) directly or indirectly vote for a director of such an entity; or

(4) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote a proxy, consent, or authorization with respect to voting rights in such an entity.

BANK CHARTERS

Applicants for a bank or trust company charter must submit to a thorough charter application process. This includes background checks for all proposed principal shareholders, officers, and directors to determine if the individuals proposed have the experience, personal and financial integrity, and financial ability to direct and/or lead a financial institution's affairs in a safe, sound, and legal manner.

Per Section 32.003(b) of the Texas Finance Code, the banking commissioner shall grant a state bank charter only if the commissioner determines that the organizers have established that public convenience and advantage will be promoted by the establishment of the state bank. In determining whether public convenience and advantage will be promoted, the banking commissioner shall consider the convenience of the public to be served and whether:

(1) the organizational and capital structure and amount of initial capitalization is adequate for the business plan;

(2) the anticipated volume and nature of business indicates a reasonable probability of success and profitability based on the market sought to be served;

(3) the officers and directors as a group have sufficient banking experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the bank will operate in compliance with law and that success of the bank is probable;

(4) each principal shareholder has sufficient experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the bank will be free from improper

or unlawful influence or interference with respect to the bank´s operation in compliance with law; and

(5) the organizers are acting in good faith.

Persons may not serve as a director of a Texas state-chartered bank if:

(1) the bank incurs an unreimbursed loss attributable to a charged-off obligation of or holds a judgment against:

(A) the person; or

(B) an entity that was controlled by the person at the time of funding and at the time of default on the loan that gave rise to the judgment or charged-off obligation;

(2) the person is the subject of an order described by Section 35.007(a) of the Texas Finance Code; or

(3) the person has been convicted of a felony.

Persons may not serve as an officer of a Texas state bank if the person is subject to an order described by Section 35.007(a) of the Texas Finance Code or if the person has been convicted of a felony, unless the banking commissioner consents otherwise in writing.

TRUST CHARTERS

Applicants for a trust company charter must submit to a thorough charter application process. This includes background checks for all proposed principal shareholders, officers, and directors to determine if the individuals proposed have the experience, personal and financial integrity, and financial ability to direct and/or lead a financial institution's affairs in a safe, sound, and legal manner.

Per Section 182.003(b) of the Texas Finance Code, the banking commissioner shall grant a state trust company charter only on proof satisfactory to the banking commissioner that public convenience and advantage will be promoted by the establishment of the state trust company. In determining whether public convenience and advantage will be promoted, the banking commissioner shall consider the convenience of the public to be served and whether:

(1) the organizational and capital structure and amount of initial capitalization is adequate for the business and location;

(2) the anticipated volume and nature of business indicates a reasonable probability of success and profitability based on the market sought to be served;

(3) the proposed officers, directors, and managers, or managing participants, as a group have sufficient fiduciary experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the state trust company will operate in compliance with law and that success of the state trust company is probable;

(4) each principal shareholder or participant has sufficient experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the state trust company

will be free from improper or unlawful influence or interference with respect to the state trust company´s operation in compliance with law; and

(5) the organizers are acting in good faith.

The organizers bear the burden of proof to establish that public convenience and advantage will be promoted by the establishment of the state trust company. The failure of an applicant to furnish required information, opinions of counsel, and other material, or the required fee, is considered an abandonment of the application.

Per Section 183.103(b) of the Texas Finance Code, unless the banking commissioner consents otherwise in writing, a person may not serve as director, manager, or managing participant of a state trust company if:

(1) the state trust company incurs an unreimbursed loss attributable to a charged-off obligation of or holds a judgment against:

(A) the person; or

(B) an entity that was controlled by the person at the time of funding and at the time of default on the loan that gave rise to the judgment or charged-off obligation;

(2) the person is the subject of an order described by Section 185.007(a);

(3) the person has been convicted of a felony; or

(4) the person has violated, with respect to a trust under which the state trust company has fiduciary responsibility, Section 113.052 or 113.053(a), Property Code, relating to loan of trust funds and purchase or sale of trust property by the trustee, and the violation has not been corrected.

The Corporate Activities Division works closely with the B&T Supervision and Legal Divisions to process bank and trust charter applications.

MSBs

Applicants for a MSB license must also submit to a thorough application process, which includes background checks for all proposed controlling individuals, officers, and directors to determine if the individuals proposed have the experience, personal and financial integrity, and financial ability to direct and/or lead a MSB's affairs in a safe, sound, and legal manner. In addition, Section 151.202 of the Texas Finance Code requires the applicant to demonstrate, to the satisfaction of the commissioner that:

(1) the financial responsibility and condition, financial and business experience, competence, character, and general fitness of the applicant justify the confidence of the public and warrant the belief that the applicant will conduct business in compliance with this chapter and the rules adopted under this chapter and other applicable state and federal law;

(2) the issuance of the license is in the public interest;

(3) the applicant, a principal of the applicant, or a person in control of the applicant does not owe the department a delinquent fee, assessment, administrative penalty, or other amount imposed under this chapter or a rule adopted or order issued under this chapter;

(4) the applicant, if a partnership, and any partner that would generally be liable for the obligations of the partnership, does not owe a delinquent federal tax;

(5) the applicant, if a corporation:

(A) is in good standing and statutory compliance in the state or country of incorporation;

(B) is authorized to engage in business in this state; and

(C) does not owe any delinquent franchise or other taxes to this state;

(6) the applicant, if not a corporation, is properly registered under the laws of this state or another state or country and, if required, is authorized to engage in business in this state; and

(7) the applicant, a principal of the applicant, or a principal of a person in control of the applicant is not listed on the specifically designated nationals and blocked persons list prepared by the U.S. Treasury Department, or designated successor agency, as a potential threat to commit or fund terrorist acts.

Furthermore, Section 151.202 of the Texas Finance Code provides that in determining whether an applicant has demonstrated satisfaction of the qualifications, the commissioner is to consider the financial responsibility and condition, financial and business experience, competence, character, and general fitness of each principal of, person in control of, principal of a person in control of, and proposed responsible individual of the applicant. Barring an applicable exception, the commissioner may not issue a license if the applicant, or a principal of the applicant, has committed certain felony criminal offenses.

The Corporate Activities Division works closely with the Special Audits and Legal Divisions to process MSB applications.

OTHER REGISTERED ENTITIES

The division is also charged with the registration of check verification companies, PCSEAs, and cemetery brokers. However, the Department does not have direct examination authority over these entities.

Check Verification Companies

Per Title 7 of the Texas Administrative Code Section 35.13(a), a check verification entity must complete and submit the registration form prescribed by the banking commissioner, which at a minimum, must include:

(1) the full legal name, any assumed name, principal business address, mailing address, business telephone number, facsimile number, and website address of the check verification entity;

(2) the full legal name, title, business telephone number, facsimile number, and e-mail address of the following persons associated with the check verification entity:

(A) the person responsible for questions about the registration or renewal process; and

(B) the person responsible for compliance with the requirements of §523.052, Business and Commerce Code.

(3) a statement that:

(A) the registration information is true and correct; and

(B) it has business clients in Texas and compiles and maintains files on consumers on a nationwide basis regarding consumers' check-writing history for those businesses;

(4) such other information as the banking commissioner may require, including information confirming that the registering entity is required to register under §35.11 of this title; and

(5) a certification by an authorized officer that the information therein is true and correct.

A check verification entity must register with the Department and then renew the registration annually thereafter.

PCSEA

Per Texas Finance Code Section 396.103:

(a) an applicant for registration as a PCSEA must file with the Department an application on a form and in the manner prescribed by the Department.

(b) The application must state:

(1) the name of the applicant;

(2) the name under which the applicant is doing or intends to do business in this state, if different from the applicant´s name;

(3) the address of the applicant´s principal business office, including the state, municipality, and numeric street address; and

(4) any Internet or other electronic mail address and business telephone number of the applicant.

(c) The chief executive officer of the applicant agency shall state in a notarized statement that the application is accurate and truthful in all respects.

A PCSEA's certificate of registration expires on the third anniversary of the date of issuance. The certificate of registration may be renewed for another three-year period.

Cemetery Brokers

Per Title 7 of the Texas Administrative Code Section 24.1 (a), to register as a cemetery broker, a person must file with the Department, a statement that complies with Texas Health and Safety Code §711.046 and pay a $100 registration fee. The statement must be filed on a form promulgated by the Department.

As per Texas Health and Safety Code §711.046 a cemetery broker registering with the Department shall file with the Department a sworn, notarized statement that contains:

(1) the name and street address of the cemetery broker;

(2) the name, street address, and telephone number of the representative of the cemetery broker to be contacted regarding a written complaint; and

(3) any Internet or other electronic mail address of the cemetery broker.

The registration of a cemetery broker is valid until withdrawn or revoked. Periodic renewal of the registration is not required.

Texas Bullion Depository

In 2015, the Department was given responsibility to license depository agents for the Texas Bullion Depository. The administration of the depository was assigned to the Texas Comptroller of Public Accounts. The entity contracted to maintain the day-to-day operations of the depository was named in June 2017. We will be working with the Comptroller to develop the process and requirements for depository agents over the next several months.

STATISTICAL BREAKDOWN

Statistical breakdown of check verification companies, PCSEAs and cemetery brokers at year-end fiscal year 2016:

- 2 check verification companies
- 10 PCSEAs
- 13 cemetery brokers

For a statistical breakdown of banks, public and exempt trust companies, and foreign banks affected, refer to the Section VII. Bank and Trust Supervision. For a breakdown of MSBs, refer to Section VII. Money Services Businesses.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The director of Corporate Activities is responsible for the operations of the Corporate Activities Division. The director reports to Deputy Commissioner Bacon. Division activities are performed with the assistance of three corporate analysts and two administrative technicians.

The timing and flow of individual applications, and notice filings is dictated by the various statutes, rules, and division procedures. In general, a submission is made to the Department for review. Upon receipt of each filing, the corporate analyst does the following:

- Briefly review the filing to determine the type of transaction and identify any related filings;
- Determine if appropriate fees have been paid for the type of filing pursuant to the appropriate rule;
- Review information logged into fields in the Corporate Application Tracking System, or CATS, including the filing type, bulletin notes, fee, contact, core information, etc., to ensure that the information is correct;
- Determine applicable statutory time limits, if any, for initial and final processing;
- Evaluate the overall condition of the filing;
- Determine if the bank or trust company is eligible for expedited treatment;
- Determine if the filing qualifies for expedited treatment;
- Determine whether:
    - any issue needs to be discussed with the division director; and
    - any other significant information or materials are needed to accept the filing for filing;
- If the filing is missing documentation, notify the contact person or notificant in writing of the deficient items;
- Maintain contact with federal and other state counterparts throughout the review process, as appropriate, with the goal of having all available information for the Department to make an informed decision;
- Once the filing is considered complete, submit a review and summary including a recommendation for decision to management and representatives of the divisions within the Department responsible for reviewing the filing; and
- Depending on the filing type, either the deputy commissioners or the banking commissioner will ultimately approve the application or notice filing. The decision is then communicated to the contact person or notificant by division staff.

LEGAL ASSISTANCE

During the processing of certain types of filings including charters, licensees, conversions, mergers, share exchanges, and purchase and assumptions, among others, an attorney from the Department's Legal Division assists in the review of legal documents submitted with the filing or other legal issues regarding the proposed filing transactions.

Location Where Activities are Performed

Activities are performed at the AHQ except for certain meetings held with new charter and conversion applicants. In those instances, corporate analysts participate in a field meeting with the proposed board of directors and principals, along with an assigned B&T examiner/analyst.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding, and receives no General Revenue. The funding for the Corporate Activities Division comes from fees charged for applications and filings. In fiscal year 2016, application fees totaled $458,150. Part F. of Section VI. Funding provides a complete breakdown of Corporate Activities related fees.

Fee income from fees charged for applications and filings do not cover all the division's direct costs. The difference, including indirect costs, are covered by assessments and fees generated under the B&T Supervision and Special Audits Divisions.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Application Processing

Corporate Activities' target population consists of Texas state-chartered banks and trust companies, as well as MSBs, PCSEAs, check verification entities, bullion depository agents and cemetery brokers conducting business with Texas consumers.

For Texas state-chartered banks and trust companies, the FRB and FDIC, as federal regulators, have substantially similar application processing functions; however, statutory requirements, fees, and time frames vary. The FDIC, as the insurer of deposits, must also approve state bank charter applications for insurance purposes; however, it has no authority to issue a charter. There are no federal laws pertaining to the registration of PCSEAs, check verification companies, bullion depository agents or cemetery brokers.

Section VII. Bank and Trust Supervision provides additional information on activities performed by other federal and state banking authorities.

Statutory Corporate Document Filings

To the extent that certain statutory corporate document filings are handled by the division, it is similar in function to the Statutory Filings section of the Secretary of State. However, the Secretary of State does not review the documents to ensure compliance with other applicable law and the effect of the filing on the safety or soundness of the entity or the industry.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

PARALLEL FILINGS

Certain types of applications will require filings with both the Department and primary federal regulator of the regulated entity. Staff in the Corporate Activities Division coordinates work on parallel applications with other federal regulatory authorities when an application is submitted on an entity for which supervision is shared. Early in the review process, the analyst communicates with the federal regulator and determines whether the bank or entity has filed the necessary application or notice with the FDIC or FRB and get their first impression of the filing. The analyst maintains contact with federal counterparts throughout the review process with the goals of avoiding duplicative questions and inconsistent answers to the contact person or notificant. Typically, the Department strives to provide an answer concurrently or very close to the same time as the federal regulator.

COORDINATION WITH OTHER STATE REGULATORY AGENCIES

Division staff also coordinates work with other state's financial institution regulatory authorities on notice of an activity or event that the Department has an interest in, but an activity or event in which the Department does not consider necessary or have the authority to require an application.

For example, in instances such as a de novo Texas branch by a bank from another state, Texas law requires only a simple notice rather than an application requiring prior approval. The notice provides just that, notice of an activity or event that the Department has an interest, but an activity or event in which the Department does not consider necessary or have the authority to require an application. This is another way in which information activities can be coordinated with other states and federal agencies while minimizing conflicting or duplicative activities.

In addition, division staff attends bi-monthly calls organized by the MTRA Licensing/Emerging Issues Committee to discuss MSB applications. The committee members discuss applications that have been submitted in multiple states to reduce duplicative and inconsistent requests. In addition, these calls serve to discuss new or unfamiliar industry practices and trends which may affect the licensing process. Because licensing requirements vary widely across states, the ultimate licensing decision is made independently based on compliance with the licensing requirements of Section 151.202 of the Texas Finance Code.

USE OF STANDARD FORMS

In many instances, the Department allows the use of federal or other states' forms, when available, to minimize duplicate efforts by the applicant. In addition, the Department has adopted various Uniform Interagency Application Forms to facilitate joint filings. Comments on applications and the principals involved are shared between the various federal and state regulatory agencies. The commissioner has executed information sharing and cooperative agreements with these authorities. One such agreement is the Nationwide Cooperative Agreement dated December 9, 1997. Section seven of the Agreement specifically addresses processing applications among states.

In instances involving duplicative issues or conflicting state law, the Department has championed for legal changes. For example, we recently recommended statutory changes to Texas Finance Code Section 202.001 to alleviate an issue of redundant filings affecting the Department and the Department of Savings and Mortgage Lending regarding notice requirements for a company acquiring a Texas bank. S.B. 1400 passed during the 85th Legislative session and corrected this redundancy.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

When issues are discovered, division staff contacts local, state or federal law enforcement agencies including FinCEN, and the FBI regarding questionable activities or concerns on background checks involving an applicant or a supervised entity. The Division also consults with other state agencies such as the Texas Comptroller of Public Accounts and the Office of Attorney General on issues concerning background checks. In addition, the program provides information to TDI in instances which involve the licensing of banks and their subsidiaries by TDI. The program also coordinates certain filings with the Secretary of State's office.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C of Section V. Funding.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

- Constant advances in technology and evolving payments systems is a challenge that increases the complexity of the filings and require division staff to stay abreast of these advances to better understand proposed activities by applicants and supervised entities.
- The CAFE system does not currently include a payment feature due to a cost prohibitive fee that users would incur. Alternative payment methods using Automated Clearing House or bank wires are being explored.
- Anticipated changes in federal law relating to the Dodd-Frank Wall Street Reform and Consumer Protection Act and outstanding court cases relating to fintech charters impacting the overall Department functions, including the Corporate Activities Division, are discussed in Part I. of Section II. Key Functions and Performance.

The Corporate Activities Division, along with the other divisions, actively seek to minimize impediments, ineffective, or outdated state laws. For example, in 2015, the 84th Legislature, through S.B. 875, approved changes for trust companies. These included the requirements for restricted capital; aligning examination authority with that for banks; establishing confidentiality of statement of condition and income for exempt trust companies and streamlining reporting requirements; expanding the scope of family members and interest that may be served by private trust companies; and establishing other guidelines for exempt trust companies.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

WHY REGULATION IS NEEDED

Regulation and oversight is needed because the entities under supervision by the Department involve the safekeeping of funds belonging to the public. In many instances, loss of these funds held by regulated entities would be catastrophic to the owner. It is therefore imperative that the persons who are involved in the ownership and management of these entities have sufficient experience, ability, standing, trustworthiness, and integrity to operate in compliance with law. Additionally, banks are engines for economic health and growth. The economic stability of the state would be at risk should these entities lack sufficient financial and managerial resources to honor customer demands and to safeguard the assets of the public.

The Corporate Activities Division is charged with reviewing filings to ensure statutory requirements are met before a charter, license, or new activity is authorized by the commissioner. The division ensures the most accurate, current, and relevant information is available for each filing.

Note: For specifics on Department programs related to this question, refer Section VII. of Bank and Trust Supervision, Money Services Businesses, and Prepaid Funeral Contracts and Perpetual Care Cemeteries.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Texas Department of Banking
Corporate Activities
Exhibit 11: Information on Regulated Entities
Fiscal Years 2015 and 2016

Private Child Support Enforcement Agencies*	Fiscal Year 2015	Fiscal Year 2016
Total number of registered entities	11	10
Total number of complaints received from the public	6	4
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints found to be without merit	6	4
Number of complaints resolved	6	4
Average number of days for complaint resolution	6	19

**Complaints against PCSEAs are handled by Consumer Assistance Activities in the DSS.*

Protest of Bank and Trust Applications	Fiscal Year 2015	Fiscal Year 2016
Total number bank applications	107	78
Total number of trust applications	8	7
Total number of bank protests received from the public	2	1
Total number of trust protests received from the public	0	0
Number of protests not accepted/found to be complete/timely	1	0
Number of protests found to be without merit	1	0
Number of protests resolved	0	1
Average number of days for protest resolution	64	30

Check Verification Entities Complaints	Fiscal Year 2015	Fiscal Year 2016
Total number of registered entities	2	2
Total number of complaints received from the public	0	0
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints found to be without merit	0	0
Number of complaints resolved	0	0
Average number of days for complaint resolution	0	0

Cemetery Brokers	Fiscal Year 2015	Fiscal Year 2016
Total number of registered entities	8	13
Total number of complaints received from the public	1	0
Total number of complaints initiated by agency	0	0
Number of complaints pending from prior years	0	0
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints found to be without merit	1	0
Number of complaints resolved	0	0
Average number of days for complaint resolution	22	0

**The Special Audits Division handles complaints against cemetery brokers.*

Charters Issued by Type of Entity	Fiscal Year 2015	Fiscal Year 2016
State-Chartered Banks	2	1
Trust Companies	1	0
Foreign Banks	1	0
Money Services Businesses	13	18
Prepaid Funeral Contract Sellers	6	10
Perpetual Care Cemeteries	4	4
Private Child Support Enforcement Agencies	0	0
Check Verification Entities Complaints	0	0
Cemetery Brokers	4	5

Table 14 Exhibit 11 Information on Complaints Against Regulated Entities

VII. Guide to Agency Programs – Legal

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *Legal*

Location/Division: *Austin / Legal Division*

Contact Name: *Catherine Reyer, General Counsel*

Actual Expenditures, FY 2016: *$829,792.32*

Number of Actual FTEs as of June 1, 2017: *7.75*

Statutory Citation for Program: *Not Applicable*

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the Legal Division is to provide legal support for the Department and to assist members of the public seeking legal opinions or information concerning the regulation of financial services. Major activities of the Legal Division include:

- Providing advice and consultation about major Department programs (B&T Supervision Division, Special Audits Division, and Corporate Activities Division) concerning interpretation of statutes and rules governing our regulated entities;
- Drafting or reviewing informal and formal enforcement actions contemplated to be issued against a regulated entity or person;
- Providing advice and consultation to other support functions for the Department such as Human Resources (HR) and Administrative Services (contracting);
- Representing the Department in administrative hearings and enforcement actions for statutory and rule violations;
- Receiving requests for public information, inquiries, and subpoenas; coordinate responses from information provided from across the Department;
- Drafting rules and legislation relating to regulation of entities governed by the Department;
- Drafting confidentiality agreements to facilitate sharing information with other state and federal regulatory agencies;
- Providing ethics training for new employees;
- Assisting other divisions in meeting their performance measures;
- Providing orientation regarding legal obligations of new Finance Commission members and advise members of legal matters at bimonthly meetings; and
- Providing legal advice and support to the commissioner in his role as Executive Director of the Finance Commission.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.

In 2016, the Legal Division:

- Opened approximately 150 case files;
- Received and processed 174 public information requests;
- Prepared 23 orders for issuance by the commissioner; and
- Drafted 22 rules for adoption by the Finance Commission.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

As the needs of the Department have changed, the Legal Division has evolved and adapted to those needs, particularly with regard to staffing. One attorney position was added in 2010 due to increased demand for legal services. In January 2016, the position tasked with handling public information requests was reduced from one FTE to .5 FTE. In September 2016, an existing legal assistant staff position absorbed the duties of the public information coordinator. A law clerk then filled the .5 FTE. This has proven to be a more efficient use of Department resources.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Legal Division, in performing various functions, affects, or has the potential to affect the following entities:

Legal Table 1 Functions

Function	Entity affected
Legal counsel and advice	Other Department programs (B&T Supervision, Special Audits, Corporate Activities); Finance Commission
Human Resources support	Department staff
Enforcement actions, rulemaking	Regulated entities
Contracting	Outside vendors
Public information processing	General public
Legislation drafting and analysis	Legislative offices

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Most matters are referred to the Legal Division through other Department programs. All requests for legal assistance from within the Department go through the general counsel. The general counsel reviews the request and assigns an attorney based on availability and area of expertise.

The Department also receives requests for legal opinions and interpretations from outside entities. If the request is simple and appears to require less than four hours of staff time to resolve, the request is assigned to the "Attorney of the Day", a rotating responsibility among the attorneys in the Legal Division. If it appears that the request will require more than four hours of staff time, the general counsel assigns an attorney and a case file is opened.

Public information requests are received and logged by the public information coordinator. The public information coordinator reviews the request and provides the responsive information, or works with the Attorney of the Day to determine whether the information should be withheld or an opinion sought from the Office of the Attorney General.

The general counsel meets monthly with each attorney to review case progress, and a monthly summary report of all active matters is provided to Department program directors.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding, and receives no General Revenue. Assessments and examination fees from regulated entities account for the majority of the Department's revenues. Other revenues include application fees, certain examination travel reimbursements, fines and interest earned.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The Office of Attorney General provides legal services to the Department for particular questions in areas such as open government and employment law. The Office of Attorney General also represents the Department in proceedings in state and federal courts, as required by the Texas Constitution.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The general counsel serves as the primary liaison for matters referred to the Office of Attorney General. This ensures that work performed by the Office of Attorney General is not duplicative of legal services provided by Department attorneys. The Office of Attorney General and the

Department have entered an interagency agreement for this work. The term of the current contract is September 1, 2015 through August 31, 2017, for an amount not to exceed $96,000.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The Department works with federal banking regulatory agencies, most frequently the FDIC and the FRB. Details of these relationships may be found in the section of this report submitted by the B&T Supervision Division. The Legal Division coordinates with legal staff of these agencies in regard to enforcement matters and information sharing/confidentiality agreements.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C. of Section V. Funding.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**

- **procedures for handling consumer/public complaints against regulated entities.**

Not applicable.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Not applicable.

VII. Guide to Agency Programs – Administrative Services

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *Administrative Services*

Location/Division: *Austin / Administrative Services Division*

Contact Name: *Sami Chadli*

Actual Expenditures, FY 2016: *$632,334.79*

Number of Actual FTEs as of June 1, 2017: *6*

Statutory Citation for Program: *Not Applicable*

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Administrative Services Division is responsible for the accounting function that includes budgeting and accounting; the purchasing function which includes purchasing, contracting, and building maintenance; and the risk management function.

The goal of the accounting function is to process timely and accurate payments, to produce accurate and reliable financial information, to assist management in effectively allocating resources, and to ensure compliance with all state and federal rules and regulations including adherence to generally accepted accounting principles.

This function is responsible for:

- Preparing yearly itemized operating budgets in accordance with executive management's goals;
- Preparing quarterly financial reports and the Annual Financial Report (AFR) in accordance with generally accepted accounting principles and state guidelines; and
- Administering internal controls to ensure all payments to vendors, agency employee salaries, benefits, tax deductions, and travel are processed in accordance with the General Appropriations Act and state laws and regulations.

The purchasing function provides support for internal customers, procurement and contracts, and infrastructure management. This function is charged with:

- Supporting the Department's purchasing, contract, and supply processes to ensure Department needs are met in a timely manner and are compliant with state and federal regulations;
- Managing inventories, supplies, and controlled/tagged assets;

- Managing the Historically Underutilized Business (HUB) program in compliance with state, and federal regulations;
- Providing facilities support and space management;
- Coordinating the receipt and distribution of mail; and
- Managing and maintaining the AHQ building which entails:
  - Building access management;
  - Video surveillance;
  - Ensuring safe and continuous operations of the HVAC, elevator, boiler, and door entry system;
  - Handling building and grounds maintenance and repairs and associated infrastructure and systems; and
  - Parking management.

The risk management function is to provide business continuity for the Department, protect Department assets from loss, and minimize employee injuries on the job. This function includes:

- Maintaining and updating of the Department's continuity of operations plan or COOP per the SORM guidelines;
- Conducting yearly COOP exercises per SORM's guidelines;
- Assisting the HR Division with workers' compensation administration; and
- Ensuring the safety and security of Department staff and facilities by having a Department risk manager and safety officer in the AHQ, with additional duty safety officers in each of the Department's four regions and through safety training.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.

The effectiveness and efficiency of the Administrative Services Division is reflected in the results of a 2017 audit by the State Auditor's Office, a 2015 audit by the Department's contracted audit firm Garza/Gonzalez & Associates, and a 2015 on-site consultation by the SORM (available upon request). These audits reflected no material findings related to the accounting and risk management functions.

There was a minor finding discovered in a 2017 fixed asset management audit by Garza/Gonzalez & Associates. However, Department staff put processes in place to prevent reoccurrence.

The Department also takes into consideration all audit recommendations and implements them when feasible.

In addition to the above effectiveness and efficiency indicators:

- The Department was one of the first agencies to implement S.B. 20 from the 84th Regular Session;
- AFRs were always filed timely and accurately;
- The Department's continuity coordinator received a Level II master continuity practitioner designation to further improve the risk management function of this division. As of June 2017, there were only 434 such designations nationwide; and
- Positive feedback and results were reflected in the Department's 2016 Internal Satisfaction Survey for the Administrative Services Division.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Administrative Services Division has and continues to operate as operational needs dictate. Initially, the HR function was part of this division; however, in mid-fiscal year 2013, this function was removed and is now served independently by the HR Division. As such, the Administrative Services Division reduced its FTEs from 6.5 to 6 in May 2015. The duties of the part-time FTE position were absorbed by existing staff.

In mid fiscal year 2013, due to retirements, the director of Administrative Services and chief accountant positions were replaced.

In October 2013, a Texas State Agency Continuity Planning Policy Guidance letter was issued to provide additional guidance on continuity planning to state agencies. This led to the expansion of the existing Department risk management program to include the creation and yearly updates of the Department's COOP and yearly continuity exercises, including after action reports and improvement plans.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Generally, the Administrative Services Division serves and provides support to Department divisional and regional staff. There is also an external component related to vendor payments, contract solicitation and execution, and reporting to other state agencies and legislative bodies.

This division is also responsible for communicating and collaborating with oversight agencies such as the Legislative Budget Board, the Governor's Office of Budget, Planning, and Policy, the State Auditor's Office, the Texas Comptroller of Public Accounts, DIR, the Texas Facilities Commission and the SORM.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The Administrative Services Division consists of a director, a chief accountant, two accountants, one purchaser, and one inventory and store specialist. The division functions are administered according to state rules, regulations, and guidelines and internal policies and procedures.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding and receives no General Revenue. Assessments and examination fees from regulated entities account for the majority of the agency's revenues. Other revenues include application fees, certain examination travel reimbursements, fines and interest earned.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Internally, there are no other programs that provide identical or similar services or functions to what the Administrative Services Division provides.

Externally, the support functions of this division, as related to fiscal management, staff services, and risk management, exist within practically every state agency.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

There are no duplications or overlap of this division's functions with other Department divisions.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**

- **a short description of any current contracting problems.**

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C. of Section V. Funding.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Not applicable.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Not applicable.

VII. Guide to Agency Programs – Human Resources

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *Human Resources (HR)*

Location/Division: *Austin / HR Division*

Contact Name: *Lori Wright, Director*

Actual Expenditures, FY 2016: *$216,205.67*

Number of Actual FTEs as of June 1, 2017: *3*

Statutory Citation for Program: *Not Applicable*

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the Department's HR Division is to support the agency's mission by recruiting and retaining qualified personnel, maintaining compliance with state and federal employment law, and delivering high quality employee services.

HR's core functions include:

- **Staffing** – HR manages the Department's employment process including; job description/classification/compensation preparation, job vacancy advertising, accepting and screening job applications, facilitating interviews, testing, background checks, job offers, and maintenance of selection records. HR monitors compliance with the Department's policies and procedures as well as state and federal law ensuring objectivity in the candidate selection process.
- **Onboarding/Separation** – HR directs the activities surrounding new employee orientation. A recap of job posting activity can be found in Part C of this section. During an employee's first few days of employment, HR provides an overview of the Department's functions, policy and procedures, Equal Employment Opportunity (EEO) training, safety information, and building access cards. HR staff processes I-9 requirements, provides benefits overview and enrollment as well as facilitates other divisions in delivering information to new employees. The IT division provides computers and other technology, Administrative Services provides training on travel rules, Legal provides ethics training, and B&T Supervision provides a banking orientation. HR manages voluntary and involuntary separations and provides separating employees with a transition letter that outlines procedures and timelines for benefits, pay and timekeeping. HR is responsible for exit interviews, separation checklists, and recovering equipment and security devices (when applicable).

- **Time and Leave Accounting** – HR administers the automated timekeeping system. The internal timekeeping system tracks hours worked (coded by activity and regulated entity) as well as accounts for leave taken. HR audits timekeeping records monthly to ensure compliance with internal policies, the Fair Labor Standards Act (FLSA), and the Family Medical Leave Act (FMLA). FMLA is administered and proper notice is provided to employees regarding their rights and responsibilities under the Act. HR also interacts with the Texas Comptroller of Public Accounts to upload leave records to the Uniform Statewide Payroll/Personnel System or USPS system.
- **Performance Management** – HR keeps record of current performance standards for each position. HR tracks trial employment periods and ensures proper performance documentation is submitted. Annually, HR distributes performance appraisals and job descriptions to management for use in the employee performance management program. HR keeps all official records related to performance management and consults with management on performance improvement plans and personnel action eligibility.
- **Employee Relations** – HR receives and responds to employee complaints and strives to produce good outcomes for both the Department and the employee. Complaints of discrimination under EEO law, the Americans with Disabilities Amendments Act, the Texas Commission on Human Rights Act, or other state or federal employment law are investigated in conjunction with the General Counsel. HR consults directly with executive staff and the commissioner regarding investigation results and recommendations along with providing expert advice regarding compliance and legal issues surrounding the complaint. The HR director is responsible for providing subject matter expertise on employee relation issues. In addition, the HR director provides consultation on corrective and disciplinary actions to ensure consistent compliance and objectivity in the application of Department policies. Within the structure of employee relations, HR accepts and processes employee complaints and manages the grievance and dispute resolution process. In fiscal year 2016, four complaints were addressed. For fiscal year 2017, as of June 30, 2017, five complaints have been addressed. HR also administers internal and external employee satisfaction and engagement surveys.
- **Salary/Position Administration/Payroll** – HR is responsible for compliance with the Position Classification Act as well as rules and laws that affect payroll actions. HR initiates personnel actions upon the request of division directors. HR determines eligibility and reviews salary adjustments for equity within the pay structure of the Department. HR staff also ensures that special pay such as longevity, merit pay, etc. are accounted for correctly. Compliance with the FLSA in regard to minimum wage, overtime, equal pay, record keeping, and child labor standards is also the responsibility of HR.
- **Benefits Coordination** – HR works with the Employees Retirement System to assist employees with their state benefits, including health insurance, optional insurance, retirement, deferred compensation benefits, Employee Assistance Program, Worker's Compensation, and unemployment claims. HR also coordinates the service award program.

- **Policy and Workforce Planning** – HR is responsible for personnel policy monitoring and development. HR produces several internal and external reports, including the Workforce Plan, the Recruitment/Workforce Diversity/Equal Employment Opportunity Plan, and monthly staffing/EEO/FTE/turnover reports.

- **Education and Development** – HR provides state mandated EEO training via one-on-one and contracted training. Training is provided to employees who sit on interview panels and contribute to hiring decisions. HR seeks out management and leadership training and makes suggestions to executive management on potential programs.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program. Also please provide a short description of the methodology behind each statistic or performance measure.

TURNOVER STATISTICS FOR FISCAL YEAR 2016

Staff turnover is an important method to measure both the effectiveness of the HR management system and overall management of the organization. It measures the percentage of staff that leaves the Department against the total number of staff. The Department measures Financial Examiner turnover as a separate item, as this is the largest employee group who perform an essential regulatory function of the Department. The goal of the Department is to have non-retirement turnover not to exceed 8% per fiscal year for all staff.

HR Table 1 All Staff Turnover Rate

All Staff	Rate
Regular Voluntary	6.45%
Retirement	1.61%
Intern	1.07%
Termination/Death	1.61%
Total	**10.74%**

HR Table 2 Financial Examiner Turnover Rate

Financial Examiner	Rate
Regular Voluntary	8.73%
Retirement	0.79%
Termination/Death	1.59%
Total	**11.11%**

HR STATISTICS FOR FISCAL YEAR 2016

The quantity of items processed is used to assess the volume of activities that pass through the HR division.

HR Table 3 Statistics for Fiscal Year 2016

Activity	Number Processed in Fiscal Year 2016
Job Postings	15
Applications Processed	515
Interviews Conducted	56
Driving Record Checks/ CCH Checks /Credit Checks	28
Job Offers	24
New Employee Orientation	10
Terminations	20
Employment Verification (External Requests)	19
Workers' Compensation Claims	1
Family Medical Leave Act Claims	16
Personnel Actions	366
Americans with Disabilities Act Accommodations	1
Unemployment Claims	1
Service Awards	25

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The services and functions of HR have not changed from the original intent. Three full-time employees perform the HR function. Until 2013, HR was a function of the Administrative Services Division. In that year, direct supervision of the HR function was placed under Deputy Commissioner Newberg while still being tied to Administrative Services. Then in 2017, HR was completely separated from the Administrative Services Division and is now a stand-alone division with its own director.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

HR primarily serves Department employees and management. Additionally, applicants for employment have frequent contact with HR staff.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Each HR staff member has responsibility for specific division functions. The division director oversees all activities.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding, and receives no General Revenue. Assessments and examination fees from regulated entities account for the majority of the agency's revenues. Other revenues include application fees, certain examination travel reimbursements, fines and interest earned.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

No other program, internal or external, provides identical or similar service to the Department's employees. However, the HR division coordinates services with the Employees Retirement System to administer employee benefits. Additionally, time and leave accounting is coordinated with the Texas Comptroller of Public Accounts who keeps official records of state service and leave accrual and usage.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Not applicable.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Not applicable.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C of Section V. Funding.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Not applicable.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Not applicable.

VII. Guide to Agency Programs – Information Technology

A. Provide the following information at the beginning of each program description.

Name of Program or Function: *Information Technology (IT)*

Location/Division: *Austin / IT Division*

Contact Name: *Joe Broz*

Actual Expenditures, FY 2016: *IT: $613,083.90* *Capital: $242,547.08*

Number of Actual FTEs as of June 1, 2017: *6*

Statutory Citation for Program: *Not Applicable*

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of the IT Division is to provide an efficient and problem free electronic communication system that supports the Department's mission. Major activities include:

- Provide effective technical support;
- Promote and facilitate the effective integration of technology;
- Develop, enhance, and manage the Department's enterprise networks to provide high speed, transparent, and highly functional connectivity among all information resources;
- Develop and maintain highly effective, reliable, secure, and innovative information systems;
- Facilitate the collection, storage, security, and integrity of electronic data while ensuring appropriate access;
- Promote new uses of IT;
- Provide leadership for effective strategic and tactical planning in the use of technology;
- Provide fast and reliable access to all information systems;
- Provide a reliable and secure infrastructure on which to base current and future Department technology systems;
- Ensure the availability of systems through Disaster Recovery/Business Continuity planning, testing and execution;
- Monitor and protect the network from threats posed by malicious entities located inside and outside the Department; and
- Provide security to end users, including network protection, email protection and security training.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.

Also please provide a short description of the methodology behind each statistic or performance measure.

The IT Division is responsible for designing, implementing, and managing the network, servers, email, databases, computers, printers, peripherals, internal programs, writing programs, and security framework.

In 2016 the IT Division:

- Completed 967 help desk trouble tickets;
- Supported 19 physical servers, 13 virtual servers, seven wireless access points, 269 computers, 136 printers, 68 scanners, and 58 MiFis (mobile Wi-Fi hotspots);
- Supported 26 custom in-house written programs and 27 commercial programs;
- Stopped 600,611 Malware by automated services from entering the network;
- Stopped 86,253 viruses;
- Cleaned 30 Malware incidents by support staff;
- Replaced computers and servers ending their four-year service cycle; and
- Received positive results from the 2016 Internal Satisfaction Survey.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

The Department first began using computers in the early 1980s. They served as a tool to replace typewriters in the office and a couple of mainframe programs to track data of banks, funeral homes, and cemeteries. There was one employee who wrote the programs and managed the computers. In 1985, the Department realized that computers would be a valuable tool for departmental examiners and replaced the typewriters. The Department purchased portable computers for examiners and desktop computers for administrative personnel. In 1991, the Department installed a network to allow users to share files and printers. That same year, we connected to the internet, installed email, and connected all offices together with a Wide Area Network.

In 1993, two additional programmers were hired and the Department moved its programs from a mainframe system to a PC based system, writing programs in a DOS base language “Clipper” and Windows based language “Oracle Forms.” In 1995, the Department moved to a Windows based programming language PowerBuilder, which is still used today. The IT Division has written and manages 26 desktop applications. PowerBuilder serves the Department well with its desktop applications, but has withdrawn support for its web tools. In 2017, the Department hired two .Net web programmers to begin moving applications to the web and assist in the retraining our two PowerBuilder programmers.

In 1996, a system support specialist was hired as a help desk person to handle user software and hardware problems. In 1998, the IT function was moved to its own division to better serve employees. In 2000, the Department installed a document imaging system and began scanning its paper documents. In 2014, after a Gartner security assessment in 2013, the Department hired an Information Security Officer. The Information Security Officer has created a more secure network and educated our employees on security.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The IT Division supports all other divisions by providing in-house custom programs, desktop technical support, network infrastructure, computer security, end-user application, and security training.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The IT Division is comprised of three sections: Programming, System Support, and Security.

The programming function is largely determined by need. Division directors request programs and the IT director and deputy commissioner consider the importance and complexity to determine if and when the program will be developed. If the program is approved, it is assigned to a programmer. The assigned programmer and a representative from the requesting division will collaborate on the design, requirements, and functionality of the program. The programmer will then write and test the program. After the program has passed the programmers testing, the division that requested the program will test for data accuracy and to confirm that features and access levels function as intended. Once the program is approved by the division director, the program is moved into production and goes into maintenance mode. The programmer who wrote the program is responsible for all program maintenance.

The System Support function is handled based on request by project. When an employee requests assistance, the system support specialist triages the request, resolving common issues immediately. Requests requiring specialized support are forwarded to the programmer who wrote or manages the program or security. If the problem requires additional resources, then others are brought in to assist.

The Security function handles all areas of computer security, including network, computer, email, virus, and security education. If a security incident happens, if possible, the item is isolated from the network and the incident is resolved. If the security incident involves the internet, the Department’s Intrusion Protection System company assists to stop any items that can be stopped. Security training is required for all employees on a yearly basis. Security classes are computer based and completion is tracked.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The Department operates as a SDSI agency, and is therefore entirely self-funding, and receives no General Revenue. Assessments and examination fees from regulated entities account for the majority of the agency's revenues. Other revenues include application fees, certain examination travel reimbursements, fines and interest earned.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The DIR provides a consolidated Data Center that hosts agency data on contracted data centers and cloud providers. In June 2017, the Department began the migration to DIR Office 365 cloud hosting solution; however, due to Data Center restrictions on the types of data and programs it will host, we will continue to maintain our own internal data center.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The IT functions are specific to the Department. No items are duplicated.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The Department uses the FDIC's examination program, ETS, to conduct bank, trust, and IT examinations. The Department works in conjunction with the FDIC to provide support. The Department's IT security works within existing State of Texas MOU regarding intelligent sharing with Multi-State Information Sharing and Analysis Center, FS-ISAC, and DIR.

K. If contracted expenditures are made through this program please provide:

- **a short summary of the general purpose of those contracts overall;**
- **the amount of those expenditures in fiscal year 2016;**
- **the number of contracts accounting for those expenditures;**
- **the method used to procure contracts;**
- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

Information related to fiscal year 2016 contracts above $15,000 is on the Department's website. Fiscal year 2016 contract expenditure information can be found in Part C. of Section V. Funding.

In fiscal year 2017, the Department contracted with a staffing company, TEKsystems, Inc., to retain the services of a contract IT programmer for $83,200.

In fiscal year 2016, the Department contracted with Brightleaf Group to upgrade the Department's DEX program. Fiscal year 2016 expenditures were $11,250 and through June 2017, fiscal year 2017 expenditures are $9,315.00. DEX allows our regulated entities to upload examination documents to a secure site.

L. Provide information on any grants awarded by the program.

Not applicable.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

IT personnel command a higher salary in the private sector, making it difficult to find qualified applicants. The IT Division is currently fully staffed, but if we must replace a full-time employee, the Department may not be able to attract someone with the necessary qualifications.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Not applicable.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices. Please include a brief description of the methodology supporting each measure.

Not applicable.

VIII. Statutory Authority and Recent Legislation

A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2011–2015, or earlier significant Attorney General opinions, that affect your agency's operations.

Texas Department of Banking
Exhibit 12: Statutes / Attorney General Opinions

State Statutes

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
Tex. Const. Art. XVI, §16(c)	Constitutional authority for corporate banking was initially added in 1905 to reverse an earlier prohibition. Most provisions of §16 are federally preempted by federal cases and statutes as discussed below, either directly or through operation of §16(c). Subsection 16(c) has a continuing impact on the agency by mandating competitive parity of state banks with respect to "rights and privileges" of national banks domiciled in this state, notwithstanding state statutes to the contrary.
Tex. Const. Art. XVI, §50	Constitutional authority to impose a valid lien on the homestead, including a lien for a home equity loan or reverse mortgage. Administrative authority to issue interpretations of §50(a)(5)-(7), (e)-(p), (t), and (u) (home equity lending) is delegated to the Finance Commission and the Credit Union Commission, see Tex. Const. Art. XVI, §50(u) and Texas Finance Code §§11.308 and 15.413. By policy, the financial regulatory agencies jointly develop such interpretations; see 7 TAC ch. 151-155.
Fin. Code, Tit. 1, Chapter 1	Lays out general purpose and structure of Texas Finance Code.
Fin. Code, Tit. 2, Chapter 11	Establishes purpose of Finance Commission, and requirements for members. Requires registration of check verification entities.
Fin. Code, Tit. 2, Chapter 12	General enabling statute for Department and commissioner as its chief executive officer.
Fin. Code, Tit. 2, Chapter 16	Establishes SDSI status for financial regulatory agencies, and imposes reporting requirements.
Fin. Code, Tit. 3, Subtit. A, Chapters 31-37	Authority of commissioner to charter, examine, and regulate state banks, to enforce the Texas Banking Act, and to close and liquidate insolvent state banks.

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
Fin. Code, Tit. 3, Subtit. A, Chapter 59	Miscellaneous provisions regarding financial institutions.
Fin. Code, Tit. 3, Subtit. E, Chapter 151	Authority of commissioner to charter, examine, and regulate MSBs.
Fin. Code, Tit. 3, Subtit. E, Chapter 154	Authority of commissioner to license, examine, and regulate sellers of prepaid funeral services and merchandise. Commissioner chairs the Prepaid Funeral Guaranty Fund Advisory Council and administers Fund under Texas Finance Code §§154.351-154.357.
Fin. Code, Tit. 3, Subtit. E, Chapter 180	Authority of financial regulatory agencies over residential mortgage loan originators.
Fin. Code, Tit. 3, Subtit. F, Chapters 181-186	Authority of commissioner to charter, examine, and regulate state trust companies, to enforce the Texas Trust Company Act, and to close and liquidate insolvent state trust companies.
Fin. Code, Tit. 3, Subtit. F, Chapter 187	Authority of commissioner to approve and regulate out-of-state trust company trust offices, and to approve representative trust offices.
Fin. Code, Tit. 3, Subtit. F, Chapter 199	Miscellaneous provisions regarding trust companies.
Fin. Code, Tit. 3, Subtit. G, Chapters 201-203	Regulation of bank holding companies and interstate bank operations.
Fin. Code, Tit. 3, Subtit. G, Chapter 204	Authority of commissioner to approve, examine, and regulate foreign bank branches, agencies, and representative offices in this state.
Fin. Code, Tit. 3, Subtit. Z, Chapter 271	Financial transaction reporting requirements.
Fin. Code, Tit. 3, Subtit. Z, Chapter 274	Requirements of subsidiary trust companies as substitute or successor fiduciaries.
Fin. Code, Tit. 3, Subtit. Z, Chapter 275	Codification of Texas Mutual Trust Investment Company Act; allows one or more fiduciary institutions to form mutual trust investment company; and establishes requirements.
Fin. Code, Tit. 3, Subtit. Z, Chapter 276	Establishes requirements for accounts held for candidates for public office; garnishment procedures; and extensions of credit.

Citation / Title	**Authority / Impact on Agency** *(e.g., "provides authority to license and regulate nursing home administrators")*
Fin. Code, Tit. 3, Subtit. Z, Chapter 277	Establishes requirements for business checking accounts.
Fin. Code, Tit. 3, Subtit. Z, Chapter 278	Establishes requirements for foreign currency transmission.
Fin. Code, Tit. 3, Subtit. Z, Chapter 279	Establishes program for banking and credit union development districts.
Fin. Code, Tit. 3, Subtit. Z, Chapter 280	Effective September 1, 2017, H.B. 3921 (85R) adds Chapter 280 (Protection of Vulnerable Adults from Financial Exploitation) to the Texas Finance Code. The act addresses financial exploitation of elderly persons or persons with a disability by providing for reporting suspected financial exploitation of vulnerable adults by an employee of a financial institution, and the financial institution's investigation and reporting to the Department of Family and Protective Services. Similar law is included for securities professionals.
Fin. Code, Tit. 3, Subtit. Z, Chapter 280 (Duplicate chapter number)	Effective immediately if voters approve H.J.R. 37 on November 7, 2017, H.B. 471 (85R) adds Chapter 280 (Savings Promotion Raffle) to the Texas Finance Code. The Act would allow credit unions and financial institutions to conduct a savings promotion raffle in which the sole action required for a chance of winning a designated prize is the deposit of at least a specified amount of money in a savings account or other savings program offered by the credit union or financial institution. Section 280.004 authorizes financial institutions to conduct such raffles. The Finance Commission is required to adopt rules and procedures for the administration of this section and may determine record keeping requirements for financial institutions, to support examination of a raffle by the agency with primary jurisdiction over the financial institution conducting the raffle.
Fin. Code, Tit. 4, Subtit. B, Chapter 343	Regulation of home loans.
Fin. Code, Tit. 5, Chapters 391-392	Provides penalties for furnishing false credit information and establishes debt collection requirements.
Fin. Code, Tit. 5, Chapter 395	Establishes community reinvestment work group.
Fin. Code, Tit. 5, Chapter 396	Requires registration of private child support enforcement agencies with Department and prohibits certain practices.
Health and Safety Code, Chapter 712	Authority of commissioner to issue certificates of authority PCC corporations, to examine a corporation's perpetual care trust fund, and to regulate operators of PCCs.

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
Health and Safety Code, Chapters 711, 714 and 716	Statutes regarding general requirements applicable to cemeteries, also applicable to PCCs. Requires registration of cemetery brokers (§711.0381).
Agric. Code §54.006	The commissioner must give prior approval to permit a corporation organized under the laws of this state (other than a savings bank) to invest in the preferred stock of a mutual loan corporation, a specialized agricultural lender to its shareholders.
Agric. Code Chapter 56	An agriculture finance corporation may not commence business until authorized by the commissioner upon a finding of legal compliance, and is subject to regulation and examination by the commissioner, must file reports with the commissioner, and is subject to liquidation by the commissioner for insolvency.
Gov't Code §411.092	Provides access to criminal history records for: an applicant (and its principals) for a license, charter, or other authority granted or issued by the commissioner; an employee or applicant for employment, or volunteer with the agency; and a contractor or subcontractor of the agency.
Gov't Code §§572.003(b)(1), 572.026	Classifies the commissioner as an "appointed officer of a major state agency," mandating the filing of financial statements with the Texas Ethics Commission.
Gov't Code §§603.002, 603.004, and 603.009	Sets fees to be charged for certified copies of documents in commissioner's office, and provides for fees to be deposited in general revenue. May conflict with Chapter 552.
Gov't Code §§665.051-.054	Provides for removal of banking commissioner by address. "Removal by address" is removal by the governor upon "address" of 2/3 record vote of each house of the Legislature, after opportunity for hearing.
Gov't Code §2001.223(2)	Provides exemption from contested case notice and hearing requirements for the issuance of a new bank or trust company charter for the purpose of assuming assets and liabilities of a financial institution in hazardous condition.
Bus. Org. Code §23.071	A business development corporation is required to file annual reports of its condition with the commissioner and the Department of Insurance. Commissioner is merely a repository of filing and has no authority to enforce the statute or exercise discretion in evaluating the merits of the report.
Bus. Com. Code §4.112	Requires commissioner to ensure that banks pay checks at par. This statute was federally preempted, see *Wells Fargo v. James*, 321 F.3d 488 (5th Cir. 2003).
Bus. Com. Code §523.052	Requires financial institutions to notify check verification entities that customer is victim of identity check and authorizes Finance Commission to pass rules to implement.

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
Occ. Code §53.0211	Exempts commissioner from requirement of issuing license or provisional license to person with prior criminal conviction.
Prop. Code, Tit. 6	Regulates unclaimed property for many of our regulated entities. Section 74.704 requires commissioner to assist in enforcement of Title 6 if requested by comptroller or attorney general.
Tax Code §171.259	Requires commissioner to appoint conservator to pay franchise tax of banking corporation certified as delinquent by comptroller.

Federal Constitution/Statutes/Regulations/Cases

Citation / Title	Authority / Impact on Agency ***(e.g., "provides authority to license and regulate nursing home administrators")***
U.S. Const. Supremacy Clause (Art. VI, cl. 2).	Provisions in state constitution or statute that contradict or are inconsistent with federal law are preempted. Preemption of state law has been a frequent occurrence in banking law.
12 U.S.C. 24(Seventh), 29, 84, 90, 91, and 92	Relating to powers of national banks. Parallel authority for state banks must be maintained, either through legislation or application of constitutional parity (Tex. Const. art. XVI, §16(c); Texas Finance Code §32.009); *but see Bank of East Texas v. Jones*, 758 S.W.2d 293 (Tex. App. — Tyler 1988, no writ). (*Also see* 12 CFR parts 1-2, 5-7, 23, and 32.)
12 U.S.C. 24a	Authorizes national banks to form financial subsidiaries to engage in activities defined to be financial in nature or incidental to a financial activity. (*Also see* 12 CFR part 1501.) (Similar safety and soundness restrictions are also applied to state banks by 12 U.S.C. 1831w.)
12 U.S.C. 25b and 1465	Revises state law preemption standards for national banks and Federal savings associations, and their subsidiaries, affiliates and agents, added to law in 2010. Specifically overturns preemption of state regulation of subsidiaries by *Watters v. Wachovia Bank, N.A.*, 550 U.S. 1 (2007), and preemption of state regulation of agents by several lower courts, *e.g.*, *Pacific Capital Bank, N.A. v. Connecticut*, 542 F.3d 341, 353 (2d Cir. 2008); *SPGGC, L.L.C. v. Ayotte*, 488 F.3d 525, 536 (1st Cir. 2007). (*Also see* 12 CFR §§7.4007, 7.4008, 7.4009, and 34.4.)
12 U.S.C. 35 and 214d	Prohibits a bank operating under a cease and desist order or MOU with any federal or state regulatory authority concerning any "significant supervisory matter" from converting its charter in order to change its regulator, without approvals from both the federal bank regulatory agency that would govern the resulting entity and the regulatory agency issuing the cease and desist order or MOU.

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
12 U.S.C. 36	Authorizes national bank branches. Underlying doctrine and policy of competitive equality permits branching authority for a national bank equal to that authorized by state law for a "state bank." As amended in 2010, de novo branching (i.e., initial entry into a state) is authorized nationwide, if a state bank chartered by the target state could establish a branch at the location chosen by the national bank, see 12 U.S.C. 36(g)(1)(A). Preempts Tex. Const. Art. XVI, §16(a), cl. 3.
12 U.S.C. 43	Requires procedure for preemption of state law by the OCC, added to law in 1994.
12 U.S.C. 92a	Provides for national bank fiduciary powers equal to those of state-chartered competitors where the bank is "located." A bank office providing fiduciary services is not considered a "branch." (*Also see* 12 CFR part 9.)
12 U.S.C. 321-338a	Authorizes state banks to become members of the Federal Reserve System (member banks), and regulates state banks in that capacity. (*Also see* 12 CFR part 208.)
12 U.S.C. 371c, 371c-1, 375 and 1828(j)(1)	Restrictions on bank transactions with affiliates, generally more restrictive than state law. (*Also see* 12 CFR part 223.)
12 U.S.C. 375a, 375b and 1828(j)(2)	Restrictions on loans to officers, directors, and principal shareholders of insured banks. The stricter limits apply in lieu of general state lending limits, see 7 TAC §12.1. (*Also see* 12 CFR part 215, §337.3.)
12 U.S.C. 1817(j)	Regardless of whether the commissioner approves, a person may not acquire control of an insured state bank without the approval of the responsible federal regulator. (*Also see* 12 CFR §§225.41 et seq., 303.4.)
12 U.S.C. 1820(d)	Federal examination requirements imposed on insured state banks; coordination of federal and state examinations is permitted if state examinations meet certain standards of competency. (*Also see* 12 CFR §208.26.)
12 U.S.C. 1820(d)(4)	Authorizes interstate branching by insured state banks, to same extent as permitted for national banks. See 12 U.S.C. 1820(d)(4)(A)(i). Preempts Tex. Const. Art. XVI, §16(a), cl. 3.
12 U.S.C. 1828(c), (d), (l), (l).	Regardless of whether the commissioner approves, an insured state bank may not, without the approval of the responsible federal regulator: (1) merge, acquire or be acquired by another depository institution, (2) establish or relocate a branch, (3) reduce its capital, or (4) acquire any ownership interest in a foreign bank.
12 U.S.C. 1828(o)	Federal real estate lending standards are applicable to real estate loans made by insured state banks. (*Also see* 12 CFR §§208.51-.52, part 365.)

Citation / Title	**Authority / Impact on Agency** ***(e.g., "provides authority to license and regulate nursing home administrators")***
12 U.S.C. 1831a	Restrictions on activities of insured state banks. Generally, notwithstanding conflicting state law, an insured state bank may not engage as principal in any type of activity that is not permissible for a national bank, and a state bank subsidiary may not engage as principal in any type of activity that is not permissible for a national bank subsidiary, unless the FDIC determines that the activity would pose no significant risk to the deposit insurance fund, and the bank is in compliance with FDIC capital standards. Significantly restricts state statutory powers related to state banks in Texas. (*Also see* 12 CFR part 362.)
12 U.S.C. 1831i	Regardless of whether the commissioner approves, a troubled insured state bank may not add a director or senior executive officer without prior notice to and opportunity to disapprove by the responsible federal regulator. (*Also see* 12 CFR §§225.71 et seq., 303.14.)
12 U.S.C. 1831o	Regardless of whether the commissioner concurs in the need for additional capital or for an enforcement action, an insured state bank must satisfy federal minimum capital requirements, and the responsible federal regulator must take "prompt corrective action" against an insured state bank that is not adequately capitalized. (*Also see* 12 CFR §§208.13, 208.30 et seq., and part 325.)
12 U.S.C. 1831p-1	Federal guidelines for safety and soundness applicable to insured state banks. (*Also see* 12 CFR part 364 and §208.60.)
12 U.S.C. 1831r-1	Regardless of whether commissioner approves a branch closing, prior notice of branch closing must be submitted to the responsible federal regulator.
12 U.S.C. 1831v	Authority of state insurance regulator and SEC regarding functionally regulated activities of insured state banks.
12 U.S.C. 1831w	State bank subsidiaries engaging in activities that a national bank can only engage in through a financial subsidiary must be subject to same restraints as a national bank financial subsidiary. (*Also see* 12 CFR §§208.71 et seq., 362.16 et seq.)
12 U.S.C. 1831x	Insurance protections for bank customers buying insurance through the bank. (*Also see* 12 CFR §§208.81-.86 and part 343.)
12 U.S.C. 1831y	Requires public disclosure of agreements made under the Community Reinvestment Act of 1977, referred to as "CRA Sunshine Requirements." (*Also see* 12 CFR parts 207 and 346.)
12 U.S.C. 1841 et seq. (Bank Holding Company Act of 1956)	Federal law governing acquisition of banks by holding companies and holding company activities. (*Also see* 12 CFR part 225.)
12 U.S.C. 1861 et seq. (Bank Service Company Act)	Limits permission for a bank to make a minority or greater investment in a company providing specified services for depository institutions provided all shareholders or members are insured banks. See Texas Finance Code §34.103(d)(2). (*Also see* 12 CFR §362.4.)

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
12 U.S.C. 1951-1959	Requires the maintenance of appropriate types of records and the making of appropriate reports by such businesses in the United States (including banks and MSBs) where such records or reports have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.
12 U.S.C. 1971 et seq.	Prohibits tying arrangements, subject to exceptions.
12 U.S.C. 2501-2503	Determines which State receives escheated money orders and travelers checks from "any bank, trust company, savings bank, safe deposit company, or private banker engaged in business in the United States."
12 U.S.C. 2601 et seq. (Real Estate Settlement Procedures Act of 1974)	Requires disclosures in certain mortgage loan transactions; requirements applicable to servicing mortgage loans and administration of escrow accounts. Preempts state laws that grant lesser protection to consumers but not those that provide greater. (*Also see* 12 CFR part 1024.)
12 U.S.C. 2801 et seq. (Home Mortgage Disclosure Act of 1975)	Record maintenance and reporting requirements designed to demonstrate whether a depository institution is fulfilling its obligation to serve the housing needs of the communities and neighborhoods in which it is located. Preempts state laws that grant lesser protection to consumers but not those that provide greater. (*Also see* 12 CFR part 1003.)
12 U.S.C. 2901 et seq. (Community Reinvestment Act of 1977)	Requirements designed to ensure that depository institutions are meeting the credit needs of the local communities in which they are chartered, consistent with safety and soundness. (*Also see* 12 CFR parts 228 and 345.)
12 U.S.C. 3201 et seq. (Depository Institution Management Interlocks Act)	Generally prohibits a management official of one depository institution from serving as a management official for another depository institution in the same market, subject to exceptions. (*Also see* 12 CFR parts 212 and 348.)
12 U.S.C. 3101 et seq. (International Banking Act of 1978)	Federal law governing foreign activities of domestic banks, varying slightly for member and nonmember banks. Source and extent of federal authority for foreign banks to have state branches, agencies, and representative offices. See Texas Finance Code Chapter 204. (*Also see* 12 CFR parts 211, 346 and 347.)
12 U.S.C. 3331 et seq.	Federal real estate appraisal requirements are applicable to real estate loans made by insured state banks. (*Also see* 12 CFR §§225.61 et seq., part 323.)
12 U.S.C. 4001 et seq. (Expedited Funds Availability Act)	Requires a bank to provide written notice of its funds availability policy on clearing deposited items; compliance with Federal Reserve rules on funds availability. Preempts state laws that provide a longer time but not those that provide shorter. (*Also see* 12 CFR parts 210 and 229.)
12 U.S.C. 4301 et seq. (Truth in Savings Act)	Provides for uniform disclosure of interest rates and fees applicable to and other terms of accounts. Prescribes calculation methodology for paying and determining interest owed. Inconsistent state laws are preempted to the extent of inconsistency. (*Also see* 12 CFR part 1030.)

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
12 U.S.C. 5491 et seq.	Creates the Consumer Financial Protection Bureau or CFPB to regulate the offering and provision of consumer financial products or services under federal consumer financial laws.
15 U.S.C. 45(a)(1), 57a(f) (Federal Trade Commission Act)	Prevention of unfair or deceptive acts or practices affecting commerce; authority to adopt rules and policy statements. (*Also see* 12 CFR part 1014.)
15 U.S.C. 1601 et seq. (Truth in Lending Act)	Requires meaningful and uniform disclosure of credit terms on a comparable basis. Preempts state laws that grant lesser protection to consumers but not those that provide greater. (*Also see* 12 CFR part 1026.)
15 U.S.C. 1667 et seq. (Consumer Leasing Act)	Requires uniform and comprehensive disclosure of lease terms. Preempts state laws that grant lesser protection to consumers but not those that provide greater. (*Also see* 12 CFR part 1013.)
15 U.S.C. 1681 et seq. (Fair Credit Reporting Act)	Applies to financial institutions that obtain and use information about consumers to determine the consumer's eligibility for products, services, or employment; share such information among affiliates; and furnish information to consumer reporting agencies. (*Also see* 12 CFR part 1022.)
15 U.S.C. 1691 et seq. (Equal Credit Opportunity Act)	Prohibits discrimination in credit transactions on the basis of race, color, religion, national origin, sex, marital status, or age. (*Also see* 12 CFR part 1002.)
15 U.S.C. 1692 et seq. (Fair Debt Collection Practices Act)	Prevents abusive debt collection practices and promotes consistent state laws to protect consumers from debt collection abuses. Preempts state laws that grant lesser protection to consumers but not those that provide greater. (*Also see* 12 CFR part 1006.)
15 U.S.C. 1693 et seq. (Electronic Fund Transfer Act)	Defines rights and responsibilities of financial institutions, consumers, and intermediaries in electronic fund transfer systems, with an emphasis on individual consumer rights. Preempts state laws that grant lesser protection to consumers but not those that provide greater. (*Also see* 12 CFR part 1005.)
15 U.S.C. 6701-6717	Functional regulation of insurance by states. 15 U.S.C. 6701 makes a wide range of state laws subject to federal preemption if they impede or disadvantage either the creation of affiliations with depository institutions or the activities of such affiliates.
15 U.S.C. 6801-6809	Protection of nonpublic personal information by financial institutions. (*Also see* 12 CFR part 1016.)
15 U.S.C. 6823	Federal crime: Fraudulent access to financial information.
18 U.S.C. 111	Federal crime: Assaulting, resisting, or impeding certain officers or employees.
18 U.S.C. 212	Federal crime: Offer of loan or gratuity to bank examiner (including state examiner).

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
18 U.S.C. 213	Federal crime: Acceptance of loan or gratuity by bank examiner (including state examiner)
18 U.S.C. 215	Federal crime: Receipt of commissions or gifts for procuring loans.
18 U.S.C. 655	Federal crime: Theft by bank examiner (including state examiner).
18 U.S.C. 656	Federal crime: Theft, embezzlement, or misapplication by bank officer or employee.
18 U.S.C. 1005	Federal crime: Falsification of insured bank entries, reports, and transactions.
18 U.S.C. 1014	Federal crime: False statements, overvaluing collateral, etc., in loan and credit application to influence certain lenders, including insured banks, credit unions and thrifts, foreign bank branches, or agencies.
18 U.S.C. 1957	Federal crime: Money laundering.
18 U.S.C. 1960	Federal crime: Unlicensed money transmission.
18 U.S.C. 3322(b)	Permits U.S. attorney to share federal grand jury information with both federal and state banking regulators.
29 U.S.C. 1001 et seq. (Employee Retirement Income Security Act of 1974) and 26 U.S.C. 401-420 (related provisions of the Internal Revenue Code of 1986)	Provisions governing retirement funds held by a fiduciary, including pension and profit-sharing plans and individual accounts like individual retirement accounts. These types of accounts represent a principal part of the business of banks and trust companies acting in a fiduciary capacity. While all the cited provisions must be understood by trust examiners and staff attorneys called upon to render opinions, fiduciary responsibilities in particular are governed by 29 U.S.C. 1101-1114 and 12 CFR part 2550.
31 U.S.C. 310	Establishes FinCEN as a bureau within the Treasury Department and describes FinCEN's duties and powers regarding implementation, administration, and enforcement of federal anti-money laundering laws, known as the BSA.
31 U.S.C. 5311 et seq. (Bank Secrecy Act)	Reporting requirements for currency and coin transactions and suspicious activities, for combating money laundering. Requires money transmitting business to register with the Treasury, regardless of whether a state license is required. Provides for grants to states to combat money laundering. (*Also see* 31 CFR parts 1020 (banks and trust companies) and 1022 (MSBs.)
42 U.S.C. 3601 et seq. (Fair Housing Act)	Prohibits banks from discriminating or engaging in discriminatory advertising with regard to residential real estate-related transactions. State law is not preempted except to the extent a law requires or permits a discriminatory housing practice. (*Also see* 12 CFR part 338.)

Citation / Title	Authority / Impact on Agency *(e.g., "provides authority to license and regulate nursing home administrators")*
31 Code of Federal Regulations §§501.603 -501.604	Requires financial institutions, including MSBs, to report transactions that are blocked because the transactions are unlawful per the Office of Foreign Assets Control of the US Department of the Treasury. Office of Foreign Assets Control administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or economy of the United States.

Table 15 Exhibit 12 Statutes

Attorney General Opinions

Citation / Title	Authority / Impact on Agency
DM-329 (1995)	State and private university debit card programs, holding funds on behalf of students, faculty, and staff, are not subject to the Sale of Checks Act and do not constitute unauthorized banking.
DM-442 (1997)	The department lacks authority to enforce the Currency Exchange Act against the non-Indian management company of a casino owned by the Texas Band of Kickapoo Indians on their reservation in Eagle Pass, Texas.
DM-489 (1998)	Funds a state agency possesses merely as custodian are not state funds. The Public Funds Investment Act does not apply to or provide investment authority for corporate and trust funds of a bank or trust company in receivership or conservatorship, PCC liquidation funds, seized prepaid funeral contract trust funds, or the prepaid funeral contract guaranty fund.
JC-0279 (2000)	Pursuant to section 711.002(g) of the Texas Health and Safety Code, a person may provide written directions for the disposition of his or her remains in a signed, written instrument, including a prepaid funeral contract, and these directions may be modified or revoked only in a signed writing. Section 711.002(g) applies only to changes in directions for disposition of the decedent's remains, that is, directions for burial or an alternative, such as cremation, whereby the remains reach their final resting place, and does not apply to other goods and services purchased under a prepaid funeral services contract. If the decedent is the named beneficiary but did not purchase and sign the prepaid funeral services contract, section 711.002(g) does not apply to changes of the disposition instructions found in a prepaid funeral services contract. The application of section 711.002(g) is not affected by the fact that the contract is not fully paid at the time of the purchaser/beneficiary's death.
JC-0417 (2001)	The provisions of chapter 154 of the Texas Finance Code are applicable to religious organizations that sell prepaid funeral benefits and do not violate the Establishment Clause or Free Exercise Clause of the First Amendment to the United States Constitution.

Citation / Title	Authority / Impact on Agency
JC-0477 (2002)	The [2001] amendatory language of section 154.155(d) of the Texas Finance Code, which entitles a purchaser who cancels a prepaid funeral benefits contract to a refund that includes half of the earnings attributable to the payments made by the purchaser, applies only to trust-funded prepaid funeral benefits contracts; it does not apply to cancellations of insurance-funded prepaid funeral benefits contracts.
JC-0513 (2002)	Section 341.502(a) of the Texas Finance Code is applicable only to those loan transactions for which the consumer credit commissioner is the appointed regulating official. It has no application to loan transactions subject to the regulatory authority of the banking commissioner, the savings and loan commissioner, the credit union commissioner, and the federal officials responsible for regulation within their respective spheres.
GA-0310 (2005)	A funeral establishment need not comply with a statutory requirement that it obtain a "cremation authorization form" signed by an "authorizing agent" when a purchaser in a prepaid funeral contract has previously specified disposition of the purchaser's remains by cremation.
GA-0720 (2009)	Where an individual specifies the method of disposition of his or her remains in a fully paid funeral contract of which he or she is the purchaser and beneficiary, the individual's agent under a statutory durable power of attorney may not change the method of disposition. If the agent under a statutory durable power of attorney cancels a prepaid funeral contract purchased by the principal for him or herself, the principal's written directive in the contract regarding disposition of his or her remains is not canceled.

Table 16 Exhibit 12 Attorney General Opinions

B. Provide a summary of recent legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency.

Texas Department of Banking
Exhibit 13: 85th Legislative Session

Legislation Enacted

Bill Number	Author	Summary of Key Provisions
H.B. 1948	Elkins	Allows PCCs to choose total return method for investments. To convert to total return method, trustee must submit supporting documentation to commissioner. Trustee determines total return percentage that may be distributed, not to exceed 5%. Commissioner may require, after notice and opportunity for hearing, conversion back to net income method under certain conditions.
S.B. 1349*	Watson	Authorizes the Texas Department of Motor Vehicles to own real property and establish permanent headquarters at property known as Camp Hubbard. Authorizes the Texas Department of Transportation to transfer all or part of Camp Hubbard to the Texas Department of Motor Vehicles. Authorizes Texas Department of Transportation to sell any remainder of Camp Hubbard property to financial regulatory agencies.
S.B. 1400	Campbell	Delays required publication of notice regarding change of control until application is complete. Upon completion of application, commissioner must promptly notify the applicant of date the application is accepted for filing. Establishes procedure for termination of safe deposit box rentals. Clarifies that acquisition of a Texas bank holding company in which the only subsidiary is a state savings bank does not require approval from the commissioner. Aligns requirements regarding minimum amount of foreign bank deposits with federal statute. Streamlines list of permissible activities of a Texas representative office of a foreign bank and mirrors current Federal Reserve rule.
S.B. 1401	Campbell	Modernizes language regarding examination and regulatory authority over third-party service providers for banks and trust companies. Prohibits felons from serving as officers of a state bank, trust company, or bank holding company, or as an employee of a bank holding company, unless specifically allowed by commissioner. Allows commissioner to terminate order of supervision at any time. Clarifies requirement for a trust charter if activities of the entity include acting as trustees or custodians as defined and approved by the IRS.
S.B. 1402	Campbell	Allows cemeteries to pool trust funds or temporarily place them in segregated interest-bearing accounts to reduce trust management costs. Require cemeteries to own the land where the cemetery is located, with a five-year phase-in period for noncompliant cemeteries to meet the new requirement. Authorizes administrative law judges to recommend a penalty amount less than the statutory maximum if the situation so warrants.

S.B. 1403	Campbell	Excludes from licensing requirement armored car companies transporting currency from a person's bank back to the person. Excludes from licensing requirement Texas-chartered trust companies. Updates the name of the NMLS. Clarifies exclusion from licensure persons who only incidentally engage in money transmission. Allows the commissioner to require an increased amount (up to two times) of security for persons providing third-party bill payments in conjunction with loan acceleration services. Requires at least 50% of the net worth of a license holder or applicant to be Tangible Net Worth. Current license holders who are not in compliance have a five-year phase-in requirement. Allows commissioner to order payment of restitution to individuals harmed by unlicensed money transmission. Authorizes administrative law judges to recommend a penalty amount less than the statutory maximum if the situation so warrants.

Table 17 Exhibit 13 Legislation Enacted 85th Leg

Legislation Not Passed

Bill Number	Author	Summary of Key Provisions
H.B. 3169 *	Capriglione	This bill was drafted by the Texas Comptroller of Public Accounts with the Department's input. It would have required the commissioner, in consultation with the Comptroller, to create defined categories of license for depository agents with specific application requirements and to determine whether there should be any exemptions. Would have authorized the commissioner to require additional security from applicants for such licenses and to adopt rules to implement. We do not know why it did not pass.

Table 18 Exhibit 13 Legislation Not Passed 85th Leg

IX. Major Issues

ISSUE 1: Addition of a fee to each perpetual care contract to establish a receivership fund (much like the current Prepaid Funeral Guaranty Funds)

A. Brief Description of Issue

A PCC must obtain a COA from the Department to operate in Texas. PCCs are regulated by the Department to protect the interests of persons interred and to be interred, and to ensure each time an interment right is sold in the cemetery the required deposit is made to the cemetery's irrevocable trust fund. This deposit is invested within statutory guidelines and the distributed income is used to maintain the cemetery. If a PCC is unable to continue operations, the Office of Attorney General may seek the appointment of a receiver. A receivership is costly, yet PCCs in need of receivership usually do not have the funds to pay for a receiver. Therefore, the Department proposes establishing a Receivership Fund to defray the costs of PCC receiverships.

B. Discussion

In 2011, Chapter 712 of the Texas Health and Safety Code was amended to authorize the Office of Attorney General to initiate receivership proceedings for problem PCCs. The appointed receiver may be a private party or a Department employee. If the receiver is a private party, the receiver shall be compensated by the PCC or, if the PCC has no assets available to pay the receiver, from the income of the trust fund. If the receiver is a Department employee, the employee may not receive compensation but the Department may receive reimbursement from the PCC. However, if the PCC is insolvent, no mechanism was established to help defray the costs of the receivership.

This is not a theoretical problem. In 2016, a troubled PCC needed a receiver to save it from being abandoned. The PCC could not afford to compensate an independent receiver, so the Department was named as temporary receiver to run the day-to-day operations of the PCC. The Department expended considerable time and resources to run, rehabilitate, and find a successor owner for the PCC, yet the Department was unable to be reimbursed due to the PCC's insolvency. Besides the cost of acting as receiver for the cemetery, the Department incurred significant expense in paying fees to outside counsel to represent the receiver in the district court proceeding. This was necessary because the Department is prohibited from providing representation in state and federal district court, and the Office of Attorney General declined to provide representation for the receiver.

When there are insufficient funds to pay for receivership costs, the ability of the Department to try to rehabilitate a PCC and find a successor owner before the cemetery property possibly becomes abandoned is significantly impacted. If a PCC becomes abandoned, burials for plot owners who previously purchased cemetery property cease and the maintenance of the cemetery property is negatively affected.

C. Possible Solutions and Impact

A Receivership Fund could be established by amending Chapter 712 of the Texas Health and Safety Code to allow the Department to charge a fee to PCC certificate holders. A Receivership Fund would allow the Department more flexibility in receiverships. The Receivership Fund could be used to compensate independent receivers, who would be able to focus solely on running troubled PCCs, and thereby increase the likelihood those cemetery properties would be rehabilitated and successor owners found before the PCCs become abandoned. It would also protect Department employees and resources from being diverted to just one PCC, so that they could remain focused on the PCC industry as a whole.

The Receivership Fund could mirror the Guaranty Funds that were created to guarantee performance by sellers of prepaid funeral benefit contracts. In addition, a Receivership Fund Advisory Council could be created and charged with supervising the operation and maintenance of this fund as the Prepaid Funeral Guaranty Fund Advisory Council supervises the prepaid funeral benefit contract funds. Provisions governing the Advisory Council and the Guaranty Funds are outlined in Chapter 154, Subchapter H of the Texas Finance Code.

ISSUE 2: Requirement that a portion of payments for prepaid markers sold be placed in a marker trust (much like the prepaid funeral trust concept)

A. Brief Description of Issue

In Texas, consumers can purchase grave markers and headstones from either PCCs regulated by the Department or from third-party sellers. Many consumers purchase their markers and headstones in advance of need, along with other funeral items. However, unlike other funeral items, there is no statutory framework to protect the funds that consumers have prepaid for markers and headstones and no way to assure the items will be delivered at the time of need.

B. Discussion

Under Chapter 154 of the Texas Finance Code, a person who sells prepaid funeral benefits in Texas must have a permit issued by the Department. When a consumer purchases prepaid funeral benefits from a trust-funded permit holder, the permit holder must deposit the funds in an interest bearing restricted bank or trust account with a financial institution in Texas. The funds are held in trust so at a later date the permit holder can utilize the funds to purchase the funeral benefits for which the consumer contracted and prepaid. The only exceptions to this trusting requirement are found in Title 7 of the Texas Administrative Code Section 25.8 which outlines specific guidelines to this requirement, such as the seller delivers actual possession of the prepaid funeral benefits within 72 hours of the time of sale.

Although several states currently consider markers and monuments as preneed items, Texas does not. Instead, Section 154.002(9) of the Texas Finance Code specifically exempts markers, monuments, and tombstones from the definition of prepaid funeral benefits. The result is that sellers of markers and monuments are not required to obtain a permit from the Department and, as such, there is no trusting requirement or oversight to protect consumers who have prepaid for these items.

Over the years, the Department has dealt with many situations where PCCs and third-party sellers have collected payments for markers from consumers and misappropriated the funds. Although some entities have been able to repay the funds from other sources, in some situations consumers must pay for the same items again. Depending on the type of marker a consumer purchased, this can be very costly. Markers and monuments vary greatly in cost based on the size, design, type, and color of material used. Generally, flat grave markers can average around $1,000, but upright monuments can be in excess of $10,000.

C. Possible Solutions and Impact

The definition of prepaid funeral benefits in Section 154.002(9) of the Texas Finance Code could be expanded to include markers and monuments as prepaid funeral benefits. This change would require anyone selling markers and monuments on a preneed basis to obtain the required prepaid funeral permit issued by the Department as outlined in Chapter 154 of the Texas Finance Code. However, if the seller can satisfactorily demonstrate to the Department that markers or monuments purchased by consumers are delivered to the cemeteries within 90 days of purchase, the seller would be exempt from the requirement of obtaining a permit.

This change would also allow the Department to protect the funds paid by consumers and to assure the funds are used for the intended purpose. Furthermore, if an entity/person has been issued a prepaid funeral benefit permit by the Department, and the funds collected for markers and monuments are misappropriated, the Department would be able to assist the consumers with obtaining restitution by making a claim to the Guaranty Fund as outlined in Chapter 154, Subchapter H of the Texas Finance Code.

ISSUE 3: Establish incubator licensing for startup MSBs

A. Brief Description of Issue

MSBs are regulated at the state level to ensure safety and soundness, stability of the industry, consumer protection, and to prevent financial crimes like money laundering. To achieve these public policy objectives, most states, including Texas, have substantial licensing requirements. The downside to such robust regulation is that it often presents a high barrier for small startups to bring their innovations to market. For example, the Texas Money Services Act (Texas Finance Code Chapter 151) requires a MSB to have a minimum net worth of $500,000, but the nature of startups is such that while many are well capitalized thanks to venture capital investment, most have very low or even negative net worth. As a result, it may take years for a new financial technology or fintech company to be able to do business in Texas. When such requirements slow a startup’s time to market, the effect can chill competition and innovation, ultimately depriving consumers, and businesses of more affordable or efficient services.

B. Discussion

MSBs play a vital role in providing financial services to individuals and small businesses across the country. Over one-quarter of U.S. households use non-bank financial institutions such as MSBs to pay bills, purchase items online, and send money to friends and family. In Texas, licensed MSBs, including Western Union, PayPal, Amazon, and Square, completed over 340 million transactions for a total dollar amount of nearly $93 billion in 2015 alone.

MSBs are driving change in nearly every aspect of financial services and bringing significant benefits to both consumers and businesses. Many MSBs are considered fintech companies, developing new technologies to apply to twenty first century circumstances. Fintech MSBs have innovated new ways to move and convert money, lowering costs in the process and increasing choices for purchasers of money services. Their new ideas spur competition and help drive value and efficiency for the many consumers and small businesses that rely on money services.

C. Possible Solution and Impact

A startup license in Chapter 151 of the Texas Finance Code could lower the barrier to market entry for small startup companies, thus encouraging fintech innovation and market competition. The startup license would act as a ramp for new and small businesses to grow into the requirements for full licensure over a period of time, e.g. three years, while still providing appropriate levels of consumer protection and crime prevention. The main mechanism to achieve this objective would require a startup to partner with established MSBs and certain financial institutions (like a sponsor), leveraging the strength, stability, and experience of these more mature entities to bridge the gap in a startup's qualifications for licensure.

The arrangement would allow a sponsor to generate revenue in exchange for its strength and expertise, and would allow a startup with exciting new ideas to enter the marketplace well before current law would otherwise allow, giving Texas consumers access to new products or new methods to move funds.

ISSUE 4: Reassignment of the registration of PCSEAs to the Office of Attorney General

A. Brief Description of Issue

The Department is responsible for registering PCSEAs for which we have limited statutory authority to supervise, have limited expertise in the field of child support, and there is only a tangential tie to the Department's mission due to money being involved. As of June 2017, nine PCSEAs were registered with the Department.

B. Discussion

Pursuant to Chapter 396 of the Texas Finance Code, the Department is responsible for the registration of PCSEAs who engage in the enforcement of child support ordered by a court or other tribunal for a fee or other consideration. Certain exclusions apply, including attorneys in certain circumstances, state agencies, or a contractor engaging in child support enforcement on behalf of a government agency.

The Department has only limited enforcement powers granted by statute. Subchapter G, Chapter 396 of the Texas Finance Code provides for revocation of registration after notice and hearing for failure to comply with Chapter 396. The Department is also granted authority to investigate complaints. Often the complaints investigated by the Department are related to payment collection or discrepancy disputes between the PCSEA and the Texas Child Support Disbursement Unit of the Office of Attorney General. In these situations, parents are referred to the Office of Attorney General to resolve the issue. In other cases, complainants are interested in being released from the contractual obligation with the PCSEA, which is not within the Department's jurisdiction.

As prescribed by Texas Family Code Chapter 231, the Office of Attorney General's Child Support Division is the official child support enforcement agency for the State of Texas that provides child support services. Furthermore, Title IV-D of the federal Social Security Act establishes guidelines for states for paternity and child support services.

The Office of Attorney General appears better suited to register and oversee PCSEAs since it is the official child support enforcement agency for Texas. The Office of Attorney General has more experience and expertise with child support collection programs, more expertise with state and federal laws pertaining to child support enforcement, more tools for supervision and enforcement, and greater interaction with PCSEAs and custodial and non-custodial parents. For example, per Texas Finance Code §396.353, a violation of Chapter 396 is a deceptive trade practice under Subchapter E, Chapter 17 of the Business and Commerce Code, and is actionable under that subchapter. The Office of Attorney General has much broader authority to conduct examinations, investigations, and levy penalties as provided for in Chapter 17.

The activities conducted within the Office of Attorney General's Child Support Division are designed to support the priorities of children, collections, and overall child support services. In fact, the Child Support Division provides nearly identical services that PCSEAs do. Although the Child Support Division has a broader focus than PCSEAs, both PCSEAs and the Child Support Division collect and distribute child support payments as ordered by a court. This regulation appears to align more closely with the mission and activities of the Office of Attorney General.

C. Possible Solutions and Impact

Moving the responsibilities to administer Chapter 396 from the Department to the Office of Attorney General would alleviate this mismatch. The impact would be more efficient and effective regulation.

X. Other Contacts

A. Fill in the following charts with updated information on people with an interest in your agency, and be sure to include the most recent email address.

Texas Department of Banking
Exhibit 14: Contacts

Interest Groups

(groups affected by agency actions or that represent others served by or affected by agency actions)

Banking

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Consumer Financial Protection Bureau / Jim Carley, Regional Director Southeast	1625 Eye Street N.W. Washington, D.C. 20006 www.cfpb.gov	202-435-7358	james.carley@cfpb.gov
Cybersecurity and Critical Infrastructure Working Group (CCIWG) / Don Saxinger, Chair	1750 New York Avenue, N.W. Washington, DC 20006	202-898-3864	dsaxinger@fdic.gov
Federal Deposit Insurance Corporation / Kristie Elmquist, Regional Director	Dallas Regional Office 1601 Bryan Street Dallas, TX 75201 www.fdic.gov	972-761-8215	kelmquist@fdic.gov
Federal Reserve Bank of Dallas / Robert Triplett, Senior VP	2200 N. Pearl St. Dallas, TX 75201 www.dallasfed.org	214-922-5330	robert.triplett@dal.frb.org
Financial and Banking Information Infrastructure Committee (FBIIC) – U.S. Treasury / Brian J. Peretti, Esq., Senior Career Official for the Office of the Assistant Secretary for Financial Institutions	1500 Pennsylvania Avenue, N.W. Washington, DC 20220	202-622-0821	brian.peretti@treasury.gov
FinCEN / Mark Enis, Senior Liaison Officer	P.O. Box 39 Vienna, VA 22183-0039 www.fincen.gov	703-905-5025	mark.enis@fincen.gov
Office of the Comptroller of the Currency / Troy Thornton, Deputy Comptroller	Southern District Office 500 N Akard, Suite 1600 Dallas, TX 75201 www.occ.treas.gov	214-720-7005	troy.thornton@occ.treas.gov.

Death Care

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Prepaid Funeral Guaranty Fund Advisory Council Trust-Funded Representative / Wallace Jones, Phillips & Luckey Funeral Home	1041 West U.S. HWY 79 Rockdale, TX 76567 www.phillipsandluckey.com	512-446-5454	**mayordigger@yahoo.com**
Prepaid Funeral Guaranty Fund Advisory Council Insurance-Funded Industry Representative / Tom Elam, United Pre-Need Funeral Plans Inc.	351 South Sherman Street, Suite 102 Richardson, TX 75081 www.unitedbenefitsinc.com	469-330-2200	**tre@unitedbenefitsinc.com**
Prepaid Funeral Guaranty Fund Advisory Council Consumer Representative /Public Member - Rebecca Ann Motley	Available upon Request	Available upon Request	**Available upon Request**

Money Services Businesses

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Consumer Financial Protection Bureau / Jim Carley, Regional Director Southeast	1625 Eye Street N.W. Washington, D.C. 20006 www.cfpb.gov	202-435-7358	**james.carley@cfpb.gov**
FinCEN / Mark Enis, Senior Liaison Officer	P.O. Box 39 Vienna, VA 22183-0039 www.fincen.gov	703-905-5025	**mark.enis@fincen.gov**
Internal Revenue Service / Geraldine M. Everson, Senior Program Analyst and BSA Manager	1111 Constitution Avenue K, Room 5108 Washington, DC 20224 www.irs.gov	470-719-6670	**geraldine.everson@irs.gov**

Table 19 Exhibit 14 Interest Groups

Interagency, State, or National Associations
(that serve as an information clearinghouse or regularly interact with your agency)

Banking

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Conference of State Bank Supervisors / John Ryan, President & CEO	1129 20th Street, N.W. Ninth Floor Washington, D.C. 20036 www.csbs.org	202-728-5717	jryan@csbs.org
Independent Bankers Association of Texas (IBAT) / Chris Williston, President & CEO	1700 Rio Grande Street Suite 100 Austin, TX 78701 www.ibat.org	512-474-6889	cwilliston@ibat.org
Texas Bankers Association of Texas / Eric Sandberg, President & CEO	203 W. 10th St. Austin, TX 78701 www.texasbankers.com	512-472-8388	eric@texasbankers.com
Wealth Management & Trust – Texas Bankers Association / Peyton Taylor, Executive Director	203 W. 10th St. Austin, TX 78701 www.texasbankers.com/Trust	512-472-8388	peyton@texasbankers.com

Death Care

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Funeral Consumer Alliance of North Texas / Jim Bates, President	2875 E. Parker Road Plano, TX 75074 www.fcant.org	817-360-4727	jimbates@airmail.net
North American Death Care Regulators Association / Pamela Griese, President	P.O. Box 9012 Olympia, WA 98507-9012 www.nadcra.org	360-664-1555	pgriese@dol.wa.gov
Texas Cemetery Association / Gregg Diggers, President	P.O. Box 471457 Fort Worth, TX 76147 www.txca.us	817-339-8210	tca@txca.us
Texas Funeral Directors Association / Ann Singer, Executive Director	1513 S. IH 35 Austin, TX 78741 www.tfda.com	325-370-3645	ann@tfda.com

Money Services Businesses

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Money Service Round Table / Adam Fleisher, Associate	Morrison & Foerster LLP 2000 Pennsylvania Avenue, N.W. Washington, DC 20006-1888	202-887-8781	**afleisher@mofo.com**
Money Transmitter Regulators Association / Rick St. Onge, Examinations Chief Washington DFI	P.O. Box 41200 Olympia, WA 98504-1200 www.mtraweb.org	360-902-8727	**rick.st.onge@dfi.wa.gov**

Consumer Association

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Appleseed / Ann Baddour, Director, Fair Financial Services Project	1609 Shoal Creek Blvd. #201 Austin, TX 78701 www.texasappleseed.org	512-473-2800 X104	**abaddour@texasappleseed.net**

Table 20 Exhibit 14 Interagency, State, and National Association

Liaisons at Other State Agencies

(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Office of the Attorney General)

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Texas Comptroller of Public Accounts / Multiple Contacts	Lyndon B. Johnson State Office Building 11 East 17th Street Austin, TX 78774 www.comptroller.texas.gov	Agency 451	**Agency 451**
Department of Savings and Mortgage Lending / Caroline Jones, Commissioner	2601 N. Lamar Blvd. 2nd Floor Austin, TX 78705 www.sml.texas.gov	512-475-1038	**cjones@sml.texas.gov**
House Committee on Investments & Financial Services / Kory Curtis, Committee Clerk	P.O. Box 2910 Capitol Station Austin, TX 78711	512-463-0871	**kory.curtis_hc@house.texas.gov**

Agency Name / Relationship / **Contact Person**	**Address**	**Telephone**	**Email Address**
Legislative Budget Board / Julie Lindsey, Analyst, Business & Economic Development Team	1501 N. Congress Ave. 5th Floor Robert E. Johnson Building Austin, TX 78701 www.lbb.state.tx.us	512-463-1200	**julie.lindsey@lbb.state.tx.us**
Lieutenant Governor / Mike Morrissey, Budget Director	P.O. Box 12068 Austin, TX 78711-2068 www.ltgov.texas.gov	512-463-0079	**mike.morrissey@ltgov.texas.gov**
Office of Attorney General / Joshua Godbey, Chief Financial Litigator	300 W. 15th Street William P. Clemens, Jr. State Office Building 6th Floor Austin, TX 78701 www.oag.texas.gov	512-475-4209	**joshua.godbey@texasattorneygeneral.gov**
Office of Consumer Credit Commissioner / Leslie Pettijohn, Commissioner	2601 N. Lamar Blvd. 2nd Floor Austin, TX 78705 www.occc.texas.gov	512-936-7640	**lpettijohn@occc.texas.gov**
Office of the Governor / Jared Staples, Policy Advisor	P.O. Box 12428 Austin, TX 78711 www.gov.texas.gov	512-463-3329	**jared.staples@gov.texas.gov**
Senate Committee on Business and Commerce / Peter Salatich, Policy Analyst	P.O. Box 12068 Capitol Station Austin, TX 78711	512-463-0365	**peter.salatich@senate.texas.gov**
SORM /Caleb Walker, Risk Manager	300 W. 15th Street William P. Clemens, Jr. State Office Building 6th Floor Austin, TX 78701 www.sorm.texas.gov	512-936-2936	**caleb.walker@sorm.texas.gov**
SORM / Michelle Ganaden, Director of Risk Management and Chief Risk Officer	300 W. 15th Street William P. Clemens, Jr. State Office Building 6th Floor Austin, TX 78701 www.sorm.texas.gov	512-936-2942	**michelle.ganaden@sorm.texas.gov**
Speaker of the House / Patricia Shipton, Chief of Staff	P.O. Box 2910 Austin, TX 78768-2910 www.house.state.tx.us/members/speaker/	512-463-0056	**patricia.shipton@speaker.state.tx.us**

Agency Name / Relationship/ Contact Person	Address	Telephone	Email Address
Texas Credit Union Department / Harold E. Feeney, Commissioner	914 E. Anderson Lane Austin, TX 78752 www.tcud.texas.gov	512-837-9236	**harold.feeney@cud.texas.gov**
Texas Funeral Services Commission / Janice McCoy, Executive Director	P.O. Box 12217 Austin, TX 78711 www.tfsc.texas.gov	512-936-2472	**janice.mccoy@tfsc.texas.gov**
Texas Department of Insurance / Doug Slape, Deputy Commissioner – Financial Regulation	333 Guadalupe Austin, TX 78714 www.tdi.texas.gov	512-676-6416	**doug.slape@tdi.texas.gov**
Texas Department of Insurance / Norma Garcia, General Counsel	333 Guadalupe Austin, TX 78714 www.tdi.texas.gov	512-676-6586	**norma.garcia@tdi.texas.gov**

Table 21 Exhibit 14 Liaisons at Other State Agencies

XI. Additional Information

A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.

Texas Department of Banking
Exhibit 15: Evaluation of Agency Reporting Requirements

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
SDSI Biennial Report	Texas Finance Code 16.005(b)	Prior to each Legislative Session	Legislature and Governor	Report on certain activities of the agency	Yes, provides information on the agency's activities to the Legislature
SDSI Annual Report	Texas Finance Code 16.005(c)	Each November 1st	Governor, Senate Finance, House Appropriations, and Legislative Budget Board	Report on certain activities of the agency	Yes, provides information on the agency's activities to the Legislature
Financial Services Study	Texas Finance Code 11.3055	As requested by the Finance Commission	Finance Commission and Legislative Offices	Research report on the availability, quality, and prices of financial services	Yes, provides for as needed research
Condition of the Texas State Banking System	Texas Finance Code 11.305(d)	Periodically – current done on a biannual basis	Finance Commission and Legislative Offices	Review of economic forecasts and an analysis of banking practices	Yes, provides current information on the state banking system

Table 22 Exhibit 15 Agency Reporting Requirements

B. Has the agency implemented statutory requirements to ensure the use of "first person respectful language"? Please explain and include any statutory provisions that prohibits these changes.

We believe the current statutes and rules governing our regulated entities, as well as internal policies and publications developed by the Department, comply with the person first initiative. As amendments to these communications are drafted, and particularly during rule review, we will continue to ensure the use of person first respectful language.

C. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.

Texas Department of Banking
Exhibit 16: Complaints Against the Agency — Fiscal Years 2015 and 2016

	Fiscal Year 2015	Fiscal Year 2016
Number of complaints received	0	0
Number of complaints resolved	0	0
Number of complaints dropped / found to be without merit	0	0
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	0	0

Table 23 Exhibit 16 Complaints Against the Agency

Ombudsman

In the event of a material disagreement regarding an examination finding or rating, the Department's policy offers regulated entities the opportunity to file a Request for Reconsideration through its ombudsman function. This function provides an effective forum for addressing industry concerns and in identifying potential problems in the implementation of departmental policies. The last formal Request for Reconsideration of an examination finding was in fiscal year 2013.

Feedback to Improve Department Services and Operations

The Department routinely conducts surveys of its stakeholders to obtain feedback for improving procedures, operations, and processes. The results of these surveys generally compliment the Department and its staff for their professionalism and knowledge. Surveys conducted include the annual Rate the Department, the Commissioner's Banking Examination Survey, Banker Economic and Business Survey, and Survey of Consumer Complainants. The results for each of these are outlined in the Department's Customer Service Report.

Employees are encouraged to provide feedback and input on policies and procedures. Annual surveys and year-round access to the Department's online suggestion box provide each employee with an opportunity to provide feedback and input. The Department utilizes the University of Texas Survey of Employee Engagement in odd-numbered years and conducts its own internal survey using SurveyMonkey in even-numbered years. The surveys identify where employees may be generally satisfied and which areas can be improved. The current survey results did not identify any significant areas of concern.

In addition, an Employee Advisory Council was created in 2004 to allow employees the opportunity to provide feedback and make recommendations for corrective action or improvements to departmental operations. The group meets twice a year and periodically provides management with recommendations. Based upon a recent recommendation, a leadership development trainer was hired in 2016 to work with select supervisors and managers. The trainer focused on leadership challenges and management growth. The training was successful and will be provided to additional staff in the future. Flexible work schedules and work-at-home opportunities for staff have also been implemented as a result of the Employee Advisory Council, improving work-life balance for employees.

D. Fill in the following charts detailing your agency's Historically Underutilized Business (HUB) purchases.

Texas Department of Banking
Exhibit 17: Purchases from HUBs

Fiscal Year 2015

Category	Total $ Spent	Total HUB $ Spent	Percent	Agency Specific Goal*	Statewide Goal
Heavy Construction	$0.00	$0.00	0.00%	N/A	11.2%
Building Construction	$0.00	$0.00	0.00%	N/A	21.1%
Special Trade	$32,875	$1,322	4.02%	N/A	32.9%
Professional Services	$30,666	$30,666	100.00%	N/A	23.7%
Other Services	$316,833	$28,869	9.11%	N/A	26.0%
Commodities	$353,834	$171,909	48.58%	N/A	21.1%
TOTAL	$734,208	$232,766	31.70%		

Table 24 Exhibit 17 HUB Purchases for FY 2015

* If your goals are agency specific-goals and not statewide goals, please provide the goal percentages and describe the method used to determine those goals. (Title 34 of the Texas Administrative Code, Part 1, Chapter 20, Rule 20.284)

Fiscal Year 2016

Category	Total $ Spent	Total HUB $ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	$0.00	$0.00	0.00%	N/A	11.2%
Building Construction	$0.00	$0.00	0.00%	N/A	21.1%
Special Trade	$43,479	$2,829	6.51%	N/A	32.9%
Professional Services	$81,513	$51,383	63.04%	N/A	23.7%
Other Services	$415,914	$56,185	13.51%	N/A	26.0%
Commodities	$283,560	$210,999	74.41%	N/A	21.1%
TOTAL	$824,466	$321,396	38.98%		

Table 25 Exhibit 17 HUB Purchases for FY 2016

Fiscal Year 2017

Available after September 2017

Category	Total $ Spent	Total HUB $ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	N/A	N/A	N/A	N/A	11.2%
Building Construction	N/A	N/A	N/A	N/A	21.1%
Special Trade	N/A	N/A	N/A	N/A	32.9%
Professional Services	N/A	N/A	N/A	N/A	23.7%
Other Services	N/A	N/A	N/A	N/A	26.0%
Commodities	N/A	N/A	N/A	N/A	21.1%
TOTAL	N/A	N/A	N/A		

Table 26 Exhibit 17 HUB Purchases for FY 2017

E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.286c)

The Department has a written HUB policy. The policy shortfalls are related to unmet HUB statewide goals for special trade and other services.

For special trade, the Department is continuously aiming to solicit HUB vendors to perform HVAC, plumbing, and electrical maintenance and repairs at the AHQ building. However, it is often difficult to get new vendors to respond quickly and provide immediate service for repairs. Vendors with well-established business relationships with the Department are faster to respond, familiar with our systems, and in most instances less expensive.

For other services, our goal is to solicit more HUB vendors to provide cleaning and IT services. Unfortunately, many of the vendors used in this group are either sole source vendors or are selected from the DIR contract listing.

F. For agencies with contracts valued at $100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of $100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.285)

Yes, unless the contract is a sole source contract.

G. For agencies with biennial appropriations exceeding $10 million, answer the following HUB questions.

1. **Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.296)**

Yes. Vance Ivie, (512) 475-1364, vivie@dob.texas.gov.

2. **Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.297)**

Yearly, the Department's purchaser/staff services officer attends the Statewide Historically Underutilized Business Program's Procurement Connection Seminar and EXPO. Senator Royce West sponsors this event.

The Department's purchaser/staff services officer also meets with existing and potential HUB vendors to explore business opportunities with the Department. Vendors we have had such meetings with include GTS Technology Solutions, SRI Monogramming, Austin Audio and Video, and Instacom.

3. **Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.298)**

The mentor-protégé program is included in the Department's written HUB policy. The Department has and continues to solicit prime contractors and HUBs vendors to participate in a mentor-protégé program. Under this program, a mentor-protégé agreement was entered into with Harkings, an HVAC company, as the mentor and JS Electric as a protégé. Currently, we are finalizing a similar agreement between Longhorn Trophies, as a mentor, and SRI Monogramming as a protégé.

H. Fill in the charts below detailing your agency's Equal Employment Opportunity (EEO) statistics.

Texas Department of Banking
Exhibit 18: Equal Employment Opportunity Statistics

Fiscal year 2017 information will be available after September 2017.

1. Officials / Administration

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	13	7.7%	7.4%	7.7%	22.1%	23.1%	37.4%
2016	13	7.7%	7.4%	7.7%	22.1%	23.1%	37.4%

Table 27 Exhibit 18 EEO Statistics for Officials/Administration

2. Professional

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	141	8.5%	10.4%	19.1%	19.3%	35.5%	55.3%
2016	151	8.6%	10.4%	21.9%	19.3%	38.4%	55.3%

Table 28 Exhibit 18 EEO Statistics for Professionals

3. *Technical*

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	5	40%	14.4%	20%	27.2%	0%	55.3%
2016	5	40%	14.4%	20%	27.2%	0%	55.3%

Table 29 Exhibit 18 EEO Statistics for Technical

4. *Administrative Support*

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	23	8.7%	14.8%	39.1%	34.8%	91.3%	72.1%
2016	17	5.9%	14.8%	35.3%	34.8%	88.2%	72.1%

Table 30 Exhibit 18 EEO Statistics for Administrative Support

5. *Service / Maintenance*

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	0	N/A	13.0%	N/A	54.1%	N/A	51.0%
2016	0	N/A	13.0%	N/A	54.1%	N/A	51.0%

Table 31 Exhibit 18 EEO Statistics for Service and Maintenance

6. *Skilled Craft*

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2015	0	N/A	10.6%	N/A	50.7%	N/A	11.6%
2016	0	N/A	10.6%	N/A	50.7%	N/A	11.6%

Table 32 Exhibit 18 EEO Statistics for Skilled Craft

I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

The Department maintains two written policies regarding EEO: (1) Texas Department of Banking Personnel Policy and Procedures Manual Section 1-04 titled EEO/Sexual Harassment Procedures and (2) Administrative Memorandum 2002 Equal Employment Opportunity, Non-Discrimination, and Sexual Harassment Policy.

Annually, the HR Division prepares the Recruitment/Workforce Diversity/Equal Employment Opportunity Plan (available upon request). This plan analyzes workforce EEO statistics and identifies action items to achieve goals.

XII. Agency Comments

Provide any additional information needed to gain a preliminary understanding of your agency.

Many of the entities regulated by the Department operate nationally and even internationally, and are subject to numerous federal statutes and other states' regulations. These multi-jurisdiction entities require that states and federal authorities work together to ensure there is a safe and sound financial services system along with minimizing the regulatory burden. Our agency must be up-to-date and knowledgeable of regulatory changes, emerging trends, and economic conditions at both the state and national levels. Therefore, it is imperative that the agency timely and continually adapt to developments and changes to remain a relevant player and voice in this multi-regulatory system. The Department's interaction, at both the state and national level, are necessary to ensure the citizens of Texas are afforded maximum protection and safety in conducting their financial transactions.

Acronyms and Abbreviations

AD	Authorized Delegate
AFR	Annual Financial Report
Agric. Code	Agriculture Code
AHQ	Austin Headquarters Office
AM	Administrative Memorandum
AML	Anti-Money Laundering
Art.	Article
B&T	Bank and Trust
BETS	Bank Examination Testing System
BSA	Bank Secrecy Act
Bus. Com. Code	Business and Commerce Code
Bus. Org. Code	Business Organization Code
CAFE	Corporate Application Filing Entry System
CAMELS	Capital Adequacy, Asset Quality, Management, Earnings, Liquidity, Sensitivity
CATS	Corporate Application Tracking System
CCIWG	Cybersecurity and Critical Infrastructure Working Group
CFPB	Consumer Financial Protection Bureau
CFR	Code of Federal Regulations
COA	Certificate of Authority
COMET	Center of Monetary Education for Texans
Const.	Constitution
COOP	Continuity of Operations Plan
CPC	Central Point of Contact
CSBS	Conference of State Bank Supervisors
Department	Texas Department of Banking
DEX	Data Exchange
DIDMCA	Depository Institutions Deregulation and Monetary Control Act of 1980
DIR	Department of Information Resources
DSS	Division of Strategic Support
E.D.I.S.O.N.	Examination Database Information System on the Network
EEO	Equal Employment Opportunity
EIC	Examiner-in-Charge
ELOC	Executive Leadership of Cybersecurity
ETS	Examination Tools Suite
FBA	Foreign Bank Agency
FBI	Federal Bureau of Investigation
FBIIC	Financial and Banking Information Infrastructure Committee

FDIC	Federal Deposit Insurance Corporation
FDICIA	Federal Deposit Insurance Corporation Improvement Act of 1991
FE	Financial Examiner
FFIEC	Federal Financial Institutions Examination Council
FinCEN	Financial Crimes Enforcement Network
FLSA	Fair Labor Standards Act
FMLA	Family Medical Leave Act
FRB	Federal Reserve Bank
FS-ISAC	Financial Services Information Sharing and Analysis Center
FSLIC	Federal Savings and Loan Insurance Corporation
FTE	Full-Time Employee
FY	Fiscal Year
GLBA	Gramm-Leach-Bliley Act of 1999
Gov't Code	Government Code
HR	Human Resources
HUB	Historically Underutilized Business
IRS	Internal Revenue Service
IT	Information Technology
JMOU	Joint Memorandum of Understanding
MDIFS	Michigan Department of Insurance and Financial Services
MLO	Mortgage Loan Originator
MMET	Multi-State Examination Taskforce
MOU	Memorandum of Understanding
MSB	Money Services Business
MTRA	Money Transmitter Regulators Association
NADCRA	North American Death Care Regulators Association
NMLS	Nationwide Multistate Licensing System & Registry
OCC	Office of the Comptroller of the Currency
PCC	Perpetual Care Cemetery
PCSEA	Private Child Support Enforcement Agency
PDF	Portable Document Format
PFC	Prepaid Funeral Contract
Prop. Code	Property Code
RFP	Request for Proposal
ROE	Report of Examination
S&L	Savings and Loans
S.A.F.E.	Secure and Fair Enforcement Mortgage Licensing Act
SARA	Special Audits Regulatory Application
SAR	Suspicious Activity Report

SDSI	Self-Directed, Semi-Independent
SM	Supervisory Memorandum
SORM	State Office of Risk Management
Subtit.	Subtitle
TAC	Texas Administrative Code
TDI	Texas Department of Insurance
TFC	Texas Finance Code
TFSC	Texas Funeral Service Commission
Tit.	Title
U.S.C.	United States Code

THIS PAGE INTENTIONALLY LEFT BLANK.

Appendices

THIS PAGE INTENTIONALLY LEFT BLANK.

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Meet target

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

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

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

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

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

Data Limitations: None

New Measure: No

Calculation Type: Noncumulative

Target Attainment: To remain accredited

Output Measure

01-01.06 Number of Bank and Foreign Bank Organization Examinations Performed

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

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

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

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

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

New Measure: No

Calculation Type: Cumulative

Target Attainment: Higher than target

Output Measure

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

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

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

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

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

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

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

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

New Measure: No

Calculation Type: Cumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Lower than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

Source/Collection of Data: The Entity Count Report in the agency's E.D.I.S.O.N. database.

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Method: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Method: Cumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Cumulative

Target Attainment: Higher than target

Efficiency Measure

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Lower than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Noncumulative

Target Attainment: Higher than target

Outcome Measure

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

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

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

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

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

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

New Measure: No

Calculation Method: Noncumulative

Target Attainment: Higher than target

Output Measure

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

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

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

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

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

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

New Measure: No

Calculation Method: Cumulative

Target Attainment: Higher than target

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

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

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

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

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

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

New Measure: No

Calculation Type: Cumulative

Target Attainment: Lower than target

Appendix IV-J

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

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

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

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

Committee Name:	Prepaid Funeral Guaranty Fund Advisory Council
Number of Members:	4
Committee Status (Ongoing or Inactive):	Ongoing
	Note: An Inactive committee is a committee that was created prior to the 2014-15 biennium but did not meet or supply advice to an agency during that time period.
Date Created:	1987
Date to Be Abolished:	N/A
Budget Strategy (Strategies) (e.g. 1-2-4)	N/A
Strategy Title (e.g. Occupational Licensing)	N/A
Budget Strategy (Strategies)	N/A
Strategy Title	N/A

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

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

Committee Members' Direct Expenses

	Expended Exp 2015	Estimated Est 2016	Budgeted Bud 2017
Travel	$0	$0	$0
Personnel	$0	$0	$0
Number of FTEs	0.0	0.0	0.0
Other Operating Costs	$0	$0	$0
Total, Committee Expenditures	$0	$0	$0

Committee Members' Indirect Expenses

	Expended Exp 2015	Estimated Est 2016	Budgeted Bud 2017
Travel	$0	$0	$0
Personnel	$0	$0	$0
Number of FTEs	0.0	0.0	0.0
Other Operating Costs	$0	$0	$0
Total, Committee Expenditures	$0	$0	$0

Method of Financing

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

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

SECTION B: ADDITIONAL COMMITTEE INFORMATION

Committee Bylaws: Please provide a copy of the committee's current bylaws and most recent meeting minutes as part of your submission.

NOTE: The Prepaid Funeral Guaranty Fund Advisory Council does not have bylaws.

1. When and where does this committee typically meet and is there any requirement as to the frequency of committee meetings?

Chapter 154 of the Texas Finance Code does not outline a specific frequency for the meetings. However, the committee meets at the Texas Department of Banking's Austin, TX office at least once a year.

2. What kinds of deliverables or tangible output does the committee produce? If there are documents the committee is required to produce for your agency or the general public, please supply the most recent iterations of those.

The committee approves: (1) trust fund reconciliations; (2) fund withdrawals; (3) prepaid funeral contract claims; and, (4) revisions to Investment Policy.

Appendix IV-J

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

Approved unusual contract for payment. Claim paid from fund.

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

Yes

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

No

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

30.0

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

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

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

No

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

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

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

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

No

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

Yes

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

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

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

Yes

9b. Please describe the rationale for this opinion.

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

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

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

Yes

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

No

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

N/A

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

Retain

11b. Please describe the rationale for this opinion.

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

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

No

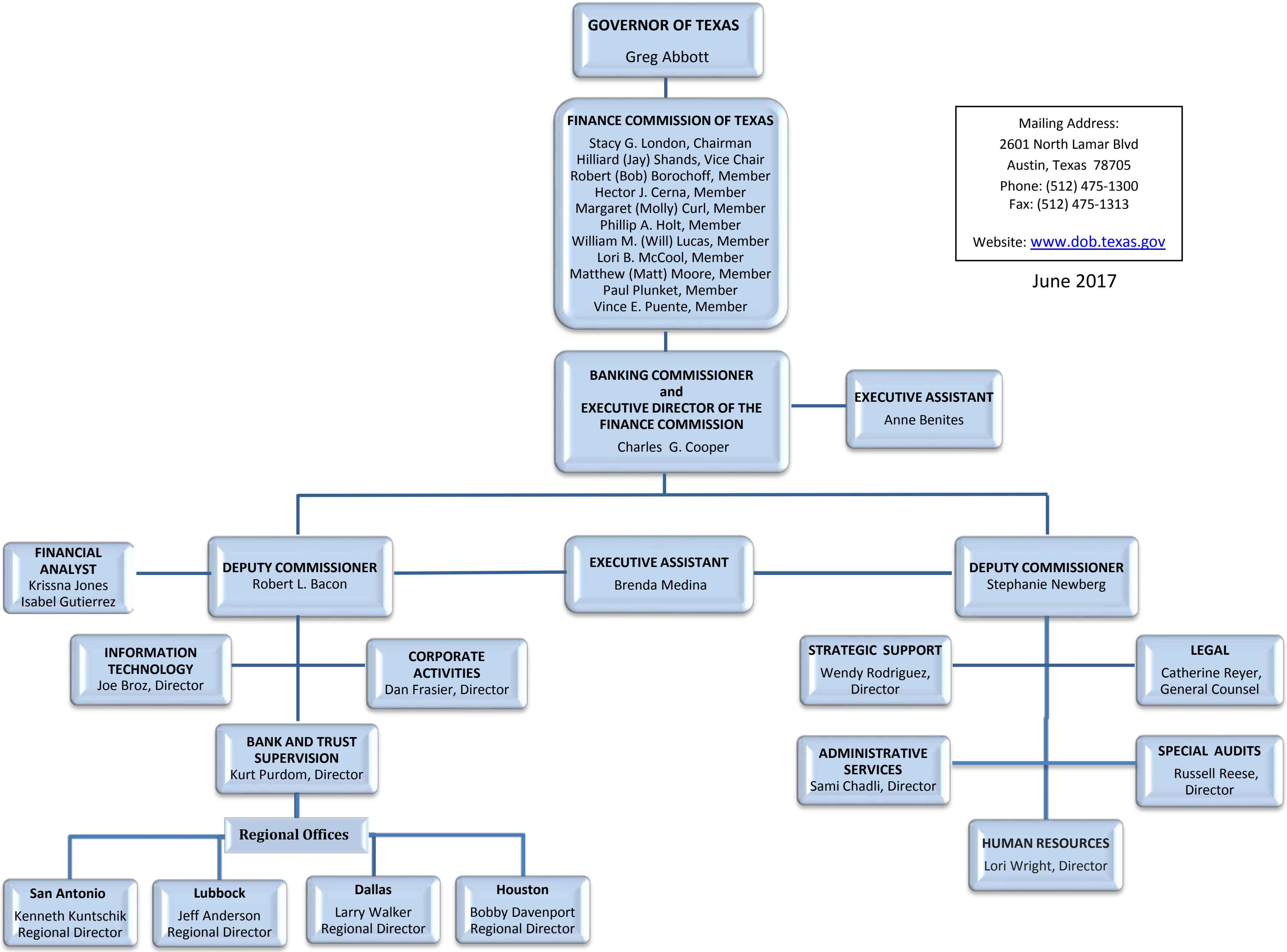
12b. If "Yes" for Question 4a, please describe the rationale for this opinion.

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

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

None

Appendix VI-A

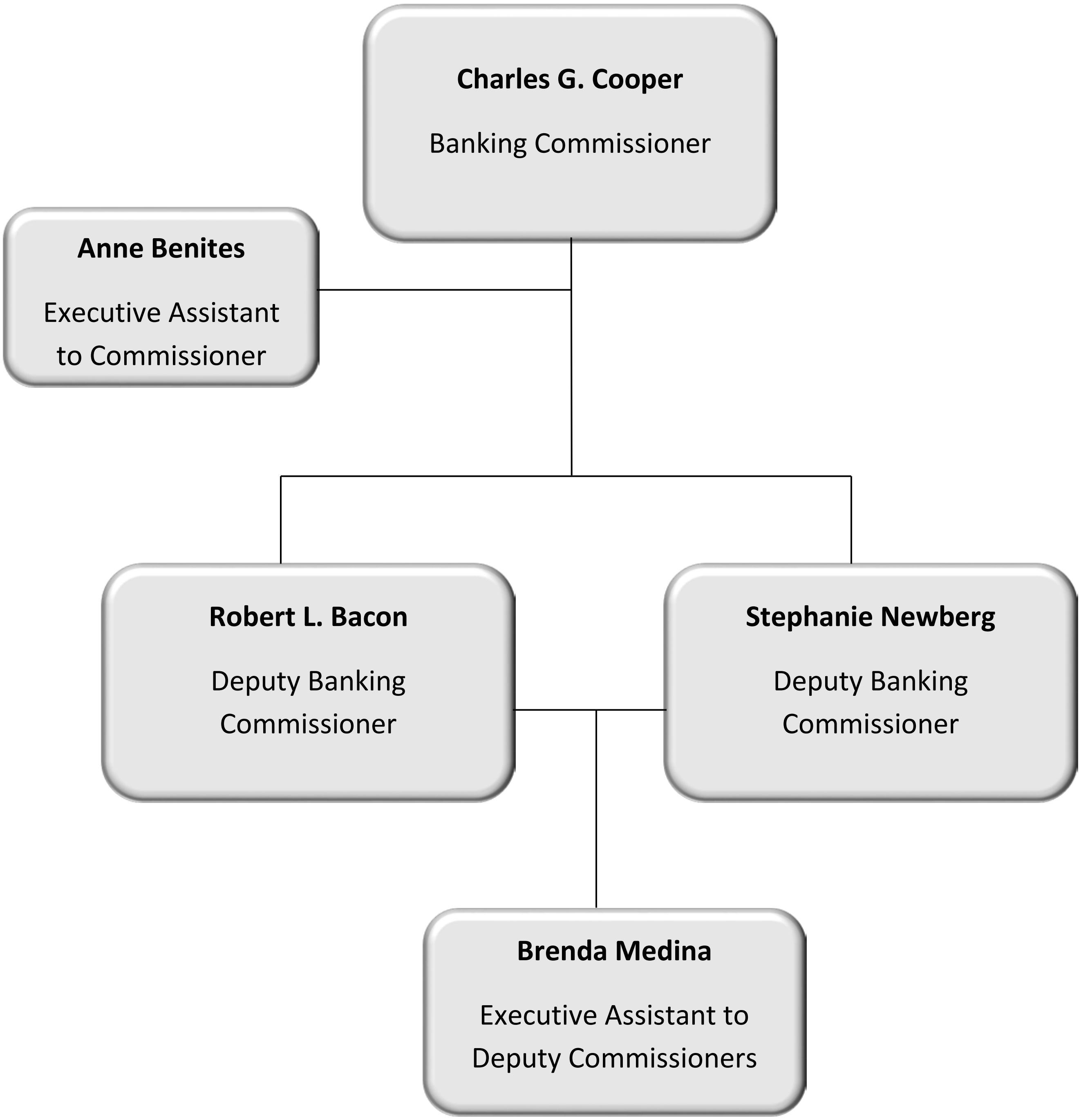


Mailing Address:
2601 North Lamar Blvd
Austin, Texas 78705
Phone: (512) 475-1300
Fax: (512) 475-1313

Website: www.dob.texas.gov

June 2017

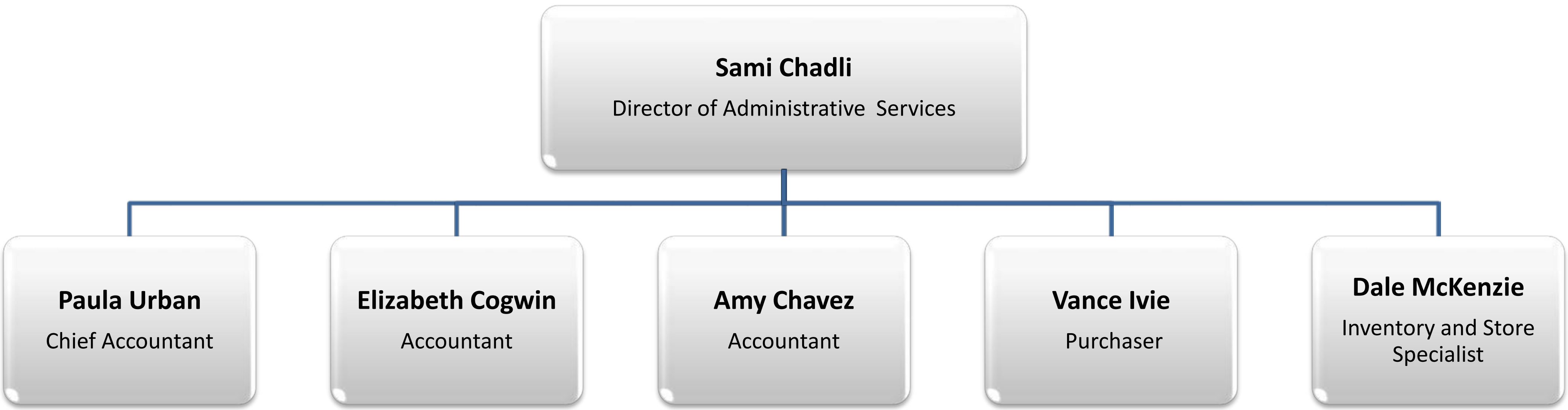
Appendix VI-A
Texas Department of Banking
Executive Branch
FTE Budgeted: 5 FTE Actual: 5
June 2017



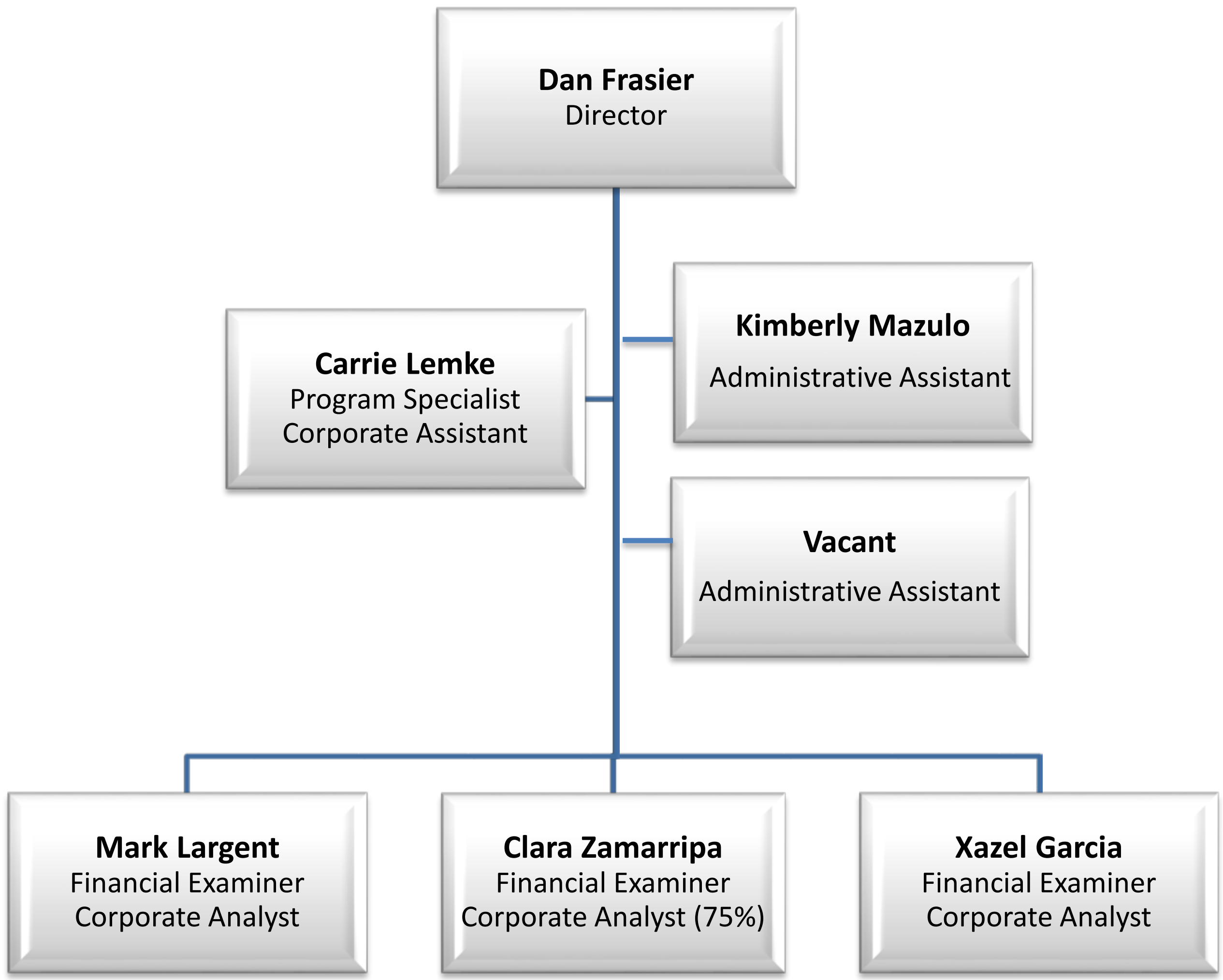
Appendix VI-A

Texas Department of Banking
Administrative Services

FTE Budgeted: 6 FTE Actual: 6
June 2017



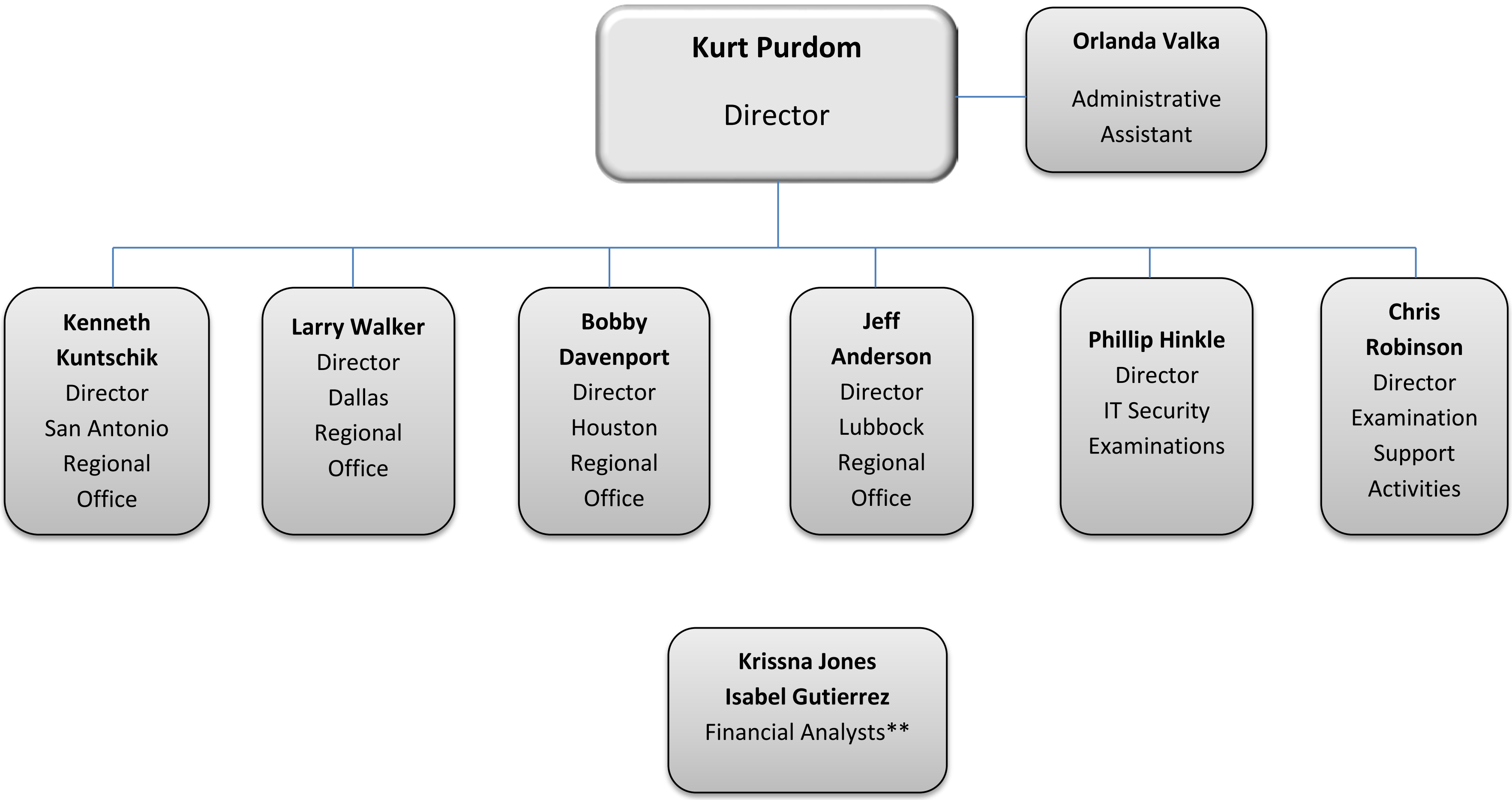
Appendix VI-A
Texas Department of Banking
Corporate Activities
FTE Budgeted: 7 FTE Actual: 5.75
June 2017



Appendix VI-A

Texas Department of Banking
Bank and Trust Supervision

FTE Budgeted: 10 FTE Actual: 10*
June 2017



*Directors under Kurt Purdom counted twice in FTE. Each is also included in their subdivision's FTE calculation.
**Financial Analysts report to Deputy Commissioner Robert L. Bacon.

Appendix VI-A

Texas Department of Banking
Bank and Trust Supervision
Examination Support Activities

FTE Budgeted: 31 FTE Actual: 19.58

June 2017

Chris Robinson
Director

Kyla Richardson
Administrative Assistant

Kevin Wu
Melissa Dvoracek (75%)
Tanya Miller
Jared Whitson
Review Examiners

Dianne Dennis
Jared Brown
BSA Specialist Examiners

Mark Walker
Chief Trust Examiner

Julie Sisk
Bonnie Fowler
David Leferink *(83.33%)*
Crisanne Alvarez
Tanisha Diggs
Deana Ball
Carol Birkes
Sean Miller
Trust Examiners

Paul Brundrett
Robert Smith
Statewide Large Bank Specialists

Gary May
Capital Markets Specialist

Appendix VI-A

Texas Department of Banking
Bank and Trust Supervision
Dallas Regional Office

FTE Budgeted: 24 FTE Actual: 25.5

June 2017

Larly Walker

Regional Director

Mark Sims
Jeff Gerlach
Melia Boxley

Large Bank Specialists

Karen Keller

Administrative Assistant

Sannika Reddy

Intern

Thomas Susany

Regional Review Examiner

Lea Ann Wilson
Jacob Vohs
Michael Bebb
Marilyn Sebade (50%)
John Thomas
Keith Bryan
Kenneth Reed
Jonathan Lamar

Senior Financial Examiners

Jonathan Lassen
Stephanie Hampton
Elisha Polk
Charli Duval
Christopher Rains
Matthew Agnew
Cayla Adams
Clayton Hendrix
Jared Chalson
Liliana Salinas
Zane Gray

Assistant Financial Examiners

Appendix VI-A
Texas Department of Banking
Bank and Trust Supervision
Houston Regional Office
FTE Budgeted: 18 FTE Actual: 20.75
June 2017

Jacqueline Willardson (75%)
Large Bank Specialist

Greg Wisian
Foreign Bank Specialist

Bobby Davenport
Regional Director

Araceli Silva
Administrative Assistant

Tony Adekoya
Regional Review Examiner

Paul Gibbins
Jamie Cannon
Michelle Hodge
Jay Voigt
Bill Davis
Curtis Wilson
Keri Ferguson
Senior Financial Examiners

Thomas George
Robert Chandler
Amber Summers
Lea Booker
Paul Moberg
Devin Giles
William Haynes
Gavin Garrow
Danielle Langlois
Assistant Financial Examiners

Appendix VI-A

Texas Department of Banking
Bank and Trust Supervision
Lubbock Regional Office

FTE Budgeted: 17 FTE Actual: 13

June 2017

Jeff Anderson

Regional Director

Shanda Krause

Administrative Assistant

David Reed

Regional Review Examiner

Bobby Quesada
Todd Whitaker
Eric Teague
Lee Hennington
Randal Langston
Andrew Attridge
Dustin Bradford
Amanda Lehman

Senior Financial Examiners

Arica Day
Makenna Kemp

Assistant Financial Examiners

Appendix VI-A
Texas Department of Banking
Bank and Trust Supervision
San Antonio Regional Office

FTE Budgeted: 19 FTE Actual: 21

June 2017

Kenneth Kuntschik
Regional Director

Luther Edwards
Large Bank Specialist

Roxanne Kerr
Administrative Assistant

Collin Vanecek
Intern

Allen Millsap
Regional Review Examiner

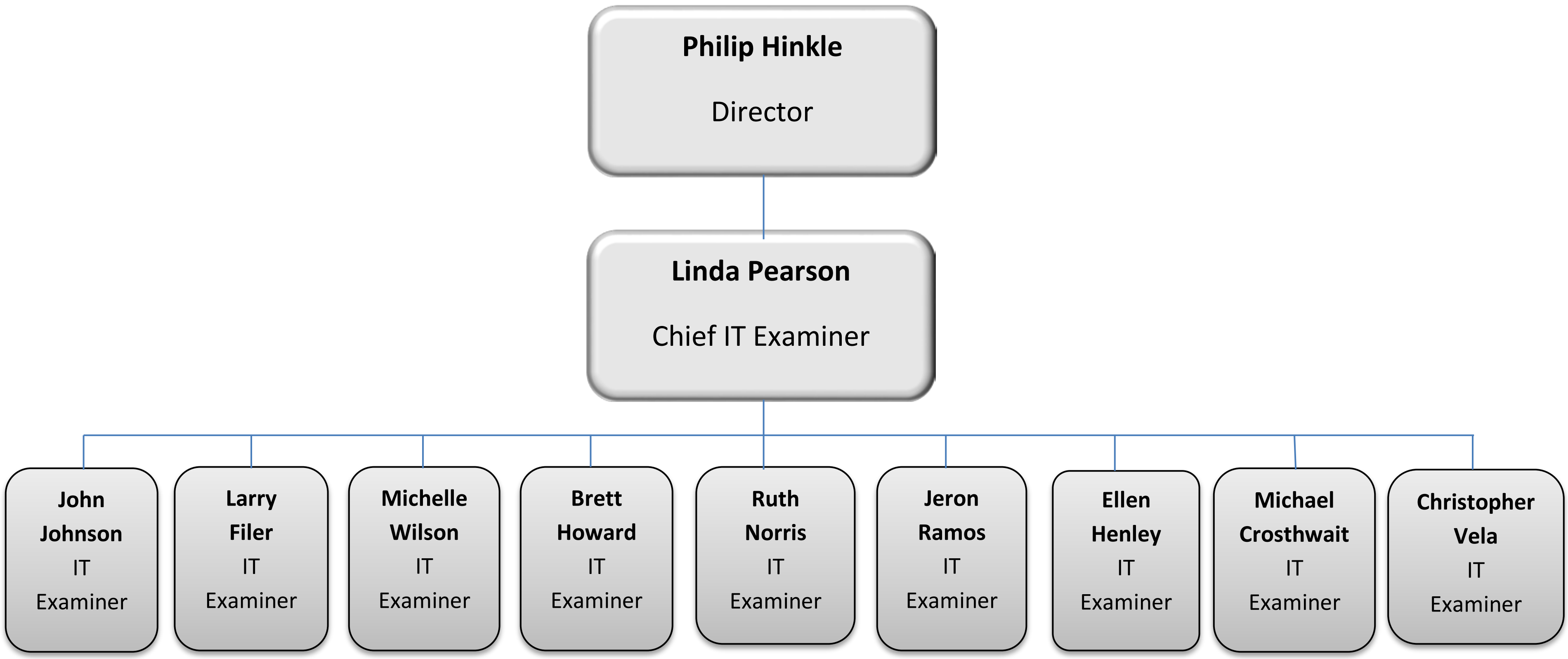
Lino Garcia
Travis Graham
Jonathan Bruce
Andrew Leal
Garnette Klingsporn
Mallory Debord
Paul Cummiskey

Senior Financial Examiners

Ryan Buck
Tammy Plante
Oscar Alonso
Adrienne Taylor
Laura Gonzalez
Emmanuel Lerma
William Jackson
Audrianna Flores
Erin Kelly

Assistant Financial Examiners

Appendix VI-A
Texas Department of Banking
Bank and Trust Supervision
IT Security Examinations
FTE Budgeted: 11 FTE Actual: 11
June 2017



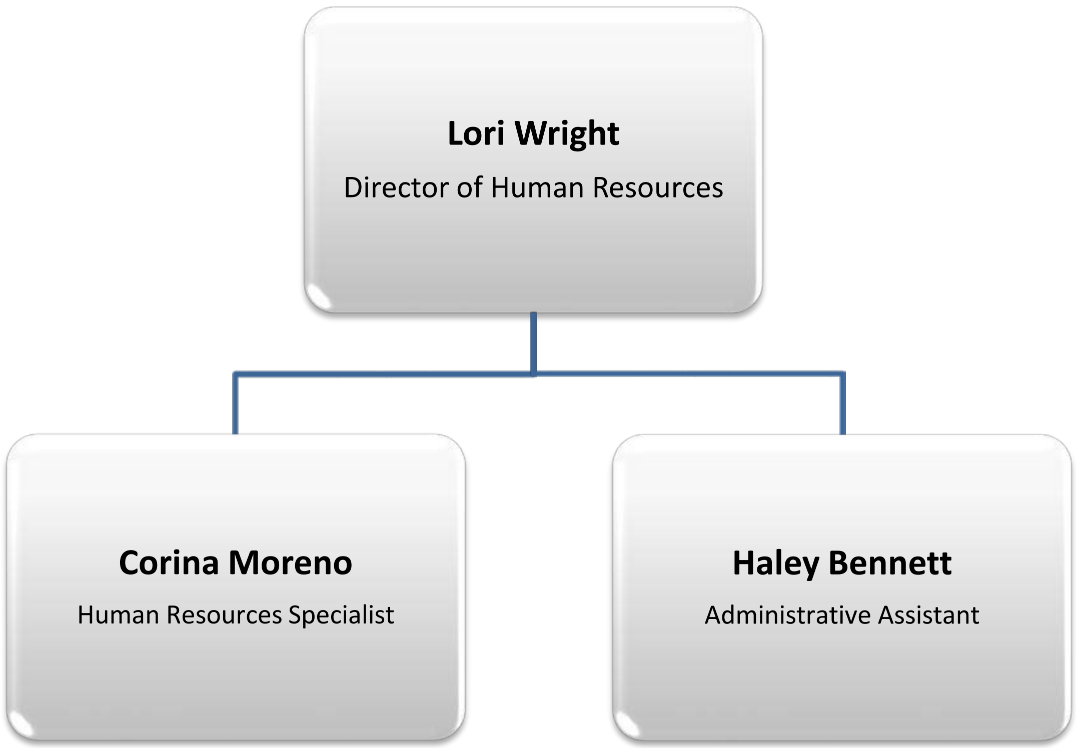
Appendix VI-A

Texas Department of Banking

Human Resources

FTE Budgeted: 3 FTE Actual: 3

June 2017

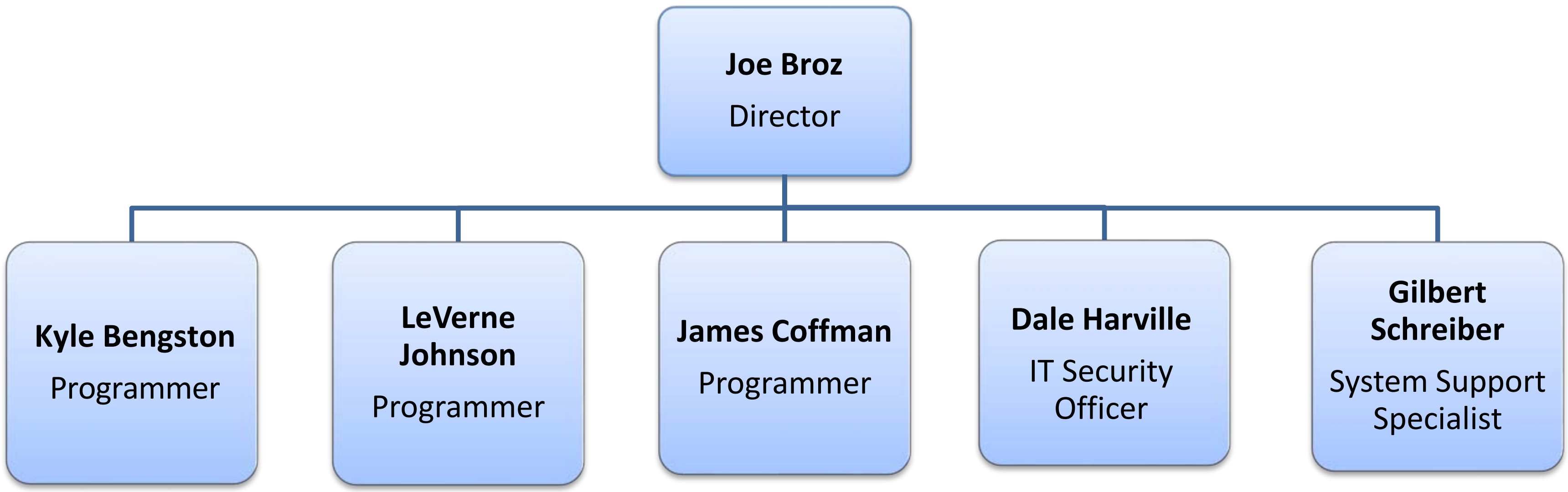


Appendix VI-A

Texas Department of Banking
Information Technology

FTE Budgeted: 7 FTE Actual: 6

June 2017



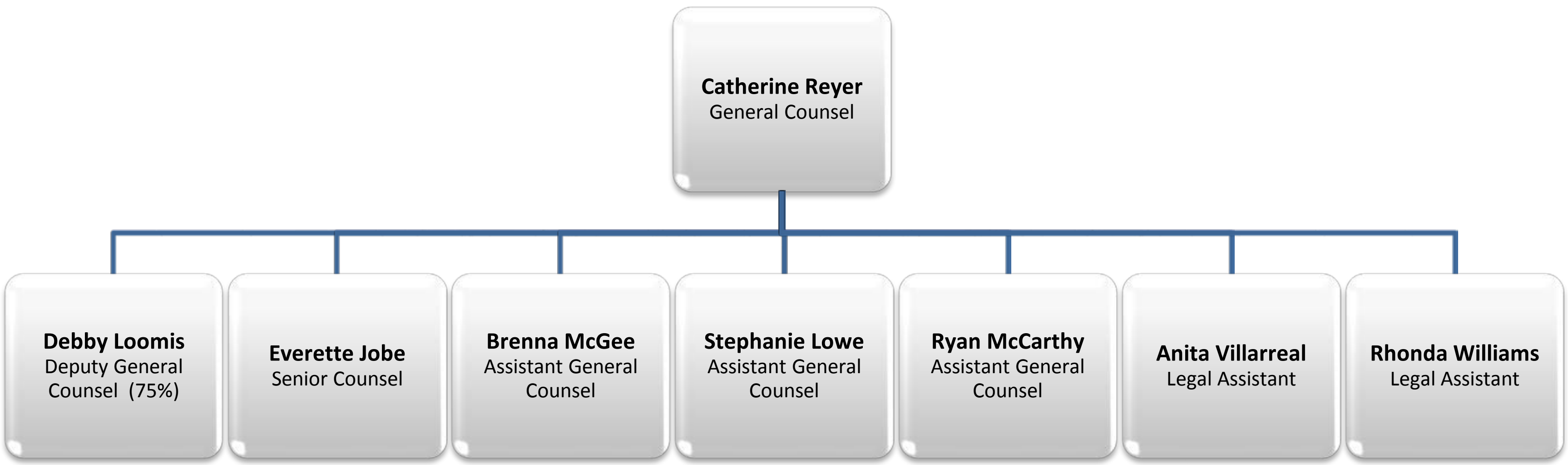
Appendix VI-A

Texas Department of Banking

Legal Division

FTE Budgeted: 10 FTE Actual: 7.75

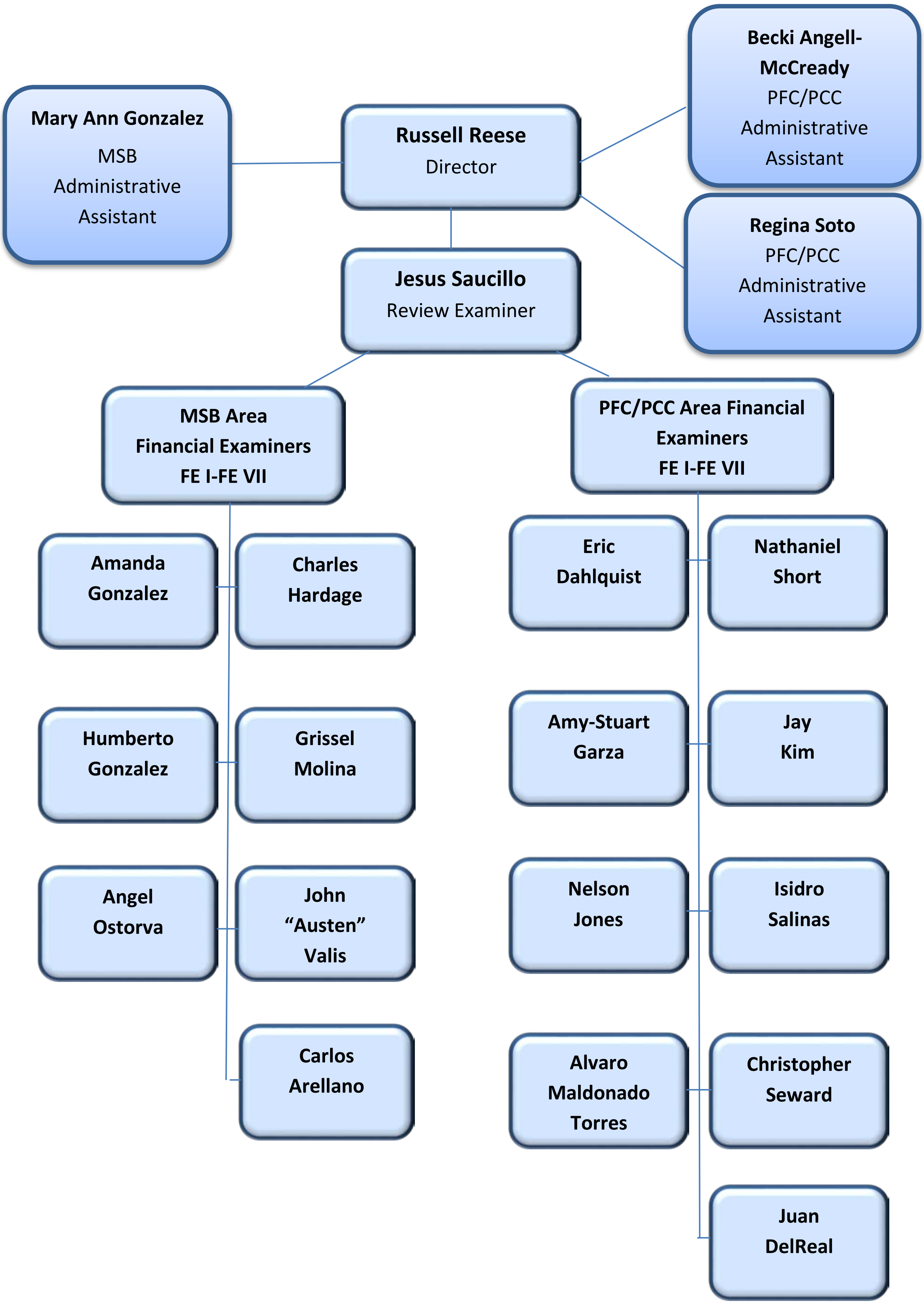
June 2017



Appendix VI-A

Texas Department of Banking
Special Audits

FTE Budgeted: 21 FTE Actual:21
June 2017



Appendix VI-A

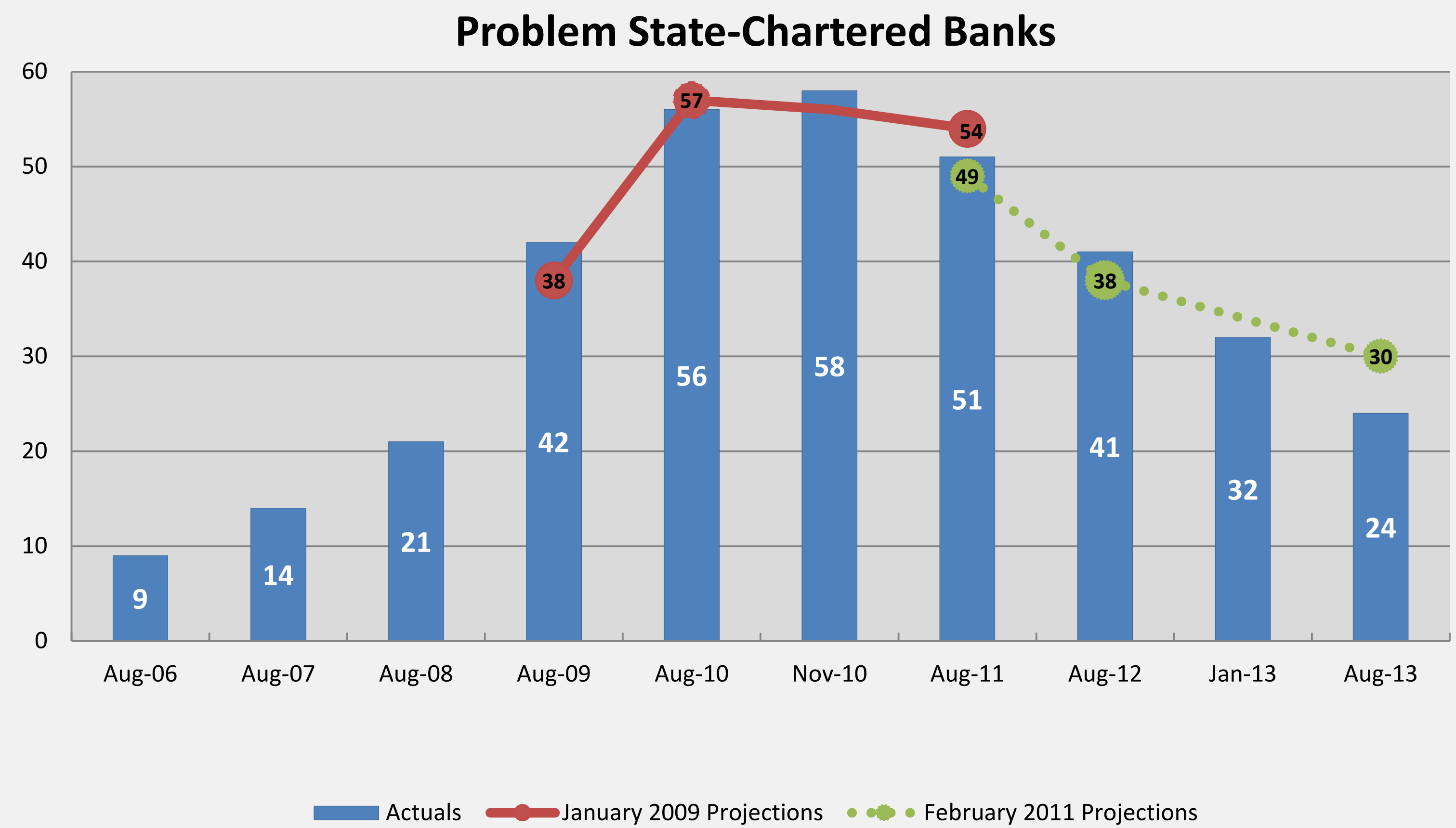
Texas Department of Banking
Strategic Support

FTE Budgeted: 9 FTE Actual: 8
June 2017

- **Wendy Rodriguez** Director
  - **Phil Lena** Financial Analyst
  - **Barbara Winters** Examiner Reference and Resource Coordinator
  - **Leilani Lim-Villegas** Financial Education Coordinator
  - **Joe Lopez** Web Administrator
  - **David Guillen** Consumer Assistance Specialist
  - **Sheon Corley** Consumer Assistance Specialist
  - **Matthew Torres** Consumer Assistance Specialist

Department Problem Banks

The DOB defines problem banks as any financial institution with a composite rating of "3", "4" or "5".

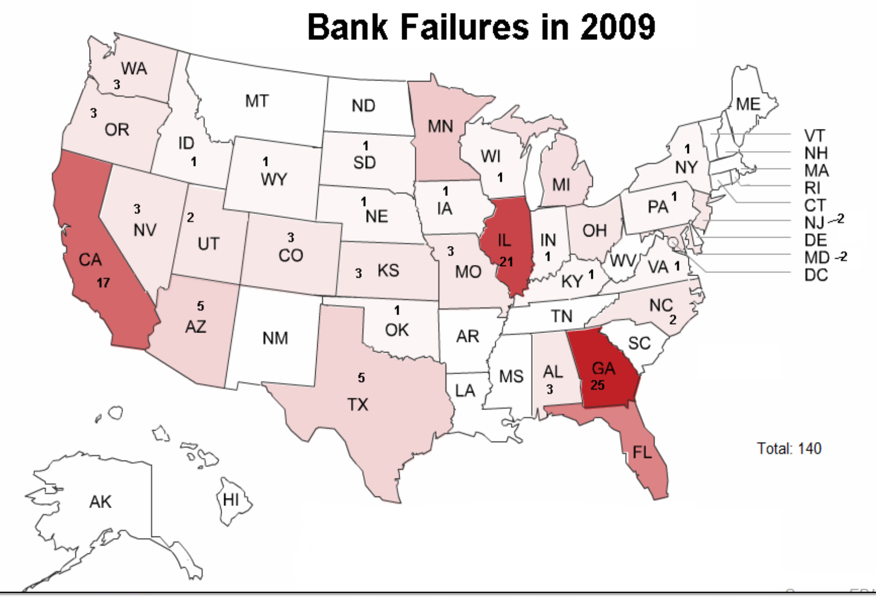


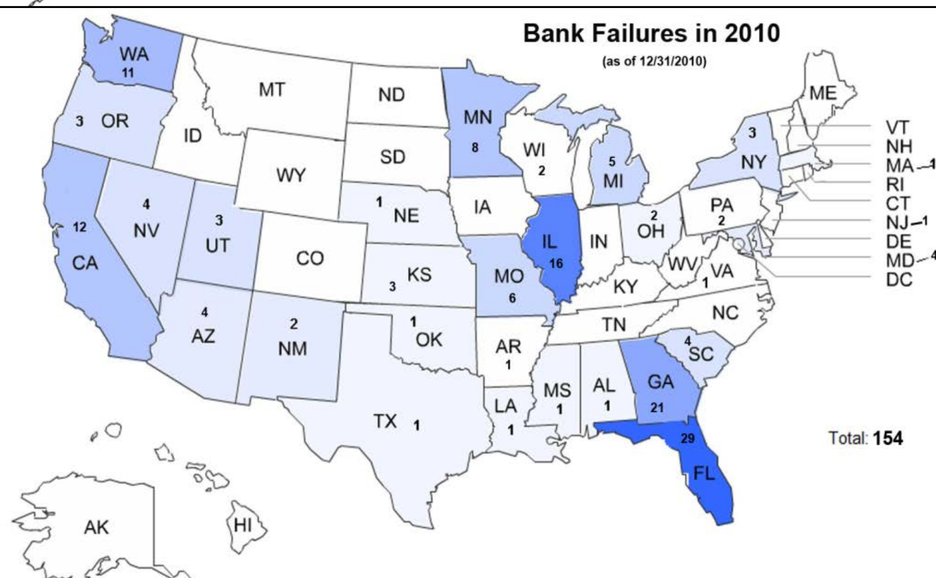
Source: Texas Department of Banking

Appendix VII-C2

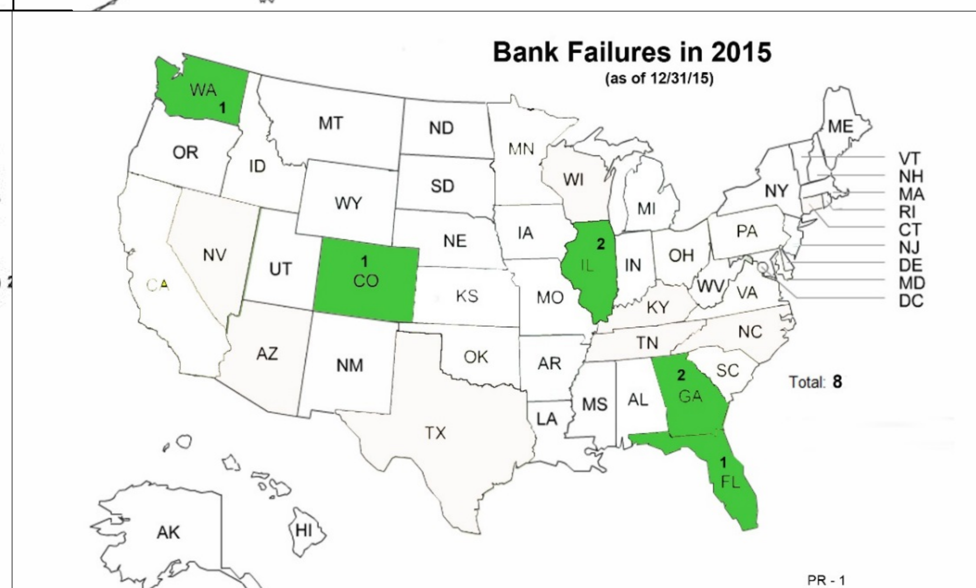
Bank Failures - Nationwide

Source: *FDIC*





Bank Failures - Nationwide



Bank Failures in Texas Since 2008

Bank Name	Type	City	Month
2008			
Franklin Bank, SSB	State Savings	Houston	November
Sanderson State Bank	State Bank	Sanderson	December
2009			
Millennium State Bank of Texas	State Bank	Dallas	July
Guaranty Bank	Federal Thrift	Austin	August
Citizens National Bank	National	Teague	October
Madisonville State Bank	State Bank	Madisonville	October
North Houston Bank	State Bank	Houston	October
2010			
The La Coste National Bank	National	La Coste	February
2011			
First International Bank	State Bank	Plano	September
2013			
First National Bank aka The National Bank of El Paso	National	Edinburg	September
Texas Community Bank, National Association	National	The Woodlands	December