

 TEXAS DEPARTMENT OF BANKING	Bank Name/City:
	Charter #:
	Exam Date:
	Performed By:
#16 - Management	

Assignment Overview

The viability of a bank is contingent upon the quality of its management team, and the effectiveness of its management systems. The Board of Directors is ultimately responsible for the conduct of a bank’s affairs, and thus must be informed and vigilant in administering its duties. The selection of competent management, and determination that all practices are prudent and in compliance with applicable laws and regulations, are among the most crucial elements of this task. Planning, policymaking, personnel administration, and internal communications are also important to ensuring that the bank is effectively run. For more guidance, refer to the FDIC Risk Management Manual of Examination Policies [Section 4.1 Management](#). Refer to the DOB’s Reference Material document applicable to this procedure.

Instructions

IMPORTANT! These procedures are designed to promote critical thinking. Your comments should include what you looked at, what you found, and your conclusions. It is your narrative that should tell the story for a reader who may not be familiar with this bank. The reader/reviewer should have a thorough understanding of what was performed and conclusions made.

Examiners must follow the instructions below and the requirements in the Examiner Bulletin addressing Guidelines for Procedures and Work Paper Documentation for Commercial Examinations. **If there is a conflict between these Instructions and the Examiner Bulletin, the Instructions prevail.** Documentation should support weaknesses and criticisms. All examiners performing these procedures must be listed above in the “Prepared By” section.

Examiners are responsible for exercising sound judgment and utilizing reasonable investigative and analytical skills to arrive at an accurate assessment of the risk profile of this segment of the institution’s operations.

Evaluation Factors, Risk Guidance, and Comments

The focus of this procedure is to evaluate and address each of the Evaluation Factors. The Risk Guidance is provided to guide the examiner in developing a full and complete analysis for the evaluated area. Documenting responses to the Risk Guidance is not required. All conclusions should be documented in the Conclusion box for the Evaluation Factor. Examiners will use their discretion to determine when to comment on a risk guidance

item, considering what data or findings merit emphasis and which are secondary or of little importance. Most of this procedure requires a Yes or No response. Comments are needed when there is noncompliance, weaknesses, or other concerns are noted. Comments are not expected in every comment box unless needed.

The examiner may also address areas not included in the Risk Guidance section as it is not intended to be all inclusive.



*To view the Risk Guidance, click on the arrow to the left of the “Risk Guidance” text.
To Hide the Factors, click on the “arrow” again.*

Documentation

Supporting documentation should include the standard required documents identified in the Reference Documents section for each Evaluation Factor.

- Embedded documents should be named such that the reviewer will know the contents.
- If a required document will not be included for any reason, DO NOT DELETE the document title, instead, check either “Not Included” and add a reason why OR if a document is not applicable, check “N/A”.
- Any other relevant documents may be added to fully support the examiner’s findings. These documents may be embedded in the Reference Documents section.
- **If a document needs to be referenced in more than one Evaluation Factor comment, include a reference in the comment indicating the Evaluation Factor where the document can be found.**

Documentation is to be sufficient to allow an audit trail of the examiner’s thought process and all significant findings.

Violations of Regulations

Violations of regulations should be addressed under the appropriate Evaluation Factor. Indicate compliance using the drop-down box next to the regulation in the Compliance section. Address non-compliance in the Comment section.

Yes = In compliance

No = Not in compliance

Not Applicable = Requirements in the regulation do not apply. For example, if there were no dividends paid, then the regulation related to approval of dividends would reflect “Not Applicable”.

Nonconformance with Policy

Adherence with best practices identified in Department and federal financial regulatory policy/guidance should be addressed under the Comments for the appropriate Evaluation Factor. Indicate if the bank adheres to the best practices using the drop-down box next to the appropriate policy in the Adherence to Policy section. Comments regarding best practices should be summarized in the Summary Comments.

Summary Comments and Conclusions

The Summary Comments and Conclusions should be a high-level summary that highlights the examiner's material findings and conclusions. A description of what to include in the Summary Comments and Conclusions is provided. These comments are not intended to be a report ready comment and will contain comments that may not be report worthy. Summary comments must support the Summary Rating.

The EIC will determine if the use of bullet points is appropriate for completing the Summary Comments and Conclusions. *The SEIC/EIC will have discretion in determining what is included in the Report of Examination.*

Navigating this Procedure

This procedure can be easily navigated by clicking on View from the Word menu bar then selecting Navigation Pane found in the Show section. All headings in this document will appear on the left side of the screen, for easy navigation through the document.

Performing alternate or expanded procedures not listed with these guidelines may be necessary to complete this risk analysis.

Summary of Findings

Management Summary Comments and Conclusions

Document conclusions regarding the capability of the Board of Directors and management to identify, measure, monitor and control the risks of an institution's activities, and to ensure a financial institution's safe, sound, and efficient operation in compliance with applicable laws and regulations.

Include recommendations for implementing best practices from policies and management responses to weaknesses. *The SEIC/EIC will determine what to include in the report of examination.*

Summary Rating: [Click Here to Select Rating](#)

Definitions for Summary Ratings –

CAMELS: 1-Strong; 2-Satisfactory; 3-Less than satisfactory; 4-Deficient; 5-Critically deficient



Ratings Matrix.xlsm

Violations

- 1. Prepare a comment for any violation cited in this procedure. Include management's response.**
- 2. Comment on the materiality of violations (identified during this examination and documented in other procedures) and management's ability to correct violations in the normal course of business and prevent similar violations in the future.**

Preliminary Review

Review the following:

- Prior examination reports.
- Prior examination workpapers.
- Correspondence for comments regarding board supervision, management, and internal controls.
- Board, committee, and shareholder meeting minutes since the last examination.
- Most recent and year-end board packages to assess board supervision.

Consider the following items:

- Director attendance,
- Changes in control,
- Board independence from management,
- Dominant control by a board member, shareholder, or management,
- Significant changes in the direction or activities of the bank,
- Significant changes in the bank's economic or competitive environment,
- Adequacy of management information systems,
- Implementation and maintenance of adequate policies, and
- The bank's strategic plan.

Analysis of Management

EVALUATION FACTOR 1

Considering all areas of the bank, determine if board and management are responsive to examiner and auditor recommendations.

1.	Did any specialty examinations (Trust, IT, or Compliance) receive a less than satisfactory composite rating or significant concerns or issues?	YES <input type="checkbox"/> NO <input type="checkbox"/>
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Risk Guidance - Specialty Examinations

1. What is the impact of specialty exam ratings to the overall management rating at this examination?
2. If Compliance/CRA ratings were less than satisfactory
 - a. Include a brief narrative for the confidential section of the report summarizing the Compliance/CRA examination findings and status of the bank's corrective actions.
 - b. If deficiencies were not corrected, or if questions arise as to whether the bank's actions have been adequate, the EIC will contact the RD or RRE to discuss further actions needed.

2.	Has management complied with previous concerns?	PARTIAL <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>
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Risk Guidance - Responsiveness

1. Review previous reports and correspondence from examiners and auditors and determine if management complied with concerns such as:
 - a. Violations
 - b. Matters Requiring Attention
 - c. Regulatory Enforcement Actions
2. Confer with the examination team on any prior criticisms/concerns within the functional areas or components reviewed.

Reference Documents	Conclusions – Evaluation Factor 1 Assess board and management’s overall responsiveness to recommendations for all areas of the bank. <i>Do not go into detail as each procedure has done this already. If management has not been responsive, provide brief but detailed comments and identify other procedures where more details can be found.</i>
<p>Prior Examination Criticisms Not Addressed in Other Procedures</p> <p><input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Copy of management response/corrective action to above item, if applicable</p> <p><input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Other Supporting Documents</p>	

EVALUATION FACTOR 2
Evaluate the effectiveness of the board composition and committee structure. Determine compliance with regulations.

General Overview – Board Composition

3.	Were there any changes in the directorate since last examination? <i>For new directors, provide a brief biographical narrative in the Directors and Executive Officers page of the Report of Examination.</i>	YES <input type="checkbox"/> NO <input type="checkbox"/>
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Risk Guidance – Changes in Directorate

1. Why were changes in directorate made or are planned?
2. Assess the effect of any changes on bank operations or the risk profile.

3. Review biographical information for new directors.

4.	Does there appear to be a reasonable range of knowledge/expertise among board members to meet the needs of the bank as well as those of the local economy?	YES <input type="checkbox"/> NO <input type="checkbox"/>
5.	Are there sufficient outside directors to provide alternative perspectives and objectivity?	YES <input type="checkbox"/> NO <input type="checkbox"/>
6.	Is there a dominant Director(s)?	YES <input type="checkbox"/> NO <input type="checkbox"/>
7.	Do board minutes reflect active participation in the board, including regular attendance of scheduled meetings?	YES <input type="checkbox"/> NO <input type="checkbox"/>
8.	Is there any member who has attended less than 70% of the meetings?	YES <input type="checkbox"/> NO <input type="checkbox"/>
9.	Does the bank have advisory directors?	YES <input type="checkbox"/> NO <input type="checkbox"/>

Risk Guidance - Advisory Directors

A confidentiality agreement would need to be signed by an outside advisory director, that is, a person who is not employed by the bank or holding company. An officer or employee of the bank or holding company is already subject to confidentiality obligations and the threat of enforcement.

Compliance with Regulation –Board Composition	
If there are advisory directors, did the board adopt a resolution that identifies the advisory director and describes the purpose for disclosure of the information as required by Texas Finance Code (TFC) §33.104 ?	<i>Select Response</i>
If confidential information is disclosed to an advisory director, is there a written confidentiality agreement between the bank and the advisory director per TFC §33.104 ?	<i>Select Response</i>
Does the bank have between five and twenty-five directors, the majority of whom are Texas residents, as required by TFC §33.103(a) ?	<i>Select Response</i>
Is the principal executive officer a qualified member of the board as required by TFC §33.103(a) ?	<i>Select Response</i>

Is each director qualified to serve as required by TFC §33.103(b) ?:	<i>Select Response</i>
Have all directors been elected within the last twelve months as required by TFC §33.103(c) ?	<i>Select Response</i>
Have any interim vacancies, reducing the number of directors to fewer than five, been properly filled, as required by TFC §33.103(d) ?	<i>Select Response</i>
Has each director taken an oath of acceptance as required by TFC §33.103(e) prior to taking office? Refer to the Director's Affidavit-Oath of Acceptance form on the Department's website as an example.	<i>Select Response</i>

Reference Documents	Conclusions – Evaluation Factor 2.a Board Composition <i>Comment on concerns, weaknesses, and noncompliance.</i>
<p>List of Directors including Advisory Directors</p> <p><input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Professional biographies/resumes of new directors, if applicable</p> <p><input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Other Supporting Documents</p>	

Committee Structure

10.	Are the committee structures, frequency of meetings, agendas and minutes appropriate for bank operations?	YES <input type="checkbox"/> NO <input type="checkbox"/>
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Risk Guidance - Committees

1. Do the various committees have charters?
2. Do committee members have the appropriate background and experience to be on the committee?
3. Is meeting frequency appropriate for each committee and is acceptable attendance noted?
4. Are agendas and minutes complete and provided to the board for their review in a timely manner?

Management Official Interlocks

11.	Does a management official (director, senior executive, branch manager, or trustee) also serve as a management official of an unaffiliated depository organization?	YES <input type="checkbox"/> NO <input type="checkbox"/>
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Compliance with Regulation	
<p>Is the bank in compliance with Management Official Interlocks regulations of 12 CFR 348 (state nonmember banks) or 12 CFR 212 (Regulation L for state member banks)?</p> <p>Management Official Interlocks prohibit bank managers and directors from serving at the same time as a management official of an unaffiliated depository organization, if the institutions are located or have offices in the same community.</p>	<p>Select Response</p>

Reference Documents	Conclusions – Evaluation Factor 2.b Committee Structure and Management Official Interlocks <i>Comment on noncompliance, concerns, or weaknesses.</i>
<p>List of Committees</p> <p><input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Other Supporting Documents</p>	

EVALUATION FACTOR 3

Evaluate the board and management’s level and quality of oversight and ability to plan and identify, monitor, manage, and control risks to the institution. Evaluate board and management’s ability to respond to emerging risks.

Board Meetings and Materials / Shareholder Meeting

12.	Read and brief the minutes of all stockholders’ and board of directors’ meetings since the previous examination. Refer to Appendix E for items to consider. Document major actions taken in board meetings held since the previous examination, which are not part of a normal monthly meeting (<i>Embed board minute summary under Reference Documents</i>)	
13.	Do the minutes reflect the material bank issues?	YES <input type="checkbox"/> NO <input type="checkbox"/>
14.	Does the board receive sufficient information on a regular basis to supervise the activities of the bank? Refer to Appendix A for items to consider. <i>Provide a comment if not adequate. See Compliance with Regulations section.</i>	YES <input type="checkbox"/> NO <input type="checkbox"/>

Risk Guidance - Meeting Materials

1. Does the information include key performance measures and key risk indicators to monitor adherence to the bank’s strategy and risk appetite?
2. Are the reports accurate, complete, and timely?
3. Do MIS reports provide accurate, consistent, and complete information?
4. Is the information periodically reviewed by internal audit for integrity?
5. Does the board packet contain comprehensive, bank specific information, addressing all functional areas?

15.	Is the frequency of board meetings sufficient to manage the affairs of the bank?	YES <input type="checkbox"/> NO <input type="checkbox"/>
16.	If there were any transactions between the bank and directors or their interests, did the board approve them?	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>

16a. Did the interested director(s) abstain from voting on the matter?	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>
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Risk Guidance - Transactions with Affiliates

Regarding a sale or lease agreements with an officer, director, principal shareholder, or affiliate:

If the transaction is covered by [23A or 23B of the Federal Reserve Act](#), then [TFC § 33.109](#) does not apply per [7 TAC §3.22\(f\)](#). Federal Reserve Act §23A & 23B relates to transactions with affiliates, which are defined as entities, whereas TFC §33.109 applies to individuals (or natural persons). Refer to [Appendix B](#) for additional guidance.

Compliance with Regulations	
Shareholder Meeting	
Did the shareholders of the bank hold an annual meeting, as required by Business Organizations Code §21.351 – Annual Meeting?	<i>Select Response</i>
Board Meetings	
Has the bank had board meetings on at least a monthly basis, as required by TFC §33.105(a)	<i>Select Response</i>
Has the Commissioner approved a change in frequency for board meetings as required by TFC § 33.105(b) .	<i>Select Response</i>
If applicable, has the commissioner granted approval for regular board meetings to be held less frequently than monthly as per TFC §33.105(b)	<i>Select Response</i>
Does the board approve the minutes and sufficiently review the operations, activities, and financial condition of the bank, as required by TFC § 33.105(c) ?	<i>Select Response</i>
Do meetings always have a majority of board members attending (quorum) as required per Business Organizations Code §21.413 - Quorum?	<i>Select Response</i>

Did the board elect a principal executive officer and a separate officer responsible for corporate books and records as required by TFC §33.106(b)? Corporate books are accounting records, board minutes, stock transfer records, and any other books and records required by law.	Select Response
Are officers appointed annually, serve at the will of the board and are eligible to serve per TFC §33.106 (a)?	Select Response
If there are any contracts related to making golden parachute and indemnification payments to institution related parties, does the bank comply with 12 CFR 359?	Select Response
Transactions Between the Bank and Directors or Their Interests:	
As per TFC §33.109(a)(1) , did the bank obtain prior approval of a disinterested majority of the board (OR obtain prior written approval from the Banking Commissioner) before selling, leasing, or purchasing any assets to (or from) an officer, director, or principal shareholder of the bank OR officer, director, or principal shareholder OF an affiliate of the bank?	Select Response
As per TFC §33.109(a)(2) , did the bank obtain the prior approval of a disinterested majority of the board (or prior written approval from the Banking Commissioner) before consummating, renewing, or extending a real property lease in which an officer, director, manager, managing participant, or principal shareholder of the bank, or of an affiliate of the bank, has an interest?	Select Response
Transactions Between Bank and Directors Covered by 23A and 23B of the Federal Reserve Act	
Federal Reserve Act Section 23A Relations with Affiliates: (12 CFR Part 223)	Select Response
Federal Reserve Act Section 23B Restrictions on Transactions with Affiliates: (12 CFR Part 223)	Select Response

Reference Documents	Conclusions – Evaluation Factor 3.a - Board Meetings/Materials <i>Comment on concerns, weaknesses, and noncompliance.</i>
Board Minutes Summary <input type="checkbox"/> N/A <input type="checkbox"/> Not Included Board package samples/agenda	Principal Executive Officer: Click or tap here to enter text. Officer Responsible for Corporate Books: Click or tap here to enter text.

<input type="checkbox"/> N/A <input type="checkbox"/> Not Included Other Supporting Documents	
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Planning and Oversight - Assessment

17.	Does management have the ability and processes in place to plan adequately? Consider the Strategic Plan, budget process, profit plan, and growth projections.	YES <input type="checkbox"/> NO <input type="checkbox"/>
18.	Are there any deficiencies noted in the Strategic Plan or the planning process?	YES <input type="checkbox"/> NO <input type="checkbox"/>
19.	Does the current level of risk within the institution align with the Strategic Plan and risk assessment?	YES <input type="checkbox"/> NO <input type="checkbox"/>

Risk Guidance - Strategic Planning

1. If deficiencies are noted with management’s ability to plan or with the bank’s Strategic Plan, comment on the weaknesses. Refer to the [Appendix C](#) for guidance.
2. When was the Strategic Plan last revised or implemented?
3. Is the Plan revised or reviewed with appropriate frequency, based on the size and complexity of the bank?
4. Is the bank operating within the framework of the Plan or do significant deviations exist?

20.	Do functional policies and procedures exist for proper oversight of all areas of the bank?	YES <input type="checkbox"/> NO <input type="checkbox"/>
21.	Are the policies and procedures consistent with the bank’s strategic objectives and risk appetite?	YES <input type="checkbox"/> NO <input type="checkbox"/>

22.	Does the bank have a Code of Ethics Policy or Conflict of Interest Policy ? If not, recommend that a policy(s) be developed.	YES <input type="checkbox"/> NO <input type="checkbox"/>
22a.	If these policies exist, are they sufficient? If concerns, provide a comment and include the policy in the Reference Document section.	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>

Risk Guidance - Policies and Procedures in Place

1. Discuss with the examiners working components or functional areas to identify policies or plans for any concerns in the following areas.

Policies and Procedures for Oversight of:

- a. Capital
 - b. Loans and Lease/ALLL
 - c. Earnings
 - d. Liquidity
 - e. Sensitivity to Market Risk
 - f. Audit/Internal Control Environment
 - g. BSA/AML
 - h. Code of Conduct / Code of Ethics / Conflict of Interest
 - i. IT
 - j. Trust – If applicable
 - k. Cyber Security.
2. The Code of Ethics and other policies should address board and employee conduct, insider activities, conflicts of interest, and other relevant ethical issues.
 - a. If policies do not exist, discuss if there are circumstances within the institution that warrant a recommendation.
 - b. Refer to [FIL 105-2005](#) Guidance on Implementing an Effective Ethics Program.

Reference Documents	Conclusions – Evaluation Factor 3.b Board and Management Planning and Oversight <i>Comment on concerns, weaknesses, and noncompliance.</i>
<p>Strategic Plan</p> <p><input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Other Supporting Documents</p>	

Managing & Controlling Risks/Emerging Risks

23.	Is the current level of risk stable, increasing or decreasing?	<input type="checkbox"/> Stable <input type="checkbox"/> Increasing <input type="checkbox"/> Decreasing
24.	Is management’s response to emerging issues/risks adequate/appropriate? Consider economic, social, and environmental factors and any regional impact, if applicable.	YES <input type="checkbox"/> NO <input type="checkbox"/>
25.	Does the bank have any exposure with the LIBOR transition? (Note: LIBOR transition will need to be addressed in the ROE.)	YES <input type="checkbox"/> NO <input type="checkbox"/>
26.	Is the fidelity bond coverage reasonable and provide adequate protection for the bank?	YES <input type="checkbox"/> NO <input type="checkbox"/>
27.	Does the bank have Comprehensive General Liability Insurance?	YES <input type="checkbox"/> NO <input type="checkbox"/>
28.	Does the board periodically review the adequacy of insurance policies?	YES <input type="checkbox"/> NO <input type="checkbox"/>

29.	Does the bank use the services of an agent that is an insider or is tied to an insider?	YES <input type="checkbox"/> NO <input type="checkbox"/>
29a.	If yes, does a conflict of interest exist?	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>
29b.	Are transactions conducted in an arms-length manner?	YES <input type="checkbox"/> NO <input type="checkbox"/>
30.	Did any defalcations occur since the last exam that require the bank to file a claim?	YES <input type="checkbox"/> NO <input type="checkbox"/>

Risk Guidance - Controlling Risks - Insurance

1. Consider the average coverage amounts from the American Bankers Association survey on fidelity insurance coverage. Refer to [Appendix F](#) for additional guidance on blanket bond insurance levels.

Comprehensive General Liability Insurance: Insurance that provides coverage against specified hazards, such as personal injury, medical payments, or other specific risks that may create exposure to a suit for damages against the bank.

2. If the board does not periodically review insurance policies, evaluate how management ensures adequacy of coverage.
3. If defalcation occurred, what was the defalcation event and actions taken by the bank? What is the current status?

31.	Is the bank's Enterprise Risk Management (ERM) program adequate?	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>
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Risk Guidance - Enterprise Risk Management

[Appendix A to Part 364](#) requires an institution to have internal controls and information systems that are appropriate to the size of the institution and the nature, scope and risk of its activities and that provide for an organizational structure that establishes clear lines of authority and responsibility for monitoring adherence to established policies; effective risk assessment; timely and accurate financial, operational and regulatory reports among other practices.

1. Is the bank large or complex enough to have an ERM function? If so has management or the board begun discussions on ERM?
2. What stage is the ERM framework currently in? i.e. Initial development, continuing development, maturity. Comment on

the progress.

3. If the board has an ERM Committee, does it consist of outside directors.
4. If the bank has a written ERM program:
 - Is ERM program is it adequate?
5. Is there a Chief Risk Officer (or similar) who oversees the execution of the board approved ERM Framework?

Reference Documents	Conclusions -Evaluation Factor 3.c - Board and management’s ability to manage risk and respond to emerging risks. <i>Comment on concerns or weaknesses.</i>
Insurance Schedule <input type="checkbox"/> N/A <input type="checkbox"/> Not Included Other Supporting Documents	

EVALUATION FACTOR 4
Evaluate management’s depth and experience to effectively manage the bank.

32.	Does the organizational chart accurately portray the structure of the bank and provides a well-organized division of duties considering the size and complexity of the bank?	YES <input type="checkbox"/> NO <input type="checkbox"/>
33.	Have there been any changes in management since the last examination?	YES <input type="checkbox"/> NO <input type="checkbox"/>

Risk Guidance - Changes in Management

1. Consider why changes in management were made or are planned.
2. Assess the effect of any changes on bank operations or risk profile.

3. Review biographical information for new executive officers.
4. For new executive officers, provide a brief biographical narrative in the Directors and Executive Officers page of the Report of Examination.

34.	Do key executives have the appropriate knowledge, skills, and experience relative to the nature and scope of their responsibilities?	YES <input type="checkbox"/> NO <input type="checkbox"/>
35.	Does any individual control or dominate the board; controls the board reporting; or all areas of policies and operations?	YES <input type="checkbox"/> NO <input type="checkbox"/>
35a.	If a dominant official is identified, are there sufficient controls to supervise their activities?	YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/>
36.	Are there any deficiencies in: (a) segregation of duties, (b) director independence and involvement, (c) audit functions, (d) code of conduct/ethics/conflict of interest policies and practices, or (e) internal loan review?	YES <input type="checkbox"/> NO <input type="checkbox"/>

Risk Guidance - Dominant Official

Refer to [Appendix D](#) for potential controls to reduce the risks of having one dominant official in the organization.

- The presence of a dominant official should not be viewed negatively or as a supervisory concern in and of itself. Rather, the presence of a dominant official coupled with other risk factors such as ineffective internal controls, inadequate audit function, lack of board independence or oversight or engaging in risky business strategies may create regulatory concerns or require enhanced supervision.

37.	Does management recruit and maintain adequate and capable personnel?	YES <input type="checkbox"/> NO <input type="checkbox"/>
38.	Are there any weaknesses in the bank's hiring program, training, turnover rate, and management succession plan?	YES <input type="checkbox"/> NO <input type="checkbox"/>
39.	Is there a formal succession plan in place?	YES <input type="checkbox"/> NO <input type="checkbox"/>

40.	Does the bank have an employment contract with any employee which limits the bank’s ability to immediately terminate the employee for ineffective, inefficient, or dishonest behavior?	YES <input type="checkbox"/> NO <input type="checkbox"/>
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Risk Guidance - Staffing

1. Does the bank have an ongoing hiring program to ensure consistency in qualified hires?
2. Do performance standards exist to assist in fair and consistent evaluations?
3. Are training programs employed?
4. Does there appear to be excessive turnover, which may indicate other management problems?
5. Is there sufficient staffing to provide for management succession in all important functions?
6. If there is no formal succession plan, make a recommendation.
7. Regarding employment contracts, refer to TFC [§33.106\(a\)](#) and [12 CFR 359](#).

Reference Documents	Conclusions - Evaluation Factor 4 Management’s depth and experience to effectively manage the bank. <i>Comment on noncompliance, concerns, and weaknesses.</i>
<p>Organizational Chart <input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>List of Executive Officers <input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Professional Biographies/ Resumes of New Executive Officers, if Applicable <input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p>	

<p>Succession Plan</p> <p><input type="checkbox"/> N/A <input type="checkbox"/> Not Included</p> <p>Other Supporting Documents</p>	
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EVALUATION FACTOR 5
Evaluate the reasonableness of compensation.

41.	Are executive officers' salaries and other forms of compensation appropriate in relation to duties, performance, and peer group average?	YES <input type="checkbox"/> NO <input type="checkbox"/>
42.	Does compensation appear to be too low or excessive for executives or staff whose activities could pose material risk to the organization?	YES <input type="checkbox"/> NO <input type="checkbox"/>
43.	Do directors' fees appear reasonable for the size and condition of the institution, and for the contribution of individual directors?	YES <input type="checkbox"/> NO <input type="checkbox"/>
44.	Is the compensation received from being a committee member contingent upon attendance?	YES <input type="checkbox"/> NO <input type="checkbox"/>

Risk Guidance - Compensation

1. Are executive officer salaries and other forms of compensation reviewed by the board for appropriateness in relation to duties, performance, peer, etc.?
 - a. How is compensation determined?

- b. Does the board review and approve compensation packages for executive management?
- 2. Does the board, or a committee thereof, at least annually evaluate the CEO’s performance as it relates to the overall safety and soundness of the institution, compliance with regulatory laws and policy statements, and compliance with internal policy and board directives?
- 3. How does the CEO’s compensation compare with the Federal Reserve Board Salary Survey for average salaries?
- 4. Do the type and amount of expenses appear reasonable for benefits derived?
- 5. In select circumstances, examiners may want to review a sample of credit card or other personal-type expenses paid by the bank to ensure that expenses appear appropriate.
- 6. In select circumstances, examiners may want to review a sample of the officers’ checking or savings account statements.
- 7. Review fringe benefits (country club memberships, automobile, etc.) paid on behalf of executive officers.

Compliance with Regulation / Conformance with Policy	
<i>Interagency Guidelines Establishing Standards for Safety and Soundness (12 CFR 364 Appendix A for nonmembers or 12 CFR 208 (Regulation H Appendix D-1) for member banks) related to Compensation, Fees, and Benefits</i>	Select Response

Reference Documents	Conclusions - Evaluation Factor 5 Reasonableness of compensation for officers and directors. <i>Comment on noncompliance, concerns, and weaknesses.</i>
Supporting Documents, if needed	

EVALUATION FACTOR 6**Evaluate management's adherence to corporate records and applications.****Certificate of Formation, By Laws, and Corporate Applications**

45.	Were there any amendments to the Certificate of Formation since the last exam?	YES <input type="checkbox"/> NO <input type="checkbox"/>
46.	Do the bylaws appear appropriate for the needs of the bank?	YES <input type="checkbox"/> NO <input type="checkbox"/>
47.	Does the board adhere to the bylaws?	YES <input type="checkbox"/> NO <input type="checkbox"/>
48.	Have there been any changes to the bylaws since the last examination?	YES <input type="checkbox"/> NO <input type="checkbox"/>
49.	Has the Department approved any corporate applications (merger, branch, etc.) since the last exam?	YES <input type="checkbox"/> NO <input type="checkbox"/>
49a.	If a corporate application was approved, was approval contingent upon any subsequent actions?	YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/>
49b.	If applicable, has the contingency been met?	YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/>

Compliance with Regulation (If Applicable)

Approval of amendment to Certificate of Formation: Was prior approval acquired from the owners of two-thirds of the capital stock as required by Business Organization Code [§21.364?](#)

Select Response

Amendment of Certificate of Formation: Was the original and one copy of the Certificate of Formation or re-created Certificate of Formation filed with the Banking Commissioner for approval as required by TFC [§32.101\(c\)?](#)

Select Response

Reference Documents	Conclusions – Evaluation Factor 6 Management’s adherence to corporate records. <i>Comment on weaknesses, noncompliance, or changes to bylaws.</i>
Supporting Documents, if needed	

EVALUATION FACTOR 7
Determine compliance with Regulation O.

Confer with examiner performing the Loans and Leases procedure regarding EIC review of records maintained on insiders to comply with the Regulation O requirements.

Compliance with Regulation O	
Complies with record keeping and disclosure requirements in 12 CFR 215.8 (Regulation O) / applicable to state nonmember banks by 12 CFR 337.3	Select Response

Reference Documents	Conclusions - Evaluation Factor 7 Compliance with Reg O <i>Comment on noncompliance or weaknesses.</i>
Supporting Documents, if needed	

APPENDIX A

Information Provided to the Board

Consider if the board package contains at a minimum, the following information. Test the quality of those reports by reviewing a sample from a non-financial date.

1. Monthly statement of condition and income used for comparative analysis between projections and performance, with notes explaining any significant deviations.
2. Detailed investment reports which delineate any fluctuations in book/market values as well as any transactions which have occurred.
3. Detailed reports which indicate any significant transactions, trends and/or changes noted within the loan portfolio, including delinquency activity.
4. Watch list.
5. Review of the adequacy of the allowance for loan and lease losses.
6. Analysis of the bank's capital position.
7. Listing by type and dollar amount of borrowings by the bank.
8. Analysis of the bank's liquidity position.
9. Analysis of the bank's interest rate sensitivity position.
10. List of any new litigation and a status report on existing litigation.
11. Report on any major endeavors, such as mergers, acquisitions, branch applications, and/or material building plans.

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APPENDIX B

Transactions with Management and Affiliates

When an insider transaction has occurred, examiners should initially review compliance with Federal Reserve Act [23A Relations with Affiliates](#) & [23B Restrictions on Transactions with Affiliates](#).

[TFC §33.109 Transactions with Management and Affiliates](#) and the applicable rules under [7 TAC §3.22 Sale or Lease Agreements with an Officer, Director, Principal Shareholder, or Affiliate](#) should be applied in situations where the transaction is not subject to and not in compliance with [Federal Reserve Act 23A & 23B](#).

- If the transaction is subject to and in compliance with sections 23A & 23B, and documentation efforts are adequate, no further compliance review is needed.
- If the transaction is with individuals / natural persons, i.e. officers, directors, or principal shareholders of the bank, or officers, directors, or principal shareholders of the affiliate, it is subject to TFC §33.109 and TAC §3.22.
- If there is an apparent violation of TFC 33.109 cited in the report of examination, then TAC 3.22 should also be referenced.

Refer also to the FRB 2021 Memo regarding [Coverage of Sections 23A and 23B of the Federal Reserve Act](#), and FRB's [Frequently Asked Questions about Regulation W – Transactions Between Member Banks and Their Affiliates](#)

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APPENDIX C

Management's Ability to Plan / Evaluating Strategic Planning

Consider how major decisions are made:

1. Is the bank independent or part of a holding company?
2. Who makes decisions related to acquisitions, divestitures, and branching?
3. How involved are the directors?
4. For holding company banks, is there a degree of autonomy in product development, advertising, market research, etc.?

Consider the techniques used by management in planning:

1. What is the role of the CEO?
2. What is the level of involvement of Directors, senior managers, and middle managers in the planning process?
3. How are goals and objectives communicated to all employees?

Consider the following when evaluating strategic and capital planning:

Refer to Supervisory Memorandum 1009 “Business Plans and Strategic Planning” for guidance.

1. Does the bank have any formal plans outlining short- and long-term goals, and strategies for meeting such?
2. Are plans based upon reasonable assumptions?
3. If expansion/growth is envisioned, do plans indicate a realistic means of maintaining capital adequacy?
4. Do the plans address:
 - a. SWOT
 - b. Competition
 - c. Technology
 - d. Customer wants and needs
 - e. New products
5. Are the plans consistent with the bank’s:
 - a. Financial condition
 - b. Capital plans and liquidity requirements
 - c. Facility
 - d. Location
 - e. Customer base
 - f. Management ability
6. Is the bank operating within the framework of the plan, or has significant deviation occurred?

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APPENDIX D

Concentrations of Authority & Potential Controls

If the bank or the board is dominated by one official, it is important to assess the bank's control environment. The following serve as potential controls to mitigate the risk posed by a dominant individual of authority.

Consider and assess whether:

1. An appropriate segregation of duties and responsibilities is achieved, or alternative actions are taken to mitigate the level of control exercised by the one individual.
2. Director involvement in the oversight of policies and objectives of the bank is at an appropriate level.
3. The diversity of the board membership provides the bank with an assortment of knowledge and expertise, including, but not limited to, banking, accounting, and the major lending areas of the bank's target markets.
4. There are a sufficient number of outside and independent directors.
5. Committees of major risk areas exert a proper level of function, responsibility, and influence, and the value of the committees is exhibited in the decision-making process. If a committee is chaired by a member of executive management, consider the impact on the committee and the decisions of the committee. Consider the dollar threshold for committees (such as loan committees) and whether it is appropriate.
6. A proper level of independence has been achieved for board committees of major risk areas, including, but not limited to, audit committees.
7. An adequate audit committee has been established with only, or at least a majority of, outside directors.
8. A need exists for the performance of annual financial audits by an independent certified public accounting firm.
9. A qualified, experienced, and independent internal auditor is in place at the bank.
10. A proper segregation of the internal audit function is achieved from operational activities.
11. An appropriate rationale was established regarding changing a bank's external auditors, independent of oral discussions with bank management, including, but not limited to, a review of the audit committee minutes or a review of auditor notifications.
12. Adequate written code of conduct and ethics and conflicts of interest policies has been established.
13. A need exists for the bank's board to perform and report on an annual conflict of interest and ethics review.

14. A need exists for a bank to engage outside consultants to conduct an external loan review.
15. A proper segregation of the internal loan review process is established.

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APPENDIX E

Board Meeting Minutes

Board meeting minutes should include at la minimum, the following:

1. The board’s review and discussion of material action items on the agenda.
2. Actions taken.
3. Abstention of votes.
4. Follow-up items to be addressed at a later meeting.
5. Attendance of each director and other attendees.
6. Previous board meeting minutes’ approval.
7. Board-approved policies.

When reviewing the Board minutes, consider the following:

1. Any actions taken in contravention of the bylaws.
2. Actions taken by the board that are not part of a normal monthly meeting.
3. Resolutions or discussions about entrance into a new geographic area, customer service, asset or liability category, or other new undertaking. This also should include a discussion of updates to the strategic plan and how any new activities fit in with the plan.
4. Creation of any special committee and its mission.
5. Ratification by the full board of actions taken by standing committees.
6. Any transactions with directors or their interests, or abstention of any interested director. If the minutes do not mention any director-related transactions that are uncovered during the examination, determine why the identified transaction was not discussed during a board meeting. Also determine how the director-related transaction was approved and whether the interested party refrained from voting.

7. Director attendance to determine the levels of interest and dedication, and how the directors fulfill fiduciary responsibilities.
8. Participation of individual directors to determine if anyone, or a certain group of directors, dominates the board discussions.
9. Re-booked charged-off loans approved by the board and the rationale for re-booking. (Note: The re-booking of charged-off loans is inconsistent with both generally accepted accounting principles and the call report. It is an unacceptable practice.)
10. Reviews of correspondence between the OCC and the bank.
11. Reports of examinations and audits reviewed and actions taken or plans to effect correction of deficiencies.
12. Whether directors reviewed the results of operations with respect to interest rate risk exposure at least quarterly and made appropriate adjustments as necessary.
13. Whether directors reviewed and approved written policies, at least annually, that establish appropriate limits and standards for extensions of credit that are secured by real estate.
14. Whether directors designate a security officer to report at least annually on the implementation, administration, and effectiveness of the security program.

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APPENDIX F

Adequacy of Insurance Coverage

One of the most difficult insurance problems confronting bank management is determining the amount of blanket bond coverage that should be maintained. While an estimate of money and securities which might be lost through burglary or robbery can be fairly accurately calculated, there are no ready measures for estimating potential losses that may arise from employee dishonesty.

Determining an adequate amount of fidelity insurance on the bank's own personnel cannot be based solely on one precise factor. It requires the use of management and examiner judgment. Banking associations or the insurance industry may periodically develop schedules indicating the range of blanket bond coverage carried by banks grouped by deposit size. However, a bank's level of risk exposure is influenced by many variables, only one of which is deposit size. Therefore, an overall assessment of the effectiveness of the bank's internal operations must be considered. Other factors which may increase fidelity exposure and should be given consideration are:

- the amount of cash and securities normally held by the bank;
- the number of employees and their experience level;
- delegations of authority to employees;
- effectiveness of internal controls
- number, experience, and turnover rates of personnel;
- the extent of trust and merchant credit card activities
- Information technology and internet presence,
- Off-balance sheet activities; and
- whether an institution is experiencing rapidly expanding operations.

Refer to FDIC Risk Management Manual of Examination Policies, Fidelity and Other Indemnity Protection [Section 4.4](#) for further guidance.

AMERICAN BANKERS' ASSOCIATION – SUMMARY OF FINANCIAL INSTITUTION BOND COVERAGE – TABLE NOT INCLUDED

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