

**The Department does not view a customary one-time proxy solicitation to vote shares of a Texas state bank (or its bank holding company) as an acquisition subject to prior notice or approval of a change in control.**

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By letter received June 23, 2022, addressed to Catherine Reyer, General Counsel, you ask whether obtaining short-term, revocable proxies in connection with the election of directors from holders of 25% or more of the outstanding shares of voting stock of a corporation that owns a state bank would result in control of that corporation (or state bank) and require the prior approval of the Texas Banking Commissioner pursuant to Section 33.001 of the Texas Finance Code. I have been requested to respond to your inquiry. The following is intended to affirm our telephone conversation on July 12.

In general, our policy view regarding proxy solicitation and voting is similar to that held by the Federal Deposit Insurance Corporation, see 12 C.F.R. §303.83(a)(5), and the Board of Governors of the Federal Reserve System, see 12 C.F.R. §225.42(a)(5). The Department does not view a customary proxy solicitation to vote shares of a Texas state bank (or its bank holding company) as an acquisition subject to prior notice or approval under Subchapter A of Texas Finance Code Chapter 33 and 7 Tex. Admin. Code §15.81. To be clear, this policy is not limited to proxy solicitation by management and could also apply to a customary proxy solicitation by shareholders seeking to effect management changes at a specific annual meeting.

To be considered a customary proxy solicitation, the proxies sought must be for the purpose of conducting business at a designated regular or special meeting, must be revocable, and must terminate within a reasonable period after the meeting (subject to prior revocation). Further, the terms of the proxies and their solicitation must be consistent with customary business practices and not confer additional incidents of ownership.

Finally, facts may exist in a specific case that evidence additional aspects of control and counter the assumptions underlying application of this basic policy.