

**Sunset Public Hearing Questions for  
Department of Financial Institutions  
Created by Section 4-3-401, Tennessee Code Annotated  
(Sunset Termination Date June 30, 2021)**

*Enabling Statute, Purpose, and Rules and Regulations*

**Question 1: Provide a brief description of the department, including information about its purpose, statutory duties, and staff.**

**Answer:** As of June 30, 2020, the Department regulates 123 banks, 80 credit unions, 15 public trust companies, 2 business and industrial development corporations, 1,097 industrial loan and thrift companies, 41 insurance premium finance companies, 769 mortgage companies, 13,901 mortgage loan originators, 651 title pledge lenders, 543 check cashers, 771 deferred presentment services companies, 146 money transmitters and 693 flexible credit act lenders.

The Department plays a vital role in regulating and supporting the financial services industry and ensuring that Tennessee financial institutions remain fiscally strong and comply with governing authority.

The Department's mission is to ensure a safe and sound system of state-chartered institutions for Tennessee citizens, while giving institutions the opportunity to contribute to economic progress. In short, we seek to find balanced regulation.

The Department continues to develop and implement its Regulatory Balance mission for depository institutions. Department examiners seek to right size regulation to the merits of each institution and avoid a one size fits all approach in order to support the Governor's economic goals for Tennessee. The Tennessee banking system is critical to the state's economic vitality and the Department's balanced regulatory approach supports economic progress.

At the last Sunset Hearing in 2016, we noted at that time that over the previous five years total assets in the state banking system increased from \$44 Billion to \$60 Billion. Since then, Tennessee has experienced unprecedented growth in the banking and trust industries. The conversion of First Tennessee National Bank, which is now known as First Horizon Bank, from a national bank to a Tennessee state bank in October, 2019 coupled with its recently approved merger with IberiaBank in Louisiana has helped to propel this asset growth to a projected \$175 billion. However, before this conversion the state banking industry doubled in size from 2011 to 2019. The growth of the trust industry has been just as impressive. In roughly the last 5 years, the trust assets of Tennessee state chartered trust institutions have grown from about \$25 billion to over \$125 billion. The bank and trust industries combined is projected to reach perhaps \$350 billion in assets or more by the end of 2020.

The Department's budget strategy is to strengthen our operations in order to meet the challenges of a Tennessee banking system that has quadrupled in size in recent years while simultaneously finding efficiencies and budget reductions.

With respect to non-deposit companies, the Department has established a risk focused examination program that establishes a risk profile on licensed locations so that we can focus more resources on companies that are high risk. The goal is to improve the operations of non-

deposit companies by sharing risk assessment information. Specifically, the Department seeks the greatest access to credit for consumers within the bounds of the law and fair operations by non-deposit companies.

In an effort to support the efficient and effective regulation of financial institutions, the Department implemented Alternative Workplace Solutions (AWS) to reduce the office space that the Department is assigned by nearly 75%, avoiding over \$400,000 in annual cost. Nearly 90% of Department staff initially were enabled to be either a mobile worker, working at a financial institution or working from home for some portion of each week. Due to Covid-19, the Department has essentially become 100% AWS enabled. The expectation is that AWS will offer a greater opportunity to retain employees and create more experience to further help us find regulatory balance. Our current goal is to become capable of engaging in examinations completely offsite not only for safety reasons but to produce a more efficient examination operation for the Department and for financial institutions.

Our experience indicates that financial literacy is one of the keys to dealing with the economic issues facing us today. The Department has initiated a number of activities in recent years. Public service announcements, workshops, consumer alerts, panel discussions, a financial literacy newsletter to all state employees and an effort to reach Tennessee teachers and students were all a part of this effort. The Commissioner serves on the board of the Tennessee Financial Literacy Commission. The mission of the Tennessee Financial Literacy Commission is to equip Tennesseans to make sound financial decisions when it comes to planning, saving, and investing. A financially literate public is a key factor in establishing a safe and sound system of financial institutions.

**Question 2: Has the department promulgated rules and regulations? If yes, please cite the reference(s).**

**Answer:** Since FY 16, the Department has promulgated the following rules:

**FY 17**

**Repeal of Chapter 0180-25 – Rules Pertaining to Assessment of the annual Credit Union Supervision Fee**

**Effective Date: August 30, 2016**

Chapter 0180-25 previously set forth processes and procedures for assessing and collecting the annual supervision fee that the Department assesses to state-chartered credit unions. Public Chapter 241 of the Acts of 2015, effective April 24, 2015, amended T.C.A. § 45-4-1002 to set forth a new formula for determining that fee as well as the processes and procedures for assessing and collecting that fee. As a result, Public Chapter 241 rendered Chapter 0180-25 ineffective and unnecessary. Accordingly, the Department has repealed Chapter 0180-25.

**Chapter 0180-9 - Rules Pertaining to State Chartered Credit Unions  
Amendment to 0180-09-01-.01 of the Rules of the Department of Financial Institutions and  
Repeal of 0180-09-01-.02 of the Rules of the Department of Financial Institutions**

**Effective Date: April 17, 2017**

Rule 0180-09-01-.01 provided that state-chartered credit unions making certain borrowings disclose that the borrowed obligation is not a deposit and is not insured by the National Credit Union Administration or the State Credit Union Share Insurance Corporation (a now defunct private insurer of certain credit union deposits) (emphasis added). Because the State Credit Union Share Insurance Corporation is no longer in existence, the amendment to Rule 0180-09-01-.01 removed the reference to this defunct entity.

Rule 0180-09-01-.02 provided that a state-chartered credit union may not, without the prior approval of the Commissioner, purchase fixed assets if its investments in fixed assets will exceed five percent (5%) of its total assets. A federal rule (at 12 C.F.R. § 701.36) previously contained a similar restriction applicable to federal credit unions, but that rule was amended to remove the restriction. Under Tennessee law at T.C.A. § 45-4-501(9), state-chartered credit unions are generally allowed to engage in any activity that they could engage in if they were a federally chartered credit union, subject to the Commissioner's regulation for safety and soundness. Accordingly, the Department no longer applies the restrictions of Rule 0180-09-01-.02 to state-chartered credit unions and, therefore, the rule was repealed.

## **Amendment to Chapter 0180-24 – Rules Pertaining to Home Equity Conversion Mortgages**

**Effective Date: April 17, 2017**

The Home Equity Conversion Mortgage Act (HECMA) (T.C.A. §§ 47-30-101, et seq.) states that only authorized lenders shall engage in the business of making reverse mortgage loans. The Tennessee Housing Development Agency, and any bank, savings institution, or credit union may be designated as authorized lenders of reverse mortgage loans by providing notice to the Commissioner. See, T.C.A. § 47-30-103(b). All other persons, pursuant to T.C.A. § 47-30-103(c), shall submit an application for authorization to make reverse mortgage loans containing the information required in T.C.A. § 47-30-103(c) and Rule 0180-24.04 of the Rules of the Department of Financial Institutions. Application requirements for authorization to make reverse mortgage loans are found in T.C.A. § 47-30-103(c) and in Chapter 0180-24 at Rule 0180-24-.04. Rule 0180-24-.04(2)(i) states that the application shall, among other requirements, include "a copy of the most recent federal tax return for each of the applicant's executive officers". This rule amendment deleted the application requirement of submitting a copy of the most recent federal tax return for each of the applicant's executive officers.

## **FY 18**

### **Repeal of Chapter 0180-14 – Rules Pertaining to Other Real Estate**

**Effective Date: July 12, 2017**

Public Chapter 233 of the Acts of 2013, effective April 19, 2013, amended the Tennessee Banking Act, specifically T.C.A. § 45-2-607(b)(2), by setting forth the procedures for state banks to dispose of real property acquired in satisfaction of a loan. Rule 0180-14-.01 defines 'other real estate owned' as real property acquired by a bank in satisfaction of a loan and Rule 0180-15-4-.02 sets forth the procedures for disposition of other real estate. Public Chapter 233 incorporated into T.C.A. § 45-2-607(b)(2) certain language from Rule 0180-14-.02 pertaining to disposition of other real estate along with substantive amendments. As a result, Public Chapter 233 rendered each provision of Chapter 0180-14, Rule 0180-14-.01 and Rule 0180-14-.02 ineffective and/or unnecessary. Accordingly, Chapter 0180-14 was repealed.

## **FY 20**

### **New Chapter 0180-34-Rules Pertaining to Public Records Requests**

**Effective Date: December 29, 2019**

Public Chapter 712 of the Public Acts of 2018 amended the Tennessee Public Records Act (TPRA), specifically at T.C.A. § 10-7-503(g), requiring state governmental entities to promulgate rules setting forth processes, procedures and fees for public records requests. The Department's rules, promulgated in compliance with Public Chapter 712, provide in pertinent part as follows:

- State that the purpose of the rules is to establish procedures, in accordance with T.C.A. § 10-7-503(g), to accommodate requests from the public to inspect or obtain copies of

public records maintained by the Department while at the same time preserving the confidentiality of confidential records or information as provided in state and federal law.

- Provide that public records requests shall be made to the Department's Public Records Request Coordinator (PRRC), designated as the General Counsel, or employee under supervision of the PRRC.
- Require that requested public records be provided promptly or that the Department otherwise respond to requests for public records within seven (7) business days.
- Require proof of Tennessee citizenship in order to inspect or receive copies of public records.
- Require requests for copies to be made in writing, but that requests for inspection may be made orally or in writing.
- State that there is no charge for inspection of records only and that a requestor is not allowed to make copies of records with personal equipment but may use a cell phone or handheld camera.

Impose no fee for copies up to ten (10) pages and otherwise require that the Department provide the requestor an itemized estimate of fees, to the extent possible; also, authorize the Department to impose labor charges, exceeding an hour, and to assess costs for an outside copying vendor, if used.

**Question 3: Please provide a current organization chart for the department.**

**Answer:** See Exhibit A.

**Question 4: How does the department ensure staff operate in an impartial manner and that there are no conflicts of interest? If the department operates under a formal conflict of interest policy, please attach a copy.**

**Answer:** All Department employees are subject to Governor Lee's Executive Order 2, as well as T.C.A. § 45-1-117 that prohibits Department employees from receiving any gift, taking out a loan, or investing in any institutions regulated by the Department except for a few exceptions. The Department's Ethics Policy supports Governor Lee's Executive Order 2 and reiterates this statutory provision, while setting detailed standards for ethical conduct by all Department employees. (Ethics Policy, Exhibit B) The Ethics Policy stresses the importance of impartiality in the performance of official duties and avoiding even the appearance of a conflict of interest. All employees must certify annually that they have read and agree to abide by the Department's Ethics Policy. In addition, all employees are required to sign the DOHR Code of Conduct and, with the exception of support staff, to file an annual statement disclosing financial interests.

To further promote ethical conduct, the Department provides regular ethics training, publishes frequently asked questions as ethics guidance, and encourages employees to pose specific ethics questions to a standing Ethics Committee.

Moreover, the Department has created a Regulatory Balance training guide for our staff. This guide asks our examiners to act with integrity, to set goals and purposes, and to provide great service to the financial institutions we regulate. Regulatory Balance is a value system that helps direct our examiner's technical training as they examine institutions in a way to help the Department meet its mission. The guide calls on examiners to act with justice and do what is right. If we can achieve justice, we will achieve impartiality.

*Financial Information*

**Question 5: What were the department's revenues and expenditures for the last three fiscal years? Does the department carry a reserve balance? If yes, please provide additional relevant information regarding the reserve balance.**

**Answer:**

	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
REVENUES*	22,500,000	22,853,700	22,480,200
EXPENDITURES	17,067,200	19,522,600	20,226,600

*\*Revenues are net of the bank rebate for that particular year.*

No.

The Department has no statutory reserves. However, we do record deferred revenue at year end to reflect the bank division rebate. This nets against the subsequent year's supervision fee.

We also typically carry forward amounts for IT and Mortgage settlement pursuant to Section 36 of the Appropriations Bill. However, these are not statutory reserves.

**Question 6: Does the department collect fees and penalties? Please provide a list of fees and penalties collected and indicate whether these fees were established through rule or through state law.**

**Answer:** See Exhibit C.

*Department Operations*

**Question 7: What were the department's major accomplishments during the last three fiscal years? Specifically address the accomplishments of each division.**

The Commissioner currently serves as the Chairman of the State Liaison Committee (SLC) to the Federal Financial Institutions Examination Council. The FFIEC was established by Congress to coordinate the regulation of all banks and credit unions in the United States and membership consists of the principals of the federal banking agencies and state regulators working through the SLC. As SLC Chairman, Commissioner Gonzales represents all state banking commissioners as a voting member of the FFIEC.

**Bank Division Accomplishments:**

Risk scoping examinations

In recent years the Bank Division implemented enhanced risk scoping prior to and during bank examinations. The Examiner In Charge ("EIC") of the exam and others are empowered and encouraged to customize the direction and depth of the examination to focus on higher risk areas. This practice was formalized in Bank Division policy with additional revisions expected as risk scoping enhancements continue to be developed and employed

Off-site examination efforts

Bank Division examiners generally employ a combination of on-site and off-site work when

conducting exams. The ratio of off-site work to on-site has increased year over year since 2016. Due to the pandemic, no on-site examination work has been performed since March 2020, but offsite exams have proceeded. We anticipate off-site work will continue to be utilized to a greater extent post-pandemic compared to pre-pandemic. However, we do not want to forego the benefits to both the Bank Division and institutions of on-site work in the long term, as examination quality, examiner training, and communication with institution management can be enhanced through an appropriate amount of on-site examiner presence. The Bank Division will strive to balance off-site vs. on-site work in the long term to minimize disruption to institutions, maximize efficiency and effectively communicate with institution management.

#### Streamlined enforcement actions

When formal or informal enforcement actions are necessary, the Bank Division developed such actions that were tailored to an institution's specific needs and circumstances, prioritized appropriate corrective measures and provided the bank with firm but realistic timeframes to achieve those measures.

When a bank was severely challenged to the extent short-term viability was in question, the Bank Division focused the bank's Board of Directors on the highest priorities necessary to continue the bank's viability (e.g. liquidity or capital). Additionally, the Department is encouraging its federal counterparts to adopt a similar approach and be a party on joint enforcement actions where appropriate to reduce regulatory burden on banks and to better focus and prioritize Boards' efforts that will put banks in position to not only survive but thrive. Such joint, formal actions are now possible due to recent legislative changes recommended by the Department.

#### Rural initiative training curriculum

A rural initiative training curriculum has been developed for examiners reviewing smaller bank and rural economic issues that directly impact banks and their trade areas. Topics such as agricultural and agribusiness lending, technology and operational efficiency, risk management philosophies, and economic community development will be presented in context of the challenges small and rural institutions face each business day to remain competitive and generate economic growth within their communities. Curriculum implementation is anticipated to occur during 2020-2021.

### **Credit Union Division Accomplishments:**

#### Risk Scoping/Focusing of examinations

In order to concentrate on the most important areas of risk in credit unions, the division began to formally risk scope examinations in 2018. This process allowed examiners, and particularly the Examiner in Charge (EIC) to identify areas to spend additional time as needed based on the risk to safety and soundness a particular area might exhibit. Rather than have an examination that is a "one size fits all" process, we are able to tailor our examinations to the risk profile, size and complexity of the institution. This also allows the EIC and other examiners to change directions mid exam, should areas be identified that warrant further review.

#### Small Credit Union Initiative

In 2018, the division realized there was a need to provide greater assistance to our small credit unions as they faced challenges that were impacting their viability and ability to promote economic growth in their areas of operation, much of which was rural. As a result, in 2019, we instituted the following:

- We adjusted the examination budget, via our risk scoping process, to free up hours to provide greater assistance to smaller credit unions.
- The division held (4) conferences across the state for smaller credit unions. These conferences provided training, operational ideas and opportunities for institutions to

ask questions and meet with others to share experiences and ideas.

#### Increased Off-Site Examination

In 2017-2018, the division began a process to decrease the amount of examination time spent onsite at credit unions. The purpose was two-fold: to attempt to reduce expenses; but also to reduce the burden to institutions of having examiners in their institutions for two or more weeks. Prior to COVID-19, the division was operating approximately 40% offsite, with the advent of the virus and our need to stay at home, the move to 100% offsite examinations was a fairly seamless transition due to the prior offsite experience. While 100% offsite examinations may not be ideal in a non-COVID-19 environment, since face to face interaction with credit union management is not only needed but desired by our institutions, it is important that we have confirmed that we are able to operate effectively in a significantly more offsite posture for the future.

#### Examiner Retention

Experience is key when it comes to identifying risk. The ability of an examiner to review records and make a determination as to areas of concern and then to provide management with effective options to either correct or mitigate those areas is essential. The division has maintained its median examiner experience at over 14 years. Examinations provide a direction for institutions and impact the economic position of the state. It is imperative that we maintain an experienced examiner group in order to appropriately assess credit union conditions and contribute to Tennessee's economic wellbeing.

#### **Compliance Division Accomplishments:**

The Department's Compliance Division is responsible for the licensing and examination of certain non-depository financial institutions and individuals doing business in Tennessee that are subject by law to regulatory oversight by the department:

- Check Cashing Companies
- Deferred Presentment Services Providers
- Flexible Credit Lenders
- Home Equity Conversion (Reverse) Mortgage Lenders
- Industrial Loan and Thrift Companies
- Insurance Premium Finance Companies
- Money Transmitters
- Residential Mortgage Lenders, Brokers and Servicers
- Residential Mortgage Loan Originators
- Title Pledge Lenders

#### Risk-Focused Examination Program

The Department implemented the Risk-Focused Examination Program ("the program") July 1, 2013, for Title Pledge, Check Cashing, and Deferred Presentment Services licensees. The program was expanded July 1, 2014, to include Industrial Loan and Thrift Company registrants, Residential Lending, Brokerage, and Servicing licensees, and Insurance Premium Finance licensees. Flexible Credit licensees were brought into the program on July 1, 2017.

The program utilizes questions that were derived from a study of the historical examination reports and other related regulatory information for each license type. This provided a logical and statistically sound basis for developing risk questions. Each licensee's examination data is used to build a database of information for each license type and provides a way for the Department to compile, combine, and analyze the raw data to develop a risk rating. The database is used to develop an industry average by license type. Each licensee's score is then compared to the industry average by license type. This rating system allows the Department to focus on licensees that appear to have the greatest risk. The program is intended and designed

to identify potential risks to consumers. Through examination scheduling, we focus examiner resources on institutions that present a greater level of risk while lessening the burden on institutions presenting the least level of risk by extending the period between exams.

The program has provided some positive impacts to regulated industries and to the Compliance Division as well.

By deploying the Risk-Focused Examination Program, the Department can be more efficient and effective in not only protecting the public but in also partnering with the industry to reduce risk to consumers. Our goal is to assist licensees to better understand their risk to consumers and to find ways to reduce that risk. The focus by some companies to establish or improve risk management systems is an important step toward risk reduction. The program empowers the department to understand each company based on its risk profile rather than deploying a one-size-fits-all exam approach. This risk approach also permits the Department to better manage the exam workforce rather than having to hire and lay off staff based on industry volatility.

#### Money Transmission Top-to-Bottom Review

In the fall of 2017, the Department began a top-to-bottom review of its program to regulate money transmitters in order to present a proposal to create a modern regulatory program capable of meeting these challenges and to establish how Tennessee fits into an integrated nationwide state regulatory system. The Department has already recommended legislative proposals that have been enacted.

The Department undertook this project for several reasons, including the following:

- Tennessee and other states have regulated the business of money transmission for many years. Tennessee began regulating issuers of money orders in 1965 and the business of money transmission in 1994. As such, the Department has been the primary state agency ensuring consumer protection with respect to money transmitters doing business in Tennessee for decades.
- The money transmission industry has evolved from companies that primarily dealt with customers sending and receiving money in very basic ways to include companies that offer creative ways to do business such as engaging in virtual currency transactions.
- The new money transmission business models do not fit neatly into old laws.
- State regulation of money transmission has traditionally focused on consumer protection, but the Department and others recognize that state regulators must also be vigilant and continue to improve efforts to prevent potential money laundering and terrorist financing in this area.
- Multi-state money transmitters and start-up companies have raised concerns about the lack of integration and coordination of regulation among the states. The Department agrees with this assessment and is part of a nationwide effort to find solutions.

#### Supervision Fee

In FY 2016, the Department fully implemented a new funding model pursuant to which each person regulated by the Compliance Division, except mortgage loan originators and money transmitters, is assessed an annual supervision fee rather than being assessed separate licensing, registration and examination fees. The supervision fee is determined by the Commissioner annually based on the Department's approved annual budget and includes the annual licensing or registration fee and the cost for a routine examination. This new funding model is especially important in the current volatile environment for non-deposit companies as it allows the Department to deal with wide swings in licensee population numbers without having from time to time hire or lay off employees due to these swings.

#### Operational Efficiencies

Effective June 1, 2019, the Compliance Division adopted electronic surety bonds for the five license types required to submit security devices as a condition of licensure, and all but a handful of existing surety bonds were converted to electronic surety bonds by December 31, 2019. The benefits include elimination of paper bond documents (bonds, as well as riders and renewal/continuation documents); elimination of the requirement to mail bond documents; electronic storage; and perpetual bonds, eliminating the need for annual continuation certificates.

Beginning with the period for renewing licenses for calendar year 2020, and for any new licenses approved after January 1, 2020, the Compliance Division ceased printing paper licenses. Five of the license types regulated by the Division are required to display the licenses at their respective places of business, and the Division determined two methods for licensees to be able to print their licenses from electronic records for display purposes, and disseminated that information to all affected licensees. The elimination of printing paper licenses has enabled the Department to realize a significant savings in both hard costs for paper stock, envelopes and postage, and also labor costs.

As of January 2020, the Department licenses all its regulated entities through the Nationwide Multistate Licensing System ("NMLS"). The NMLS is a national licensing system and repository of information, including enforcement activity and consumer resource functionality, in which all 50 states and U.S. territories participate. The NMLS provides regulated industries the ability to utilize one system to electronically apply for and renew licenses in multiple states in which they conduct business. The Department was one of the original states in 2004 that participated as a working group member in creation of the NMLS under the auspices of the Conference of State Bank Supervisors.

#### Statutory Reporting

The Tennessee Title Pledge Act requires that each title pledge lender file with the Commissioner in every odd-numbered year a report containing specific information. The Act provides that the Commissioner shall submit to the Governor and General Assembly a biennial analysis and recapitulation of the reports for the preceding calendar year for the purpose of reflecting the general results of operations under the Act. The Department issued to the Governor's Office and the General Assembly a report on the state of the title pledge industry in Tennessee in June of 2020.

### **Budget / Fiscal Operations Accomplishments**

#### Funding Models Revisions

FY 16 conversions of the Credit Union and Compliance Division funding models have been important to the Department and industry operations. Both models now more closely mirror the bank funding model such that annual operating budgets are set for the division and generally speaking that budget is prorated to the population of state regulated licensees. The institution allocation translates to that given year's supervision fee. This model helps to ensure budget efficiency as we analyze each division budget by expenditure line item each operating year and only prorate or assess in the form of supervision fees what is needed to operate for the year. For the Compliance Division, this model also makes sure that the Department can deploy a risk focused exam program because our collection of fees is not dependent on how many examinations we perform. By not tying examinations to fee collection, we can right size our regulation to risk in the industry rather than directing regulatory actions based on budget needs.

#### Centralized Services / Strategic Partnership Agreements

Centralization and Partnership agreements with internal servicing agencies.

We now have a complete portfolio of partnership agreements with our internal servicing agencies for the following activities:

- Accounting Services
- IT development and resource billed services
- Procurement
- Lease Car Management
- Human Resource services

The benefit of these agreements is that they strengthen separation of duties and internal control processes and put the transaction processing in the hands of the authority that sets policy over those transactions which increases compliance with state policies and reduces audit risk. The value add of these partnerships was most apparent as we worked together with these strategic partners in a thoughtful way to manage through the COVID crisis.

Many of our operating processes needed to be modified or changed due to the COVID crisis. Because these agreements were in place, we have been able to manage through this crisis in a better way.

For example, well before the Covid crisis, because we partnered with STS early on to address technical debt and security, we had fully implemented AWS and began operating with laptops vs desktops and was pulse secure enabled on all laptops.

Therefore, when all employees were required to transition to AWS in March, we had already implemented this to more than 90 percent...the exception being central office personnel. We are now operating with only 1 essential employee coming to office for 2-4 hours per day to work incoming mail and shipments and outgoing shipments of supplies.

### **Legislative Accomplishments**

The Department worked in close partnership with the Legislature and Governor Lee's Administration to facilitate the passage of Public Chapter 581 of the Acts of 2020, representing a significant improvement to Tennessee law regarding financial institutions. Public Chapter 581 updated the Tennessee bank examination confidentiality statute (T.C.A. § 45-2-1603) to allow the Commissioner to, in the Commissioner's discretion and the interest of sound banking regulation, publicly disclose written agreements jointly issued to banks by the Commissioner and the FDIC or the Federal Reserve. This change should better enable the Department to issue written agreements jointly with the applicable federal banking agency, ideally embodying a more streamlined approach, allowing Tennessee banks to efficiently focus on the most critical issues at hand and ultimately resulting in a reduction of regulatory burden that would be associated with a separate and additional written agreement issued by a federal banking agency.

**Question 8: Does the department share regulatory responsibilities with a federal entity? How do the state department and the relevant federal agency divide their respective regulatory duties?**

**Answer:** Yes.

**Answers regarding the division of regulatory duties:**

**Bank Division:**

The Bank Division works closely with its federal, regulatory counterparts including the Federal Deposit Insurance Corporation (“FDIC”), Federal Reserve System (“FRS”), and Consumer Financial Protection Bureau (“CFPB”). Either the FDIC or one of the Federal Reserve Banks (“FRB”) serve as the primary federal regulator for each of the banks chartered by TDFI, and those federal agencies share responsibility for ensuring their respective banks safety and soundness with the TDFI. The Bank Division works closely with these primary federal regulators to achieve the following:

- Informing each other of developments involving regulated financial institutions
- Alternately or jointly conducting examinations to meet examination frequency mandates, leverage resources efficiently, and reduce regulatory burden
- Communicating on pending applications, notices or consumer issues
- When prudent, speaking with one voice for clarity and to reduce regulatory burden

Many aspects of these working relationships are formalized within agreements with the FDIC, FRB of Atlanta and FRB of St. Louis. Additionally, TDFI has information sharing agreements with the Office of the Comptroller of the Currency (“OCC”) and the Financial Crimes Enforcement Network (“FinCEN”) that are primarily in place for application and Bank Secrecy Act purposes, respectively.

The Bank Division also works with federal counterparts in the area of compliance with consumer protection laws and regulations.

**Credit Union Division:**

The TDFI Credit Union Division is the primary regulator for all state-chartered credit unions in Tennessee. All examinations performed are led by TDFI. We work closely with the National Credit Union Administration (NCUA), the federal insurer of credit union deposits. The TDFI and NCUA, each year, develop a schedule for joint examinations on certain credit unions based on the risk of institutions. Otherwise, TDFI examines state-chartered credit unions and shares the exam results with the NCUA. If a formal enforcement action is needed for a significantly troubled credit union, NCUA typically looks to the TDFI to issue that action. The work performed by our examiners is respected due to the experience levels indicated in the above bullet point.

**Compliance Division:**

The Consumer Financial Protection Bureau (“CFPB”), established by the federal Consumer Financial Protection Act (the “CFP Act”), is an independent bureau with authority to regulate the offering and provision of consumer financial products or services. The Conference of State Bank Supervisors (“CSBS”) represents various state authorities that supervise institutions and other persons engaged in the offering and provision of consumer financial products and services. In 2011, the CFPB and CSBS and other parties, including this Department, entered into a memorandum of understanding to establish a framework for the parties to establish and enhance the cooperative relationship between the CFPB and state regulators. In 2013, the same parties, including this Department, collaborated on a framework to achieve examination

efficiencies and to avoid duplication of time and resources expended. In the normal course of supervision, the majority of examinations covered under the framework are examinations performed on large multi-state entities. The parties continue to independently conduct examinations that are outside the scope of the framework, and, in order to minimize regulatory burden and overlapping examination efforts, the parties share proposed examination schedules for independent examinations on at least an annual basis. The Department has participated in one multi-state examination with the CFPB.

**Question 9: How do the state and federal agencies ensure that all banking entities are covered by the regulatory purview of either a state or federal banking oversight agency?**

**Answers:**

**Bank Division:**

The Bank Division works closely with its federal, regulatory counterparts including the FDIC, Federal Reserve System (“FRS”), and Consumer Financial Protection Bureau (“CFPB”). Our primary federal counterparts currently are the FDIC, Federal Reserve Bank (“FRB”) of Atlanta, and FRB of St. Louis. Bank Division personnel are generally communicating with their respective counterparts in these agencies daily on a variety of topics including, without limitation:

- Banks’ financial conditions or initiatives
- Examination scheduling and results
- Expected or pending applications or notices
- Respective agency policies or guidance

There are also regular, formal opportunities for communication including the following:

- Joint examinations involving TDFI examiners working closely with federal examiners and both agencies’ staff communicating together with institution management
- Annual scheduling meetings discussing examination timing and logistics as well as general industry observations, policy matters or other topics that impact both agencies

Additionally, TDFI works cooperatively with the Office of the Comptroller of the Currency (“OCC”), the Financial Crimes Enforcement Network (“FinCEN”), CFPB or other federal agencies as needed in areas such as application processing, Bank Secrecy Act compliance, consumer issues or other matters.

**Credit Union Division:**

Again, the TDFI is the primary regulator and is responsible for the timely examination of all credit unions per statutory guidelines/timeframes. We develop an examination schedule in early December each year for the upcoming calendar year. We contact the NCUA and determine which exams they desire to participate on jointly with us. Those exams are then identified as joint exams on the schedule. The division’s Project Administrator and Administrative Assistant track statutory due dates for our institutions. These dates are provided to the Regional Managers prior to their annual scheduling. In addition, the due dates are tracked regularly throughout the year, with a monthly report of all exams due in the next 90 days provided to the managers so that they are able to check their schedules and make sure all institutions are examined timely.

**Question 10: Does the department have procedures in place to receive and review complaints from members of the public regarding banking practices that may violate statute, rule, or regulation? Please explain how consumers are made aware of the process for filing a complaint, how the department processes complaints, how the**

**complaints are investigated, how such complaints are resolved, and what actions the department may take.**

**Answer:** Yes, the Department has procedures in place to receive and review consumer complaints from members of the public. The Consumer Resources Section (CRS) was established in 2003, and its primary focus is to receive and review consumer complaints submitted against financial institutions regulated by the Department. CRS consists of an administrator and two examiners.

A consumer who has an issue involving a financial institution regulated by the Department may file a complaint with the Department in various ways:

- **Online**-A consumer may file a complaint directly online from the link found on the CRS section of the Department's website at <https://first.tn.gov/Complaints/UI/Default.aspx>.
- **Email**-A consumer may email complaint information to CRS using the CRS email address at [TDFI.ConsumerResources@tn.gov](mailto:TDFI.ConsumerResources@tn.gov). In response to the email, CRS staff will provide to the consumer a PDF of the consumer complaint form or the link to the online consumer complaint form.
- **Fax**-The Department currently offers facsimile services for those consumers without internet access and a consumer may file a consumer complaint form by using the fax number referenced on the PDF of the consumer complaint form or on the CRS section of the Department's website.
- **Mail**-If a consumer is without either internet or fax access, a consumer may mail a consumer complaint directly to the Department.
- **Referrals**-Consumer complaints involving financial institutions regulated by the Department are referred to the Department by federal agencies, including the Consumer Financial Protection Bureau (CFPB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Board of Governors (FRB) and the National Credit Union Administration (NCUA). Tennessee state agencies and other state banking and financial institutions regulators also refer consumer complaints to the Department. Moreover, the Department receives consumer complaints through the Governor's Constituent Service Office IQ System. Additionally, federal and state legislators refer to the Department constituent complaints involving financial institutions regulated by the Department.

Once the Department receives a consumer complaint, the CRS administrator will conduct an initial review of the consumer complaint. If the CRS administrator, during this initial review, determines that the complaint, on its face, raises potential statutory violations or that the financial institution named in the complaint has been cited for a similar violation in its most recent examination, the CRS administrator will then discuss the complaint with the appropriate regulatory division for direction on whether CRS should proceed with its consumer complaint process or whether the regulatory division may instead determine to take other action to address the consumer complaint. All consumer complaints are entered into the CRS consumer complaint database, tracked through closing and viewable by CRS and other authorized Department staff.

Note that there are circumstances where CRS may not become involved in the resolution of a consumer complaint. If a consumer complaint involves a financial institution outside of the regulatory jurisdiction of the Department, CRS will direct the complaint to the appropriate regulator and notify the consumer of the referral. Also, if an initial review of the consumer complaint indicates that the consumer is involved in active litigation on the allegations raised in

the complaint, CRS will notify the consumer that it cannot become involved in the complaint.

In general, and in most cases, where no statutory violation issue is initially noted and even in instances where a statutory violation issue is noted, the CRS administrator will assign the complaint to a CRS examiner for handling. CRS will then send the complaint and all supporting documentation to the financial institution identified in the complaint for response and request that the financial institution provide a written response, including any supporting documentation, to the Department and to the consumer within fifteen (15) business days.

When CRS receives the financial institution's response to the consumer complaint, CRS reviews the response to determine whether the response fully addresses the consumer's complaint, consulting with the appropriate regulatory division or the legal section as needed. In some instances, a determination is made that additional information is needed and CRS will follow up and request that information. After CRS receives all needed information, CRS may then determine, again consulting with the appropriate regulatory division or legal section as needed, that the financial institution has addressed the consumer's complaint. If this determination is made, CRS will close the consumer complaint file, send a letter to the consumer explaining the outcome of the review and include, with the letter, a copy of the financial institution's response. If, however, CRS makes the determination that a statutory violation may have occurred, CRS will then close its consumer complaint file, refer the matter to the appropriate regulatory division, and inform the consumer of the referral.

In circumstances where the allegations in the consumer complaint appear to require more immediate action (such as where foreclosure or repossession is imminent), CRS requests that the financial institution provide an expedited response so that CRS can more quickly determine whether the financial institution's action is consistent with statute or, if a determination cannot be made immediately, whether the financial institution might postpone the action to allow more time for review. CRS, depending on the outcome of its review, will, following the same process set forth above, either close the complaint for no statutory violation or refer the consumer complaint to the appropriate regulatory division.

Most consumer complaints are resolved through this consumer complaint process-whether through a letter to the consumer explaining that no statutory violation has occurred or, in some instances, a financial institution, in its response to the Department, may indicate that it has addressed the consumer's complaint, through, for instance, making refunds, crediting the consumer's account, or waiving fees.

If a consumer complaint is forwarded to a regulatory division for further review because a statutory violation may have occurred, the regulatory division may take any number of actions, depending on the circumstances. For instance, a regulatory division may determine to conduct an examination to determine the extent of the statutory violation. Moreover, as a result of any follow up with or examination of the financial institution, the regulatory division may determine to make an enforcement action request to the legal section. An enforcement action may include a request to make consumer refunds, pay civil money penalties, or a request to cease and desist from violating a statute or to suspend or revoke a license to do business. Enforcement actions may be addressed informally between the Department and the financial institution or formally through a consent agreement or even an administrative hearing.

The Department makes consumers aware of the availability of and the process for submitting a consumer complaint to the Department in a variety of ways:

- Department's website. The Department publishes information on how to file a consumer complaint on the Department's website. The Department's website contains a link to the consumer complaint form, <https://first.tn.gov/Complaints/UI/Defaulta.aspx>. A consumer can find this link at several locations on the website: the How Do I? section on

the Department's home page; the CRS drop down menu on the Department's home page; or, CRS' dedicated webpage.

- By telephone: Consumers may directly call the Department on the Department's main reception phone number (615-741-2236); the CRS local line number 615-253-2023, or the CRS Consumer Complaint Hotline number 800-778-4215. Depending on the information provided during the telephone call, CRS will either direct the consumer to the online complaint form information or email the consumer the link to a PDF version of the consumer complaint form. For consumers who do not have internet access, CRS will send the consumer complaint form by mail through the US Postal Service or, in limited circumstances, through fax.
- Community outreach: In addition to addressing consumer complaints, CRS engages in financial education outreach as a presenter, panelist or an exhibitor at any number of events or trainings- ranging from teacher trainings in conjunction with Tennessee Jump\$tart and the Tennessee Commission on Financial Literacy, to participation in Metro Public Schools Parent University, Tennessee State University Financial Education and Awareness Days, Pellissippi State Community College Financial Fair, and Consumer Protection Day on the Hill. CRS' participation in these events gives CRS the opportunity not only to discuss financial education but also the opportunity to provide information regarding the Department's role as the regulator of various types of financial institutions and the process that is available to persons for filing consumer complaints involving these financial institutions.
- Statutory required disclosures: Certain statutes require that licensees make disclosures to borrowers regarding Department contact information for making complaints. Specifically, the Flexible Credit Act, at T.C.A. § 45-12-112(b)(2), and the Title Pledge Act, at T.C.A. § 45-15-110(b)(2), require licensees to provide borrowers disclosures containing the Department's address and telephone number for addressing complaints.
- Other statutory authority: Several of the statutory schemes under which the Department regulates set forth a process for a person aggrieved by the conduct of a licensee to submit a formal written complaint with the Department for investigation: the Flexible Credit Act at T.C.A. § 45 -12-120(a); the Residential, Lending, Brokerage and Servicing Act at T.C.A. § 45-13-404(h); the Deferred Presentment Services Act at T.C.A. § 45-17-117(a); the Check Cashing Act at T.C.A. § 45-18-120; and, the Title Pledge Act at T.C.A. § 45-15-118(c)(1).

**Question 11: Did the department revoke or suspend the charter of any financial institutions in the last three fiscal years? For what reasons did the department revoke or suspend a charter during this timeframe?**

**Answer:** The Department entered an Emergency Order of Suspension in November 2019 against money transmitter licensee, First Global Money, Inc. ("First Global") for violating the Tennessee Money Transmitter Act of 1994, T.C.A. §§ 45-7-201, et seq. (the "Act"). The Act, pursuant to T.C.A. § 45-7-208, requires licensees to maintain a surety bond for the benefit of any claimants against a licensee with respect to their money transmission activity in Tennessee. First Global failed to maintain the required surety bond. Money transmitter licensees are also required, pursuant to T.C.A. § 45-7-212(a)(2), to notify the Department within 15 days of the institution of revocation or suspension proceedings under any other state's money transmission act. First Global also failed to notify the Department that its money transmitter license had been revoked in three other states and suspended in one. First Global did not request a hearing to contest the Emergency Order of Suspension. First Global's money transmitter license expired at the close of business on December 31, 2019.

**Question 12: What reports does the department prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in the last three fiscal years.**

**Answers:**

- Pursuant to T.C.A. § 45-15-108(e) the Department submits a biennial report to the General Assembly that includes an analysis of the rates and terms of title pledge loans and the reasonableness and appropriateness of those rates and terms. Title Pledge Reports were published in 2018 and 2020. (Links are on Department's website)
- Pursuant to T.C.A. § 45-1-119, the Department submits, within sixty (60) days after the end of each calendar year, an annual report to the governor, containing the information required by § 45-1-119, including information regarding rule promulgation, recommendations for legislation, information pertaining to bank transactions, and a combined statement of condition of all state banks. The annual report is posted to the Department's website after the governor orders the report to be published. The Department notifies all members of the general assembly that the report is available on the Department's website or that the Department will provide the members with a hard copy of the report upon request (check on this). Note that the annual report for FY20 will be completed within sixty (60) days of the end of the 2020 calendar year. Below are links to the last three annual reports submitted:

FY19:

<https://www.tn.gov/content/dam/tn/financialinstitutions/new-docs/2019%20Tennessee%20Department%20of%20Financial%20Institutions%20Annual%20Report.pdf>

FY18:

<https://www.tn.gov/content/dam/tn/financialinstitutions/new-docs/2018%20Tennessee%20Department%20of%20Financial%20Institutions%20Annual%20Report.pdf>

FY17:

<https://www.tn.gov/content/dam/tn/financialinstitutions/new-docs/2017%20Annual%20Report%20FINAL%2005%2001%2018.pdf>

- Other Acts require that the Department annually report certain information regarding industries regulated by the Department to the governor and the general assembly: the Industrial Loan and Thrift Companies Act at T.C.A. § 45-5-503; the Tennessee BIDCO Act at T.C.A. § 45-8-225; the Flexible Credit Act at T.C.A. § 45-12-122; and the Deferred Presentment Services Act at T.C.A. § 45-17-119. The Department includes this information in the annual report referenced above.
- Pursuant to T.C.A. § 45-15-109(c)(5), the Department submits to the general assembly a biennial analysis and recapitulation of information submitted to the Department by title pledge lenders regarding the general results of title pledge lending operations. Below are links to the two most recent reports submitted:

2020:

<https://www.tn.gov/content/dam/tn/financialinstitutions/new-docs/2020%20Title%20Pledge%20Industry%20Report.pdf>

2018:

<https://www.tn.gov/content/dam/tn/financialinstitutions/new-docs/TP%20Annual%20Report%202018.pdf>

- Pursuant to T.C.A. § 4-5-230(a), the Department submits a report to the chair of the government operations committee of the senate and the chair of the government operations committee of the house of representatives by July 1 of each year pertaining to policies adopted by the Department in the prior fiscal year. The Department does not publish these reports. However, attached (Exhibit D) are the reports submitted in the last two (2) fiscal years.

**Question 13: Please describe any items related to the department that require legislative attention and a list of your proposed legislative changes.**

**Answer:** There is nothing to report through this report.

**Question 14: Should the department be continued? To what extent and in what ways would the absence of the department affect the public welfare of the citizens of Tennessee?**

**Answer:** The Department should be continued in order to provide Tennessee a voice in the supervision of financial institutions. Otherwise, the supervision of Tennessee banks and other institutions will be ceded to the federal government and with it the ability of the Governor and General Assembly to direct the economic destiny of Tennessee at least to the extent of providing regulatory policy and direction to financial institutions through the state department of financial institutions.

Financial Institutions are economic engines for the Tennessee economy and its citizens. A safe and sound banking system is critical to the day to day commerce that citizens and the business community rely upon and which in turn drives a robust economy especially as we look to recover economically from Covid-19.

Every day in this state, Department personnel are making key regulatory judgments concerning financial institutions with the goal to ensure a sound system while facilitating the ability of institutions to serve the financial needs of citizens.

In summary, the Department engages in 4 key functions:

1. We determine by applications who can enter the banking system.
2. Through a number of avenues but especially examinations, we assess the condition of hundreds of institutions. Fundamentally, we do this by assessing each entity on its own merits and not overlaying a one size fits all standard on each industry. There are no 2 institutions exactly alike and we should assess each institution based on its own merits.

If we are too lax in our exam approach, we can fail to alert some institutions to issues which might hamper their ability to fully serve their communities and on the other hand if we over regulate we can also create an unsafe and unsound regulatory environment and impede economic progress. Therefore, we seek a balanced and tailored regulation.

3. Deploying enforcement actions when needed to help an institution resolve issues. When we encounter an institution that has fallen outside the realm of safe and sound operations, then we will enter into an informal or formal action to partner with an institution to help them get back into a prudent operating position.

The goal is this. When we see issues, we want to put a safety net around that institution in the form of an action that gets to the specific issues of that institution.

What we don't want to do generally speaking is to take individual examination issues and then produce more laws and regulations that affect every institution. That is the kind of over regulation that is costly to the industry and quite frankly can weaken the system.

4. The final part of our overall program is to focus on the consumer. We have a section in our department that is focused on receiving queries or complaints from consumers and we can take those contact opportunities to help consumers for instance understand how to think about credit among other things.

Our staff also works with groups around the state to put on seminars and workshops. Consumer education is critical to a safe and sound system of financial institutions.

In summary, the Department has a very good working relationship with a variety of federal regulatory agencies, but our mission is not necessarily the same mission as that of our federal counterparts. The Department is focused on a balanced regulatory approach that tailors regulation to the individual risk profile of each financial institution so that we can provide the best assessment possible to empower each institution within its unique circumstances to best serve Tennesseans based on the policy direction of our Governor and General Assembly rather than a possible one size fits all approach directed by the federal government.

**Question 15: Please identify the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.**

**Answer:**

Greg Gonzales, Commissioner, TDFI  
Tennessee Tower, 26<sup>th</sup> Floor  
312 Rosa L. Parks Avenue  
Nashville, TN 37243  
(615) 456-2737  
[Greg.Gonzales@tn.gov](mailto:Greg.Gonzales@tn.gov)

**Question 16: Please identify the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.**

**Answer:**

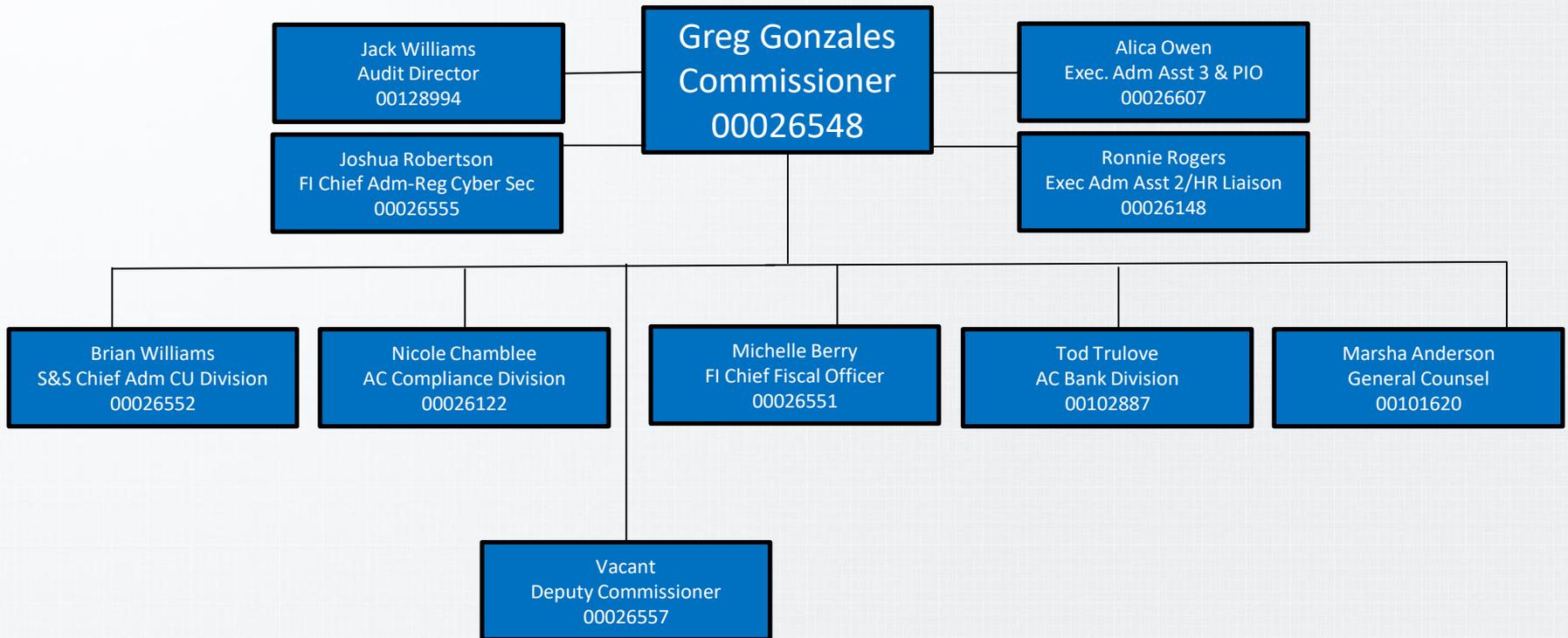
Greg Gonzales, Commissioner, TDFI  
Tennessee Tower, 26<sup>th</sup> Floor  
312 Rosa L. Parks Avenue  
Nashville, TN 37243  
(615) 456-2737  
[Greg.Gonzales@tn.gov](mailto:Greg.Gonzales@tn.gov)

**Question 17: Please provide the office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.**

**Answer:**

Greg Gonzales, Commissioner, TDFI  
Tennessee Tower, 26<sup>th</sup> Floor  
312 Rosa L. Parks Avenue  
Nashville, TN 37243  
(615) 456-2737  
[Greg.Gonzales@tn.gov](mailto:Greg.Gonzales@tn.gov)

# Department of Financial Institutions



**DEPARTMENT OF FINANCIAL INSTITUTIONS**

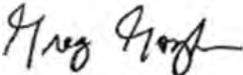
**SECTION:** J

**SUB-SECTION:** J.1

**SUBJECT:** ETHICS

**APPLICATION:** ALL DIVISIONS

**EFFECTIVE DATE:** October 29, 2012 Revised 7/17/2020

**APPROVED BY:** 

I. **POLICY:** This policy statement on employee ethics is issued pursuant to T.C.A. § 45-1-117 (e). All employees of the Department of Financial Institutions perform duties that pertain in some way to the regulation of financial institutions. As such, they are representatives of the department and perform essential services for the citizens of Tennessee and the institutions regulated by the department. Employees must always conduct themselves in a manner to promote personal professionalism and the credibility of the department. Employees should not engage in conduct that presents a conflict of interest or the appearance of a conflict of interest that would compromise the best interest of the department.

II. **DETERMINATION OF INSTITUTIONS REGULATED OR SUPERVISED BY DEPARTMENT:** For the purposes of determining the applicability of T.C.A. § 45-1-117, regulated or supervised institutions include entities chartered, licensed or registered by the Tennessee Department of Financial Institutions. Out-of-state chartered depository institutions that maintain branches in Tennessee are not deemed to be institutions subject to the limitations of T.C.A. § 45-1-117 since any regulatory activity by this department is generally secondary and incidental to the “home state” regulator’s supervision. The

“home state” regulator is the chartering authority of such out-of-state institutions that maintain branches in Tennessee. The “home state” banking departments have the primary responsibility for safety and soundness issues, which is recognized by cooperative “agreements” entered into by state and federal regulators. However, even though the limitations of T.C.A. § 45-1-117 do not apply to “out of state” state-chartered depository institutions, employees are still required to disclose those debts.

**III. DEFINITION OF A CONFLICT OF INTEREST:** A conflict of interest exists whenever a department employee places himself or herself in a position where, for some advantage gained or sought to be gained, the employee finds it difficult, if not impossible, to devote himself or herself with complete energy, loyalty and singleness of purpose to the best interest of the department. The advantage gained or sought to be gained by the employee is something over and above the salary, experience, and opportunity to serve people and the public esteem that they gain from public employment. If an employee has unresolved questions about whether or not a certain activity is a conflict of interest or would give the appearance of a conflict of interest, the activity should be avoided. Any questionable proposed activity should be disclosed and approved before the employee engages in the proposed activity.

**IV. CONDUCT WHICH CREATES A CONFLICT:** An employee should avoid any action, whether or not specifically prohibited by statute or regulation, which might result in or create the appearance of:

1. Using public office for private gain;
2. Giving preferential treatment to any person or organization;
3. Knowingly engaging in criminal or dishonest conduct or other conduct prejudicial to the department;
4. Knowingly taking any extraordinary action which might prejudice the department's interest in a civil or criminal case;
5. Making a government decision outside of official channels;

6. Impeding government efficiency or economy;
7. Losing complete independence or impartiality;
8. Affecting adversely the confidence of the public in the integrity of the department;
9. Using one's official position to harass or intimidate any person or entity;  
or
10. Holding a financial interest that conflicts with the conscientious performance of duty.

**V. CONDUCT PROHIBITED BY TENNESSEE STATUTES:** Tennessee statutes prohibit the following activities:

1. State officials or employees cannot buy confiscated vehicles or intoxicating liquors, except at public auction.

It is unlawful for any employee or employee's agent to buy or offer to buy any motor vehicles or intoxicating liquors seized or confiscated by the state, except by bid at a public auction during the tenure of such person's employment or for six months thereafter. T.C.A. § 12-2-208.

2. State officials may purchase surplus property only at public auction.

It is unlawful for any state employee to purchase from the state except by bid at public auction or by internet auction any surplus property during the tenure of such person's employment or for six months thereafter, even if done on a personal computer or on personal time. T.C.A. § 12-2-412(a).

3. State employees cannot sell to the state.

It is unlawful for any state employee to bid on, or sell, or offer for sale, any merchandise, equipment or material, or similar commodity, to the state during the tenure of his or her employment, or for six months thereafter. T.C.A. § 12-4-103.

4. Certain department employees cannot be indebted to state-chartered financial institutions.

Certain employees must not accept payment from or gratuity from or be indebted to any state-chartered financial institution or engage in the negotiation of loans for others with any such institution. See discussion of financial interests at Section X and discussion of gifts at Section VIII.

5. Department employees may not own stock in state-chartered financial institutions.

Employees must not own stock or securities issued by a financial institution regulated by the department. T.C.A. § 45-1-117. Further, employees must not own stock in a Tennessee bank holding company that has any subsidiaries regulated by the department. See further discussion of this topic in Section X.

6. Department employees must keep information secret.

Employees must keep secret all information acquired by them in the discharge of their duties except as may be otherwise required by law. T.C.A. § 45-1-109.

7. Department employees may not accept gifts from lobbyists or persons employing a lobbyist.

It is unlawful for any employee of the department or their immediate families to accept or solicit a gift from a lobbyist or an employer of a lobbyist except under limited exceptions. T.C.A. § 3-6-101 et seq.

**VI. ETHICS COMMITTEE:** The department shall create a three (3) person ethics committee. Committee members shall serve a two-(2) year term. The commissioner shall appoint persons to serve on the ethics committee.

1. The ethics committee may provide ethics counseling regarding the application of this policy.
2. Employees may seek advice from the ethics committee. Disciplinary action for violating this policy will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of the ethics committee, provided that the employee is seeking such advice, has made full disclosure of all relevant circumstances. Disclosures made by an employee to the ethics committee are not protected by the attorney-client privilege.
3. The ethics committee shall keep written minutes of all meetings. Meetings shall be conducted on an as needed basis.
4. The ethics committee shall review any annual disclosure forms referred to it by division heads and advise the Compliance Officer and the appropriate division heads whether or not the disclosure complies with this Ethics Policy.
5. The ethics committee shall be advisory only. The commissioner retains the final discretion on all matters.

**VII. IMPARTIALITY IN PERFORMING OFFICIAL DUTIES:**

1. All employees are expected to avoid any situation or activity which could give rise to a charge of a conflict of interest or which may impair the independence of their judgment in the exercise of their duties. Accordingly, department employees should not participate in taking any action in an official capacity at any institution regulated by the department where:

- a. The employee or a person with whom the employee has a covered relationship maintains a borrowing relationship (including credit cards) with the institution;
  - b. The employee or a person with whom the employee has a covered relationship maintains stockownership in the institution;
  - c. The employee or a person with whom the employee has a covered relationship maintains stock ownership in the institution's holding company;
  - d. The employee's spouse or a person with whom the employee has a covered relationship is employed by the institution;
  - e. The employee is actively seeking employment with the institution;
  - f. The employee was formerly employed by the institution within the two (2) preceding years; or
  - g. Any other situation exists where the employee or the supervisor may determine that a reasonable person with knowledge of the relevant facts would or could question the employee's impartiality.
2. For purposes of this section, an employee has a covered relationship with the employee's spouse and with a person who is a member of the employee's household that received fifty percent (50%) or more of their support from the employee.
  3. In considering whether a relationship would cause a reasonable person to question his/her impartiality, an employee may seek the assistance of his or her supervisor or the ethics committee. Any exceptions to the above guidelines must receive prior approval and authorization from the head of the employee's division.

The disqualification requirement of this section may be waived based on a determination, made in light of all relevant circumstances, that the interest of the department in the employee's participation outweighs the concern that a reasonable person may question the integrity of the department's programs and operations. Factors which may be taken into consideration include:

- a. The nature of the relationship involved;
- b. The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;
- c. The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- d. The sensitivity of the matter;
- e. The difficulty of reassigning the matter to another employee; and
- f. Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

The division managers shall document in writing any waiver of a disqualification and the justification therefor. This waiver shall be approved by the division head and retained with the examination workpapers.

**VIII. GIFTS, ENTERTAINMENT AND FAVORS:** The following guidelines apply to gifts entertainment and favors:

1. No employee or the immediate family of the employee may accept a gift or anything of value from a lobbyist or an employer of a lobbyist, either directly or indirectly, except under limited exceptions as outlined in T.C.A. § 3-6-305 attached hereto as Attachment A. There have been several Ethics Opinions written interpreting these provisions. If you have any questions you should seek advice from the Department's Ethics Committee.
2. No employee shall solicit or accept, directly or indirectly, on behalf of himself or herself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee, or any other thing of monetary value, from any person or entity that:
  - a. Has or is seeking to obtain contractual or other business or financial relations with the department;

- b. Conducts operations or activities that are regulated by the department;
- c. Has interests that may give the reasonable impression of being substantially affected by the performance or non-performance of the employee's official duties.

However, an employee may accept unsolicited social and business courtesies having a value of less than fifty dollars (\$50) (e.g. meals, refreshments, beverages, etc.) from a non-lobbyist when in the judgment of the employee, neither the employee nor the department would be compromised or appear to be compromised thereby. For instance, courtesies from institutions or groups which are or may be subject to regulatory actions by the department or which seek approvals from the department should be avoided. Further, no employee should accept a meal or other unsolicited social or business courtesy from an entity during the course of an examination.

**IX. OUTSIDE EMPLOYMENT AND ACTIVITIES:** An employee should not engage in any outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his governmental employment whether on his own behalf or for private individuals, firms, companies, institutions, or federal or local governments. Incompatible activities include, but are not limited to:

1. Outside employment or activities which impair an employee's physical or mental capacity to perform his duties in an acceptable manner or prevent him or her from rendering full time service;
2. Outside work or activity which may be construed by the public to be official acts of the department or of a nature closely paralleling the work of the department;
3. Outside work or activity related to governmental duties which involves participation in a commercially sponsored advertisement;

4. Outside work or activity which may involve the use of information secured as a result of employment in the department to the detriment of the public service;
5. Any outside work or activity which may tend to bring criticism on or cause embarrassment to the department;
6. Employees may not accept honorarium or other compensation for activities which are, or should be, performed as part of their official duties;
7. Employees shall not accept or maintain outside employment with a business that is regulated or supervised in any manner by the department;
8. Employees shall not represent anyone other than the department as an expert witness, unless authorized by the commissioner or commanded by law or court order. This prohibition applies even if there is no compensation involved; and
9. No employee licensed as an attorney shall represent any client in any matter adverse to the State of Tennessee.

**X. FINANCIAL INTEREST:** The following guidelines apply relative to financial interest:

1. Generally, no employee of the department shall be indebted to any institution regulated by the department or engage in the negotiation of loans for others with any regulated institution. However, there are a few statutory exceptions: mortgage loans upon a residence; certain dealer paper; and revolving credit. See paragraph 4 below for further guidance. Also, the Ethics FAQs provide some examples for further explanation. All employees subject to this prohibition shall file annually a written disclosure statement. The disclosure statement shall be reviewed by each employee's division head for compliance with this policy. If a division head has any questions concerning whether a disclosure complies with this policy, the division head shall refer the disclosure

form to the ethics committee. This prohibition shall not apply to employees who hold clerical or support staff positions. The following department classifications are identified as clerical or support staff classifications and are exempt from filing the disclosure statement: Administrative Services Assistant 1, Administrative Services Assistant 2, Administrative Services Assistant 3, Administrative Assistant 3, Executive Secretary, Executive Administrative Assistant 1, Information Resource Support Specialist, Legal Assistant, Human Resources Technician 2, Administrative Assistant 1, Information System Analyst, Accounting Technician 1.

2. Clerical or support staff personnel, while exempt from filing an annual disclosure statement, shall be given notice annually of T.C.A. § 8-50-506. This section provides that an employee or an immediate family member of an employee which has a financial interest exceeding five thousand dollars (\$5,000) which would constitute a conflict of interest or potential conflict of interest shall disclose such interest to their supervisor.
3. Employees may be a depositor or a lessor of safe deposit boxes in institutions regulated by the department so long as the relationship is on the same terms as are available to the public generally. However, employees with a depository account at a state-chartered institution shall take all necessary precautions to make sure an “impermissible” loan is not made to you to cover any overdrafts.
4. Regardless of the exceptions found in T.C.A. § 45-1-117 (a)(1)(A) – (C): Bank examiners shall not be indebted to state-chartered banks; Credit Union examiners shall not be indebted to state-chartered credit unions; and Compliance examiners shall not be indebted to any institution regulated by the Compliance Division.
5. No employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the State or any of its agencies. In recognition of the fact that many husbands and wives have separate careers, the normal employment compensation of a spouse whose regular, ongoing employer or business has a contractual arrangement with the State shall not be considered a "benefit" to the employee,

provided the contract with the State was procured without any participation, assistance or influence by the employee.

6. No employee shall have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her government duties or responsibilities. "Indirect financial interest" in this case includes a substantial interest on the part of a parent, spouse, or minor child of the employee. This subsection shall not apply to interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests. This subsection shall not apply to ownership of publicly traded stocks or bonds where such ownership constitutes less than two percent (2%) of the total outstanding amount of the stocks or bonds of the issuing entity. If, at the time the employee begins employment with the State or at any subsequent time during State employment, the employee possesses such direct or indirect financial interests prohibited by paragraphs (5) or (6), the employee shall divest of such interest within a reasonable time.
  
7. If the adoption of this policy, change in marital status, commencement of employment, reassignment to another division, the sale of dealer paper in the ordinary course of business, or action affecting the status of the creditor results in an extension of credit prohibited by this section, such extension of credit may be retained by the employee if it is liquidated under the original terms, without re-negotiation. If an otherwise prohibited extension of credit is retained in accordance with this paragraph, the employee shall be disqualified from participating in any decision, examination, audit or other action having an impact on the creditor. Notwithstanding the disqualification requirement, the commissioner may determine, pursuant to T.C.A. § 45-1-117(e), that the department's regulatory mandate and the public good outweigh any concern regarding maintenance of the department's regulatory independence in allowing the employee to participate in supervisory matters.

As soon as an employee is aware that an action described in this paragraph has resulted in an otherwise prohibited extension of credit, the

employee shall submit a supplementary disclosure form to his or her division head and the Ethics Committee. Upon receipt of the supplementary disclosure form, the employee's division head shall immediately either 1) recommend to the commissioner that the employee be disqualified from participating in decisions or other actions affecting the creditor or 2) request that the commissioner waive the disqualification requirement and, pending the commissioner's decision, permit the employee to participate in decisions or other actions affecting the creditor.

If the commissioner reviews and accepts the division head's recommendation, the employee shall be disqualified from participating in decisions or other actions affecting the creditor. If the commissioner determines that the department's regulatory mandate and the public good outweigh any concern regarding maintenance of the department's regulatory independence, the disqualification requirement shall be waived with respect to the employee. The Ethics Committee shall notify the division head and the employee regarding any determination made by the commissioner and shall retain all documentation for future reference.

8. An employee may not directly or indirectly own shares or securities issued by an institution regulated or supervised by the department. An employee may not directly or indirectly own shares or securities issued by a bank holding company if the bank holding company has an interest in any institution regulated or supervised by the department.
  - a. It is permissible for an employee or the employee's immediate family to own shares or securities issued by an institution regulated or supervised by the department so long as the ownership or control was acquired prior to the employee's employment with the department, as a change in marital status or through circumstances beyond the employee's control such as inheritance, gift, merger, acquisition or other change in corporate ownership, or prior to the adoption of this policy. However, the employee or the employee's immediate family must divest of any such interest that exceeds two percent (2%) of the total outstanding stocks or bonds of the issuing

entity. Following any such merger, charter change, or other such action, the employee or immediate family member may make no further purchases of securities of such institution other than participating in any future rights offering to existing shareholders in an amount not exceeding their existing percentage of that class of securities held by the employee prior to the offering. If an employee or immediate family member retains securities permitted under these circumstances, the employee shall be disqualified from participating in any decision, examination, audit or other action having an impact on the institution.

- b. An employee may have an indirect interest in securities of an institution regulated by the department which arises through ownership of shares in mutual funds but only if the employee does not own or control two percent (2%) or more of the shares (or other investment units) of the mutual fund. Such an indirect interest in securities of an institution regulated by the department is deemed too inconsequential to affect the integrity of the employee's services to the department.
  - c. A spouse should not purchase shares or securities issued by an institution regulated or supervised by the department except by virtue of the spouse's employment with the regulated institution the spouse may participate in stock ownership plans offered by the spouse's employer. However, the spouse may not acquire more than two percent (2%) of the outstanding amount of the stocks or bonds of the issuing entity.
  - d. Other exceptions to the stock ownership prohibition may be available upon application to the ethics committee and approval by the commissioner.
9. An employee shall not have a financial interest that is so substantial that his/her responsibilities and duties as an employee of the department cannot be rendered in a fair and impartial manner;
10. An employee shall not engage in a financial transaction relying upon information which could be obtained solely through his/her employment;

11. An employee shall not participate in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities or other property for speculative purposes if such action interferes with the proper and impartial performance of his/her duties or brings discredit upon the department;
12. An employee shall not receive any salary or supplementation of his/her department salary from a private source as compensation for his/her services to the department; and
13. An employee who has, or who has an immediate family member with, any financial interest in an institution that could be affected by the department shall annually file a written disclosure statement, unless exempt, pursuant to T.C.A. § 45-1-117.

**XI. USE OF PROPERTY, FACILITIES AND SERVICES: The following guidelines apply to the use of state property:**

1. Employees should not directly, or indirectly, use or allow the use of governmental property, facilities, personnel, supplies or services of any kind including those leased to the department or otherwise paid for by the department for other than approved activities. Employees have a duty to conserve and protect government property; and
2. Employees should not use their official position or departmental purchasing procedures and privileges to make purchases of materials or property for personal use.

**XII. EFFECT OF A CONFLICT OF INTEREST: The following guidelines govern the effect of a conflict of interest:**

1. An employee who has a conflict of interest must immediately eliminate such conflict. Any employee with a conflict of interest is subject to disciplinary action in accordance with Department of Human Resources rules and regulations;

2. All employees, except clerical and support staff employees, who have a potential conflict of interest must disclose such conflict in writing to the commissioner. The disclosure must contain all pertinent information concerning the entity or activity which is regulated or does business with the department including the nature of the activity the employee will be performing; compensation obtained; extent of involvement with the entity; and the time the proposed activities are performed. An employee who fails to make proper disclosure is subject to disciplinary action in accordance with the Department of Personnel's rules and regulations;
3. All employees, except clerical and support staff employees, who have an appearance of a conflict of interest, must eliminate any action which gives rise to the appearance. An employee who fails to eliminate the appearance of a conflict of interest is subject to disciplinary action in accordance with the Department of Personnel's rules and regulations;
4. An employee who violates a statutory conflict of interest is subject to all sanctions provided in the statute and is also subject to disciplinary action in accordance with the Department of Personnel's rules and regulations; and
5. Failure of an employee to abide by this policy may subject the employee to disciplinary action in accordance with the Department of Human Resources rules and regulations.

**XIII. CONFLICT OF INTEREST AS IT PERTAINS TO RELATIVES OR SPOUSES OF EMPLOYEES:** For purposes of this section, the term "relative" shall mean a parent, foster parent, parent-in-law, child, spouse, brother, sister, foster brother, foster sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or other family member who resides in the same household.

1. Employees shall not give preference to the hiring or promotion of a relative in any position with the department;

2. Any employee who has a relative employed by the department or an institution that the department supervises or regulates shall disclose such information to the commissioner;
3. No employee shall supervise the job performance or work activities of a relative; and
4. When as a result of marriage, state employees are in violation of the prohibition of supervising a relative, the violation shall be resolved by a transfer within the department or to another governmental agency or resignation in accordance with T.C.A. § 8-31-104.

**XIV. SEEKING OTHER EMPLOYMENT:** Any employee who is seeking other employment may not participate in any departmental matter that, to his or her knowledge, has a direct effect on a person with whom he or she is seeking employment.

**XV. PUBLICATIONS AND PRESENTATIONS:** The following guidelines relate to publications and presentations by employees:

1. Employees who write articles for publication that touch upon their duties in this department or any activities related to the department should provide these articles to the commissioner for review prior to submission when the employee is identified as being with this office.
2. If any article written by an employee identifies the employee as an employee of the department, the following statement should be added:

*This article represents the opinions of the author(s) and not necessarily those of the Department of Financial Institutions.*

**XVI. POLITICAL ACTIVITIES:** Political activity can interfere with the responsibilities and duties the department has to the people of the State of Tennessee. The department believes that some guidelines are necessary to ensure that the public interest vested in this department is not compromised.

1. Political activities generally permitted are as follows:
  - a. Free expression of opinions in private and in public except when it might impair the operation of this department during working hours;
  - b. Membership in a political party;
  - c. Voluntary contribution, including money or time, for political purposes;
  - d. Participation as a candidate for office. Note other restrictions that follow; and
  - e. Campaign activities on behalf of a candidate during non-working hours or annual leave, such as: working a poll, participating in telephone banks or mailings, headquarters work and similar activities.
  
2. Political activities generally prohibited are as follows:
  - a. Using one's official position or authority to interfere with or influence the nomination or election for any public office or position with any political party. An employee may not use his or her title when engaging in political activity;
  - b. Using one's official position or authority or influence to intimidate, threaten, or coerce any person to vote or contribute money or time;
  - c. Any political activity engaged in by an employee shall be limited to non-working hours or annual leave. Sick leave shall not be used to engage in political activity;
  - d. Political activity shall not occur on state premises; nor at any time shall state equipment and/or property, personnel, or other resources be used in connection with any political activities. Political meetings may not be held in departmental offices; and
  - e. No employee shall distribute or display candidate-related political literature on any state-owned or state-leased property. However, a political bumper-sticker may be attached to an employee's personal vehicle. An employee may not wear on his or her person any indication of political affiliation or support of a particular candidate while on duty if this conduct will compromise the department's appearance of impartiality.

Exhibit C - Fees

		<b>Authority</b>	<b>Amount</b>
<b>Depository Institutions, Trust Companies and BIDCOs</b>			
Fees for Applications and Notifications		T.C.A. § 45-1-107(h)	
	Application to organize a state bank, BIDCO, state savings bank, state trust company or state credit card bank	T.C.A. § 45-1-118(a) T.C.A. § 45-2-204(a)(2) T.C.A. §§ 45-8-207 and 45-8-208 T.C.A. § 45-2-1902(c) T.C.A. § 45-14-111 Rule 0180-7-.08(1)(a)	\$20,000
	Application/Notification to establish branch office for state bank, BIDCO, or state savings bank	T.C.A. § 45-1-118(a) T.C.A. § 45-2-614 T.C.A. § 45-8-207 T.C.A. § 45-14-111 Rule 0180-7-.08(1)(b)	\$300
	Application/Notification to relocate main office or branch by state bank, BIDCO, state savings bank	T.C.A. § 45-2-218(a) T.C.A. §§ 45-8-207 and 45-8-211 T.C.A. § 45-14-111 Rule 0180-7-.08(1)(c)	\$300
	Application to relocate state trust institution office	T.C.A. § 45-2-218(a) Rule 0180-7-.08(1)(d)	\$300
	Application to form interim bank	T.C.A. §§ 45-2-204 and 45-2-1403 Rule 0180-7-.08(1)(e)	\$1000
	Application for merger where resulting institution is a state bank, state savings bank, state trust company, and BIDCO and any change of control application	T.C.A. § 45-2-103(a)(3)(B) T.C.A. §§ 45-2-1303 and 45-2-1304 T.C.A. § 45-14-111 T.C.A. §§ 45-8-207 and 45-8-214 Rule 0180-7-.08(1)(f)	\$5000
	Application for acquisition where resulting institution will be a state bank, state savings bank, BIDCO, or state trust company	T.C.A. §§ 45-8-207 and 45-8-214 Rule 0180-7-.08(1)(g)	\$5000

Exhibit C - Fees

	Application to convert to state bank, state savings bank or state trust company	T.C.A. §§ 45-2-1303 and 45-2-1307 T.C.A. § 45-11-105(c) T.C.A. § 45-14-111 Rule 0180-7-.08(1)(h)	\$3000
	Application for purchase and assumption of less than substantially all assets of a bank by a state bank, state savings bank or BIDCO	T.C.A. § 45-8-207 Rule 0180-7-.08(1)(i)	\$500
	Licensing fee for BIDCO per location	T.C.A. § 45-8-207 T.C.A. § 45-8-208 Rule 0180-7-.08(1)(j) Rule 0180-18-.02(3)	\$500
	Securities activity application by state bank, state savings bank or state trust company	T.C.A. § 45-2-1803 T.C.A. § 45-14-111 Rule 0180-7-.08(1)(k)	\$1000
	Filing fee for state trust institution to establish or acquire trust office	T.C.A. § 45-2-1013(a) Rule 0180-7-.08(1)(l)	\$500
	Application for private trust company status	T.C.A. § 45-2-2002(a)(1)(A) Rule 0180-7-.08(1)(m)	\$1000
	Annual certification for private trust company exempt status	T.C.A. § 45-2-2002(b)(2) Rule 0180-7-.08(1)(n)	\$250
	Filing fee for conversion from private trust company to public trust company	T.C.A. § 45-2-2004 Rule 0180-7-.08(1)(o)	\$10,000
	Charter amendment requiring shareholder approval by state bank or state trust company	T.C.A. § 45-2-218 Rule 0180-7-.05 Rule 0180-7-.08(1)(p)	\$100
	Application to begin exercising fiduciary powers by state bank or state savings bank	T.C.A. §§ 45-2-1001 and 45-2-1002 Rule 0180-7-.08(1)(q)	\$100
	Application by state bank to engage in expanded activity requiring approval under Rule 0180-19-.05	T.C.A. § 45-2-607(d) Rule 0180-19-.05 Rule 0180-7-.08(1)(s)	\$1000

Exhibit C - Fees

	Notice by state bank to establish a loan production office	Rule 0180-31-.03(3)	\$100
<b>Other Bank Fees</b>			
	Bank assessment fee	T.C.A. § 45-1-118(b) Chapter 0180-21 of the Rules of the Department of Financial Institutions	
	Services of Department examiners paid by other bank supervisory agency or by out-of-state bank	T.C.A. § 45-2-1408(d)	Reasonable rate of compensation
<b>Other Trust Company Fees</b>			
	Trust company annual fee	T.C.A. § 45-1-118(c)(2)	\$1000 for each office
	Trust company examinations	T.C.A. § 45-1-118(c)(2)	Actual expenses
<b>Other BIDCO Fees</b>			
	Examination fees for actual personnel and travel expenses and for third parties retained to assist	T.C.A. §§ 45-8-207 and 45-8-216 Rule 0180-18-.02(3)(d)	
<b>Credit Union Fees</b>			
	Credit Union annual supervision fee	T.C.A. §§ 45-4-1002(c) and 45-4-1210	
	Merger with other credit union	T.C.A. § 45-4-903(f)	\$300
<b>Non-depository Institutions Regulated by Compliance Division</b>			
	Annual supervision fee, for following persons regulated and supervised by the Compliance Division	T.C.A. § 45-1-118(i)	
	Industrial loan and thrift companies	T.C.A. § 45-5-202(b) - initial application; T.C.A. § 45-5-203 - renewal	
	Flex loan companies	T.C.A. § 45-12-106(a)(1) - initial application;	

Exhibit C - Fees

		T.C.A. § 45-12-109(a) - renewal	
	Mortgage lenders, mortgage loan brokers, mortgage loan servicers	T.C.A. § 45-13-203(a)(1)(C) - initial application; T.C.A. § 45-13-203(c)(1) - renewal	
	Title pledge lenders	T.C.A. § 45-15-106(d)(1) - initial application; T.C.A. § 45-15-106(i) - renewal	
	Deferred presentment services providers	T.C.A. § 45-17-106(a)(1) - initial application; T.C.A. § 45-17-110(a) - renewal	
	Check cashers	T.C.A. § 45-18-107(1) - initial application; T.C.A. § 45-18-109(a)(1) - renewal	
	Premium finance companies	T.C.A. § 56-37-104(a) - initial application; T.C.A. § 56-37-103(b)(1) - renewal	
Other Industrial Loan and Thrift Company Fees			
	Substitute certificate of registration	T.C.A. § 45-5-206 Rule 0180-32-.01	\$25
	Examination fees for registrants assessed pursuant to T.C.A. § 45-1-118(i)	T.C.A. § 45-5-502	
	Examination fees for unregistered persons	T.C.A. § 45-5-502	Reasonable and actual expenses
Other Flex Loan Company Fees			
	Examination fees for licensees assessed pursuant to T.C.A. § 45-1-118	T.C.A. § 45-12-115(c)	
	Examination fees for unlicensed persons	T.C.A. § 45-12-115(c)	Reasonable and actual expenses

Exhibit C - Fees

Other Mortgage Company Fees			
	Examination fees for licensees assessed pursuant to T.C.A. § 45-1-118(i)		
	Examination fees for unlicensed persons	T.C.A. § 45-13-404(f)	Reasonable and actual expenses
	Substitute license fee	T.C.A. § 45-13-107 Rule 0180-17-.10	\$25
Mortgage Loan Originator Fees			
	Initial application/license fee	T.C.A. § 45-13-302(a)	\$100
	Sponsorship fee	T.C.A. § 45-13-303(b)	\$100
	License renewal fee	T.C.A. § 45-13-306(a)(3)	\$100
	Substitute license fee	T.C.A. § 45-13-107 Rule 0180-17-.10	\$25
Other Title Pledge Lender Fees			
	Examination fees for licensees assessed pursuant to T.C.A. § 45-1-118(i)	T.C.A. § 45-15-108(b)	
	Examination fees for unlicensed persons	T.C.A. § 45-15-108(b)	Reasonable and actual expenses
Other Deferred Presentment Services Provider Fees			
	Examination fees for licensees assessed pursuant to T.C.A. § 45-1-118(i)	T.C.A. § 45-17-111(c)	
	Examination fees for unlicensed persons	T.C.A. § 45-17-111(c)	Reasonable and actual expenses
Other Check Cashier Fees			
	Amended license	T.C.A. § 45-18-110(e)	\$50
	Examination fees for licensees assessed pursuant to T.C.A. § 45-1-118(i)	T.C.A. § 45-18-113(a)	

Exhibit C - Fees

	Examination fees for unlicensed persons	T.C.A. § 45-18-113(b)	Reasonable and actual expenses
Other Premium Finance Company Fees			
	Examination fees for licensees assessed pursuant to T.C.A. § 45-1-118(i)	T.C.A. § 56-37-103(e)	
	Examination fees for unlicensed persons	T.C.A. § 56-37-103(e)	Reasonable and actual expenses
Money Transmitter Fees			
	Initial application/license	T.C.A. §§ 45-7-209 and 45-7-210	\$250 for 5 or fewer agents; \$500 for more than 5 agents
	License renewal	T.C.A. § 45-7-211(a) Rule 0180-26-.02	\$50 for each office if no more than 4 locations; \$500 plus \$12 for each office in excess of 5
	Examination fees for licensees or authorized or apparent agents	T.C.A. § 45-7-214(a)	Reasonably incurred costs
Home Equity Conversion Mortgage Act	Application for authorization to make reverse mortgage loans	T.C.A. § 47-30-103(c) Rule 0180-24-.04(2)(a)	\$500
<b>Other Fees</b>			
	Special assessment-costs of examination of financial institutions and subsidiaries and affiliates, beyond routine, periodic examinations	T.C.A. § 45-1-118(f)(1) Chapter 0180-21 of the Rules of the Department of Financial Institutions	
Special Purpose Entities	Initial fee and annual fee	T.C.A. §§ 35-15-1301(b)(11) and 35-15-1301(b)(12)	\$1000

Exhibit C - Fees

Civil money penalties			
	Tennessee Banking Act	T.C.A. § 45-1-108(c)	\$500 per day for violation of order
	Industrial Loan and Thrift Companies Act	T.C.A. § 45-5-504(3)	Up to \$10,000 for each violation
	Money Transmitter Act	T.C.A. § 45-7-223	Up to \$1000 for each violation or for each day of a continuing violation
	Tennessee BIDCO Act	T.C.A. § 45-8-219	Up to \$10,000 for each violation or for each day of a continuing violation
	Flex Loan Act	T.C.A. § 45-12-117(3)	Up to \$1000 for each violation or for each day a violation occurs
	Residential Lending, Brokerage and Servicing Act	T.C.A. § 45-13-405(a)(3)	Up to \$10,000 for each violation
	Title Pledge Act	T.C.A. § 45-15-118(a)(3)	Up to \$1000 for each violation or for each day a

Exhibit C - Fees

			violation occurs
	Deferred Presentment Services Act	T.C.A. § 45-17-115(3)	Up to \$1000 for each violation or for each day a violation occurs
	Check Cashing Act	T.C.A. § 45-18-117(2)	Up to \$1000 for each violation or for each day of a continuing violation
	Home Equity Conversion Mortgage Act	T.C.A. § 47-30-116	Up to \$1000 for each violation subject to cease and desist order
	Premium Finance Company Act	T.C.A. § 56-37-105	Up to \$200 for each offense in lieu of license suspension or revocation

## Exhibit D - Policy Reports

QUESTION 12-PUBLIC CHAPTER 929, FY 19



STATE OF TENNESSEE  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**  
TENNESSEE TOWER, 26<sup>TH</sup> FLOOR  
312 ROSA L. PARKS AVENUE  
NASHVILLE, TENNESSEE 37243  
(615) 741-2236 FAX (615) 253-7794

**BILL LEE**  
GOVERNOR

**GREG GONZALES**  
COMMISSIONER

July 1, 2019

The Honorable Martin Daniel  
House Government Operations Committee, Chairman  
425 5th Avenue North  
Suite 526 Cordell Hull Bldg.  
Nashville, TN 37243

RE: Public Chapter 929  
List of Adopted Policies for FY 2018-2019

Dear Chairman Daniel,

Pursuant to Public Chapter 929 of the Public Acts of 2018, the Department of Financial Institutions is submitting the attached list.

If you have any questions, please contact our Legislative Liaison, Todd Staley, by phone at 615-428-2184 or by email at [todd.staley@tn.gov](mailto:todd.staley@tn.gov).

Sincerely,

A handwritten signature in blue ink that reads "Greg Gonzales".

Greg Gonzales

GG/tas



**BILL LEE**  
GOVERNOR

STATE OF TENNESSEE  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**  
TENNESSEE TOWER, 26<sup>TH</sup> FLOOR  
312 ROSA L. PARKS AVENUE  
NASHVILLE, TENNESSEE 37243  
(615) 741-2236 FAX (615) 253-7794

**GREG GONZALES**  
COMMISSIONER

Policies Adopted (and amended) from July 1, 2018 through June 30, 2019.

1. Legal Section internal policy regarding enforcement action request files, effective July 9, 2018.\*
2. Administrative Division internal policy regarding collection of bank and credit union assessments, effective January 3, 2019.\*
3. Bank Division internal policy regarding large bank procedures, effective April 30, 2019.\*

\* Pursuant to Tenn. Code Ann. § 4-5-230(b), the information referenced in Tenn. Code Ann. § 4-5-230(a)(2) pertaining to this policy is not included with this list.



**BILL LEE**  
GOVERNOR

STATE OF TENNESSEE  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**  
TENNESSEE TOWER, 26<sup>TH</sup> FLOOR  
312 ROSA L. PARKS AVENUE  
NASHVILLE, TENNESSEE 37243  
(615) 741-2236 FAX (615) 253-7794

**GREG GONZALES**  
COMMISSIONER

July 1, 2019

The Honorable Kerry Roberts  
Senate Government Operations Committee, Chairman  
425 5th Avenue North  
Suite 730 Cordell Hull Bldg.  
Nashville, TN 37243

RE: Public Chapter 929  
List of Adopted Policies for FY 2018-2019

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Greg Gonzales

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**BILL LEE**  
GOVERNOR

STATE OF TENNESSEE  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**  
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QUESTION 12-PUBLIC CHAPTER 929, FY 20



STATE OF TENNESSEE  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**

TENNESSEE TOWER, 26<sup>TH</sup> FLOOR  
312 ROSA L. PARKS AVENUE  
NASHVILLE, TENNESSEE 37243  
(615)741-2236 FAX (615)253-7794

**GREG GONZALES**  
COMMISSIONER

**BILL LEE**  
GOVERNOR

July 1, 2020

The Honorable Martin Daniel  
House Government Operations Committee, Chairman  
425 5th Avenue North  
Suite 526 Cordell Hull Bldg.  
Nashville, TN 37243

RE: Public Chapter 929  
List of Adopted Policies for FY 2019-2020

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Sincerely,

Greg Gonzales

GG/pc



STATE OF TENNESSEE  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**

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**GREG GONZALES**  
COMMISSIONER

**BILL LEE**  
GOVERNOR

Items that may constitute Policies adopted (or amended) from July 1, 2019 through June 30, 2020.

1. Compliance Division internal policy regarding examinations, amended effective October 31, 2019.\*
2. Compliance Division internal policy regarding enforcement action requests, amended effective October 31, 2019.\*
3. Pandemic Planning Guidance, dated March 16, 2020.\*#
4. Interim Guidance Relative to COVID-19 Pandemic, dated March 23, 2020.\*#
5. Joint Bulletin C-20-1/20-05, COVID-19 Guidance Regarding Premium Finance Agreements, Dated April 3, 2020.\*#
6. Department Bulletin regarding Pausing of Examinations, dated April 6, 2020.\*#
7. Department internal Standard Operating Procedures regarding Critical Cyber Incidents, dated May, 2020.\*
8. Department internal Data Security Policies, amended effective May 1, 2020.\*
9. Department internal Continuity of Operations Plan, dated May 31, 2020.\*
10. Department Bulletin regarding examination procedures, dated June 25, 2020.\*#

\* Pursuant to Tenn. Code Ann. § 4-5-230(b), the information referenced in Tenn. Code Ann. § 4-5-230(a)(2) pertaining to this item is not included with this list.

# A copy of this publicly issued document is enclosed with this list.



STATE OF TENNESSEE  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**

TENNESSEE TOWER, 26<sup>TH</sup> FLOOR  
312 ROSA L. PARKS AVENUE  
NASHVILLE, TENNESSEE 37243  
(615)741-2236 FAX (615)253-7794

**GREG GONZALES**  
COMMISSIONER

**BILL LEE**  
GOVERNOR

July 1, 2020

The Honorable Kerry Roberts  
Senate Government Operations Committee, Chairman  
425 5th Avenue North  
Suite 730 Cordell Hull Bldg.  
Nashville, TN 37243

RE: Public Chapter 929  
List of Adopted Policies for FY 2019-2020

Dear Chairman Roberts,

Pursuant to Public Chapter 929 of the Public Acts of 2018, the Department of Financial Institutions is submitting the attached list.

If you have any questions, please contact our Legislative Liaison, Todd Staley, by phone at 615-428-2184 or by email at [todd.staley@tn.gov](mailto:todd.staley@tn.gov).

Sincerely,

Greg Gonzales

GG/pc



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COMMISSIONER

**BILL LEE**  
GOVERNOR

Items that may constitute Policies adopted (or amended) from July 1, 2019 through June 30, 2020.

1. Compliance Division internal policy regarding examinations, amended effective October 31, 2019.\*
2. Compliance Division internal policy regarding enforcement action requests, amended effective October 31, 2019.\*
3. Pandemic Planning Guidance, dated March 16, 2020.\*#
4. Interim Guidance Relative to COVID-19 Pandemic, dated March 23, 2020.\*#
5. Joint Bulletin C-20-1/20-05, COVID-19 Guidance Regarding Premium Finance Agreements, Dated April 3, 2020.\*#
6. Department Bulletin regarding Pausing of Examinations, dated April 6, 2020.\*#
7. Department internal Standard Operating Procedures regarding Critical Cyber Incidents, dated May, 2020.\*
8. Department internal Data Security Policies, amended effective May 1, 2020.\*
9. Department internal Continuity of Operations Plan, dated May 31, 2020.\*
10. Department Bulletin regarding examination procedures, dated June 25, 2020.\*#

\* Pursuant to Tenn. Code Ann. § 4-5-230(b), the information referenced in Tenn. Code Ann. § 4-5-230(a)(2) pertaining to this item is not included with this list.

# A copy of this publicly issued document is enclosed with this list.

To: Chief Executive Officers of State Banks, Credit Unions, and Public Trust Companies

From: Commissioner Greg Gonzales

Date: March 16, 2020

**Subject: Pandemic Planning**

As Tennessee continues to respond to COVID-19, the Department is providing general guidance and highlighting resources in an effort to help financial institutions minimize potential disruptions to services to consumers, businesses, and communities.

To meet Governor Lee's goals to maintain Department operations while taking measures to stem the spread of the disease, the Department is suspending onsite examinations and examiners will be engaged in exams or other supervisory activity offsite until the end of March when we will reassess the situation.

The FFIEC has updated interagency guidance related to Pandemic Planning to remind institutions that business continuity plans (BCPs) should address the threat of pandemic outbreak and the potential impact on the delivery of critical financial services. Unlike business continuity planning, Pandemic Planning is much more difficult to determine because of the anticipated difference in scale and duration. The most significant challenge from a severe pandemic event will likely be staffing shortages due to absenteeism. Additionally, open communication with third parties, especially critical service providers, is an important aspect of Pandemic Planning. Management must have action plans for triggering events, communicate to employees, mitigate risks, and ensure sufficient internal and external capacity is available where needed. Preparation is key in a pandemic event so the need for periodically updating and exercising your plan is crucial for success. See the related links below for the complete guidance.

Additionally, the Department's Bulletin FI-18-01, "Emergency Preparedness Guide," is another resource for state-chartered institutions. It contains answers to frequently asked questions regarding disaster/pandemic events such as temporary closings/relocations, and contact information for Department personnel. It has been attached for your convenience.

The Department is working with Governor Lee and other state agencies to best address this ongoing situation. Externally, the Department continues to work with our partners at the Conference of State Bank Supervisors, National Association of State Credit Union Supervisors, Tennessee Bankers Association, Federal Deposit Insurance Corporation, the Federal Reserve System, National Credit Union Administration, and Tennessee Credit Union League to implement appropriate actions to ensure the safety of the Tennessee financial institution community and all stakeholders.

If you have any questions or concerns, please contact the Department and we would be happy to schedule a call with you.

Related Links

FFIEC Pandemic Guidance

<https://www.ffiec.gov/press/PDF/FFIEC%20Statement%20on%20Pandemic%20Planning.pdf>

CISA COVID-19

[https://www.cisa.gov/sites/default/files/publications/20\\_0306\\_cisa\\_insights\\_risk\\_management\\_for\\_novel\\_coronavirus\\_0.pdf](https://www.cisa.gov/sites/default/files/publications/20_0306_cisa_insights_risk_management_for_novel_coronavirus_0.pdf)

CDC COVID-19

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

Tennessee Department of Health

<https://www.tn.gov/health/cedep/ncov.html>

## Bulletin FI-18-01



**TO: All Tennessee State-Chartered Banks, Trust Companies and Credit Unions**

**SUBJECT: Emergency Preparedness Guide**

**DATE: January 16, 2013 – Updated March 7, 2018 and March 16, 2020**

All state-chartered banks, trust companies and credit unions are required by TDFI Rule 0180-13-.04 to have a contingency plan in place that will minimize disruption of services to the institution and its customers, minimize financial loss and ensure timely resumption of operations in the event of a disaster. This plan should be annually reviewed, and approval noted in the minutes of the Board of Directors. In the event of an emergency, as provided in Tenn. Code Ann. § 45-2-603, banks and trust companies are authorized to take certain actions without the prior approval of the Commissioner. This guide answers a few questions that may be asked in conjunction with a disaster or other emergency. It is being issued in conjunction with a continuing effort by the TDFI to engage the banking and credit union industries in a discussion about emergency preparedness, and to facilitate coordination with the Tennessee Emergency Management Agency. As always, TDFI would appreciate any feedback that might make this guide a more valuable tool for financial institutions.

### FREQUENTLY ASKED QUESTIONS

**1. What should we do if we need to temporarily close an office in conjunction with a disaster or emergency?**

If you find it necessary to close or relocate the main office or a branch location as a result of and/or precaution against an emergency, we ask that you e-mail or fax a written notice to TDFI once it is safe to do so. Prior approval is not necessary, and your immediate concern should be the safety of your employees and any customers. Office closings or relocations based on coronavirus considerations do not require prior Commissioner approval. The notice to TDFI should include which office(s) you have closed or plan to close, and for how long you anticipate the closure to last. The Federal regulators will likely have similar requirements for state-chartered institutions, so please check with your Federal regulator, as applicable, for any requirements of that agency. Notices to TDFI should be sent to:

**Bank and Trust Company Notices:** email to Debra Grissom at [debra.grissom@tn.gov](mailto:debra.grissom@tn.gov). You may also contact Mrs. Grissom with any questions at (615) 741-5018 or (615) 870-7656.

**Credit Union Notices:** email to Brian Williams at [brian.williams@tn.gov](mailto:brian.williams@tn.gov). You may also contact Mr. Williams with any questions at (865) 337-2650.

*Note for non-emergency bank closings: Any non-emergency bank closures lasting more than two (2) consecutive days, not including weekends and legal holidays, require the prior approval of the Commissioner.*

## **2. What if we need to temporarily relocate the main office or a branch office?**

In the event an office suffers damage, it is unnecessary to obtain prior approval from the Commissioner to move to a temporary location in the area. Provide notice to TDFI as soon as practical, using the contact information above. Notice should include the temporary address, contact information and expected timeframes. The institution should also post this information on its website and on signage at the closed office for customers. Please consult with your Federal regulator, as applicable, for any requirements of that agency.

If an office is undamaged but cannot be re-opened due to a lack of services such as electricity or security, consider posting signage at the closed location directing customers to other operational branches or institutions in the area. Consider also providing notice of any special services in place during an emergency (for example, a waiver of foreign ATM fees, availability of emergency loans, etc.).

## **3. What will TDFI do during a major state emergency?**

All Tennessee state agencies, including TDFI, have contingency plans in place to continue operations during and after a major state emergency. As part of its response, TDFI may send its Emergency Services Coordinator (ESC) to the Tennessee Emergency Management Agency (TEMA) to coordinate with other state agencies and relay critical information back to TDFI.

TDFI may communicate pertinent information to institutions via text, voice, or email using the Emergency Communication System (see below). Affected institutions may be contacted directly to assess their level of damage and critical needs. In addition, TDFI will coordinate with the Federal regulators and industry associations in organizing and offering assistance.

If you are contacted directly by TDFI, the individual contacting you will identify themselves as an employee of TDFI. Please provide them with the status of your institution and inform them of any immediate needs. We will try to assist in any way possible.

#### 4. What should institutions include in their contingency plan?

As indicated above and required by TDFI rule, banks, credit unions and trust companies should have a contingency plan in place that will minimize disruption of services to the institution and its customers, minimize financial loss and ensure timely resumption of operations in the event of a disaster. Guidance on what such a plan should entail can be found in the Federal Financial Institutions Examination Council's (FFIEC) Information Technology Examination Handbook, available on the FFIEC's IT examination website (<http://ithandbook.ffiec.gov/>). In addition, the FFIEC, in conjunction with the Conference of State Bank Supervisors, has posted guidance on preparing your institution for a catastrophic event using lessons learned from Hurricane Katrina and other types of emergencies, which may be found at the following website: <http://www.fdic.gov/regulations/resources/lessons/>. There are many issues addressed on this website that an institution should consider in preparing for an emergency and in drafting its contingency plan. Finally, the National Credit Union Administration (NCUA) has posted a letter on its website regarding "Disaster Recovery and Business Resumption Contingency Plans" that contains contingency plan best practices.

#### 5. Resources

It is especially important to become familiar with the county emergency management director in each area your institution operates. These directors and their offices will be a tremendous asset to your institution for information on evacuations, re-entry, credentialing, and many other topics in a time of need. Contact information for local emergency personnel can be found on the TEMA website. That website, as well as websites and phone numbers for other agencies that may be relevant to your emergency issues, can be found below:

- TEMA – Tennessee Emergency Management Agency – website contains contact list for county emergency management directors, as well as a link to download the ReadyTN mobile application.  
<https://www.tn.gov/tema/>; T: (615) 741-0001
- TDFI – Tennessee Department of Financial Institutions – additional contact information for individuals below.  
<http://www.tn.gov/tdfi> ; T: (615) 741-2236
- Federal Reserve Bank – in the event of a disaster, check the website for availability of cash, check services, automated clearing house, and discount window. In addition, the Fed has a website with continuity information for Federal Reserve services in the event of a business disruption, including steps to prepare for such a disruption.  
[www.stlouisfed.org](http://www.stlouisfed.org) ; T: (314) 444-8444  
[www.frbatlanta.org](http://www.frbatlanta.org) ; T: (404) 498-8500  
<https://www.frbatlanta.org/banking-and-payments/business-continuity.aspx>

- FDIC – Federal Deposit Insurance Corporation  
[www.fdic.gov](http://www.fdic.gov); T: (901) 326-7392 (Nashville, TN office); (972) 761-2900 (Dallas, TX office)
- NCUA – National Credit Union Administration  
[www.ncua.gov](http://www.ncua.gov); T: (703) 518-6300
- FEMA – Federal Emergency Management Agency  
[www.fema.gov](http://www.fema.gov)
- Financial Services Sector Coordinating Council – The FSSCC works closely with the U.S. Treasury Department to maintain a strong public-private partnership to ensure that the critical financial services industry is resilient against manmade or natural disasters.  
[www.fsscc.org](http://www.fsscc.org)

**6. What else should our institution consider in advance of an emergency?**

- Government Emergency Telecommunication Service (GETS) and Wireless Priority Services (WPS) Telephone Priority Services – these services may be used to get your calls through immediately following a disaster. Please consider registering for these services that are available to all financial institutions. Your entire staff is eligible!
- Government Emergency Telecommunication Service (GETS)

The Government Emergency Telecommunication Service (GETS) is a White House-directed emergency phone service provided by the National Communications System (NCS) in the Information Analysis and Infrastructure Protection Division of the Department of Homeland Security. GETS provides emergency access and priority processing in the local and long distance segments of the Public Switched Telephone Network (PSTN). It is intended to be used in an emergency or crisis situation when the PSTN is congested and the probability of completing a call over normal or other alternate telecommunication means has significantly decreased.

GETS is accessed through a universal access number using common telephone equipment such as a standard desk set, STU-III, facsimile, modem, or wireless phone. A prompt will direct the entry of your PIN and the destination telephone number. Once you are authenticated as a valid user, your call is identified and receives special treatment. There is only a minimal cost for making a GETS call. More information can be found at <https://www.fcc.gov/general/government-emergency-telecommunications-service>

- **Wireless Priority Services (WPS)**

Wireless Priority Service (WPS) is the wireless complement to the wired Government Emergency Telecommunications Service (GETS). During times of emergencies, wireless service providers can experience congestion in their networks. Such congestion can severely curtail your ability to make calls with your cell phone. To facilitate the completion of critical calls during these high usage events, WPS enables you to access the next available wireless channel before non-subscribers. It is a priority access queuing system available on most major wireless networks. More information regarding the WPS program can be found at <https://www.fcc.gov/general/wireless-priority-service-wps>

- **Emergency Communication System (ECS)**

TDFI has partnered with the Federal Reserve Bank of St. Louis in launching the Emergency Communications System (ECS) in Tennessee, which is available to all state-chartered banks, trust companies and credit unions.

The ECS allows the TDFI to quickly establish a two-way communication channel, provide key updates, ascertain the operational status of an institution, and provide ongoing updates during an emergency/disaster situation. TDFI can authorize the ECS Support Center to send messages to institutions using voice, text or email. The ECS can poll institutions, track responses from institutions, and provide regulators with an update on the status of institutions during a crisis.

The ECS is tested by the TDFI and Federal Reserve twice a year. TDFI urges all state-chartered banks, trust companies and credit unions to register for this valuable service if they have not already. More information regarding the ECS System can be found at <https://bsr.stlouisfed.org/ecs>.

**7. Questions regarding this Bulletin should be addressed to the Department's Emergency Services Coordinator, Wade McCullough, at (865) 466-1184, [wade.mccullough@tn.gov](mailto:wade.mccullough@tn.gov).**

**Greg Gonzales  
Commissioner**

## **APPENDIX – TDFI CONTACT INFORMATION**

Name	Title	Office No.	Cell No.	Email Address
<b><u>Bank Division</u></b>				
Tod Trulove	Assistant Commissioner	615-741-5604	615-289-2156	tod.trulove@tn.gov
Todd Rice	Chief Administrator		615-944-6342	todd.rice@tn.gov
Debra Grissom	Chief Administrator of Applications	615-741-5018	615-870-7656	debra.grissom@tn.gov
Wade McCullough	Chief Administrator of Trust	615-741-5961	865-466-1184	wade.mccullough@tn.gov
Mike Sisk	Manager (middle TN)		615-268-7885	mike.sisk@tn.gov
Danny Nolen	Manager (west TN)		731-394-2877	danny.nolen@tn.gov
Jessica Huff	Manager (east TN)		865-244-7148	jessica.huff@tn.gov

### **Credit Union Division**

Brian Williams	Chief Administrator		865-337-2650	brian.williams@tn.gov
Memory Little	Applications Analyst		615-693-2822	memory.little@tn.gov
Jim Eller	Manager (west/middle TN)		615-490-2060	jim.eller@tn.gov
Matthew Adkison	Manager (east TN)		615-490-5548	matthew.adkison@tn.gov

### **Compliance Division**

Nicole Chamblee	Assistant Commissioner		865-591-5155	nicole.chamblee@tn.gov
Jack Lay	Regional Director		865-765-6277	jack.lay@tn.gov
David Axford	Chief Administrator	615-253-2862	615-268-6329	david.axford@tn.gov



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(615)741-2236 FAX (615)253-7794

**GREG GONZALES**  
COMMISSIONER

**BILL LEE**  
GOVERNOR

To: All Non-Depository Companies, Branches, and Individuals Licensed/Registered by the Department's Compliance Division

From: Greg Gonzales

Date: March 23, 2020

Re: Interim Guidance Relative to COVID-19 Pandemic

As Tennessee continues to respond to the COVID-19 pandemic, the Tennessee Department of Financial Institutions is issuing this interim guidance to all non-depository financial institutions and individuals licensed or registered with the Compliance Division.

In general, please be reminded that business continuity plans (BCPs) should address the threat of pandemic outbreak and the potential impact on the delivery of financial services. Unlike business continuity planning, pandemic planning is much more difficult to determine because of the anticipated difference in scale and duration. The most significant challenge from a severe pandemic event will likely be staffing shortages due to absenteeism. Additionally, open communication with third parties, especially critical service providers, is an important aspect of pandemic planning. Management should have action plans for triggering events, communicate to employees, mitigate risks, and ensure sufficient internal and external capacity is available where needed. Preparation is key in a pandemic event so the need for periodically updating and exercising your plan is crucial for success.

The Department regulates numerous consumer credit licensees and registrants who are required to have a license or certificate of registration for each location from which business is conducted. Specific to all non-depository companies, branches, and individuals licensed or registered by the Department's Compliance Division, this Interim Guidance is intended to facilitate the ability of licensees and registrants to take precautions deemed necessary to avoid the risk of exposure to or transmission of COVID-19. Licensees and registrants will continue to be responsible for supervising their employees and for conducting business in a compliant manner. The Department recognizes that some employees may be asked to work remotely from their residence to help prevent the spread of COVID-19. In such cases, the Department will recognize the decision made by the company to temporarily modify work assignments in order to reduce the risk of exposure to or transmission of COVID-19 during this state of emergency. Members of the public should not travel to an employee's residence to conduct business.

The following best practices are recommended by the Department for employees working remotely in order to ensure that data and information security is maintained:

- All computers and other devices that contain, or are used to access, confidential information should be encrypted and secure.
- Employees should be required to access the licensee's or registrant's secure data system remotely using a virtual private network (VPN) or similar system that requires passwords or other forms of authentication to access.
- All security updates, patches, or other alterations to the individual's access device should be maintained.
- The employee should not keep any physical business records at the remote location.
- Activity should be conducted in a private environment, rather than a public area.

This Interim Guidance is currently effective until further notice, and is subject to change as circumstances warrant.

The Department will entertain any additional deviations from current business operations on a case-by-case basis, and we encourage licensees and registrants to reach out to us to see how we can help them continue to serve the public.

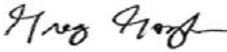
The Department continues to work with Governor Lee and other state agencies to best address this ongoing situation. The Department is also working with other state and federal regulators and the Conference of State Bank Supervisors to implement appropriate actions to ensure the safety and soundness of the Tennessee financial institution community and all stakeholders.

In the meantime, any questions or concerns may be directed to the Department's Compliance Division by telephone, at (615) 253-6714, or by e-mail, at [askmortgage.licensing@tn.gov](mailto:askmortgage.licensing@tn.gov).



**BULLETIN C-20-1**  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**  
**BULLETIN 20-05**  
**DEPARTMENT OF COMMERCE AND INSURANCE**

**TO:** Premium Finance Companies  
Insurance Carriers

**FROM:** Greg Gonzales, Commissioner   
Department of Financial Institutions  
Hodgen Mainda, Commissioner   
Department of Commerce and Insurance

**RE:** COVID-19 Guidance Regarding Premium Finance Agreements

**DATE:** April 3, 2020

The Department of Commerce and Insurance and the Department of Financial Institutions (collectively, "Departments") continue to recognize the impact and the consequences of the efforts of individuals and the business community to limit the spread of COVID-19. The Departments further recognize that premium finance companies licensed under the Premium Finance Company Act, Tenn. Code Ann. §§ 56-37-101, *et seq.* provide an important lending function to individuals and businesses with respect to financing the payment of insurance premiums pursuant to premium finance agreements. Further, the Departments understand that disruptions to normal operations resulting from COVID-19 may result in insureds being unable to meet payment obligations under these agreements.

Considering the unprecedented challenges to individuals and businesses resulting from COVID-19, the Department of Financial Institutions is encouraging premium finance companies, to the greatest extent possible, to accommodate insureds by extending or providing grace periods for loan payments or to be otherwise flexible with respect to determinations of default under premium finance agreements. Moreover, in order to facilitate this accommodation, the Department of Commerce and Insurance is encouraging insurance carriers to work with premium finance companies to facilitate any grace period modifications.

The severe and ongoing economic impact resulting from the COVID-19 pandemic calls on everyone to work together to support individuals and members of the business community who, through no fault of their own, are incurring economic hardship. In recognizing this impact, the Department of Commerce and Insurance and the Department of Financial Institutions stand ready to facilitate coordination between premium finance companies and insurance carriers.

If you have any questions pertaining to this bulletin please contact Bill Huddleston, Director of Insurance, Division of Insurance, Department of Commerce and Insurance @ [Bill.Huddleston@tn.gov](mailto:Bill.Huddleston@tn.gov), (615) 360-4467 or Jack Lay, Chief Administrator-Examinations, Compliance Division, Tennessee Department of Financial Institutions, [jack.lay@tn.gov](mailto:jack.lay@tn.gov), (865) 765-6277.



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(615) 741-6013 FAX (615) 523-7794

**BILL LEE**  
GOVERNOR

**GREG GONZALES**  
COMMISSIONER

TO: State-Chartered Banks and Credit Unions

FROM: Greg Gonzales *Greg Gonzales*

DATE: April 6, 2020

RE: Pausing of Examinations

The Tennessee Department of Financial Institutions (TDFI) recognizes the impacts the pandemic event is having throughout Tennessee including straining the operational resources of the banks and credit unions we supervise. It is critically important that depository institutions can continue to focus their efforts on operations, their employees, their customers and their local economies during this pandemic crisis. In order to support those efforts, we are postponing examination activities through April 30, 2020 to avoid further strain on resources or distraction of institution personnel. For those banks or credit unions already contacted about an upcoming examination, we are suspending any examination-related requests unless you notify us that you do not desire a delay in the examination. If a bank or credit union requests that an examination continues during this time, we will certainly accommodate that request and complete the examination entirely offsite.

While examinations are suspended, TDFI will be contacting Tennessee state-chartered banks and credit unions via telephone to discuss the following:

- Any issues or challenges your institution is encountering or anticipating
- Your plans for continued operations
- Your plans to provide relief to customers and/or support your communities
- Any concerns or questions you may have
- Any assistance TDFI can provide

These calls are intended to provide timely, two-way communication that will inform you of TDFI's endeavors to support depository institutions' efforts to serve your customers and strengthen your local economies without placing an undue burden on institution personnel.

We will be contacting institutions soon to arrange dates and times for calls. We welcome any institution to contact us if they wish to expedite such a conversation. Please contact Alica Owen, Executive Assistant to the Commissioner, at 615-289-4738 or [alica.owen@tn.gov](mailto:alica.owen@tn.gov) to make such a request.



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(615) 741-2236 FAX (615) 253-7794

**BILL LEE**  
GOVERNOR

**GREG GONZALES**  
COMMISSIONER

**Date: June 25, 2020**

**To: President/CEO**

**From: Greg Gonzales**

The attached interagency guidance was developed to assist state and federal examiners as agencies resume their examination efforts to promote consistency and flexibility in the supervision and examination of financial institutions affected by the COVID-19 pandemic. Further, the interagency guidance instructs examiners to consider the unique, evolving, and potentially long-term nature of the issues confronting institutions due to the pandemic and to exercise appropriate flexibility in their supervisory response. As Tennessee continues to reopen after the pandemic lockdowns, Tennessee Department of Financial Institutions (TDFI) examiners will begin contacting institutions about their next examination schedule. While the interagency guidance link attached discusses what examiners will be doing generally, I wanted to provide some additional detail on our expectations of financial institutions and your interactions with examiners.

As part of TDFI's efforts to continue to practice social distancing, as well as to not interfere with institution management's efforts to continue serving the public, for the foreseeable future all examination activity will be conducted entirely off-site. It is not expected that the time to complete examinations will increase significantly beyond what is normally experienced with on-site presence of examiners. Meetings to communicate between institution staff and examiners will be conducted telephonically or through other methods of digital communication. With the examination being conducted entirely off-site, it is necessary that enhanced and clear communication be utilized between institution management and examiners. As such, TDFI examiners will increase their efforts to ensure clear communication is maintained throughout the process to make the examination as smooth as possible. Every effort will be made to ensure meetings and personnel involved in meetings are limited to only those necessary to reduce interference with the bank's daily operations.

As part of our normal pre-examination activity, the assigned examiner-in-charge will contact senior management to discuss the logistics of the examination, request information needed, inquire as to the institution's ability to provide digital information, as well as to discuss the general risk profile of the institution to enable the EIC to properly risk scope the examination. TDFI understands that some institutions are not equipped for a complete off-site examination, and in those instances examiners will work with institution management to determine if there is an effective work-around that would allow the examination to move forward, or if a delay in a portion of the examination is the only alternative in the current environment.

Appropriate risk identification remains important for institution management, especially in this current pandemic environment. While examiners will continue to focus their attention on routine and expected risk identification activities, increased focus will be directed at efforts to identify and manage risks created by the pandemic. Examiners will be discussing the risks identified by institution management, how those risks are being mitigated, and what future impact those risks may have upon the institution. TDFI understands that many institutions may not have committed those risks to paper yet due to the significant time demands on managing the pandemic impact upon institution operations, personnel and public responsibilities; however, we do expect management and Board to have discussed these concerns and have a working understanding of the impact on the institution, as well as to have developed a preliminary remediation plan for those risks.

TDFI recognizes the significant impact and unprecedented environment that you have been operating in during the COVID-19 pandemic as you serve your customers and local economies. Tennessee financial institutions have made and continue to make tremendous strides in supporting their customers and Tennessee's economy. Your families, employees, and community are all going to be demanding your undivided attention. During these unprecedented times you will be fully engaged in institution operations, helping employees return to work, and meeting customers' needs. Our constant goal is to provide your institution with a tailored and balanced assessment to assist you in continuing to serve your communities. Working together we hope that the examination process can be an important catalyst towards economic recovery.

Please contact Assistant Commissioner Tod Trulove at 615-289-2156 or by email at [Tod.Trulove@tn.gov](mailto:Tod.Trulove@tn.gov) if you have any question about the examination process going forward.

[Examiner Guidance Considering the Effect of the COVID-19 Pandemic on Institutions](#)

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**Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation  
Office of the Comptroller of the Currency  
National Credit Union Administration  
State Financial Regulators**

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**Interagency Examiner Guidance  
for Assessing Safety and Soundness Considering the Effect of the COVID-19  
Pandemic on Institutions**

**June 2020**

**Purpose**

The federal financial institution regulatory agencies<sup>1</sup> in conjunction with the state bank and credit union regulators are jointly issuing this examiner guidance to outline the supervisory principles for assessing the safety and soundness of institutions<sup>2</sup> given the ongoing impact of the COVID-19 pandemic.<sup>3</sup> In assessing an institution under the principles in this document, examiners will consider the institution's asset size, complexity, and risk profile, as well as the industry and business focus of its customers.

Examiners will consider the unique, evolving, and potentially long-term nature of the issues confronting institutions and exercise appropriate flexibility in their supervisory response. Stresses caused by COVID-19 can adversely impact an institution's financial condition and operational capabilities, even when institution management has appropriate governance and risk management systems in place to identify, monitor, and control risk. Examiners will continue to assess institutions in accordance with existing agency policies and procedures and may provide supervisory feedback, or downgrade an institution's composite or component ratings, when conditions have deteriorated. In conducting their supervisory assessment, examiners will consider whether institution management has managed risk appropriately, including taking appropriate actions in response to stresses caused by COVID-19 impacts.

The agencies have issued numerous statements related to supervisory policy since the declaration of the national emergency. Appropriate actions taken by institutions in good faith reliance on such statements, within applicable timeframes described in such statements, will not be subject to criticism or other supervisory action.

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<sup>1</sup> The federal financial institution regulatory agencies are the Federal Deposit Insurance Corporation (FDIC), Board of Governors of the Federal Reserve System (Board), Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) (collectively, the agencies).

<sup>2</sup> Institutions include insured depository institutions, U.S. operations of foreign banking organizations (FBOs), bank holding companies, savings and loan holding companies, federally insured credit unions, and Edge Act corporations.

<sup>3</sup> See [Proclamation 9994, Declaring a National Emergency Concerning the Novel Coronavirus Disease COVID-19 Outbreak](#), 85 FR 15337 (March 18, 2020)

## Background

The adverse economic effects of the pandemic will likely have a significant impact on the business activities of institutions and their customers for an extended period. The containment measures adopted in response to public health concerns resulted in restrictions on the physical movement of institutions' personnel and those of their service providers and customers, which, in turn, have created significant operational challenges. In addition, government programs and policies intended to provide support and assistance to those affected by the pandemic have impacted institutions' economic and regulatory landscape. The overall impact of, and recovery from, the pandemic could be uneven and highly localized across the country.

Some institutions may face extensive asset quality issues caused by business failures, the loss of jobs, interruptions of borrowers' income streams, increases in borrowers' operating costs, and volatile or declining collateral values. Many institutions have also materially modified operational processes to continue providing products and services while adhering to stay-at-home and social distancing guidelines. These modifications, including extensive use of work-at-home strategies and the need to quickly implement various stimulus programs, may have stressed change management processes. Operational, compliance, and cyber risks may increase for many institutions, and internal controls may need to evolve as risks and operations change.

## Overall Supervisory Assessment

It is essential that examiners maintain a clear understanding of the financial condition of each institution and the effectiveness of each institution's risk assessment and response to the economic changes. To promote consistency and transparency across the agencies, examiners will continue to assign supervisory ratings in accordance with the applicable rating system, including the *Uniform Financial Institutions Rating System*, commonly referred to as the CAMELS rating<sup>4</sup> and the interagency *Rating System for U.S. Branches and Agencies of Foreign Banking Organizations*, commonly referred to as the ROCA rating.<sup>5</sup> Similarly, Federal Reserve examiners will apply the principles outlined in this letter in assigning supervisory ratings to bank holding companies, U.S. intermediate holding companies, and savings and loan holding companies using the RFI/C(D) rating system or LFI rating system,<sup>6</sup> as applicable, and to the U.S. operations of foreign banking organizations.<sup>7</sup> In applying the principles in this document, examiners will consider the

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<sup>4</sup> See the Federal Financial Institutions Examination Council's (FFIEC's) [Uniform Financial Institutions Rating System](#), FR 67021 (December 19, 1996). NCUA examiners will refer to [NCUA Letter to Credit Unions 07-CU-12, CAMEL Rating System](#) when assigning the CAMEL ratings (December 2007).

<sup>5</sup> See the Board's Supervision and Regulation Letter (SR Letter) [Enhancements to the Interagency Program for Supervising the U.S. Operations of Foreign Banking Organizations](#) SR 00-14 (October 23, 2000); the [OCC Comptroller's Handbook, Bank Supervision Process, "ROCA Rating System"](#); and the [FDIC's Risk Management Manual of Examination Policies Section 11.1 – International Banking](#).

<sup>6</sup> See Board's SR Letter 19-4/CA Letter 19-3 [Supervisory Rating System for Holding Companies with Total Consolidated Assets Less Than \\$100 Billion](#), and SR Letter 19-3/CA Letter 19-2 [Large Financial Institution \(LFI\) Rating System](#).

<sup>7</sup> Federal Reserve examiners should refer to Footnote 5.

institution's asset size, complexity, and risk profile as well as the industry and business focus of its customers.

Examiners should assess the reasonableness of management's actions in response to the pandemic given the institution's business strategy and operational capacity in the distressed economic and business environment in which the institution operates. When assigning the composite and component ratings, examiners will review management's assessment of risks presented by the pandemic, considering the institution's size, complexity, and risk profile. When assessing management, examiners will consider management's effectiveness in responding to the changes in the institution's business markets and whether the institution has addressed these issues in its longer-term business strategy.

An examiner's assessment may result in downgrading component or composite ratings for some institutions. In considering the supervisory response for institutions accorded a lower rating, examiners will give appropriate recognition to the extent to which weaknesses are caused by external economic problems related to the pandemic versus risk management and governance issues. Examiners will also consider the extent to which institutions have taken actions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of the pandemic.

When considering whether to take a formal or informal enforcement action in response to issues related to the pandemic, the agencies will consider whether an institution's management has appropriately planned for financial resiliency and continuity of operations; implemented prudent policies; and is pursuing realistic resolution of the issues confronting the institution. In instances where a formal or informal supervisory action is warranted, the agencies will tailor their response to the institution's specific issues and the willingness and ability of institution management to resolve the issues.

### **Effectiveness of Institution's Assessment of Risk**

Examiners should evaluate management's initial and ongoing assessment of the risk that the pandemic presents to the institution.<sup>8</sup> Examiners should determine whether management's assessment of credit risk reasonably reflects the institution's asset quality, given the prevailing economic conditions in its business markets. In addition to determining the effect on asset quality, examiners should assess management's understanding of the pandemic's effects on the institution's earnings prospects and capital adequacy, as well as its effect on funding, liquidity, operations, and sensitivity to market risk. The risks associated with the COVID-19 pandemic, as well as impacts of policy responses, can be challenging to assess in real time. Examiners will assess an institution's risk identification and reporting processes given the level of information available and stage of local economic recovery.

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<sup>8</sup> See the [Interagency Guidelines Establishing Standards for Safety and Soundness \(Interagency Safety and Soundness Standards\)](#), which indicate that an institution should have an effective risk assessment process as part of its internal controls and information systems that is appropriate to the size of the institution and the nature, scope and risk of its activities. OCC: 12 CFR Part 30, Appendix A; Board: 12 CFR Part 208, Appendix D-1; and FDIC: 12 CFR Part 364, Appendix A. See also the [Interagency Guidance on Credit Risk Review Systems](#). NCUA examiners should also refer to Supervisory Letter (SL) 13-12 on [Enterprise Risk Management](#), SL 13-12, shared with federally insured credit unions through Letter to Credit Unions 13-CU-12.

Examiners should determine whether an institution's assessment of risk is sufficient in scope and content. In reviewing the assessments, examiners should recognize that the issues confronting institutions are complex, evolving, and may involve protracted resolution. Examiners also will be mindful that the localized impact of the pandemic may be materially different from regional or national impacts. The examination scope may need to be adjusted depending on the quality and thoroughness of management's assessment of risk. The quality of an institution's risk assessments will be considered, as appropriate, in the examiner's assessment of supervisory ratings.

### **CAMELS or ROCA Component Ratings**

When assessing the component ratings for CAMELS or ROCA, or analogous component ratings for holding companies, examiners will consider the following:

#### **Capital Adequacy**<sup>9</sup>

Institutions may experience cash flow decreases, asset losses, operational losses, extraordinary expenses, unexpected deposit growth or declines, and contingent liabilities as a result of the pandemic. The agencies have encouraged institutions to use their capital buffers to promote lending activities and other financial intermediation activities in a safe and sound manner.<sup>10</sup> The agencies recognize institutions may experience significant temporary balance sheet growth due to increased lending, unusually large deposit inflows, or inflows from various government programs. Such growth may result in a temporary decline in institutions' regulatory capital ratios.

Examiners will evaluate capital relative to the nature and extent of the institution's risks. When evaluating the capital component, examiners will consider the institution's capital planning efforts. Examiners will evaluate the institution's capital projections and whether institution management appropriately assesses the institution's capital needs and vulnerabilities related to the pandemic and consistent with the institution's risks. If an institution's risk profile is not supported appropriately by its capital levels, examiners should determine whether management has a satisfactory plan to maintain capital adequacy and, if needed, build capital. Examiners should discuss with management the institution's plans for ensuring capital adequacy. In assessing capital adequacy, examiners will consider the institution's regulatory capital ratios, capital planning and distribution plans, risk management practices, and whether an institution maintains a fundamentally sound financial condition.

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<sup>9</sup> Branches and agencies of FBOs do not maintain regulatory capital separate from their foreign parent organizations. Federal branches and agencies of FBOs are instead required to maintain capital equivalency deposits as set forth in 12 CFR 28.15, and state-licensed branches and agencies may be subject to similar requirements through their respective state supervisors.

<sup>10</sup> See [Regulatory Capital Rule: Eligible Retained Income](#). OCC 12 CFR Part 3; Board 12 CFR Part 217; and FDIC 12 CFR Part 324.

## **Asset Quality**

Examination scopes may need to be adjusted to reflect the significance of affected loan and investment portfolios. Examiners will continue to assess credits in line with the interagency credit classification standards,<sup>11</sup> while recognizing the constraints posed by the pandemic. For instance, supporting file documentation may be limited due to unusual circumstances caused by the pandemic. When assessing asset quality, examiners should consider whether management has been able to identify loans and investments substantially affected by the pandemic and recognize any deterioration in a timely manner, including any potential loss exposure.

Examiners will assess management's ability to implement prudent credit modifications and underwriting, maintain appropriate loan risk ratings, designate appropriate accrual status on affected loans, and provide for an appropriate Allowance for Loan and Lease Losses (ALLL) or Allowances for Credit Losses (ACLs), as applicable. In making these assessments, examiners will give consideration to the items below.

***Classification of Credits.*** The assessment of each loan should be based on the fundamental characteristics affecting the collectability of that particular credit, while acknowledging that supporting documentation may be limited and cash flow projections may be highly uncertain. Where this uncertainty exists, examiners will review management's assessment of the borrower's repayment ability and financial condition as well as the institution's collateral protection. Examiners will not subject a renewed, extended, or modified loan to adverse classification solely because the value of the underlying collateral has declined to an amount that is less than the loan balance, provided that the borrower has ability to repay its debts according to reasonable modified terms.

Examiners should apply appropriate credit classification and charge-off standards in cases where the information indicates a loan will not be repaid under reasonable terms. Examiners should also assess the reasonableness of management's plans for workouts and pursuing foreclosure of collateral on nonperforming assets.

***Credit Risk Review.*** Examiners will recognize that the rapidly changing environment and limited operational capacity may temporarily affect the institution's ability to meet normal expectations of loan review (e.g. schedule or scope of reviews). Examiners will assess the institution's support for any delays or reductions in scope of credit risk reviews and consider management's plan to complete appropriate reviews within a reasonable amount of time.

***New Loans.*** Examiners will assess the appropriateness of the institution's underwriting standards. Examiners should assess underwriting by reviewing a sample of loans originated during or after the pandemic, or by reviewing the institution's reports, as appropriate. There may be legitimate reasons why management may have eased underwriting standards during or after the pandemic to address the needs of the institution's customer base. Institutions were encouraged by regulators to work with their borrowers throughout the crisis. Management may need to rely more heavily on

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<sup>11</sup>Agency examiners should refer to the [Uniform Agreement on the Classification and Appraisal of Securities Held by Depository Institutions](#) (October 2013). Federal Reserve examiners should also refer to the [Commercial Bank Examination Manual](#), sections 2060.1, *Classification of Credits* and 2130.1, *Consumer Credit*. NCUA examiners should refer to the *Credit Risk Rating Systems* content in the [NCUA Examiner's Guide](#).

pro forma financial information from borrowers in making underwriting decisions. Examiners should review management's analysis of borrower projections given the local economic conditions during the recovery. In addition, management may have changed the institution's business strategy to focus on new lines of business or expand into new markets. If the institution's business strategy changed, examiners should consider whether the institution has sufficient controls and expertise for the new or expanded activities.

***Paycheck Protection Program.*** The *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) provided relief to small businesses through loan programs administered by the Small Business Administration (SBA), with the backing of the U.S. Department of the Treasury, including the Paycheck Protection Program (PPP).<sup>12</sup> The agencies view the PPP as an important program to help institutions continue to lend to customers in need, without exposing the institution to credit risk, so long as the institution follows SBA's program guidelines. Moreover, in assessing an institution's safety and soundness, examiners will not criticize institutions that participate in the PPP in accordance with SBA program guidelines. The agencies have been supportive of institutions that elected to participate in the PPP and use the Federal Reserve's PPP Liquidity Facility<sup>13</sup> to fund PPP loans.<sup>14</sup>

***Credit Modifications.*** The agencies have encouraged institutions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of the pandemic.<sup>15</sup> Specifically, the agencies have stated that they view loan modification programs as positive actions that can mitigate adverse effects on borrowers due to the pandemic. Examiners should assess the appropriateness of an institution's policies and procedures for credit renewals, extensions, or modifications. Examiners will not criticize institutions for working with borrowers as part of a risk mitigation strategy intended to improve existing loans, even if the restructured loans have or develop weaknesses that ultimately result in adverse credit classification. In assessing an institution's safety and soundness, examiners will not criticize management for engaging in prudent loan modifications and working with borrowers in a safe and sound manner.

In assessing an institution's loan modification practices, examiners will review loan modifications to evaluate whether management is applying appropriate loan risk grades and making appropriate accrual status decisions on loans affected by the pandemic. Examiners will exercise judgment in reviewing loan modifications and not automatically adversely risk rate credits that were modified.

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<sup>12</sup> See [SBA's Paycheck Protection Program Interim Final Rule](#) 13 CFR Part 120 (April 2, 2020)

<sup>13</sup> See [Federal Reserve's Paycheck Protection Program Liquidity Facility](#) (PPPLF).

<sup>14</sup> The FDIC, Federal Reserve and OCC issued the [Paycheck Protection Program Lending Facility and Paycheck Interim Final Rule](#) (April 13, 2020) and the [PPPLF/PPP Interim Final Rule Correction](#) (April 23, 2020) to modify the agencies' capital rules to neutralize the regulatory capital effects of participating in the Federal Reserve's PPPLF. Consistent with the agencies' current capital rules and the CARES Act requirements, the interim final rule also clarifies that a zero percent risk weight applies to loans covered by the PPP for capital purposes. See OCC 12 CFR Part 3, Board 12 CFR Part 217, and FDIC 12 CFR Part 324. The NCUA issued an interim final rule to provide consistent capital treatment for credit unions participating in the PPPLF and codify the CARES Act requirement that PPP loans are risk weighted at zero percent for purposes of risk-based net worth. See 85 FR 23212.

<sup>15</sup> See [Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus \(Revised\) \(Revised Interagency Statement\)](#). (April 7, 2020)

When evaluating loan modification practices, examiners will consider the CARES Act and Revised Interagency Statement. Among other things, the CARES Act provides institutions the option to temporarily suspend certain requirements under U.S. generally accepted accounting principles (GAAP) related to troubled debt restructurings for a limited period of time to account for the effects of the pandemic.<sup>16</sup> The Revised Interagency Statement addresses accounting and reporting considerations for loan modifications eligible under the CARES Act and for those that are not eligible, or where the institution elects not to apply the relief provided under the CARES Act.

***Nonaccrual.*** Institutions may allow borrowers affected by the pandemic to defer payment of principal, interest, or both for a reasonable period with the expectation that the borrower will resume payments in the future. The Revised Interagency Statement indicates that during the short-term arrangements, these loans generally should not be reported as nonaccrual. Examiners should confirm that institutions continue to follow applicable regulatory reporting instructions, as well as the institutions' internal accounting policies, when reporting nonaccrual assets in regulatory reports. As information becomes available indicating repayment of a specific loan or accrued interest is in doubt, examiners should review institution practices against appropriate charge-off guidance regarding accrued interest and principal.

***Allowance for Loan and Lease Losses (ALLL) or Allowances for Credit Losses (ACLs).***<sup>17</sup> Examiners should review an institution's methodology for calculating the ALLL or ACLs, as applicable.<sup>18</sup> In assessing whether the ALLL or ACLs are appropriate, examiners will assess whether management has considered relevant available information about the collectability of the institution's loan portfolio, along with any changes to the institution's lending practices and economic conditions as a result of the pandemic. Examiners should evaluate how an institution considered the effect of the pandemic in its ALLL or ACLs estimation process, as applicable, and whether the resulting estimates are in conformity with GAAP and regulatory reporting requirements. Additionally, examiners will assess management's process for updating estimates of loan losses in the ALLL or ACLs, as applicable, as the institution obtains additional information.

An institution may have difficulty in accurately determining the collectability of certain loans impacted by the pandemic. Therefore, examiners should understand that management may need to consider qualitative adjustments to credit loss estimates for information not already captured in the loss estimation process. These qualitative factor adjustments may increase or decrease management's estimate of credit losses. Examiners will recognize that management may need more time to determine the effect of the pandemic on some borrowers' ability to pay and assess the value of underlying collateral. Examiners should determine whether management has maintained the ALLL or ACLs, as applicable, at an appropriate level within a range of loss estimates even when loan-specific information is not yet available.

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<sup>16</sup> See Section 4013 the *Coronavirus Aid, Relief, and Economic Security Act*, Pub. L. 116-136.

<sup>17</sup> Maintenance of an ALLL or ACLs, as applicable, is not required for branches or agencies of FBOs.

<sup>18</sup> See [Interagency Policy Statement on Allowances for Credit Losses](#) (May 8, 2020) and [Interagency Policy Statement on the Allowance for Loan and Lease Losses](#) (2006).

***Obligations of Taxing Authorities.*** Examiners should confirm that institutions monitor their risk exposures in municipal bonds to assess whether those bonds continue to be the credit equivalent of an investment grade security and are appropriately classified, consistent with the interagency credit classification standards.<sup>19</sup> Many public obligors and issuers have insurance or have access to debt payment and other reserve funds that help ensure the full and timely repayment of principal and interest for the projected life of the asset or exposure. However, examiners should confirm that management is using relevant information to conduct credit risk assessments that are timely, accurate, and consistent with internal policies, regulatory requirements, and accounting standards.

Examiners should review the institution's loan and investment portfolios to assess credit that has been extended to taxing authorities. For example, communities may be heavily dependent on local sales, hotel, property, and income tax revenues. These sources of revenue have fallen sharply with containment measures, and the ultimate collection of such loans and investments under reasonable terms may be adversely affected. Some loans and bonds may also be tied to limited purpose facilities, such as entertainment or sporting venues, which may not resume operations for an extended period.

***Real Estate Values.*** The economic impact of the pandemic may result in fluctuations in real estate values. For existing and new real estate loans, examiners should assess the institution's policies and practices for valuing collateral in real estate markets that have experienced a substantial, but possibly temporary, change in real estate values as a result of pandemic containment measures. When reviewing an institution's estimates of collateral values, examiners should ascertain whether the values are based on assumptions that are prudent and realistic.

***Appraisal and Evaluation Delays.*** The agencies have temporarily allowed supervised financial institutions to defer obtaining an appraisal or evaluation for up to 120 days after the closing of residential and commercial real estate loans (other than loans for acquisition, development, and construction of real estate).<sup>20</sup> Examiners should evaluate whether an institution is making best efforts to obtain a credible valuation of real property collateral before the loan closing and how any backlog of appraisals or evaluations is being addressed. Examiners will also evaluate if the institution's underwriting is consistent with the principles in the agencies' Standards for Safety and Soundness<sup>21</sup> and Real Estate Lending Standards<sup>22</sup> that focus on the ability of a borrower to repay a loan and compliance with other relevant laws and regulations.

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<sup>19</sup> See Footnote 11.

<sup>20</sup> See [Interim Final Rule on Real Estate Appraisals](#) (April 14, 2020)

<sup>21</sup> See Footnote 8.

<sup>22</sup> OCC: 12 CFR Part 34, Subpart D, Appendix A; Board: 12 CFR Part 208, Subpart E, Appendix C; FDIC: 12 CFR Part 365, subpart A, Appendix A, and NCUA: 12 CFR Part 722 and §701.21. Institutions should have a program for establishing the market value of real property to comply with these real estate lending standards, which require institutions to determine the value used in loan-to-value calculations based in part on a value set forth in an appraisal or an evaluation.

## **Management**

All institutions have been confronted with unprecedented issues, including limitations on employees' movements, sudden unanticipated financial impacts to their borrowers, limited physical access to facilities and other operational challenges. As part of the institution's risk management assessment, examiners will evaluate institution management based on the reasonableness of management's response to the pandemic. As additional information becomes available, examiners expect management to update risk assessments, measure the effectiveness of its response, and adjust, as necessary.

Examiners will evaluate institution management on its ability to properly identify and prudently manage risks associated with the pandemic. In doing so, examiners will consider the extraordinary circumstances surrounding the decisions made to work with borrowers and the large number of those impacted. Examiners should evaluate the extent to which management factors the results of these efforts into its longer-term business strategy. Strategies could evolve throughout the local and national recovery. Institutions may be compelled to reconsider branching, mergers, or other expansions.

When rating an institution's management, examiners will distinguish between problems caused by the institution's management and those caused by external factors beyond management's control. Provided prudent planning and policies are in place and management is pursuing realistic resolution of the institution's problems, management of an institution with problems largely related to the pandemic may warrant a more favorable rating than management of an institution operating with problems stemming from weak risk management practices that are, or should have been, substantially within the institution's control.

## **Operational Risk**

In response to the COVID-19 pandemic, many institutions have quickly adapted certain operational processes and technology systems to ensure continued delivery of financial services and manage significant volumes of transactions due to government stimulus programs. Rapid changes in operational processes and increasing fraud and cyber threats may result in a heightened operational risk environment. Examiners will review the steps management has taken to assess and implement effective controls for new and modified operational processes. Examiners will assess actions management has taken to adapt fraud and cybersecurity controls to manage heightened risks related to the adjusted operating environment. Examiners will also review how management has assessed institutions' third parties' controls and service delivery performance capabilities post crisis. Additionally, examiners will consider the impacts on the control environment from instances of imprudent cost cutting, insufficient staffing, or delays in implementing needed updates in their assessment of the institution.

## **Independent Risk Management and Audit**

Examiners will consider how COVID-19-related responses may impact plans and schedules for internal audit and independent risk management reviews, including the need to incorporate audits or reviews of new operational processes and programs. Examiners should review the use of remote work technologies and teleconferencing systems for work-at-home arrangements, along with the

elimination of physical controls present in many office environments. In addition, examiners should review risk management and audit monitoring of programs to support consumers and businesses such as PPP, mortgage deferrals, loan forbearance, and other new programs that may pose credit, legal, and compliance risks if not properly managed.

### **Earnings**<sup>23</sup>

When evaluating earnings, examiners will consider the duration of any reductions to core earnings caused by the pandemic, including provisions and other expenses that may increase due to asset quality deterioration. Due to the increased level of loan modifications associated with the pandemic, levels of deferred interest in relation to total earnings may be elevated. When assessing earnings, examiners will evaluate how institutions are accounting for and estimating allowances for accrued interest from modified loans, as applicable, in accordance with GAAP and Call Report instructions. Ongoing operational issues, such as increased personnel, legal, IT, and fraud expenses may also impact earnings. Examiners should assess the quantity, quality, and trend of prior earnings as well as the pandemic's influence on earnings prospects. The impact on the institution's major business lines and significant customers should also be assessed. This assessment should consider the adequacy and reasonableness of any revisions to the institution's budget and strategic plan, including projections from participation in government programs related to the pandemic.

### **Liquidity**<sup>24</sup>

There remains considerable uncertainty around the impact of COVID-19 on liquidity profiles. Examiners will consider the nature and timing of pandemic-related inflows and outflows when reviewing the adequacy of an institution's liquidity and be cognizant of how management is employing any influx of liquid resources. Institutions may experience fluctuations in liquidity resulting from the receipt of customers' Economic Assistance Payments, customers' flight to quality, participation in various government lending programs or borrowing facilities, or deposit outflows as depositors, including municipalities, draw on savings or reserves. In addition, collateral requirements for secured funding sources (such as a line of credit from a Federal Home Loan Bank) may be temporarily modified. Examiners will evaluate management's ability to reassess or revise liquidity planning to accommodate changes from the pandemic.

Examiners will not criticize an institution for appropriate use of the discount window or other Federal Reserve lending programs, or the NCUA's Central Liquidity Facility. Similarly, examiners will not criticize an institution's prudent use of its liquidity buffer to support economic recovery, in accordance with the institution's liquidity risk management framework.

Although the ROCA rating does not contain a liquidity component rating, funding, liquidity risk, and risk management are important factors in the assessment of branches and agencies of FBOs. Examiners will assess the effect of a pandemic on liquidity as part of the risk management component of the ROCA rating.

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<sup>23</sup> The ROCA rating does not contain a component rating for earnings.

<sup>24</sup> The ROCA rating does not contain a component rating for liquidity.

## **Sensitivity to Market Risk**<sup>25</sup>

Many institutions may experience temporary shifts in their interest rate risk profiles from changes in cash flows associated with the pandemic. For example, the amount or timing of cash flows may be altered by deterioration in loan and bond portfolios or by deferment agreements or programs.

Examiners will recognize that management may need time to fully assess any changes to the institution's interest rate risk profile and distinguish between permanent structural changes versus short-term fluctuations during a transitional period. Examiners should determine whether management has procedures for reviewing and updating its asset and liability management models for any unusual fluctuations in deposit balances, adjustments to loan payments, changes in interest rates, and other modifications to ensure the integrity, accuracy, and reasonableness of the models.

The ROCA rating does not contain a component for market sensitivity. However, examiners should consider sensitivity in the form of the interest rate risk profile, risk management, and effects from the pandemic in the assessment of the risk management component of the ROCA rating.

## **Risk Management of a Branch or Agency of an FBO**

A pandemic will likely present challenges to the FBO head office of a branch or agency as well as local management. When considering risk management of branches and agencies of FBOs, examiners should focus on the assessment factors outlined in the interagency ROCA rating system, and consider these factors in the context of the pandemic. Examiners should evaluate the level of support provided by the home office in restoring operations and the appropriateness of risk management considering the changing operating environment and economic conditions due to a pandemic.

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<sup>25</sup> The ROCA rating does not contain a component rating for sensitivity to market risk. The NCUA uses the CAMEL rating system, which does not include the S – sensitivity to market risk. NCUA examiners will continue to consider sensitivity to market risk and liquidity risk when rating the L component.