

From: [Sunset Advisory Commission](#)
To: [Janet Wood](#)
Subject: FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Tuesday, November 18, 2014 5:22:27 PM

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Tuesday, November 18, 2014 4:08 PM
To: Sunset Advisory Commission
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

Submitted on Tuesday, November 18, 2014 - 16:08

Agency: ENTRY CRITERIA SELF DIRECTED SEMI INDEPENDENT AGENCIES

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City: Austin

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

November 18, 2014

Chair Jane Nelson
Sunset Advisory Commission
1501 North Congress Avenue
6th Floor
Robert E. Johnson Building
Austin, Texas

Re: SDSI Status of the Financial Regulatory Agencies

Dear Chair Nelson:

I am writing to you as Chair of the Sunset Advisory Committee on behalf of the Texas Mortgage Bankers Association (TMBA). The TMBA membership is composed of banks, savings institutions, credit unions, and independent mortgage bankers. Our members are regulated in Texas by the constituent agencies of the Texas Finance Commission and the Texas Credit Union Commission. In 2009 TMBA supported the enactment of Finance Code Chapter 16 that granted self-directed and semi-independent status to the financial

regulatory agencies (the Texas Department of Banking; the Department of Savings and Mortgage Lending; the Office of Consumer Credit Commissioner; and the Credit Union Department).

The granting of SDSI status to the financial regulatory agencies was enacted against the backdrop of the financial crisis that reached its peak in 2008.

As federal financial regulatory agencies expanded their staffs to provide enhanced examination of institutions and the supervision or closing of troubled institutions, the Texas financial regulatory agencies experienced a personnel drain because experienced examiners and other staff were lured away because of the better compensation offered by the federal regulators. The Texas agencies paid for the training of inexperienced entry level examiners and the federal agencies often reaped the benefits of that investment. The result of the 2009 legislation is readily demonstrable. For instance, turnover rate at the Department of Savings and Mortgage Lending for financial examiners averaged 22% for the years 2002 to 2009 compared to 4% for the years 2009-2014 following enactment of Finance Code Chapter 16 (we expect the experience of the other financial regulatory agencies is similar).

We believe that financial regulatory agencies differ from other state agencies in multiple ways. A “one size fits all” approach to SDSI agencies may not be appropriate because of the unique nature of the financial regulatory agencies. The financial regulatory agencies are counter cyclical. That is during times of an economic downturn, these agencies often need to expand to provide more frequent examination and increased prudential oversight of their regulated communities. Moreover, many of the regulated entities (and certainly the larger financial entities) operate in multiple states. This requires multi state coordination and federal/ state coordination. SDSI status provides the flexibility needed by the Texas financial regulatory agencies to react in a timely and appropriate manner in this complex environment.

We understand that suggestions have been put forward to require all SDSI agencies, including the financial regulatory agencies, to be made subject to Government Code Chapter 472, the Self-Directing Semi-Independent agency act.

While we understand the desire and appeal of uniformity, we also are concerned that such suggestions fail to consider the unique needs and role of the financial regulatory agencies.

SDSI status under Finance Code Chapter 16 is not the same as autonomous.

The financial regulatory agency budgets are subject to review and adoption by the Finance Commission (Texas Department of Banking; Department of Savings and Mortgage Lending; Office of Consumer Credit Commissioner) and the Credit

Union Commission (Credit Union Department). Both the Finance Commission and Credit Union Commission have public member majorities. By statute the Finance Commission must have one public member who is also a certified public

accountant. The Finance Commission retains a third party firm to provide audits of the constituent agencies, and has a designated Audit Committee.

Further the State Auditor’s Office has the authority to audit the financial regulatory agencies at any time and on such schedule as the SAO may determine to be necessary.

We understand the concern of the Sunset Advisory Commission that some licensing agencies may not have the accounting and financial expertise to operate as an SDSI agency unless they are subject to the strictures of Government Code 472. We would suggest, however, the financial expertise is at the heart of the core competencies of the financial regulatory agencies. For this reason we continue to believe that a “one size fits all approach” to SDSI status fails to consider the unique mission, capabilities, and needs of the financial regulatory agencies.

We are happy to discuss these issues with you at you convenience.

Sincerely,

John C. Fleming

General Counsel.

Any Alternative or New Recommendations on This Agency: Please see above

My Comment Will Be Made Public: I agree