

Quarterly Update Submitted to the
Senate Committee on Business and Commerce
By the Texas State Securities Board
January 8, 2014

Implementation of Recent Legislation and Rulemaking

Senate Bill 162, passed in the 83rd Legislative Session, provides additional procedures for use by military spouses, military service members, and military veterans seeking registration in Texas on or after March 1, 2014. The State Securities Board has proposed four rules to implement the requirements of SB 162 for registration of securities dealers, agents of dealers, investment advisers, and investment adviser representatives. The Board will consider the adoption of these rule proposals at its meeting on January 14, 2014.

In response to the passage of Title 2 of the federal "Jumpstart Our Business Startups" (JOBS) Act and new rules issued by the U.S. Securities and Exchange Commission, which preempt state registration requirements and permit unregistered offerings to be made to the public using general solicitation, a group has been formed in the Enforcement Division of the State Securities Board to focus on unregistered offerings made to the public in Texas through the Internet, social media, advertising, or other channels of public communications and to coordinate resources and information-sharing with other state and federal regulators to ensure that appropriate enforcement action is taken as quickly as possible against promoters of fraudulent investment schemes.

Enforcement

Since the last Quarterly Update, the staff of the Agency has participated in criminal prosecutions throughout the state against individuals charged with securities fraud or related offenses. These include: an individual sentenced in Dallas to serve 100 months in federal prison for operating a fraudulent oil and gas investment scheme that raised at least \$2.2 million from investors; an

individual sentenced in Austin to serve seven years in federal prison for the fraudulent sale of investments in foreign bonds; an individual ordered by a District Court in Tom Green County to serve 10 years deferred adjudication and pay \$200,000 restitution for the fraudulent sale of investments in an oil and gas venture; an individual sentenced to a 10-year prison term by a District Court in Bexar County for the fraudulent sale of investments to an elderly individual; and an individual sentenced by a District Court in Smith County to serve 10 years deferred adjudication and pay \$250,000 restitution for the fraudulent sale of promissory notes in a \$100 million Ponzi scheme operated by a Utah Company.

Registration Renewal and Deposits to the General Revenue Fund

The Agency recently completed the registration renewal process for securities dealers, agents of dealers, investment advisers, and investment adviser representatives. Because many firms and individuals are registered in multiple states, the annual renewal process is coordinated among all jurisdictions in the U.S. through the Central Registration Depository and Investment Adviser Registration Depository. Following renewal, there are now 2,402 securities dealers; 202,230 agents; 6,417 investment advisers; and 85,751 investment adviser representatives registered with the Agency. The amount that has been deposited to the General Revenue Fund from securities registration and the registration of firms and individuals for this fiscal year now exceeds \$95 million.

Agency Performance

The Agency's performance for the first quarter of the year was in line with performance targets set for enforcement investigations and the number of securities registration filings. The number of inspections of securities dealers and investment advisers exceeded the performance target. Last year, the Agency examined approximately one-half of all investment adviser firms that

transitioned from federal to state registration as a result of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. This year the Agency intends to inspect the remaining number of these firms to ensure that all are in compliance with the law. Overall, the goal remains for a frequency rate for inspections to be once every four years.