

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TDHCA Governing Board Approved Draft of
§1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers
Disclaimer

Attached is a draft of proposed 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, that was approved by the TDHCA Governing Board on March 10, 2022. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years. At this time, the Department has determined that there continues to be a need for this rule and has also determined that no changes to this rule as currently in effect are necessary. This document, including its preamble, is expected to be published in the March 25, 2022, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on March 25, 2022
End: 5:00 p.m. Austin local time on April 25, 2022

Comments received after 5:00 p.m. Austin local time on April 25, 2022, will not be accepted. Written comments may be submitted, in hard copy or electronic formats within the designated public comment period to:

Texas Department of Housing and Community Affairs
Attn: Brooke Boston
Rules Comments
P.O. Box 13941
Austin, Texas 78711-3941
Email: brooke.boston@tdhca.state.tx.us

Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Street Address: 221 East 11th Street, Austin, TX 78701
Mailing Address: PO Box 13941, Austin, TX 78711-3941
Main Number: 512-475-3800 Toll Free: 1-800-525-0657

Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us

Attachment 1: Notice of Proposed Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to comply with Tex. Gov't Code Chapters 2263, 2270, and 2252 as it relates to the conduct applicable to financial advisors or service providers. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for re-adoption will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this notice of rule review may be submitted in writing from March 25, 2022, through April 25, 2022. Written comments may be submitted to Brooke Boston, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, or by email to bboston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, April 25, 2022.

Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers

(a) Purpose. The purpose of this section is to establish standards of conduct applicable to financial advisors or service providers in accordance with Tex. Gov't Code Chapters 2263, 2270, and 2252.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Department--The Texas Department of Housing and Community Affairs, (the "Department").

(2) Board--The Governing Board of the Department.

(3) Financial advisor or service provider--A person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker who:

(A) may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the Department during a fiscal year; or

(B) renders important investment or funds management advice to the Department or a member of the Board.

(c) Anti-Boycott Verification. Financial advisors and service providers are required to comply with the requirements of Tex. Gov't Code Chapter 2270, which requires a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate):

(1) does not boycott Israel; and

(2) will not boycott Israel during the term for which they provide services to the Department.

(d) Iran, Sudan and Foreign Terrorist Organizations. Financial advisors and service providers are required to comply with the requirements of Tex. Gov't Code Chapter 2252, which requires a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Tex. Gov't Code §2252.153 or §2270.0201.

(e) Exemption from Disclosure of Interested Parties. Financial advisors and service providers are required to comply with the requirements of Tex. Gov't Code Chapter 2252. Financial advisors and service providers that make a representation that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is a publicly traded business entity are exempt from Tex. Gov't Code §2252.908.

(f) Disclosures and Statement.

(1) A financial advisor or service provider shall disclose in writing to the Executive Director of the Department and to the state auditor:

(A) any relationship the financial advisor or service provider has with any party to a transaction with the Department, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the Department, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the Department; and

(B) all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the Department, if the transaction is connected with any financial advice or

service the financial advisor or service provider provides to the Department or to a member of the Board in connection with the management or investment of state funds.

(2) The financial advisor or service provider shall disclose a relationship described by this subsection without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

(3) A financial advisor or service provider shall file annually a statement with the Executive Director of the Department and with the state auditor. The statement must disclose each relationship and pecuniary interest described by this subsection, or if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

(4) The annual statement must be filed not later than April 15 in the following form. The statement must cover the reporting period of the previous calendar year.

[Attached Graphic]

(5) The financial advisor or service provider shall promptly file a new or amended statement with the Executive Director of the Department and with the state auditor whenever there is new information to report under this subsection.

(6) A contract under which a financial advisor or service provider renders financial services or advice to the Department or a member of the Board is voidable by the Department if the financial advisor or service provider violates a standard of conduct adopted under this section.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

ANNUAL DISCLOSURE STATEMENT FOR FINANCIAL ADVISORS AND SERVICE PROVIDERS
DUE NO LATER THAN APRIL 15

INSTRUCTIONS:

- 1) THE REPORTING PERIOD COVERED BY THIS STATEMENT CONSISTS OF THE PRECEDING CALENDAR YEAR.
2) A NEW OR AMENDED STATEMENT MUST BE PROMPTLY FILED WITH THE PARTIES LISTED IN STEP 4 WHENEVER THERE IS NEW INFORMATION TO REPORT UNDER TEXAS GOVERNMENT CODE, SECTION 2263.005(a).
3) THIS STATEMENT MUST BE SUBMITTED EVEN IF YOU ANSWER "NO" TO QUESTIONS 1 AND 2 IN PART 2.
4) SUBMIT A COPY OF THIS STATEMENT TO THE FOLLOWING (FOR EACH GOVERNMENTAL ENTITY TO WHICH YOU PROVIDE SERVICES):
a. ADMINISTRATIVE HEAD OF THE STATE GOVERNMENTAL ENTITY
b. THE STATE AUDITOR (mail to P.O. Box 12067, Austin, TX, 78711-2067)
5) PROMPT FILING REQUIRES A POSTMARK DATE NO LATER THAN APRIL 15 IF THE COMPLETED FORM IS RECEIVED AT THE CORRECT ADDRESS.

PART 1: GENERAL INFORMATION

FILING TYPE (Check one) [] ANNUAL DISCLOSURE FOR YEAR ENDING DECEMBER 31, 20__ [] UPDATED DISCLOSURE

NAME OF INDIVIDUAL _____ JOB TITLE _____

NAME OF BUSINESS ENTITY _____ TYPE OF SERVICE PROVIDED _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____ PHONE _____

NAME OF STATE GOVERNMENTAL ENTITY AND/OR GOVERNING BOARD MEMBER TO WHICH YOU ARE PROVIDING SERVICES _____

PART 2: DISCLOSURES

DEFINITION: (Texas Government Code, Section 2263.002)

Financial advisor or service provider includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISOR OR SERVICE PROVIDER (Texas Government Code, Section 2263.005)

Financial advisors and service providers (see definition) must disclose information regarding certain relationships with, and direct or indirect pecuniary interests in, any party to a transaction with the state governmental entity, without regard to whether the relationships are direct, indirect, personal, private, commercial, or business relationships.

1) Do you or does your business entity have any relationship with any party to a transaction with the state governmental entity (other than a relationship necessary to the investment or funds management services that you or your business entity performs for the state governmental entity) for which a reasonable person could expect the relationship to diminish your or your business entity's independence of judgment in the performance of your responsibilities to the state entity?
Yes ___ No ___
If yes, please explain in detail. (Attach additional sheets as needed.)

2) Do you or does your business entity have any direct or indirect pecuniary interests in any party to a transaction with the state governmental entity if the transaction is connected with any financial advice or service that you or your business entity provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds?
Yes ___ No ___
If yes, please explain in detail. (Attach additional sheets as needed.)

PART 3: SIGNATURE AND DATE

I hereby attest that all information provided above is complete and accurate. I acknowledge my or my firm's responsibility to submit promptly a new or amended disclosure statement to the parties listed in step 4 of the instructions if any of the above information changes.

Signature _____ Date _____