



CREDIT UNION COMMISSION MEETING

Credit Union Department Building
914 East Anderson Lane
Austin, Texas

**October 16, 2015
8:00 a.m.**

AGENDA

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In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

Meeting Accessibility: Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Linda Clevlen, Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

A

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

- ***Manuel “Manny” Cavazos, Chair***
- ***Allyson “Missy” Morrow***
- ***Beckie Stockstill Cobb***
- ***Yusuf E. Farran***
- ***Steven “Steve” Gilman***
- ***Sherri B. Merket***
- ***Kay Stewart***
- ***Gary D. Tuma***
- ***Vik Vad***

Legal Counsel

- ***Zindia Thomas***

Staff

- ***Harold E. Feeney***
- ***Robert N. Baxter***
- ***Shari O. Shivers***
- ***Isabel Velasquez***

FUTURE CREDIT UNION COMMISSION MEETING DATES*

Friday, February 19, 2016

Friday, June 17, 2016

Friday, October 21, 2016

All regular scheduled meetings will begin at 8:00 a.m. unless notified differently.

If anyone has conflicts with the proposed dates, please contact Isabel Velasquez at (512) 837-9236.

*** The Commissioner Evaluation Committee will be considering a recommendation to alter the Regular Meeting Schedule. Accordingly, these dates may be subject to change should the Commission adopt the Committee's recommendation.**

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the August 12, 2015 special meeting, and the corresponding follow-up action report, are located under **Tab B**.

RECOMMENDED ACTION: The Department requests that the Commission approve the minutes as presented.

RECOMMENDED MOTION: I move that the minutes of the Commission's special meeting of August 12, 2015 be approved as presented.

**CREDIT UNION COMMISSION
MEETING MINUTES
AUGUST 12, 2015**

A. CALL TO ORDER - ASCERTAIN A QUORUM – Chairman Manuel “Manny” Cavazos declared that a quorum was present and called the meeting to order at 11:03 a.m. in the conference room of the Credit Union Department office, Austin, Texas, pursuant to Chapter 551 of the Government Code. Other members present included Beckie Stockstill Cobb, Yusuf Farran, Steve Gilman, Sherri Merket, Allyson Morrow, Gary Tuma, and Vik Vad. Kay Stewart was absent due to a schedule conflict. Assistant Attorney General Zindia Thomas was in attendance to serve as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner, Robert N. Baxter, Deputy Commissioner, and Shari Shivers, Assistant Commissioner and General Counsel. Chairman Cavazos appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted (**July 31, 2015, TRD#2015005198**). Without objection, the Chair reserved the right to rearrange agenda items as necessary.

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chairman Cavazos invited public input on matters that were not scheduled items on today’s agenda for possible future consideration by the Commission. No public comments were received.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES**
– Chairman Cavazos inquired if there were any requests or motions to excuse an absence. Ms. Merket moved to excuse Kay Stewart from the

Commission meeting on August 12, 2015. Mr. Vad seconded the motion, and the motion was unanimously adopted.

B. RECEIVE MINUTES OF PREVIOUS MEETING (June 19, 2015). The Chairman referred the members to the draft minutes contained in the agenda packet. Ms. Morrow moved for approval of the minutes of June 19, 2015 as presented. Ms. Merket seconded the motion, and the motion was unanimously adopted.

C. NEW BUSINESS

The Chairman indicated that he planned to rearrange the agenda order to move the designation of a Vice Chair and committee appointments to next item of business. There was no objection.

(d) Discussion of the Chair's Designation of a Vice Chair and Appointments to the Commission's Two Standing. Chairman Cavazos noted that as stipulated in Commission Policy, the Chair was appointing Missy Morrow as Vice Chair of the Commission. Mr. Cavazos also designated members to serve on the two standing committees. He noted that the minutes should reflect the following appointments:

Rules Committee:

Vik Vad, Chair
Kay Stewart, Vice Chair
Steve Gilman
Yusuf Farran
Gary Tuma

Commissioner Evaluation Committee:

Sherri Merket, Chair
Missy Morrow, Vice Chair
Beckie Stockstill Cobb
Kay Stewart
Gary Tuma

(a) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New Subchapter K of 7 TAC, Chapter 91 Concerning Credit Union Development Districts. Commissioner Feeney explained that during the 84th Regular Session, HB 1626 was passed and signed into law by Governor Abbott. Mr. Feeney indicated that the bill directs the Commission to administer and monitor a credit union development district program to encourage the establishment of credit union branches in areas where there is a demonstrated need for such financial services. The bill requires the Commission, in consultation with the Texas Economic Development and Tourism Office to adopt rules regarding the criteria for the designation of credit union development districts, and requires the Commission to initially adopt these rules not later than January 1, 2016. (The Finance Commission is similarly required to administer and monitor a banking development district program and adopt rules not later than January 1, 2016.) Commissioner Feeney briefly highlighted the proposed seven new rules which describe the procedures for establishment of credit union development districts.

The Chair opened the floor for comments or questions from the public on the proposed new rules.

Jeff Huffman, Vice President Government Relations, Cornerstone Credit Union League – Mr. Huffman indicated that the development districts should be good for credit unions and local governments alike. He voiced some questions and concerns regarding the programs implementation, especially with regarding to the banking development districts that the Finance Commission will administer; however, he noted that he is still talking to the Association's members

and was not sure whether the Association would have any suggested changes or comments.

After some discussion among the members, Mr. Tuma moved that the Commission approve for publication and comment in the *Texas Register* the proposed new 7 TAC Sections 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005, and 91.2006 related to credit union development districts. Ms. Stockstill Cobb seconded the motion and the motion was unanimously adopted.

(b) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New 7 TAC Section 97.206 Concerning Posting of Certain Contracts and Enhanced Contract and Performance Monitoring. Commissioner Feeney explained that the proposed new rule was in response to Senate Bill 20 enacted by the 84th Legislature. The bill requires each state agency by rule to establish a procedure to identify contracts that require enhanced contract or performance monitoring and prescribes certain reporting requirements. Mr. Feeney briefly highlighted the provisions of the proposed new rule.

After a short discussion, Ms. Merket moved that the Commission approve for publication and comment in the *Texas Register* the proposed new 7 TAC Section 97.206 concerning enhanced contracts and performance monitoring. Ms. Morrow seconded the motion and the motion was unanimously adopted.

(c) Discussion of and Possible Vote to Adopt Resolutions of Appreciation for Outgoing Commission Members Gary L. Janacek, Rob Kyker, and A. John Yoggerst. Chairman Cavazos noted that in accordance with Section VII of

the Commission's Policies Manual, it is the practice of the Commission to adopt a resolution of appreciation to recognize the service of members upon the completion of their term of office. After a short discussion, Mr. Vad moved to approve the Resolutions of Appreciation for Outgoing Commission Members Gary L. Janacek, Rob Kyker and A. John Yoggerst as presented and directed that a copy of the appropriate resolutions be given to the three former members as a token of our appreciation. Mr. Tuma seconded the motion and the motion was unanimously adopted.

(d) Next Commission Meeting - Chair Cavazos reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for October 16, 2015 at 8:00 a.m. in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chairman Cavazos adjourned the meeting at 11:34 a.m.

Manuel "Manny" Cavazos
Chair

Isabel Velasquez
Recording Secretary

Distribution:

Legislative Reference Library

FOLLOW-UP ACTION REPORT

CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 09-29-15)
<u>August 12, 2015</u>		
New 7 TAC, Chapter 91 (91.2000 thru 91.2006) Credit Union Development Districts	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 08-28-15
New 7 TAC Section 97.206 Posting of Certain Contracts: Enhanced Contract and Performance Monitoring	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 08-28-15
<u>June 19, 2015</u>		
7 TAC Section 91.802 Other Investments	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.803 Investment Limits and Prohibitions	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.805 Loan Participation Investments	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.901 Reserve Requirements	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.401 Purchase, Lease, or Sale of Fixed Assets	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15

C

COMMUNICATIONS


All other communication items relevant and material to the meeting are included under the appropriate tabs.

RECOMMENDED ACTION: No formal action is anticipated to be taken by the Commission. The correspondence is included for your consideration and direction.



Credit Union Department Interoffice Memorandum

TO: File

FROM: Harold E. Feeney, Commissioner 

DATE: August 26, 2015

SUBJECT: Waiver of Operating Fees – FY2016

As of the writing of this memorandum, two credit unions are in the process of being liquidated. Specifically, the credit unions are TexDOT-WF, Wichita Falls and County & Municipal Employees Credit Union, Edinburg Texas. In view of the fact, that the Department does not wish to needlessly deplete these assets of the liquidating credit unions and given that the Department will generate sufficient revenue to cover both its direct and indirect cost, I hereby waive the Fiscal Year 2016 operating fee for these credit unions as provided by Commission Rule 97.113(c).

HEF/iv

Isabel Velasquez

From: Harold Feeney
Sent: Monday, August 10, 2015 5:12 PM
To: Isabel Velasquez
Subject: Future correspondence for October's agenda packet

Sent from my iPhone

Begin forwarded message:

From: "Texas Workforce Commission" <TWC@public.govdelivery.com>
Date: August 10, 2015 at 4:52:49 PM CDT
To: harold.feeney@tud.texas.gov
Subject: Implementation of E-Verify
Reply-To: TWC@public.govdelivery.com



TO: Executive Directors of State Agencies and Presidents of
Institutions of Higher Education

FROM: Andres Alcantar
Chairman, Texas Workforce Commission

DATE: August 10, 2015

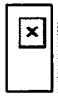
SUBJECT: Implementation of E-Verify

Senate Bill 374, recently signed by Governor Greg Abbott, requires state agencies and institutions of higher education to use the federal E-Verify system effective September 1, 2015. Many organizations are already using this system to verify the employment authorization of their new employees and I applaud that early compliance. Utilization of E-verify supports state efforts focused on ensuring individuals hired in state employment are legally present and employable in the United States.

The U.S. Citizenship and Immigration Services (USCIS) operates E-Verify, an Internet-based system that is fast, free and easy to use, to determine the employment eligibility of their newly hired employees. There is an enrollment process that involves registering organizational information and agreeing to a Memorandum of Understanding. This is all done online at the USCIS website. If your organization needs to register, please do so in time to begin using E-Verify on September 1, 2015, as required by Senate Bill 374.

There are several instructional videos, checklists, and other resources at the USCIS website. Additionally, if you have any questions related to the statutory requirements of implementing this system at your organization, please contact Susanna Holt Cutrone, TWC's Director of Human Resources Management and Staff Development, at (512) 463-9797.

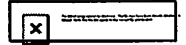
cc State Agency Executives and Directors of Human Resources
Higher Education Presidents and Directors of Human Resources
Ronnie Congleton, Commissioner Representing Labor
Ruth Ruggiero Hughs, Commissioner Representing Employers
Larry E. Temple, Executive Director, Texas Workforce Commission



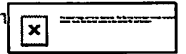
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This email was sent to harold.feeney@tud.texas.gov using GovDelivery, on behalf of: Texas Workforce Commission
· 101 E 15th St. Rm 665 · Austin, TX 78778-0001





STATE OFFICE OF RISK MANAGEMENT
WILLIAM P. CLEMENTS, JR. BUILDING, 6TH FLOOR
P.O. BOX 13777, AUSTIN, TEXAS 78711
(512) 475-1440

July 14, 2015

Mr. Harold E. Feeney
Commissioner
Credit Union Department
914 East Anderson Lane
Austin, TX 78752-1699

Agency # 469

Re: COOP Submission

Dear Mr. Feeney:

Your agency has successfully met the initial Continuity of Operation Plan (COOP) requirements in accordance with the State of Texas Continuity Program standards. SORM's evaluation included recommendations to help maintain or improve the effectiveness of your Continuity of Operations Plan.

SORM is adjusting the submission dates for state agencies' COOP Plans. Last year the deadline was October 31, 2015; the submission dates for Fiscal Year 2016 will be staggered in accordance to when an agency received their evaluation.

The next submission date of your agency's COOP plan is scheduled for **January 31, 2016**.

SORM will review the Plan to address previously made recommendations and will provide further guidance on additional improvements.

Sincerely,

Maureen Clement
Statewide Continuity Planner/Consultant
State Office of Risk Management

cc: Carla Bienkowski, Legal Assistant/Business Continuity Planner
Stacey McLarty, General Counsel/Assistant Commissioner/Primary Risk Manager



RECEIVED
CREDIT UNION
DEPARTMENT

2015 JUN 29 PM 1:19

GOVERNOR GREG ABBOTT

Date: June 26, 2015

To: All State Agency Heads

Re: Preserving Religious Liberty for all Texans

This Nation was founded by people who sought a place to worship God according to the dictates of conscience and free from government coercion. It is therefore no coincidence that the freedom of religion is the very first freedom guaranteed by the U.S. Constitution. As leaders of this State, we have an obligation to secure the right of all Texans to live their lives according to the principles of their religious faith. The Constitutions and laws of the United States and of this State afford robust protections for religious liberty:

- The First Amendment to the United States Constitution provides that the government “shall make no law . . . prohibiting the free exercise” of religion.
- Article I of the Texas Constitution provides that “[n]o human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion.”
- Chapter 110 of the Texas Civil Practice and Remedies Code, the Texas Religious Freedom Restoration Act, provides that the State, its agencies, its political subdivisions, and municipalities “may not substantially burden a person’s free exercise of religion” unless the agency can prove that the burden “is in furtherance of a compelling governmental interest” “and is the least restrictive means of furthering that interest.”

Texans of all faiths must be absolutely secure in the knowledge that their religious freedom is beyond the reach of government. Renewing and reinforcing that promise is all the more important in light of the Supreme Court’s decision in *Obergefell v. Hodges*. The government must never pressure a person to abandon or violate his or her sincerely held religious beliefs regarding a topic such as marriage. That sort of religious coercion will never be a “compelling governmental interest,” and it will never be “the least restrictive means of furthering that interest.”

Texas RFRA enshrines the foundational principle that religious liberty confined to a sanctuary is not liberty at all, and religious freedom limited to one’s home or thoughts is not freedom at all. The law protects religious liberty not only in houses of worship—but also in schools, in businesses, in the military, in public forums, and in the town square. These protections are afforded to all people, of all faiths. Yet in the wake of the Supreme Court’s decision, the law’s promise of religious liberty will be tested by some who seek to silence and marginalize those whose conscience will not allow them to participate in or endorse marriages that are incompatible with their religious beliefs.

As government officials, we have a constitutional duty to preserve, protect, and defend the religious liberty of every Texan.

With these obligations in mind, I expect all agencies under my direction to prioritize compliance with the First Amendment to the United States Constitution, Article I of the Texas Constitution, and the Texas Religious Freedom Restoration Act. All state agency heads should ensure that no

June 26, 2015

Page 2

one acting on behalf of their agency takes any adverse action against any person, as defined in Chapter 311 of the Texas Government Code, on account of the person's act or refusal to act that is substantially motivated by sincere religious belief. This order applies to any agency decision, including but not limited to granting or denying benefits, managing agency employees, entering or enforcing agency contracts, licensing and permitting decisions, or enforcing state laws and regulations.

Thank you for your dedication to the State of Texas.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Abbott". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Abbott".

Greg Abbott

Governor of Texas

GA:eed

D

COMMITTEE REPORTS

The Commission currently has two standing committees. The Rules Committee will report on its activities and recommendations to the Commission. The Commissioner Evaluation Committee will report on its activities and the proposed evaluation will be discussed in Executive Session.

RECOMMENDED ACTION: The Department requests that the Commission accept the Committee reports as presented.

RULES COMMITTEE

The Rules Committee is a standing committee of the Commission. It has been charged with managing the review and development of Commission rules and, as appropriate, propose any legislative changes that may be necessary to preserve the attractiveness of a Texas charter.

Committee Members

- ❑ **Vik Vad, Chair**
- ❑ **Kay Stewart, Vice Chair**
- ❑ **Steve Gilman**
- ❑ **Yusuf Farran**
- ❑ **Gary Tuma**
- ❑ **Manuel “Manny” Cavazos, Ex-officio**

The Rules Committee met on October 15, 2015, in a public meeting to discuss a number of items. The Committee will report on its recommendations for consideration and possible vote by the Commission



CREDIT UNION COMMISSION

Rules Committee Meeting

Credit Union Department Building

914 East Anderson Lane

Austin, Texas

Thursday, October 15, 2015

(2:00 p.m.) or Upon Adjournment of the

Commissioner Evaluation Committee Meeting

Whichever is Later

AGENDA

- I.** Call to Order (2:00 p.m.) – Chair Vik Vad
 - a. Ascertain Quorum
 - b. Appoint Recording Secretary
 - c. Invitation for Public Input Regarding Rulemaking for Future Consideration
- II.** Receive and Approve Minutes of the Rules Committee Meeting of June 18, 2015
- III.** Unfinished Business
 - a. Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.401 Concerning Purchase, Lease, or Sale Of Fixed Assets
 - b. Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.802 Concerning Other Investments
 - c. Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.803 Concerning Investment Limits and Prohibitions
 - d. Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.805 Concerning Loan Participation Investments
 - e. Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements
 - f. Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed New Subchapter K of 7 TAC Chapter 91 Concerning Credit Union Development Districts
 - g. Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed New 7 TAC Section 97.206 Concerning Posting of Certain Contracts and Enhanced Contract and Performance Monitoring
- IV.** New Business
 - a. Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Readopt 7 TAC Part 6, Chapter 91, Subchapter O (relating to Trust Powers) in its entirety

IV. New Business (continued)

- b. Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.101 Concerning Definitions and Interpretations
- c. Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.301 Concerning Field of Membership
- d. Discussion of and Possible Vote to Establish Date for Next Committee Meeting (February 18, 2016 at 2:00 p.m.)

Adjournment

In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

Meeting Accessibility: Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Linda Clevlen, Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

PROCEDURES FOR ADOPTING A PROPOSED RULE

1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.
2. The proposed rule is presented to the commission for consideration.
3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.
4. The proposed rule is adjusted by staff (if required), furnished to legal counsel and transmitted to the *Texas Register* for publication as a "proposed" rule.
5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.
6. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in the rule reverting to step four.
7. The rule is adopted as "final" and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
8. The rule is published or announced through the Department's newsletter.

EMERGENCY RULES

Rules, which are approved by the commission for emergency adoption, are transmitted to the *Texas Register* for filing. These rules become effective immediately upon filing unless another effective date is specified. They can be effective only for 120 days with a renewal provision for an additional 60 days -- a maximum of 180 days. "Day one" is the day of filing or the date specified as the effective date. While these emergency rules are in effect, regular rules should be initiated using the normal procedure described above. The Department rarely adopts emergency rules.

PROCEDURES FOR REQUIRED RULE REVIEW

Section 2001.39, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. To comply with this requirement, the Commission follows the procedure below:

1. Every four years, the Commission adopts and publishes a Rule Review Plan, which establishes a date for the required review of each existing rule.
2. At least sixty days prior to a particular rule's scheduled review date, the Department publishes notice in the Newsletter reminding interested persons of the review and encouraging comments on the rules up for review.
3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
4. If in reviewing existing rules, staff believes certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
6. At a public meeting, the Rules Committee accepts public testimony on the each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers the proposal, as recommended by staff, to the Commission.
7. The Committee's recommendation is presented to the Commission for consideration.
8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.

11. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.
12. The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

PURCHASE, LEASE, OR SALE OF FIXED ASSETS

D. (1) Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.401 Concerning Purchase, Lease, or Sale of Fixed Assets.

BACKGROUND: At its June meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.401. No comments were received in regards to the proposed amendments.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) adopts amendments to Texas Administrative Code Title 7, §91.401 concerning the Purchase, Lease, or Sale of Fixed Assets, with no changes to the text published in the July 3, 2015 issue of the *Texas Register* (40 TexReg 4287).

The amendments change the title of the rule to “Credit Union Ownership of Property” to better reflect the scope and purpose of the rule. The amendments streamline and clarify definitions of terms, reduce the requirement for credit unions to obtain prior approval from the Department to invest in premises, explain the standards for evaluating a request to invest in credit union premises in an amount that exceeds the credit union’s net worth, explain that the Department may impose special conditions for approval of such a request in order to protect the safety and soundness of the credit union, and eliminate the specific format requirements for the written request to the Department.

The Commission received no comments on these proposed changes.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency’s legal authority.

The amendments are adopted under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subtitle D of the Texas Finance Code, and under Texas Finance Code §123.103, which concerns credit union powers to purchase and sell property.

The specific section affected by the proposed amended rule is Texas Finance Code, §123.103.

§91.401. Credit Union Ownership of Property.

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

(1) Equipment includes all movable furniture, fixtures, and equipment of the credit union, its branch offices, and consolidated credit union service organizations, including automobiles and other vehicles, and any lien on the above.

(2) Immediate family member--a spouse or other family member living in the same household.

(3) Premises include the cost less accumulated depreciation, of land and buildings actually owned and occupied (or to be occupied) by the credit union, its branch offices, and consolidated credit union service organizations. This includes vaults, fixed machinery, parking facilities, and real estate acquired and intended, in good faith, for future expansion. It also includes capitalized leases, leasehold improvements, and remodeling costs to existing premises.

(4) Senior Management Employee--the chief executive officer, any assistant chief executive officers (e.g. vice presidents and above) and the chief financial officer.

(b) Investment Limitations on Premises.

Without the prior written consent of the Department, a credit union may not directly or indirectly invest an amount in excess of its net worth in premises.

(c) Restrictions on Ownership of Property.

A credit union shall not acquire premises for the principal purpose of engaging in real estate rentals or speculation.

(d) Transactions with insiders.

Without the prior approval of a disinterested majority of the board of directors recorded in the minutes or, if a disinterested majority cannot be obtained, the prior written approval of the commissioner, a credit union may not directly or indirectly:

(1) sell or lease an asset of the credit union to a director, committee member, or senior management employee, or immediate family members of such individual; or

(2) purchase or lease an asset in which a director, committee member, senior management employee, or immediate family members of such individual has an interest.

(e) Use requirement for premises.

If real property or leasehold interest is acquired and intended, in good faith, for use in future expansion, the credit union must partially satisfy the "primarily for its own use in conducting business" requirement within five years after the credit union makes the investment.

(f) Consent to Exceed Limitation.

Generally, a credit union need not obtain the Department's approval to invest in premises. However, prior approval is required if the total aggregate investment in premises will exceed the credit union's net worth. A credit union shall submit such statements and reports as the Department may require in support of the higher investment limit.

(1) When analyzing an application for an additional investment in credit union premises, the Department will consider:

(A) Consistency with safe and sound credit union practices;

(B) The reasonableness of the amount of credit union premises and the annual expenditures required to carry them relative to the credit union's net worth and the nature and volume of operations; and

(C) The effect of the investment on future earnings.

(2) The Department will consider denying a request for an additional investment in credit union premises when:

(A) The additional investment would have a material negative effect on the credit union's earnings, capital, or liquidity; or

(B) The credit union has not demonstrated a reasonable need for the additional investment.

(3) The Department may impose appropriate special conditions for an approval of an additional credit union premises investment, if it determines that they are necessary or appropriate to protect the safety and soundness of the credit union or to further other supervisory or policy considerations.

OTHER INVESTMENTS

D. (2) Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.802 Concerning Other Investments.

BACKGROUND: At its June meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.802. No comments were received in regards to the proposed amendments.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) adopts amendments to Texas Administrative Code Title 7, §91.802 concerning Other Investments, with no changes to the text published in the July 3, 2015 issue of the *Texas Register* (40 TexReg 4288).

The amendments add definitions of certain terms, clarify and amend existing terms in the rule, and explain the standard for understanding terms not explicitly defined in the rule.

The amendments are adopted as a result of the Credit Union Department's general rule review, which was conducted in accordance with Texas Government Code §2001.039.

The Commission received no comments on these proposed changes.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The amendments are adopted under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code, and under §124.351 which explains permitted investments.

The specific section affected by the proposed amended rule is Texas Finance Code, §124.351.

§91.802. Other Investments.

(a) **Definitions.** Unless the context clearly indicates otherwise, these words and terms, when used in this section, shall have the following meanings. Any technical words, terms, or phrases that are not specifically defined in this section shall be construed in a manner consistent with the Texas Code of Construction Act (*Tex. Govt. Code §311.001*).

(1) **Asset-backed security**--A bond, note, or other obligation issued by a financial institution, trust, insurance company, or other corporation secured by either a pool of loans, extensions of credit which are unsecured or secured by personal property, or a pool of personal property leases.

(2) **Bailment for hire contract**--A contract whereby a third party, bank, or other financial institution, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers; also known as a custodial agreement.

(3) **Bankers' acceptance**--A time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.

(4) **Borrowing repurchase transaction**--A transaction whereby a credit union either:

(A) agrees to sell a security to a counterparty and to repurchase the same or any identical security from that counterparty at a future date and at a specified price; or (B) borrows funds from a counterparty and collateralizes the loan with securities owned by the credit union.

(5) **Cash forward agreement**--An agreement to purchase or sell a security with delivery and acceptance being mandatory and at a future date in excess of 30 days from the trade date.

(6) **Counterparty**--An entity with which a credit union conducts investment-related activities in such a manner as to create a credit risk exposure for the credit union to the entity.

(7) **Eurodollar deposit**--A deposit denominated in U. S. dollars in a foreign branch of a United States financial institution.

(8) **Federal funds transaction**--A short-term or open-ended transfer of funds to a financial institution.

(9) **Financial institution**--A bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation, a federal or state-chartered credit union, or the National Credit Union Central Liquidity Facility.

(10) **Investment**--Any security, obligation, account, deposit, or other item authorized for investment by the Act or this section. For the purposes of this section, the term does not include an investment authorized by §124.351(a)(1) of the Texas Finance Code.

(11) **Investment repurchase transaction**--A transaction in which a credit union agrees to purchase a security from a counterparty and to resell the same or any identical security to that counterparty at a later date and at a specified price.

(12) **Mortgage related security**--A security which meets the definition of mortgage related security in United States Code Annotated, Title 15, §78c(a)(41).

(13) **Nationally recognized statistical rating organization (NRSRO)**--A rating organization such as Standard and Poor's, Moody's, or Fitch which is recognized by the Securities and Exchange Commission

(14) **Ordinary care**--The degree of care, which an ordinarily prudent and competent person engaged in the same line of business or endeavor should exercise under similar circumstances.

(15) **Security**--An investment that has a CUSIP number or that is represented by a share, participation, or other interest in property or in an enterprise of the issuer or an obligation of the issuer that:

(A) either is represented by an instrument issued in bearer or registered form or, if not represented by an instrument, is registered in books maintained to record transfers by or on behalf of the issuer;

(B) is of a type commonly traded on securities exchanges or markets or, when represented by an instrument, is commonly recognized in any area in which it is issued or traded as a medium for investment; and

(C) either is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.

(16) Settlement date--The date originally agreed to by a credit union and a vendor for settlement of the purchase or sale of a security.

(17) Small business-related securities -- is a security as defined in Section 3(a)(53) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(53)). This definition does not include Small Business Administration securities permissible under section 107(7) of the Federal Credit Union Act.

(18) Trade date--The date a credit union originally agrees, whether orally or in writing, to enter into the purchase or sale of a security.

(19) Yankee dollar deposit--A deposit in a United States branch of a foreign bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, that is licensed to do business in the state in which it is located, or a deposit in a state chartered, foreign controlled bank.

(b) Policy. A credit union may invest funds not used in loans to members, subject to the conditions and limitations of the written investment policy of the board of directors. The investment policy may be part of a broader, asset-liability management policy. The board of directors must review and approve the investment policy at least annually to ensure that the policies adequately address the following issues:

(1) The types of investments that are authorized to be purchased.

(2) The aggregate limit on the amount that may be invested in any single investment or investment type, set as a percentage of net worth. This requirement does not apply to certificates of deposit or other accounts issued by a financial institution that are fully insured (including accumulated interest) by either the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(3) The delegation of investment authority to the credit union's officials or employees, including the person or persons authorized to purchase or sell investments, and a limit of the investment authority for each individual or committee.

(4) The authorized broker-dealers or other third-parties that may be used to purchase or sell investments, and the internal process for assessing the credentials and previous record of the individual or firm.

(5) The risk management framework given the level of risk in the investment portfolio. This will include specific methods for evaluating, monitoring, and managing the credit risk, interest-rate risk, and liquidity risk from the investment activities.

(6) The authorized third-party safekeeping agents.

(7) If the credit union operates a trading account, the policy shall specify the persons authorized to engage in trading account activities, trading account size limits, stop loss and sale provisions, time limits on inventoried trading account investments, and internal controls that specify the segregation of risk-taking and monitoring activities related to trading account activities.

(8) The procedure for reporting to the board of directors investments and investment activities that become noncompliant with the credit union's investment policy subsequent to the initial purchase.

(c) Authorized activities.

(1) General authority. A credit union may contract for the purchase or sale of a security provided that delivery of the security is by regular-way settlement. Regular-way settlement means delivery of a security from a seller to a buyer within the time frame that the securities industry has established for that type of security. All purchases and sales of investments must be delivery versus payment (i.e., payment for an investment must occur simultaneously with its delivery).

(2) Cash forward agreements. A credit union may enter into a cash forward agreement to purchase or sell a security, provided that:

(A) the period from the trade date to the settlement date does not exceed 90 days;

(B) if the credit union is the purchaser, it has written cash flow projections evidencing its ability to purchase the security;

(C) if the credit union is the seller, it owns the security on the trade date; and

(D) the cash forward agreement is settled on a cash basis at the settlement date.

(3) Investment repurchase transactions. A credit union may enter an investment repurchase transaction provided:

(A) the purchase price of the security obtained in the transaction is at or below the market price;

(B) the repurchase securities are authorized investments under Texas Finance Code §124.351 or this section;

(C) the credit union has entered into signed contracts with all approved counterparties;

(D) the counterparty is rated in one of the three highest long-term or counterparty rating categories by a NRSRO; and

(E) the credit union receives a daily assessment of the market value of the repurchase securities, including accrued interest, and maintains adequate margin that reflects a risk assessment of the repurchase securities and the term of the transaction.

(4) Borrowing repurchase transactions. A credit union may enter into a borrowing repurchase transaction, which is a borrowing transaction subject to §123.201 of the Texas Finance Code, provided:

(A) any investments purchased by the credit union with either borrowed funds or cash obtained by the credit union in the transaction are authorized investments under Texas Finance Code §124.351 and this section;

(B) the credit union has entered into signed contracts with all approved counterparties; and

(C) investments referred to in subparagraph (A) of this paragraph mature no later than the maturity date of the borrowing repurchase transaction; and

(D) the counterparty is rated in one of the three highest long-term or counterparty rating categories by a NRSRO.

(5) Federal funds. A credit union may enter into a federal funds transaction with a financial institution, provided that the interest or other consideration received from the financial institution is at the market rate for federal funds transactions and that the transaction has a maturity of one or more business days or the credit union is able to require repayment at any time.

(6) Yankee dollars. A credit union may invest in yankee dollar deposits.

(7) Eurodollars. A credit union may invest in eurodollar deposits.

(8) Bankers' acceptance. A credit union may invest in bankers' acceptances.

(9) Open-end Investment Companies (Mutual Funds). A credit union may invest funds in an open-end investment company established for investing directly or collectively in any investment or investment activity that is authorized under Texas Finance Code §124.351 and this section, including qualified money market mutual funds as defined by Securities and Exchange Commission regulations.

(10) U.S. Government-sponsored enterprises. A credit union may invest in obligations of U.S. Government sponsored enterprises such as, for example: the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Federal Farm Credit Bank.

(11) Commercial paper. A credit union may invest in commercial paper issued by a corporation domiciled within the United States and having a short-term or commercial paper rating of no less than A1 or P1 by Standard & Poor's or Moody's, respectively, or an equivalent rating by a NRSRO.

(12) Corporate bonds. A credit union may invest in corporate bonds issued by a corporation domiciled in the United States. The bonds must be rated by a NRSRO in one of the two highest long-term rating categories and have remaining maturities of seven years or less.

(13) Municipal bonds. A credit union may invest in municipal bonds rated by a NRSRO in one of the two highest long-term rating categories with remaining maturities of seven years or less.

(14) Mortgage-related securities. With the exception of the residual interest of the mortgage-related security, a credit union may invest in mortgage-related securities backed by mortgages secured by real estate upon which is located a residential dwelling, a mixed residential and commercial structure, or a residential manufactured home. The security must be rated by a NRSRO in one of the two highest long-term rating categories.

(15) Asset-backed securities. Provided the underlying collateral is domestic- and consumer-based, a credit union may invest in asset-backed securities which are rated by a NRSRO in one of the two highest long-term rating categories.

(16) Small business-related securities. A credit union may invest in small business-related securities that represent an interest in one or more promissory notes or leases of personal property evidencing the obligation of a domestic small business concern and originated by a financial institution, insurance company, or similar institution which is regulated and supervised by a Federal or State authority. The securities must be rated by a NRSRO in one of the two highest long-term rating categories and have remaining maturities of seven years or less.

(17) Derivative authority. A credit union may enter into certain derivative transactions exclusively for the purpose of decreasing interest rate risk. The transaction is used to manage risk arising from otherwise permissible credit union activities and not entered into for speculative purposes. Permissible derivatives include interest rate swaps, options on swaps, interest rate caps, interest rate floors, and Treasury futures. Derivative authority is restricted to the provisions outlined under Subpart B of Part 703 of the National Credit Union Administration Rules and Regulations.

(d) Documentation. A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgment in exercising the investment powers under the Act and this rule including:

(1) Except for investments that are issued, insured or fully guaranteed as to principal and interest by the U.S. Government or its agencies, enterprises, or corporations or fully insured (including accumulated interest) by the National Credit Union Administration or the Federal Deposit Insurance Corporation, a credit union must conduct and document a credit analysis of the issuing entity and/or investment before purchasing the investment. The credit union must update the credit analysis at least annually as long as the investment is held.

(2) Credit and other due diligence documentation for each investment shall be maintained as long as the credit union holds the investment and until it has been both audited and examined. Before purchasing or selling a security, a credit union must obtain either price quotations on the security (or a similarly-structured security) from at least two broker-dealers or a price quotation on the security (or similarly-structured security) from an industry-recognized information provider. If a credit union is unable to obtain a price quotation required by this subsection for a particular security, then it can compare prices using nominal or option-adjusted spreads, or spreads to TBA (to-be-announced) mortgage backed securities. This requirement to obtain a price quotation does not apply to new issues purchased at par or at original issue discount.

(3) The reference to and use of NRSRO credit ratings in this rules provides a minimum threshold and is not an endorsement of the quality of the ratings. Credit unions must conduct their own independent credit analyses to determine that each security purchased presents an acceptable credit risk, regardless of the rating.

(e) Classification. A credit union must classify a security as hold-to-maturity, available-for-sale, or trading, in accordance with generally accepted accounting principles and consistent with the credit union's documented intent and ability regarding the security.

(f) Purchase or Sale of Investments Through a Third-Party.

(1) A credit union may purchase and sell investments through a broker-dealer as long as the broker-dealer is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or is a financial institution whose broker-dealer activities are regulated by a federal or state regulatory agency.

(2) Before purchasing an investment through a broker-dealer, a credit union must analyze and annually update the following information.

(A) The background of the primary sales representative and the local broker-dealer firm with whom the credit union is doing business, using information available from federal or state securities regulators and securities industry self-regulatory organizations, such as the Financial Industry Regulatory Authority and the North American Securities Administrators Association, about any enforcement actions against the broker-dealer firm, its affiliates, or associated personnel.

(B) If the broker-dealer is acting as the credit union's counterparty, the ability of the broker-dealer and its subsidiaries or affiliates to fulfill commitments, as evidenced by capital strength, liquidity, and operating results. The credit union should consider current financial data, annual reports, long-term or counterparty ratings that have been assigned by NRSROs, reports of NRSROs, relevant disclosure documents such as annual independent auditor reports, and other sources of financial information.

(3) Paragraphs (1) and (2) of this subsection do not apply when a credit union purchases a certificate of deposit or share certificate directly from a bank, credit union, or other financial institution.

(g) Discretionary Control Over Investments and Investment Advisers.

(1) Except as provided in paragraph (2) of this subsection, a credit union must retain discretionary control over its purchase and sale of investments. A credit union has not delegated discretionary control to an investment adviser when the credit union reviews all recommendations from the investment adviser and is required to authorize a recommended purchase or sale transaction before its execution.

(2) A credit union may delegate discretionary control over the purchase and sale of investments in an aggregate amount not to exceed 100% of its net worth at the time of delegation to persons other than the credit union's officials or employees, provided each such person is an investment

adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. 80b).

(3) Before transacting business with an investment adviser to which discretionary control has been granted, and annually thereafter, a credit union must analyze the adviser's background and information available from federal and state securities regulators and securities industry self-regulatory organizations, including any enforcement actions against the adviser, associated personnel, and the firm for which the adviser works.

(4) A credit union may not compensate an investment adviser with discretionary control over the purchase and sale of investments on a per transaction basis or based on capital gains, capital appreciation, net income, performance relative to an index, or any other incentive basis.

(5) A credit union must obtain a report from its investment adviser at least monthly that details the investments under the adviser's control and their performance.

(h) Investment Practice Permitted to Federal Credit Unions.

If an applicant credit union proposes to make the same type of investment which a federally chartered credit union has been granted permission to make, the commissioner shall grant the application unless the commissioner finds that due to the financial position or the state of management of the applicant credit union, the proposed investments or deposits would not be sound or prudent investment practices for the applicant credit union. The commissioner may instead grant the application conditionally, grant in modified form, or deny the application.

(i) Modification or Revocation of Investment Authority.

If the commissioner finds that due to the financial condition or management of a credit union, an investment practice authorized by this section has ceased to be a safe and prudent practice, the commissioner shall inform the board of directors of the credit union, in writing, that the authority to engage in the practice has been revoked or modified. The credit union's directors and management shall immediately take steps to begin liquidating the investments in question or make the modification required by the commissioner. The commissioner for cause shown may grant the credit union a definite period of time to comply with the commissioner's orders. Credit unions which continue to engage in investment practices after their authority to do so has been revoked or modified will be treated as if the authority to engage in the practice had never been granted, and their actions may be deemed an unsound practice and a willful violation of an order of the commissioner and may be grounds for appropriate supervisory action against the credit union, its directors or officers.

(j) Waivers.

(1) The commissioner in the exercise of discretion may grant a written waiver, consistent with safety and soundness principles, of a requirement or limitation imposed by this subchapter. A decision to deny a waiver is not subject to appeal. A waiver request must contain the following:

(A) A copy of the credit union's investment policy;

(B) The higher limit or ratio sought;

(C) An explanation of the need to raise the limit or ratio; and

(D) Documentation supporting the credit union's ability to manage this activity;

(2) In determining action on a waiver request made under this subsection, the commissioner will consider the:

(A) Credit union's financial condition and management, including compliance with regulatory net worth requirements. If significant weaknesses exist in these financial and managerial factors, the waiver normally will be denied.

- (B) Adequacy of the credit union's policies, practices, and procedures. Correction of any deficiencies may be included as conditions, as appropriate, if the waiver is approved.
- (C) Credit union's record of investment performance. If the credit union's record of performance is less than satisfactory or otherwise problematic, the waiver normally will be denied.
- (D) Credit union's level of risk. If the level of risk poses safety and soundness problems or material risks to the insurance fund, the waiver normally will be denied.

INVESTMENT LIMITS AND PROHIBITIONS

D. (3) Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.803 Concerning Investment Limits and Prohibitions.

BACKGROUND: At its June meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.803. One written comment was received in regards to the proposed amendments.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (Commission) adopts amendments to Texas Administrative Code Title 7, §91.803 concerning Investment Limits and Prohibitions, with non-substantive changes to the text published in the July 3, 2015 issue of the *Texas Register* (40 TexReg 4292).

As published, the amendments reduce the limitations on investments by exempting federally-insured deposits and investments, to the extent that those amounts are federally insured. The amendments also clarify certain activities in the list of prohibited activities, reduce restrictions on certain activities in the list of prohibited activities, and add certain activities to the list of prohibited activities. As adopted, these ongoing notice requirements have been withdrawn, reverting to the existing rule requirements. The amendments, including some of the non-substantive changes, also correct an erroneous citation and edit the rule for clarity and consistency.

The amendments are adopted as a result of the Credit Union Department's general rule review, which was conducted in accordance with Texas Government Code §2001.039.

The Commission received one written comment on the proposed rule amendments. The commenter was concerned about some technical language differences that might cause some to be concerned about how investments insured or guaranteed by U.S. Government sponsored enterprises would be treated under §91.803(a), and proposed to add the word "sponsored" before the word "enterprise". The Commission agrees with this non-substantive change.

The commenter also suggested adding the language "including those referred to in 91.802(c)(10)" to clarify the term U.S. Government sponsored enterprises. The Commission disagrees that this addition will provide clarity, instead finding that this addition is redundant and unnecessary.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The amendments are adopted under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code, and under §§124.351 and 124.352 which address permitted investments and limitations on investments for credit unions.

The specific sections affected by the proposed amended rule are Texas Finance Code, §§124.351 and 124.352.

§91.803. Investment Limits and Prohibitions.

(a) **Limitations.** With the exception of deposits held by a Federal Reserve Bank, a credit union may invest no more than 50% of its net worth with any single obligor or related obligors. This limitation also does not apply to the extent that the investment is insured or guaranteed by the United States government, or an agency, enterprise, corporation, or instrumentality of the United States government, or to any trust or trusts established for investing, directly or collectively, in such securities, obligations, or instruments. For the purposes of this section, obligor is defined as an issuer, trust, or originator of an investment, including the seller of a loan participation.

(b) **Designated Depository.** As a single exception to subsection (a) of this section, a credit union's board of directors may establish the maximum aggregate deposit limit for a single financial institution approved by the board as the credit union's designated depository. This deposit limit shall be a percentage of net worth and must be based on the credit union's liquidity trends and funding needs as documented by its asset/liability management policy. This authority is contingent upon the credit union appropriately documenting its due diligence to demonstrate that the investments in this designated depository do not pose a safety and soundness concern. The credit union's board of directors shall review and approve at least annually the maximum aggregate deposit limit for its designated depository. The review shall include a current due diligence analysis of the financial institution.

(c) **Prohibited Activities.**

(1) **Definitions.**

(A) **Adjusted trading--**selling an investment to a counterparty at a price above its current fair value and simultaneously purchasing or committing to purchase from the counterparty another investment at a price above its current fair value.

(B) **Collateralized mortgage obligation (CMO)--**a multi-class bond issue collateralized by mortgages or mortgage-backed securities.

(C) **Commercial mortgage related security--**a mortgage related security except that it is collateralized entirely by commercial real estate, such as a warehouse or office building, or a multi-family dwelling consisting of more than four units.

(D) **Fair value--**the price at which a security can be bought or sold in a current, arm's length transaction between willing parties, other than in a forced or liquidation sale.

(E) **Real estate mortgage investment conduit (REMIC)--**a nontaxable entity formed for the sole purpose of holding a fixed pool of mortgages secured by an interest in real property and issuing multiple classes of interests in the underlying mortgages.

(F) **Residual interest--**the remainder cash flows from a CMO/REMIC, or other mortgage-backed security transaction, after payments due bondholders and trust administrative expenses have been satisfied.

(G) **Short sale--**the sale of a security not owned by the seller.

(H) **Stripped mortgage-backed security--**a security that represents either the principal-only or the interest-only portion of the cash flows of an underlying pool of mortgages or mortgage-backed securities.

(I) **Zero coupon investment--**an investment that makes no periodic interest payments but instead is sold at a discount from its face value. The holder of a zero coupon investment realizes the rate of return through the gradual appreciation of the investment, which is redeemed at face value on a specified maturity date.

- (2) A credit union may not:
 - (A) Use financial derivatives for replication, or for any purposes other than hedging;
 - (B) Engage in adjusted trading or short sales;
 - (C) Purchase stripped mortgage backed securities;
 - (D) Purchase residual interests in CMOs/REMICs, or other structured mortgage backed securities;
 - (E) Purchase mortgage servicing rights as an investment but may retain mortgage servicing rights on a loan originated by the credit union and sold on the secondary market;
 - (F) Purchase commercial mortgage related securities of an issuer other than a U.S. Government sponsored enterprise;
 - (G) Purchase any security that has the capability of becoming a first credit loss piece which supports another more senior security;
 - (H) Purchase a zero coupon investment with a maturity date that is more than 10 years from the settlement date;
 - (I) Purchase investments whereby the underlying collateral consists of foreign receivables or foreign deposits;
 - (J) Purchase securities used as collateral by a safekeeping concern;
 - (K) Purchase exchangeable mortgage backed securities, unless they are fully compliant with the provisions outlined in Part 703 of the National Credit Union Administration Rules and Regulations; or
 - (L) Purchase securities convertible into stock at the option of the issuer.
- (d) Investment pilot program.
 - (1) The commissioner may authorize a limited number of credit unions to engage in other types of investment activities under an investment pilot program. A credit union wishing to participate in an investment pilot program shall submit a request that addresses the following items:
 - (A) Board policies approving the activities and establishing limits on them;
 - (B) A complete description of the activities, with specific examples of how the credit union will conduct them and how they will benefit the credit union;
 - (C) A demonstration of how the activities will affect the credit union's financial performance, risk profile, and asset-liability management strategies;
 - (D) Examples of reports the credit union will generate to monitor the activities;
 - (E) A projection of the associated costs of the activities, including personnel, computer, audit, etc.;
 - (F) A description of the internal systems to measure, monitor, and report the activities, and the qualifications of the staff and/or official(s) responsible for implementing and overseeing the activities; and
 - (G) The internal control procedures that will be implemented, including audit requirements.
 - (2) In connection with a request to participate in an investment pilot program, the commissioner will consider the general nature and functions of credit unions, as well as the specific financial condition and management of the applicant credit union, as revealed in the request, examinations, or such other information as may be available to the commissioner. The commissioner may approve the request, approve the request conditionally, approve it in modified form, or deny it in whole or in part. A decision by the commissioner concerning participation in an investment pilot program is not appealable.

(3) The commissioner may find that an investment pilot program previously authorized is no longer a safe and prudent practice for credit unions generally to engage in, or has become inconsistent with applicable state or federal law, or has ceased to be a safe and prudent practice for one or more particular credit unions in light of their financial condition or management. Upon such a finding, the commissioner will send written notice informing the board of directors of any or all of the credit unions engaging in such a practice that the authority to engage in the practice has been revoked or modified. When the commissioner so notifies any credit union, its directors and officers shall forthwith take steps to liquidate the investments in question or to make such modifications as the commissioner requires. Upon demonstration of good cause, the commissioner may grant a credit union some definite period of time in which to arrange its affairs to comply with the commissioner's direction. Credit unions which continue to engage in investment practices where their authority to do so has been revoked or modified will be deemed to be engaging in an unsound practice.



P.O. Box 250169 | Plano, Texas 75025-0169 | itcu.org

Filed via info@tud.texas.gov

August 3, 2015

Credit Union Department
914 East Anderson Lane
Austin, Texas 78752-1699

Re: Comments on Proposed Rules – 91.802 Other Investments and 91.803 Investment Limits and Prohibitions

To Whom It May Concern:

InTouch Credit Union (ITCU) is an \$800 million institution headquartered in Plano, Texas, operates twenty-one branches and two call centers in five states, and serves over 85,000 members residing in all 50 states and 32 foreign countries. On behalf of the Board, staff, and members of ITCU, I appreciate the opportunity to comment on the Texas Credit Union Department's (TCUD) proposed changes of 91.802 Other Investments and 91.803 Investment Limits and Prohibitions.

According to information available on the Department's website, it is suggested comment letters address one or more of the following questions:

- Do the rules clearly state the requirements? If not, how could the rule be more clearly stated?
- Do the rules contain technical language or jargon that isn't clear? If so, what language requires clarification?

From our vantage point, there are some ambiguities that potentially prevent the rules from being understood clearly, and the manner in which the two sections reference each other. Therefore (and in our opinion), some technical language differences between Section 91.802(c)(10) and Section 91.803(a), might cause some to be concerned about how investments insured or guaranteed by U.S. Government sponsored enterprises, for example the Federal National Mortgage Association, would be treated under Section 91.803(a). We suggest the following proposed additional language for Section 91.803(a) be further modified to read: 'the extent that the investment is insured or guaranteed by the United States government or an agency, sponsored enterprise, corporation, or instrumentality of the United States government, including those referred to in 91.802(c)(10) or to any ...'. We believe the additional language should make clear the intent of the proposed change.

In closing, thank you for the opportunity to comment on the proposed regulation. Please feel free to contact us if you would like any additional information.

Sincerely,

A handwritten signature in black ink that reads "Kent L. Lugrand".

Kent L. Lugrand
President & CEO
InTouch Credit Union
ceo@itcu.org
214-291-1776

Working for you and your financial well-being.

LOAN PARTICIPATION INVESTMENTS

D. (4) Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.805 Concerning Loan Participation Investments.

BACKGROUND: At its June meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.805. No comments were received in regards to the proposed amendments.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) adopts amendments to Texas Administrative Code Title 7, §91.805 concerning Loan Participation Investments, with no changes to the text published in the July 3, 2015 issue of the *Texas Register* (40 TexReg 4294).

The amendments clarify permitted participation interests and eliminate the specific limitation on aggregate investment amounts, instead requiring credit unions to develop and follow investment policies and agreements to ensure the soundness of each credit union's loan participation investments.

The amendments are adopted as a result of the Credit Union Department's general rule review, which was conducted in accordance with Texas Government Code §2001.039.

The Commission received no comments on these proposed changes.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The amendments are adopted under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code, and under §124.351 which explains permitted investments for credit unions.

The specific section affected by the proposed amended rule is Texas Finance Code, §124.351.

Subchapter H. Investments

§91.805. Loan Participation Investments.

(a) A credit union may purchase a participation interest in a loan, where the borrower is neither a member of the credit union or a member of another participating credit union, as permitted by §124.351(a)(8) of the Texas Finance Code, provided the following conditions are satisfied:

(1) the purchase complies with all regulatory requirements to the same extent as if the credit union had originated the loan;

(2) the originating lender retains at least 10 percent of the outstanding balance of the loan through the life of the loan;

(3) the purchase complies with the credit union's investment policy, which, at a minimum, must:

(A) establish the same degree of independent credit and collateral analysis as if the credit union was the originator; and

(B) establish commitment limits for aggregate purchased participations, out-of-area participations, and loans originated by individual lead institutions.

(4) the written loan participation agreement fully describes the lead institution's responsibilities, establishes requirements for obtaining timely borrower credit information, addresses remedies upon default, and outlines dispute resolution procedures.

(b) Financial Reporting. A participation interest in a non-credit union member loan purchased under this section shall be reported in accordance with generally accepted accounting principles.

(c) Other Requirements. A credit union purchasing a loan participation investment must also comply with applicable requirements contained within Part 741 of the National Credit Union Administration Rules and Regulations.

RESERVE REQUIREMENTS

D. (5) Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements.

BACKGROUND: At its June meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.901. No comments were received in regards to the proposed amendments.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) adopts amendments to Texas Administrative Code Title 7, §91.901 concerning Reserve Requirements, with no changes to the text published in the July 3, 2015 issue of the *Texas Register* (40 TexReg 4295).

The amendments provide for the development of a financial plan for credit unions that are unable to increase the dollar amount of their net worth reserves, as required by §91.901(b)(1). The plan would require these credit unions to develop a detailed timetable of steps to increase their net worth ratio and ultimately achieve compliance. The financial plan would be filed with the Department and would be enforceable as a written agreement with the commissioner under §122.255 of the Finance Code.

The amendments are adopted as a result of the Credit Union Department's general rule review, which was conducted in accordance with Texas Government Code §2001.039.

The Commission received no comments on these proposed changes.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The amendments are adopted under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code, and under §124.351 which explains permitted investments for credit unions.

The specific section affected by the proposed amended rule is Texas Finance Code, §124.351.

Subchapter I. Reserves and Dividends

§91.901. Reserve Requirements.

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

(1) Net worth means the retained earnings balance of the credit union as determined under generally accepted accounting principles. Retained earnings consist of undivided earnings, regular reserves, and any other appropriations designated by management, the insuring organization, or the commission. This means that only undivided earnings and appropriations of undivided earnings are included in net worth. Net worth does not include the allowance for loan and lease losses account.

(2) Net worth ratio means, with respect to a credit union, the ratio of the net worth of the credit union to the total assets of the credit union.

(3) Total assets means the average of the total assets as measured using one of the following methods:

(A) average quarterly balance. The average of quarter-end balances of the four most recent calendar quarters; or

(B) average monthly balance. The average of month-end balances over the three calendar months of the calendar quarter; or

(C) average daily balance. The average daily balance over the calendar quarter; or

(D) quarter-end balance. The quarter-end balance of the calendar quarter as reported on the credit union's call report.

(b) In accordance with the requirements of §122.104 of the Act, state-chartered credit unions shall set aside a portion of their current gross income, prior to the declaration or payment of dividends, as follows:

(1) A credit union with a net worth ratio below 7.0% shall increase the dollar amount of its net worth reserves by the following amounts at the indicated intervals until its net worth ratio equals 7.0% of total assets:

(A) in the case of a monthly dividend period, net worth must increase monthly by an amount equivalent to at least 0.0334% of its total assets; and

(B) in the case of a quarterly, semi-annual or annual dividend period, net worth must increase quarterly by an amount equivalent to at least 0.1% per quarter of its total assets.

(2) For a credit union in operation less than ten years and having assets of less than \$10 million, a business plan must be developed that reflects, among other items, net worth projections consistent with the following:

(A) 2.0% net worth ratio by the end of the third year of operation;

(B) 3.5% net worth ratio by the end of the fifth year of operation;

(C) 6.0% net worth ratio by the end of the seventh year of operation; and

(D) 7.0% net worth ratio by the time it reaches \$10 million in total assets or by the end of the tenth year of operation, which ever is shorter.

(3) Whenever the net worth ratio falls below 7.0%, the credit union shall transfer a portion of its current period net income to its regular reserve in such amounts as described in paragraph (1) of this subsection.

(4) Special reserves. In addition to the regular reserve, special reserves to protect the interest of members may be established by board resolution or by order of the commissioner, from current

income or from undivided earnings. In lieu of establishing a special reserve, the commissioner may direct that all or a portion of the undivided earnings and any other reserve fund be restricted. In either case, such directives must be given in writing and state with reasonable specificity the reasons for such directives.

(5) Insuring organization's capital requirements. As applicable, a credit union shall also comply with any and all net worth or capital requirements imposed by an insuring organization as a condition to maintaining insurance on share and deposit accounts. For federally-insured credit unions this includes all prompt corrective action requirements contained within Part 702 of the NCUA Rules and Regulations.

(6) Decrease in Required Reserve Transfer. The commissioner, on a case-by-case basis, and after receipt of a written application, may permit a credit union to transfer an amount that is less than the amount required under paragraph (1) of this subsection. A credit union shall submit such statements and reports as the commissioner may, in his discretion, require in support of a decreased transfer request. The application must be received no later than 10 days before the quarter end and shall include but not be limited to:

(A) An explanation of the need for the reduced transfer amount;

(B) Financial statement reflecting the fiscal impact of the required transfer; and

(C) Documentation supporting the credit union's ability to resume the required transfer at a future date certain.

(7) Financial Plan. A credit union that is not capable of making the prescribed reserve transfer under paragraph (1) of this subsection for three consecutive quarters, shall file a written financial plan detailing a quarterly timetable of steps the credit union will take to increase its net worth ratio and fully comply with this section in the future. A credit union shall file and implement the financial plan within 45 days of the triggering quarter end date. A credit union may, after prior written notice to the Department, amend its financial plan to reflect a change in circumstances. Failure to meet the terms of the financial plan may be considered a violation of a written agreement with the commissioner under §122.255 of the Finance Code.

(c) Revised business plan for new credit unions. A credit union that has been in operation for less than ten years and has assets of less than \$10 million shall file a written revised business plan within 30 calendar days of the date the credit union's net worth ratio has failed to increase consistent with its current business plan. Failure to submit a revised business plan, or submission of a plan not adequate to either increase net worth or increase net worth within a reasonable time; or failure of the credit union to implement its revised business plan, may trigger the regulatory actions described in subsection (b)(4) of this section.

(d) Unsafe practice. Any credit union which has less than a 6.0% net worth ratio may be deemed to be engaged in an unsafe practice pursuant to §122.255 of the Finance Code. The determination may be abated if, the credit union has entered into and is in compliance with a written agreement or order with the department or is in compliance with a net worth restoration or revised business plan approved by the department to increase its net worth ratio. If a credit union has a net worth ratio below 6.0% or is otherwise engaged in an unsafe practice, the department may impose the following administrative sanctions in addition to, or in lieu of, any other authorized supervisory action:

(1) all unencumbered reserves, undivided earnings, and current earnings are encumbered as special reserves;

(2) dividends and interest refunds may not be declared, advertised, or paid without the prior written approval of the commissioner; and

(3) any changes to the credit union's board of directors or senior management staff must receive the prior written approval of the commissioner.

(e) Supervisory action. Notwithstanding any requirements in this section, the department may take enforcement action against a credit union with capital above the minimum requirement if the credit union's circumstances indicate such action would be appropriate.

CREDIT UNION DEVELOPMENT DISTRICTS

D. (6) Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed New Subchapter K of 7 TAC Chapter 91 Concerning Credit Union Development Districts.

BACKGROUND: At the August special meeting, the Commission approved for publication and comment in the *Texas Register* the proposed new Rules 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005 and 91.2006. No comments were received in regards to the proposal.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (Commission) adopts Subchapter K of 7 TAC, Chapter 91, concerning Credit Union Development Districts, with no changes to the text published in the August 28, 2015 issue of the *Texas Register* (40 TexReg 5401).

The subchapter, entitled Credit Union Development Districts, contains seven rules which describe the procedures for establishment of credit union development districts. (A previous version of Subchapter K of 7 TAC, Chapter 91, entitled Residential Mortgage Loan Originators Employed by a Credit Union Subsidiary Organization, was repealed in October 2013 as a result of provisions enacted in the 83rd Session of the Legislature.) The subchapter was proposed in response to House Bill 1626 (HB 1626) enacted by the 84th Legislature. HB 1626 added Chapter 279 to the Texas Finance Code. HB 1626 assigned the Department the duty to administer and monitor a credit union development district program where there is a demonstrated need for services provided by a state or federal credit union, and requires the Commission to adopt rules consistent with this duty not later than January 1, 2016. HB 1626 authorizes a local government to apply for the designation of a credit union development district and authorizes a state or federal credit union to apply to open a branch in a proposed development district at the time the local government submits the application. HB 1626 states that rules regarding the criteria for the designation of credit union development districts must be made in consultation with the Texas Economic Development and Tourism Office (within the Office of the Governor).

91.2000, Purpose and Scope, explains the reason for these rules and clarifies that establishing a credit union development district does not affect requirements applicable to reinvestment zones and tax abatement agreements pursuant to the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act (Government Code, Chapters 311 and 312, respectively).

91.2001, Definitions, defines the terms, "credit union," "district," and "local government."

91.2002, Application Requirements to Establish a District, details the application requirements for local governments seeking to establish a credit union development district in conjunction with a credit union.

91.2003, Submission and Processing of Application, details how an application will be processed and considered complete and acceptable for filing.

91.2004, Criteria for Approval of a District by the Commission, requires the Commission to consider the five, statutorily required factors in HB1626 in determining whether to approve a credit union development district: (1) the location, number, and proximity of sites where services provided by a credit union are available in the proposed credit union development district, (2) consumer needs for services provided by a credit union in the proposed district, (3) the economic viability and local credit needs of the community in the proposed district, (4) the existing commercial development in the proposed district,

and (5) the impact additional services provided by a credit union would have on potential economic development in the proposed district.

91.2005, Monitoring, imposes minimal reporting requirements on the local government applicant in order to permit the Commission to monitor the program as required by HB 1626. The only required notice would inform the Department when a credit union opens or closes a branch in an approved credit union development district.

Finally, 91.2006, Rulemaking and Amendment for this Subchapter, states that the Department will develop policies with the Texas Economic Development and Tourism division of the Governor's Office regarding consultation for the adoption of rules for the designation of credit union development districts.

The Commission received no comments on these proposed rules.

This agency hereby certifies that the proposed rules have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The rules are adopted under newly added Texas Finance Code §279.102, which permits the Commission to adopt rules to implement the creation of credit union development districts and the depositing of public funds in these district depositories with respect to credit union in credit union development districts.

The specific section affected by the proposed rules is Texas Finance Code, §279.102.

Subchapter K. Credit Union Development Districts

§91.2000. Purpose and Scope.

(a) This subchapter implements Tex. Fin. Code §279.001 et seq. regarding the establishment of credit union development districts.

(b) This subchapter does not affect or circumvent requirements under the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act (Tex. Gov. Code, Chapters 311 and 312, respectively), including requirements for designation of an area as a municipal or county reinvestment zone or for authorization to enter into a tax abatement agreement.

§91.2001. Definitions.

Unless the context clearly indicates otherwise, these words and terms, when used in this subchapter, shall have the following meanings:

1. "Credit union" includes state and federal credit unions.
2. "District" means a credit union development district approved under this subchapter.
3. "Local government" means a municipality or county.

§91.2002. Application Requirements to Establish a District.

(a) Basic application. A local government, in conjunction with a credit union, may submit an application to the Commission for the designation of a proposed credit union development district, as provided by §91.2003 of this subchapter (relating to Submission and Processing of Application). The application shall contain the following items to the extent available:

1. the name of the local government, the county in which it is located and evidence of the approval of the application by its governing body;
2. identification of the participating credit union and the location of the proposed credit union or branch by street address;
3. a description of the geographic area comprising the proposed district, including a map indicating the borders of the proposed district;
4. the location, number and proximity of sites where credit union services are available in the proposed credit union development district, including branches of other financial institutions and deposit-taking ATMs other than those located at branches;

5. a compilation and description of consumer needs for credit union services in the proposed district, including population demographics included within the proposed district;
6. a compilation and description of the economic viability and local credit needs of the community in the proposed district, including economic indicators pertinent to the proposed district;
7. a compilation and description of the existing commercial development in the proposed district, including a description of the type and nature of commercial businesses located in the proposed district; and
8. a compilation and description of the impact additional credit union services would have on potential economic development in the proposed district, including significant business developments within the past three years, corporate restructurings, plant closings, other business closings, and recent or proposed business openings or expansions.

(b) Optional information. An application for designation of a credit union development district may also include:

1. a description of other local government and community initiatives proposed to be undertaken and coordinated with establishment of the proposed district;
2. indications of community support or opposition for the application, as evidenced by letters from entities such as local chambers of commerce, local businesses, community-based organizations, non-profit organizations, government officials, or community residents; and
3. such other information that the applicant believes will demonstrate that the proposed district meets the standards set forth in §91.2004 of this subchapter (relating to Criteria for Approval).

§91.2003. Submission and Processing of Application.

(a) The application must be submitted to the Commission in care of the Department, 914 East Anderson Lane, Austin, TX 78752-1699. No filing fee is required.

(b) After the initial application is submitted, the Department shall issue a written notice informing the applicant either that the application is complete and accepted for filing or that the application is deficient and specific additional information is required. The applicant must supply any additional information requested by the Department not later than the 61st day after the date the applicant received written notice from the Department that the application is deficient. Upon a finding of good and sufficient cause, the Department shall grant an applicant additional time to complete the application. Once the deficient application is

complete and accepted for filing, the Department shall issue a written notice informing the applicant that the application is complete and accepted for filing.

(c) After the issuance of written notice informing the applicant that the application is complete and accepted for filing, the Department shall evaluate the application to the extent necessary to make a written recommendation to the Commission under the criteria set forth in §91.2004 of this subchapter. The Department shall submit the completed application and the Department's recommendations to the Commission for decision at the next regularly scheduled meeting of the Commission, which must occur not later than the 120th date after the date the completed application is accepted for filing.

(d) If the Commission approves the application, the Department shall notify the interested parties as required by Tex. Fin. Code §279.105(b).

(e) All approved districts shall be posted on the Department's web site.

§91.2004. Criteria for Approval of a District by the Commission.

In determining whether to approve an application for the designation of a credit union development district, the Commission must consider the criteria listed in Tex. Fin. Code § 279.102(b).

§91.2005. Monitoring.

(a) A local government that receives approval for a district under this subchapter shall notify the Department in writing not later than the 21st day after the date:

1. the credit union establishes a branch in the district and the address of such a branch; and
2. the credit union closes a branch in the district.

(b) On behalf of the Commission, the Department may request periodic status reports from the local government or the credit union in order to ensure that the needs of the community located in the district are being met in an appropriate manner.

§91.2006. Rulemaking and Amendment for this Subchapter.

Tex. Fin. Code §279.102(b) requires the Credit Union Department to adopt rules in consultation with the Texas Economic Development and Tourism Office within the Office of the Governor. The Department will develop policies with this office within the Governor's office, outlining the procedures for consultation.

**POSTING OF CERTAIN CONTRACTS AND ENHANCED CONTRACT
AND PERFORMANCE MONITORING**

D. (7) Discussion of and Possible Vote to Recommend that the Credit Union Commission Adopt the Proposed New 7 TAC Section 97.206 Concerning Posting of Certain Contracts and Enhanced Contract and Performance Monitoring.

BACKGROUND: At the August special meeting, the Commission approved for publication and comment in the *Texas Register* the proposed new Rule 97.206. No comments were received in regards to the proposal.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (Commission) adopts new §97.206, Title 7, Texas Administrative Code, entitled Posting Of Certain Contracts: Enhanced Contract And Performance Monitoring, which implements procedures for contracts for the purchase of goods or services from private vendors, with no changes to the text published in the August 28, 2015 issue of the *Texas Register* (40 TexReg 5403).

The new rule was proposed in response to Senate Bill 20 (SB 20) enacted by the 84th Legislature. SB 20 requires each state agency by rule to establish a procedure to identify contracts that require enhanced contract or performance monitoring and prescribes certain reporting requirements.

The Commission received no comments on this proposed rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The rule is adopted under Texas Government Code §2261.253, which requires the Commission to adopt and enforce rules providing for the Commissioner, Credit Union Department, to establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body.

The specific sections affected by the proposed new rule is Texas Government Code, §2261.253.

§97.206. Posting Of Certain Contracts: Enhanced Contracts And Performance Monitoring.

(a) Pursuant to section 2261.253 of the Texas Government Code, the Department will implement the following procedures for contracts for the purchase of goods or services from private vendors:

(1) The Department will list information pertaining to its contract with private vendors on its website. The information will include:

(A) The name of the vendor with whom the contract is made;

(B) A description of the competitive bidding process for the contract, or, if the contract did not involve competitive bidding, a citation and explanation of the legal authority supporting exemption from the competitive bidding process;

(C) A link to a copy of the request for proposal for the contract, if applicable until the contract expires or is completed; and

(D) A link to a copy of the contract with the vendor until the contract expires or is completed.

(2) Enhanced contract or performance monitoring procedure until the contract expires or is completed.

(A) For each contract whose value is greater than \$25,000, the Commissioner and the Department Procurement Director will evaluate whether enhanced contract or performance monitoring is appropriate. Criteria that may be considered include:

(i) Total cost of the contract.

(ii) Risk of loss to the Department under the contract.

(iii) Department resources available for enhanced contract or performance monitoring.

(B) After evaluation of the contract, the Commissioner will immediately report to the Commission Members:

(i) The basis for determination as to whether enhanced contract or performance monitoring is appropriate;

(ii) Include any serious issues or risks identified with the contract, if applicable; and

(iii) If enhanced contract or performance monitoring is appropriate, the Department's plan for carrying out the enhanced contract or performance monitoring.

(C) Commission members may agree to convene a special commission meeting for the purposes of discussion or deciding upon matters related to enhanced contract or performance monitoring of Department contracts. This meeting would be conducted in conformity with the Texas Open Meetings Act.

(b) This rule applies only to contracts for which the request for bids or proposals is made public on or after September 1, 2015; or, if the contract is exempt from

competitive bidding, where the contract is entered into on or after September 1, 2015. This rule does not apply to memorandums of understanding, interagency contracts, interlocal agreements or contracts that do not involve a cost to the Department.

MANDATORY RULE REVIEW

D. (8) Discussion of and Possible Vote to Readopt 7 TAC Part 6, Chapter 91, Subchapter O (Relating to Trust Powers) in its Entirety.

BACKGROUND: Section 2001.39, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its June 2012 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed Chapter 91 and has recommended that no changes be made to 7 TAC Sections 91.6001, 91.6002, 91.6003, 91.6004, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6010, 91.6011, 91.6012, 91.6013, 91.6014, and 91.6015.

Notice of review and a request for comments on these rules were published in the August 21, 2015 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rules continue to exist.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (Commission) has completed its review of Texas Administrative Code Title 7, §§91.6001 (Fiduciary Duties), 91.6002 (Fiduciary Capacities), 91.6003 (Notice Requirements), 91.6004 (Exercise of Fiduciary Powers), 91.6005 (Exemption from Notice), 91.6006 (Policies and Procedures), 91.6007 (Review of Fiduciary Accounts), 91.6008 (Recordkeeping), 91.6009 (Audit), 91.6010 (Custody of Fiduciary Assets), 91.6011 (Trust Funds), 91.6012 (Compensation, Gifts, and Bequests), 91.6013 (Bond Coverage), 91.6014 (Errors and Omissions Insurance), and 91.6015 (Litigation File), as published in the August 21, 2015 issue of the *Texas Register* (40 TexReg 5353). The Commission proposes to readopt these rules.

The rules were reviewed as a result of the Credit Union Department (Department)'s general rule review.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to readopt.

The Commission received no comments with respect to these rules. The Department believes that the reasons for initially adopting these rules continue to exist. The Commission finds that the reasons for initially adopting §§91.6001, 91.6002, 91.6003, 91.6004, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6010, 91.6011, 91.6012, 91.6013, 91.6014, and 91.6015 continue to exist, and readopts these rules without changes pursuant to the requirements of Government Code, §2001.039.

Subchapter O. Trust Powers

§91.6001. Fiduciary Duties.

A credit union must conduct its trust operations in accordance with applicable law, and must exercise its fiduciary powers in a safe and sound manner. All fiduciary activities shall be under the direction of the credit union's board of directors. In carrying out its responsibilities, the board may assign, by action duly entered in the minutes, any function related to the exercise of fiduciary powers to any director, officer, employee, or committee thereof.

§91.6002. Fiduciary Capacities.

A credit union is subject to this chapter if it acts in a fiduciary capacity. A credit union acts in a fiduciary capacity when it acts in any of the following capacities:

- (1) Trustee.
- (2) Custodian.
- (3) Executor.
- (4) Administrator.
- (5) Guardian.
- (6) Receiver.

§91.6003. Notice Requirements.

(a) Intent. A credit union is required to notify the commissioner in writing of its intent to exercise fiduciary powers, at least 31 days prior to the anticipated commencement date of such fiduciary activities. The notice must contain:

- (1) A statement describing the fiduciary powers that the credit union will exercise;
- (2) An opinion of counsel that the proposed activities do not violate law, including citations to applicable law;
- (3) A statement that the capital of the credit union is not less than the capital required by law of other financial institutions exercising comparable fiduciary powers;
- (4) Sufficient biographical information on proposed trust management personnel to enable the Department to assess their qualifications; and
- (5) A description of the locations where the credit union will conduct fiduciary activities.

(b) Prior Activity. A credit union that has initiated trust activities prior to the effective date of this rule shall file the notice prescribed in subsection (a) by October 1, 2003.

§91.6004. Exercise of Fiduciary Powers.

(a) Supervisory Review. Unless otherwise notified by the department, a credit union may exercise its fiduciary powers on the 30th day after the credit union receives written confirmation from the Department that the notice required under Section 91.6003 of this title (relating to Notice Requirements) is complete and accepted for filing. The Department will consider the following factors when reviewing such a notice:

- (1) The credit union's financial condition.
- (2) The credit union's capital and whether that capital is sufficient under the circumstances.
- (3) The credit union's overall performance.
- (4) The fiduciary powers the credit union proposes to exercise.
- (5) The availability of legal counsel.

- (6) The experience and expertise of proposed trust management personnel.
 - (7) The needs of the members to be served.
 - (8) Any other facts or circumstances that the Department considers appropriate.
- (b) **Written Notice.** Prior to expiration of the 30 day period referred to in subsection (a), the commissioner may give the credit union written notice of denial or consent, subject to certain conditions.
- (c) **Acceptance of Conditions.** Commencement of the exercise of fiduciary powers constitutes confirmation of acceptance of all conditions imposed by the commissioner under subsection (b) and shall be considered an enforceable agreement against the credit union for all purposes.

§91.6005. Exemption from Notice.

A credit union does not need to provide notice under section 91.6003 (relating to notice requirements) to act as a trustee or custodian of any form of retirement, pension, profit sharing or deferred income accounts for its members, pension funds of self-employed individuals eligible for membership and pension funds of a company or organization whose employees are eligible for membership in the credit union if acting as such will only involve holding the funds on deposit and reporting information to the account holders and government agencies. All contributions to such fiduciary accounts, however, must be initially made to a share or deposit account in the credit union and the credit union may not directly or indirectly provide any investment advice for such fiduciary accounts.

§91.6006. Policies and Procedures.

A credit union exercising trust powers shall adopt and follow written policies and procedures adequate to maintain its fiduciary activities in compliance with applicable law. Among other relevant matters, the policies and procedures should address, where appropriate, the credit union's:

- (1) Brokerage placement practices;
- (2) Methods for ensuring that fiduciary officers and employees do not use material inside information in connection with any decision or recommendation to purchase or sell any security;
- (3) Methods for preventing self-dealing and conflicts of interest;
- (4) Selection and retention of legal counsel who is readily available to timely review trust instruments or other documents creating the credit union's fiduciary status and advise the credit union and its fiduciary officers and employees on all fiduciary related matters; and
- (5) Investment of funds held as fiduciary, including short-term investments and the treatment of fiduciary funds awaiting investment or distribution.

§91.6007. Review of Fiduciary Accounts.

- (a) **Pre-acceptance review.** Before accepting a fiduciary account, a credit union shall review the prospective account and related instruments and documents to determine whether it can properly administer the account.
- (b) **Initial post-acceptance review.** Upon the acceptance of a fiduciary account for which a credit union has investment discretion, the credit union shall conduct a prompt review of all assets of the account to evaluate whether they are appropriate for the account.
- (c) **Annual review.** At least once during every calendar year, a credit union shall conduct a review of all assets of each fiduciary account for which the credit union has investment discretion to evaluate whether they are appropriate, individually and collectively, for the account.

§91.6008. Recordkeeping.

A credit union shall adequately document the establishment and termination of each fiduciary account and shall maintain adequate records for all fiduciary accounts. All records pertaining to a fiduciary account shall be separate and distinct from other records of the credit union.

§91.6009. Audit.

At least once during each calendar year, a credit union shall arrange for a suitable audit by a certified public accountant in accordance with generally accepted standards for attestation engagement. The audit must ascertain whether the credit union's internal control policies and procedures provide reasonable assurance of three things:

- (1) The credit union is administering fiduciary activities in accordance with applicable law and the trust instrument or other documents creating the fiduciary responsibility;
- (2) The credit union is properly safeguarding fiduciary assets; and
- (3) The credit union is accurately recording transactions in appropriate accounts in a timely manner.

§91.6010. Custody of Fiduciary Assets.

(a) A credit union shall place assets of fiduciary accounts in the joint custody or control of not fewer than two the fiduciary officers or employees designated for that purpose by the board of directors.

(b) A credit union shall keep assets of fiduciary accounts separate from the assets of the credit union. Except as otherwise authorized by applicable law and as may be in the best interests of the beneficiaries of the fiduciary account, a credit union shall keep assets of each fiduciary account separate from all other accounts.

§91.6011. Trust Funds.

All monies received by a credit union as fiduciary on trust business shall be deposited in a specially designated account or accounts, shall not be commingled with any funds of the credit union and shall remain on deposit until disbursed or invested in accordance with powers and duties of the credit union in its capacity as such fiduciary.

§91.6012. Compensation, Gifts, and Bequests.

A credit union may not permit its directors, officers, or employees to retain any compensation for acting as co-fiduciary with the credit union in the administration of a fiduciary account, except with the specific approval of the board of directors. In addition, a credit union may not permit any fiduciary officer or employee to accept a bequest or gift of fiduciary assets, unless the bequest or gift is directed or made by a relative of the director, officer, or employee or is specifically approved by the board of directors.

§91.6013. Bond Coverage.

A credit union is required to maintain a bond for protection and indemnity of members, in reasonable amounts against dishonesty, fraud, defalcation, forgery, theft, embezzlement, and other similar insurable losses with an insurance or surety company authorized to do business in this state. Coverage against such losses shall include all agents who do not otherwise provide

protection and indemnity for the credit union, directors, officers, and employees of the credit union acting independently or in collusion or combination with any person or persons whether or not they draw salary or compensation.

§91.6014. Errors and Omissions Insurance.

The credit union shall procure errors and omission insurance of at least five hundred thousand dollars.

§91.6015. Litigation File.

A credit union shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of fiduciary powers.

DEFINITIONS AND INTERPRETATIONS

D. (9) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.101 Concerning Definitions and Interpretations.

BACKGROUND: As part of staff's monitoring and review of the functioning of Rule 91.301, it has become evident that the existing definitions in 7 TAC Section 91.101 and the existing provisions of 7 TAC Section 91.301 may have inadvertently created an unguarded backdoor to credit union membership that allows credit unions to avoid the current proximity link of the group to the credit union's office(s). Some credit unions have partnered with groups, with an associational community of interest, and used those groups to qualify individuals, who might not otherwise be eligible for credit union membership. In addition, when an individual is allowed to join an association and the credit union simultaneously, there seems to be little evidence to corroborate that the individual truly supports the goals and mission of the association, and is not solely joining the association to be eligible for membership in the credit union. This is further exacerbated when a credit union simply enrolls an individual into an association without the individual's knowledge or consent. If a credit union, or its agent, enrolls an individual who does not knowingly and voluntarily join the association, the individual's support of the association's goals and mission is, at best, suspect and one could probably infer that a meaningful affinity or commonality of interest does not exist. Accordingly, staff has encouraged the Committee to consider a number of modifications to the definition of community of interest.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) proposes amendments to §91.101 concerning Definitions and Interpretations. The amendments revise and update certain characteristics used to determine if a unifying factor among a group of persons satisfies the requirements and qualifies for inclusion in a credit union's field of membership. The absence of a characteristic is determinative. The modification will help ensure credit union compliance with membership requirements. Additionally, the proposal clarifies that only a credit union owned, deposit-taking ATM is included in the definition of "office".

The amendments proposed will result in more objective applications of the standards, less difficulty for credit unions, and more efficient use of agency recourses.

The amendments are proposed as a result of the Department's general rule review.

Shari Shivers, General Counsel, has determined that for the first five year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Shivers has also determined that for each year of the first five years the proposed amendments are in effect, the public benefits anticipated as a result of enforcing the rule will be greater clarity and ease of use of the rule. There will be no effect on small or micro businesses as a result of adopting the amended rule. There is no economic cost anticipated to the credit union system or to individuals for complying with the amended rule if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Shari Shivers, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendments are proposed under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code.

The specific section affected by the proposed amended rule is Texas Finance Code, §15.402.

§91.101. Definitions and Interpretations.

(a) Words and terms used in this chapter that are defined in Finance Code §121.002, have the same meanings as defined in the Finance Code. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--the Texas Credit Union Act (Texas Finance Code, Subtitle D).

(2) Allowance for loan and lease losses (ALLL)--a general valuation allowance that has been established through charges against earnings to absorb losses on loans and lease financing receivables. An ALLL excludes the regular reserve and special reserves.

(3) Applicant--an individual or credit union that has submitted an application to the commissioner.

(4) Application--a written request filed by an applicant with the department seeking approval to engage in various credit union activities, transactions, and operations or to obtain other relief for which the commission is authorized by the act to issue a final decision or order subject to judicial review.

(5) Appraisal--a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of a specifically described asset as of a specific date, supported by the presentation and analysis of relevant market information.

(6) Automated teller machine (ATM)--an automated, unstaffed credit union facility owned by or operated exclusively for the credit union at which deposits are received, cash dispensed, or money lent.

(7) Catastrophic act--any natural or man-made disaster such as a flood, tornado, earthquake, major fire or other disaster resulting in physical destruction or damage.

(8) Community of interest--a unifying factor among persons that by virtue of its existence, facilitates the successful organization of a new credit union or promotes economic viability of an existing credit union. The types of community of interest currently recognized are:

(A) **Associational--based on commonality of interest related to membership in a recognized organization or a portion of such a group. The organization must satisfy each of the following criteria:**

(i)- the organization's primary purpose must be other than providing eligibility for credit union services. For purposes of this subparagraph, the practice of a credit union enrolling an individual in an association without that person's knowledge or consent is presumed to be the equivalent of providing eligibility for credit union services;

(ii)- The organization's membership must be primarily composed of natural persons;

(iii)- The organization's organizational documents clearly define membership eligibility and it may not be based primarily on a client or customer relationship; and

(iv) --The organization observes the formalities of corporate separateness from the credit union.

With respect to an associational group within a credit union's field of membership, a credit union may admit to membership:

(i) Employees of the enterprise;

(ii) Directors, employees, volunteers, and retirees of the enterprise or its subsidiaries or affiliates;

(iii) Natural persons under contract to work for the enterprise, or its subsidiaries or affiliates;

(iv) Family members (as determined by the credit union) of any of the above-described natural persons;

(v) The enterprise and its subsidiaries and affiliates; and

(vi) Other persons approved by the commissioner.

~~Occupational—based on an employee relationship that may be established by:~~

~~(i) employment (or a long term contractual relationship equivalent to employment) by a single employer, affiliated employers or employers under common ownership with at least a 10% ownership interest;~~

~~(ii) employment or attendance at a school; or~~

~~(iii) employment in the same trade, industry or profession (TIP) with a close nexus and narrow commonality of interest, which is geographically limited.~~

~~Occupational—based on an employment relationship that may be established by:~~

~~(i) employment (or a long term contractual relationship equivalent to employment) by a single employer, affiliated employers or employers under common ownership with at least a 10% ownership interest;~~

~~(ii) employment or attendance at a school; or~~

~~(iii) employment in the same trade, industry or profession (TIP) with a close nexus and narrow commonality of interest, which is geographically limited.~~

(B) Occupational--based on an commonality of interest related to employment by, work for, an enterprise, or employment within a specific trade, industry or profession (TIP) with a close nexus and narrow attributes. A geographic limitation is not a requirement for an occupational community of interest; however, for purposes of describing the field of membership, the geographic areas being served may be included. With respect to an occupational group within a credit union's field of membership, a credit union may admit to membership:

(i) Employees of the enterprise;

(ii) Directors, employees, volunteers, and retirees of the enterprise or its subsidiaries or affiliates;

(iii) Natural persons under contract to work for the enterprise, or its subsidiaries or affiliates;

(iv) Family members (as determined by the credit union) of any of the above-described natural persons;

(v) The enterprise and its subsidiaries and affiliates; and

(vi) Other persons approved by the commissioner.

~~(B) Associational—based on groups consisting primarily of natural persons whose members participate in activities developing common loyalties, mutual benefits, or mutual interests. In determining whether a group has an associational community of interest, the commissioner shall consider the totality of the circumstances, which include:~~

~~(i) whether the members pay dues,~~

~~(ii) whether the members participate in furtherance of the goals of the association,~~

~~(iii) whether the members have voting rights,~~

~~(iv) whether there is a membership list,~~

~~(v) whether the association sponsors activities,~~

~~(vi) what the association's membership eligibility requirements are, and~~

~~(vii) the frequency of meetings. Associations formed primarily to qualify for credit union membership and associations based on client or customer relationships, do not have a sufficient associational community of interest.~~

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- ~~(i) whether the members pay dues;~~
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- ~~(iii) whether the members have voting rights;~~
- ~~(iv) whether there is a membership list;~~
- ~~(v) whether the association sponsors activities;~~
- ~~(vi) what the association's membership eligibility requirements are; and~~
- ~~(vii) the frequency of meetings. Associations formed primarily to qualify for credit union membership and associations based on client or customer relationships, do not have a sufficient associational community of interest.~~

~~(C) Geographic--based on a clearly defined and specific geographic boundaries. Geographic boundaries may include a city, county (single, multiple, or portions of a county) or their political equivalent, school districts, or a clearly identifiable neighborhood area where persons have common interests and/or interact. More than one credit union may share the same geographic community of interest area where persons have common interests and/or interact. More than one credit union may share the same geographic community of interest. The Department recognizes four types of affinity on which a geographic community of interest can be based—persons who live in, worship in, attend school in, or work in the geographic area. Businesses and other legal entities with the geographic boundaries may also qualify for membership.~~ ~~pre-are currently four types of affinity on which a geographic community of interest can be based: persons, who~~

- ~~(i) live in;~~
- ~~(ii) worship in;~~
- ~~(iii) attend school in, or~~
- ~~(iv) work in that community are currently four types of affinity on which a geographic community of interest can be based: persons, who~~
- ~~(i) live in;~~
- ~~(ii) worship in;~~
- ~~(iii) attend school in, or~~
- ~~(iv) work in that community.~~

~~The geographic community of interest requirement is are met if the area to be served is in a recognized single political jurisdiction, e.g., a city, or a or a county, or their political equivalent, or any contiguous aa portion thereof.~~

~~Some examples of insufficiently defined or unacceptable geographic communities of interest are:~~

- ~~(i) Persons who live or work within, and business located within, a ten-mile radius of a credit union office;~~
- ~~(ii) Persons who live or work in the greater Houston area; or~~
- ~~(iii) Persons who live or work in the State of Texas;~~

(D) Other--The commissioner may authorize other types of community of interest, if the commissioner determines that either a credit union or foreign credit union has sufficiently demonstrated that a proposed factor creates an identifiable affinity among the persons within the proposed group. Such a factor shall be well-defined, have a geographic definition, and may not circumvent any limitation or restriction imposed on one of the other enumerated types.

(9) Construction or development loan--a financing arrangement for acquiring property or rights to property, including land or structures, with the intent of converting the property into income-producing property such as residential housing for rental or sale; commercial use; industrial use; or similar use. Construction or development loan includes a financing arrangement for the major renovation or development of property already owned by the borrower that will convert the property to income-producing property or convert the use of income-producing property to a different or expanded use from its former use. Construction or development loan does not include loans to finance maintenance, repairs, or improvements to an existing income-producing property that do not change its use.

(10) Day--whenever periods of time are specified in this title in days, calendar days are intended. When the day, or the last day fixed by statute or under this title for taking any action falls on Saturday, Sunday, or a state holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or a state holiday.

(11) Department newsletter--the monthly publication that serves as an official notice of all applications, and by which procedures to protest applications are described.

(12) Field of membership (FOM)--refers to the totality of persons a credit union may accept as members. The FOM may consist of one group, several groups with a related community of interest, or several unrelated groups with each having its own community of interest.

(13) Finance Code or Texas Finance Code--the codification of the Texas statutes governing financial institutions, financial businesses, and related financial services, including the regulations and supervision of credit unions.

(14) Imminent danger of insolvency--a circumstance or condition in which a credit union is unable or lacks the means to meet its current obligations as they come due in the regular and ordinary course of business, even if the value of its assets exceeds its liabilities; or the credit union has a positive net worth ratio equal to two percent or less of its assets.

(15) Improved residential property--real property consisting of a residential dwelling having one to four dwelling units, at least one of which is occupied by the owner of the property. This term shall also include a one to four unit dwelling occupied in whole or in part by the owner on a seasonal basis.

(16) Indirect financing--a program in which a credit union makes the credit decision in a transaction where the credit is extended by the vendor and assigned to the credit union or a loan transaction that generally involves substantial participation in and origination of the transaction by a vendor.

(17) Loan-to-value ratio--the aggregate amount of all sums borrowed including outstanding balances plus any unfunded commitment or line of credit from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.

(18) Loan and extension of credit--a direct or indirect advance of funds to a member, or on that member's behalf, that is conditioned upon the repayment of the funds by the member or the application of collateral. The terminology also includes the purchase of a member's loan or other obligation, a lease financing transaction, a credit sale, a line of credit or loan commitment under which the credit union is contractually obligated to advance funds to or on behalf of a member,

an advance of funds to honor a check or share draft drawn on the credit union by a member, or any other indebtedness not classified as an investment security.

(19) Manufactured home--a HUD-code manufactured home as defined by the Texas Manufactured Housing Standards Act. The terminology may also include a mobile home, house trailer, or similar recreational vehicle if the unit will be used as the member's residence and the loan is secured by a first lien on the unit, and the unit meets the requirements for the home mortgage interest deduction under the Internal Revenue Code (26 U.S.C. Section 163(a), (h)(2)(D)).

(20) Market Value--the most probable price which an asset should bring in a competitive and open market under an arm's-length sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of ownership from seller to buyer where:

- (A) Buyer and seller are typically motivated;
- (B) Both parties are well informed or well advised, and acting in their own best interests;
- (C) A reasonable time is allowed for exposure in the open market;
- (D) Payment is made in cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(E) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(21) Metropolitan Statistical Area (MSA)--a geographic area as defined by the director of the U. S. Office of Management and Budget.

(22) Mobile office--a branch office that does not have a single, permanent site, including a vehicle that travels to various public locations to enable members to conduct their credit union business.

(23) Office--includes any service facility or place of business established by a credit union at which deposits are received, checks or share drafts paid, or money lent. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned deposit-taking ATM, or a credit union owned electronic facility that meets, at a minimum, these requirements; however, it does not include the credit union's Internet website. This definition also includes a shared branch or a shared branch network if either:

- (A) the credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or
- (B) the service facility is local to the credit union and the credit union is an authorized participant in the service center.

(24) Overlap--the situation which exists when a group of persons is eligible for membership in two or more state, foreign, or federal credit unions doing business in this state. Notwithstanding this provision, no overlap exists if eligibility for credit union membership results solely from a family relationship.

(25) Pecuniary interest --the opportunity, directly or indirectly, to make money on or share in any profit or benefit derived from a transaction.

(26) Person--an individual, partnership, corporation, association, government, governmental subdivision or agency, business trust, estate, trust, or any other public or private entity.

(27) Principal office--the home office of a credit union.

(28) Protestant--a credit union that opposes or objects to the relief requested by an applicant.

- (29) Real estate or real property—an identified parcel or tract of land. The term includes improvements, easements, rights of way, undivided or future interest and similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights and similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.
- (30) Remote service facility--an automated, unstaffed credit union facility owned or operated by, or operated for, the credit union, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispensed, or money lent.
- (31) Reserves--allocations of retained earnings including regular and special reserves, except for any allowances for loan, lease or investment losses.
- (32) Resident of this state--a person physically located in, living in or employed in the state of Texas.
- (33) Respondent--a credit union or other person against whom a disciplinary proceeding is directed by the department.
- (34) Shared service center--a facility which is connected electronically with two or more credit unions so as to permit the facility, through personnel at the facility and the electronic connection, to provide a credit union member at the facility the same credit union services that the credit union member could lawfully obtain at the principal office of the member's credit union.
- (35) Secured credit--a loan made or extension of credit given upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more certain than the mere personal obligation of the debtor or promisor. Any assignment may include an interest in personal property or real property or a combination thereof.
- (36) TAC--an acronym for the Texas Administrative Code, a compilation of all state agency rules in Texas.
- (37) Title or 7 TAC--Title 7, Part VI of the Texas Administrative Code [(TAC)], Banking and Securities, which contains all of the department's rules.
- (38) Underserved area--a geographic area, which could be described as one or more contiguous metropolitan statistical areas (MSA) or one or more contiguous political subdivisions, including counties, cities, and towns, that satisfy any one of the following criteria:
- (A) A majority of the residents earn less than 80 percent of the average for all wage earners as established by the U. S. Bureau of Labor Statistics;
 - (B) The annual household income for a majority of the residents falls at or below 80 percent of the median household income for the State of Texas, or the nation, whichever is higher; or
 - (C) The commission makes a determination that the lack of available or adequate financial services has adversely effected economic development within the specified area.
- (39) Uninsured membership share--funds paid into a credit union by a member that constitute uninsured capital under conditions established by the credit union and agreed to by the member including possible reduction under §122.105 of the act, risk of loss through operations, or other forfeiture. Such funds shall be considered an interest in the capital of the credit union upon liquidation, merger, or conversion.
- (40) Unsecured credit--a loan or extension of credit based solely upon the general credit financial standing of the borrower. The term shall include loans or other extensions of credit supported by the signature of a co-maker, guarantor, or endorser.

(b) The same rules of construction that apply to interpretation of Texas statutes and codes, the definitions in the Act and in Government Code §2001.003, and the definitions in subsection (a) of this section govern the interpretation of this title. If any section of this title is found to conflict with an applicable and controlling provision of other state or federal law, the section involved shall be void to the extent of the conflict without affecting the validity of the rest of this title.

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FIELD OF MEMBERSHIP

D. (10) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.301 Concerning Field of Membership.

BACKGROUND: Over the past four years, staff has monitored and reviewed the functioning of Rule 91.301 in an effort to improve consistency and provide a basis, if necessary, for further clarification and modification. In response to this oversight, staff has identified several issues that need clarification or update. In addition, a number of credit unions have suggested that modernization of the field of membership rule could provide credit unions with new opportunities to provide financial services to more Texans and ensure that the Texas chartered remains strong and viable. Accordingly, staff has encouraged the Committee to consider a number of amendments to the field of membership rule.

Staff's intent in seeking approval to publish the proposed amendments is to stimulate discussion and engage interested persons in helping to develop appropriate provisions that fulfill public policy considerations and modernize the field of membership rule. It is not the intent to force the adoption of the specifically proposed amendments without collaborating with all interested parties to attempt to find consensus on the issues.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) proposes amendments to §91.301 concerning Field of Membership. The proposed amendments to §91.301 make changes to reflect that a credit union's field of membership may include a mosaic of communities of interest. More specifically, the amendments expand the local service area requirement to a newly delineated market area with certain limitations. The amendments eliminate many existing restrictions imposed by the Commissioner. The amendments also add a direct marketing restriction. Additionally, the amendments delete the restrictions for underserved communities by granting the Department a more permissive waiver provision and makes amendments necessary to include the provisions of Subchapter K, related to Credit Union Development Districts. The amendments change and streamline the notice requirements. Finally, the rule places certain affirmative obligations on a credit union who presents an application to expand their field of membership.

The amendments are proposed as a result of the Department's general rule review.

The amendments proposed allow more flexibility to credit unions for determining a community of interest and will result in reduced regulatory burden for credit unions.

Shari Shivers, General Counsel, has determined that for the first five year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. Shivers has also determined that for each year of the first five years the proposed amendments are in effect, the public benefits anticipated as a result of enforcing the rule will be greater clarity and ease of use of the rule. There will be no effect on small or micro businesses as a result of adopting the amended rule. There is no economic cost anticipated to the credit union system or to individuals for complying with the amended rule if adopted.

Written comments on the proposal must be submitted within 30 days after its publication in the *Texas Register* to Shari Shivers, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendments are proposed under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code and under Texas Finance Code §122.051, concerning membership.

The specific section affected by the proposed amended rule is Texas Finance Code, §122.051.

§91.301. Field of Membership.

(a) General. Membership in a credit union shall be limited to one or more groups, each of which (the Group) has its own community of interest and is within the credit union's **market local service** area. ~~In this section, local service area shall mean an area that is within reasonable proximity of a credit union's office, and allows members to be realistically served from that office.~~ For purposes of field of membership, the Group as a whole will be considered to be within the **credit union's market local service** area when:

(1) A majority of the persons in the Group live, work, or gather regularly within the **market local service** area;

(2) The Group's **corporate** headquarters is located within the **market local service** area; or

(3) The persons in the Group are "paid from" or "supervised from" an office or facility located within the **market local service** area.

The commissioner may impose a geographical limitation on any Group if the commissioner reasonably determines that the applicant credit union does not have the facilities and staffing to serve a larger group or there are other operational or management concerns.

(b) **Delineation of market area. A credit union shall delineate its market area in the bylaws. A credit union whose field of membership does not include any geographic communities of interest, may delineate its membership bylaw provisions as its market area.**

(1) Market area. The market area for a credit union shall consist generally of one or more MSA's or metropolitan divisions or one or more contiguous political subdivisions, such as counties, cities, or towns in which the credit union has its principal place of business, offices, and deposit-taking ATMs.

(2) Limitations on market area. Each credit union's market area(s):

(A) Must consist only of whole metropolitan areas or political subdivisions;

(B) Must be of reasonable geographic size, taking into account the credit union's size, financial condition, and location of its offices and deposit-taking ATMs; and

(C) May not reflect illegal discrimination ~~Other persons eligible for membership. A number of persons by virtue of their close relationship to a Group may be included in the field of membership at the option of the applicant credit union. These include:~~

~~(1) — members of the family or household of a member of the Group;~~

~~(2) — volunteers performing services for or on behalf of the Group;~~

~~(3) — organizations owned or controlled by a member or members of the Group, and any employees and members of those organizations;~~

~~(4) — spouses of persons who died while in the Group;~~

~~(5) — employees of the credit union;~~

~~(6) — subsidiaries of the credit union and their employees; and businesses and other organizations whose employees or members are within the Group.~~

(c) Multiple-groups.

(1) The commissioner may approve a credit union's original articles of incorporation and bylaws or a request for approval of an amendment to a credit union's bylaws to serve one or more communities of interest or a combination of types of communities of interest.

(2) In addition to general requirements, special requirements pertaining to multiple-Group applications may be required before the commissioner will grant such a certificate or approve such an amendment.

(A) Each Group to be included in the proposed field of membership of the credit union must have its own community of interest.

(B) Each associational or occupational Group must individually request inclusion in the proposed credit union's field of membership.

(d) **Direct marketing restriction. A credit union with a geographic community of interest may not direct marketing targeted primarily at the persons in an occupational or associational Group unless:**

(1) the Group was included in the bylaws of the credit union prior to October 31, 2015. An occupational or associational Group is "included" in the bylaws of a credit union if the underlying enterprise or organization, as applicable, is specifically named in the credit unions bylaws.

(2) a management official of the underlying enterprise or organization has provided the credit union with a written statement, signed by the official, that the Group desires service by the credit union. Overlap protection:

~~(1) The commissioner will only consider the financial effect of an overlap proposed by an application to expand a credit union's field of membership or when a charter application proposes an overlap for a Group of 3,000 members or more.~~

~~(2) The commissioner will weigh the information in support of the application and any information provided by a protesting or affected credit union. If the applicant has the financial capacity to serve the financial needs of the proposed members, demonstrates economic feasibility,~~

~~complies with the requirements of this rule, and no protestant reasonably establishes a basis for denying the request, it shall be approved.~~

~~(3) If a finding is made that overlap protection is warranted, the commissioner shall reject the application or require the applicant to limit or eliminate the overlap by adding exclusionary language to the text of the amendment, e.g., "excluding persons eligible for primary membership in any occupation or association based credit union that has an office within a specified proximity of the applicant credit union at the time membership is sought." Exclusionary clauses are rarely appropriate for inclusion on a geographic community of interest.~~

~~(4) Generally, if the overlapped credit union does not submit a notice of protest form, and the department determines that there is no safety and soundness problem, an overlap will be permitted. If, however, a notice of protest is filed, the commissioner will consider the following in performing an overlap analysis:~~

~~(A) whether the overlap is incidental in nature, ie., the group(s) in question is so small as to have no material effect on the overlapped credit union;~~

~~(B) whether there is limited participation by members of the group(s) in the overlapped credit union after the expiration of a reasonable period of time;~~

~~(C) whether the overlapped credit union provides requested service;~~

~~(D) the financial effect on the overlapped credit union;~~

~~(E) the desires of the group(s); and~~

~~(F) the best interests of the affected group(s) and the credit union members involved.~~

~~(5) Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of the community of interest described in the credit union's bylaws. Where~~

~~acquisitions are made which add a new subsidiary or affiliate, the group cannot be served until the entity is included in the field of membership through the application process.~~

~~(6) Credit unions affected by the organizational restructuring or merger of a group within its field of membership must apply for a modification of their fields of membership to reflect the group to be served.~~

(e) Underserved communities.

(1) The Department may waive any provision of this section as the commissioner deems appropriate to facilitate credit union service to low and moderate income persons

~~(1) All credit unions may include underserved areas in their fields of membership, without regard to location. More than one credit union can serve the same underserved area.~~

~~(2) Once an underserved area has been added to a credit union's field of membership, the credit union must establish and maintain an office or facility in the community. For the purposes of this subsection, service facility is defined as a place where shares are accepted for members' accounts, loan applications are accepted and loan proceeds are disbursed. This definition includes a credit union owned branch, a shared branch, a mobile branch, and an office operated on a regularly scheduled weekly basis, or a credit union owned electronic facility that meets, at a minimum, these requirements. This definition does not include an ATM or a credit union's Internet website.~~

~~(3) A credit union desiring to add an underserved area must document that the community meets the definition. In addition, the credit union must develop a business plan specifying how it will serve the community. The business plan, at a minimum, must identify the credit and depository needs of the community and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan to determine if the community is being adequately served. The commissioner may require periodic service status reports from a credit union pertaining to the underserved area to ensure that of the area are being met, as well as requiring such reports before allowing a credit union to add an additional underserved area.~~

(2) A credit union may extend membership to persons and organizations in an underserved community where such area has been designated a credit union development district in accordance with Subchapter K (related to Credit Union Development Districts).

(f) Parity with Federal Credit Unions.

Credit unions will be allowed to have, at a minimum, at least as much flexibility as federal credit unions have in field of membership regulation. If a credit union proposes a type of Group that the National Credit Union Administration has previously determined meets the Federal requirements, the commissioner shall approve the application unless the commissioner finds that the credit union has not demonstrated sufficient managerial and financial capacity to safely and soundly serve such expanded membership.

(g) Application **to expand field of membership.**

(1) In order to request the approval of the commissioner to add a Group to its **field of membership** ~~bylaws~~, a credit union must submit a written application to the Department. The applicant credit union shall have the burden to show to the Department such facts and data that support the requirements and considerations in this rule. In reviewing such application, the commissioner shall consider:

(A) (1) Whether the Group has adequate unifying characteristics or a mutual interest such that the safety and soundness of the credit union is maintained;

(B) (2) The ability of credit unions to maintain parity and to compete fairly with their counterparts;

(C) (3) Service by the credit union that is responsive to the convenience and needs of prospective members;

(D) (4) Protection for the interest of current and future members of the credit union; and

(E) (5) The encouragement of economic progress in this State by allowing opportunity to expand services and facilities.

(2) Notice published in accordance with Section 91.104 (relating to Public Notice and Comment on Certain Applications) is deemed sufficient notification to all credit unions that the applicant credit union has submitted a request to expand its field of membership and comments on the proposed expansion are being accepted.

(h) Plan to Serve Geographic Community of Interest.

(1) A credit union must develop a business plan specifying how it will serve a proposed geographic community of interest. The business plan, at a minimum, must identify the credit and depository needs of the geographic area and detail how the credit union plans to serve those needs. The board of directors should periodically evaluate the credit union's record of helping to meet the credit needs of a geographic area(s) included in its field of membership. The commissioner may require a service status report from a credit union before allowing the credit union to expand its field of membership to include another geographic community of interests or change its market area.

(2) A credit union has a continuing and affirmative obligation to help meet the financial needs of a geographic community of interest. This obligation, however, does not require a credit union to make loans or to provide services that are inconsistent with safe and sound operations.

(i) Applicability of this section.

(1) This section also applies to the conversion of a foreign or federal credit union to a credit union chartered and operating under Texas Finance Code, Title 3, Subtitle D.

(2) This section does not apply to mergers where the continuing credit union is organized and operating under Texas Finance Code, Title 3, Subtitle D. The continuing credit union may amend its bylaws to add the field of membership of the merging credit union.

(3) This section does not restrict Groups added to a credit union's bylaws prior to October 31, 2015.



CREDIT UNION COMMISSION
Commissioner Evaluation Committee Meeting
Credit Union Department Building
914 East Anderson Lane
Austin, Texas

Thursday, October 15, 2015
12:30 p.m.

* * * **AGENDA** * * *

- I.** Call to Order (12:30 p.m.) - Chair Sherri Brannon Market
 - a. Ascertain Quorum
 - b. Appoint Recording Secretary
 - c. Acknowledge Guests
 - d. Announce Executive Session
- II.** Approve Minutes of June 18, 2015 Meeting
- III.** Unfinished Business
 - a. Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Approve the Proposed Modifications to the Commissioner's FY 2016 Performance Evaluation Form and Associated Performance Measures
 - b. Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Delegate Authority to the Commissioner to Establish an Annual Regular Meeting Schedule for the Commission that Will Meet Statutory Requirements and Allow the Commission to Function Efficiently
- IV.** Executive Session (closed to public) -- Under Sections 551.074 of the Government Code, the Committee Will Enter into Executive Session for the Purpose of Discussing Certain Personnel Issues Related to Finalizing the Proposed FY 2015 Performance Evaluation for the Commissioner
- V.** New Business
 - a. Vote on Matters Discussed in Executive Session – Discussion, Consideration and Possible Vote to Recommend to the Credit Union Commission the Proposed FY 2015 Performance Evaluation and FY 2016 Remuneration for the Commissioner
 - b. Discussion and Consideration of a Tentative Date for Next Committee Meeting (October 20, 2016)

Adjournment

In the event the Committee does not finish deliberation of an item on the first day for which it was posted, the Committee might recess the meeting until the following day at the time and place announced at the time of recess.

Persons with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Request for special accommodations must be made 72 hours prior to the designated time set for the meeting by contacting Linda Clevlen by mail, telephone, or email.

COMMISSIONER EVALUATION COMMITTEE

Commissioner Evaluation Committee is a standing committee of the Commission. The purpose of the committee is to coordinate the annual evaluation of the commissioner's performance and oversee the development and maintenance of a commissioner's succession plan. The annual evaluation process is to be completed at the first Commission meeting of the fiscal year.

Committee Members

- ❑ **Sherry B. Merket, Chair**
- ❑ **Allyson "Missy" Morrow, Vice Chair**
- ❑ **Beckie Stockstill Cobb**
- ❑ **Kay Stewart**
- ❑ **Gary D. Tuma**
- ❑ **Manuel "Manny" Cavazos, Ex-officio**

During the Executive Session, the Commission will have the opportunity to review, comment on and/or revise the evaluation prepared by the Committee. Formal action on the adoption of any changes to the Commissioner's FY 2016 remuneration will occur in open session upon the adjournment of the Executive Session.

**COMMISSIONER FY 2016 PERFORMANCE EVALUATION FORM
AND ASSOCIATED MEASURES**

b. (1) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Approve the Proposed Modifications to the Commissioner's FY 2016 Performance Evaluation Form and Associated Performance Measures.

BACKGROUND: At its last meeting, the Committee discussed a complete revamp of the FY 2016 evaluation form and performance measures. It is the intent of the Committee to finalize this proposal at its meeting on October 15, 2015.

RECOMMENDED ACTION: The Committee's recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Commissioner Evaluation Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

Performance Review Texas Credit Union Commissioner Instructions

The Commissioner review is a management-by-objectives program. The overall objective of this program is to align organizational goals and objectives with performance review and compensation.

Part I - Board Assessment

The Commission's Assessment is designed primarily to provide feedback to the Commissioner from each Commission member about his/her perception of the Commissioner's effectiveness.

Part I is totally subjective. As such, the weight assigned to this part of the review **should not exceed** 25% of the total review.

Each Commission member is asked to complete the Assessment Form annually and return it to the Chairman of the evaluation committee approximately one month prior to the scheduled review with the Commissioner. Data from each Commission member is compiled onto one form and shared with the Commissioner during the review.

Part II - Performance Objectives

The performance objectives section is a critical part of the Commissioner's performance review. Performance objectives are developed from the Department's strategic business plan and the plan year budget. These objectives are measurable/observable indicators that bridge the philosophy of the Texas Credit Union Department with measurable results.

Goals set for the objectives should be achievable. The best way to set goals is to look at absolute and relative measures. An absolute measure would be one in which the goal is established based on the Department's actual results. For example, if the goal is to have all state chartered credit unions examined within 18 months of the effective date of the last exam, and the result of that goal is usually 95%, a relative goal would be to have 100% of all credit unions examined within an 18 month period.

Part II is objective, in that achievement of results is verifiable, preferably measurable. This section of the review should be assigned the most weight.

Part III – Special Projects

The Special Projects section incorporates key, non-measurable strategies from the Department's strategic plan and annual operating plan & budget. Major projects and plans would be indicative of special project goals.

Individual Commission members are to evaluate results for each of the key strategies and submit their evaluations to the Chairman of the evaluation committee. **The Commissioner will provide Commission members with periodic updates regarding progress on each of the strategies throughout the plan**

year, as well as written documentation on the final results shortly after the conclusion of the plan year. Each Commission member's evaluation is compiled onto one form and incorporated into the overall review.

The sum of the weights assigned to Parts I, II, and III should equal 1.00.

Monitoring Results

We encourage everyone to track and review results throughout the year. Often during the course of a year, changes in the environment that are outside the control of the Commissioner may make it necessary to modify a goal. By reviewing the goals and progress toward meeting them on a quarterly basis, you can identify these situations and take action to modify them before the end of the plan period.

Final Review

The Chairman of the evaluation committee or his/her designate is responsible for distributing, collecting and compiling Assessment Forms (Parts I & III) from each Commission member. Normally, this process will begin approximately two months prior to the scheduled review date.

The Commissioner is responsible for reporting results from the Performance Objectives section of the plan. Since many of the results will be dependent on final financial reports, results should be provided to the Board within 15 days after the end of the plan period. The completed review will be given to the Commissioner during a formal performance review process when all data is known and calculated. The Chairman of the evaluation committee (and/or one of his/her designates) will meet with the Commissioner to give the formal review.

Time Table

The performance review should cover a Fiscal Year (September 1 through August 31). Each Commission member will receive electronic copies of both the Evaluation Form and a memorandum from the Commissioner outlining the Department's plan period accomplishments by September 15th.

It is important to create performance objectives for the new plan period before the end of the current plan. It is recommended that the performance objectives and goals for the next plan period be established in the last quarter of the current plan period.

Commissioner Compensation

The Commission has undertaken a market-based compensation strategy for the position of commissioner with an end objective of hiring and retaining a highly qualified commissioner to effectively and professionally discharge the duties of the agency.

The position of commissioner is the only position at the agency that is exempt from the State's Position Classification Plan. As the executive officer of the agency, the guidelines for the position's salary range are detailed in the Schedule of Exempt Positions, Article IX, Section 3.04,

General Appropriations Act (84th Legislature). The exact salary group for the position and the compensation paid to the incumbent is determined by the Commission after review of performance and salary comparisons through reports such as the State Auditor's Office August 2014 Report on Executive Compensation at State Agencies (Report No. 14-705) and comparable salary information of selected positions at state and federal regulatory agencies with similar responsibilities.



**CREDIT UNION DEPARTMENT
COMMISSIONER EVALUATION FORM
FY _____**

Name: _____

Date Employed _____ Date of Last Evaluation _____

I. 20__ Commission Assessment

Average results from the Commission Assessment Tally Sheet (Part I Attached) are:

$$\frac{\text{Average Points (Part I Average)}}{\text{Average Points (Part I Average)}} \times \frac{25\%}{\text{Weight}} = \frac{\text{Part I Score}}{\text{Part I Score}}$$

II. 2014 Performance Objectives

Average results from the Texas Credit Union Department Performance Grid (Part II Attached) are:

$$\frac{\text{Average Points (Part II Average)}}{\text{Average Points (Part II Average)}} \times \frac{75\%}{\text{Weight}} = \frac{\text{Part II Score}}{\text{Part II Score}}$$

III. 2014 Special Projects

Average results from the Texas Credit Union Department Performance Grid (Part III Attached) are:

$$\frac{\text{Average Points (Part III Average)}}{\text{Average Points (Part III Average)}} \times \frac{0\%}{\text{Weight}} = \frac{\text{Part III Score}}{\text{Part III Score}}$$

IV. Final Evaluation Score:

Final Evaluation Score

* The total of the weights must equal 100%

BASE PAY ADJUSTMENT

A base pay adjustment earned for a performance level achieved is strictly at the discretion of the Commission.

Current Base Pay: \$ _____
Pay Adjustment: _____ % \$ _____
New Base Pay: \$ _____
Effective Date: _____

Additional Comments: _____

Commissioner Comments: _____

Commissioner Signature & Date

Evaluation Chair Signature & Date

4. The Commissioner provides adequate focus on maintaining effective relationships with the governor's office, legislators and Credit Union leaders to ensure the continued safety and soundness of the credit union industry. Works well with NCUA to coordinate efforts for compliance and NASCUS for continued accreditation.

Rating: _____

Comments:

5. The Commissioner has the technical knowledge necessary to complete the job. Has the capability to hire the necessary personnel to move the department forward to save time and money, while still ensuring the safety of the information that is necessary to examiners to complete their assignments.

Rating: _____

Comments:

6. The Commissioner maintains a professional image at all times while representing the Department. The necessary leadership skills are present to command attention and respect, while displaying confidence in their ability.

Rating: _____

Comments:

Other Comments on the Commissioner's performance this past period:

SUM OF RATINGS: _____

AVERAGE POINTS: _____

II. PERFORMANCE OBJECTIVES

For each performance category, assign a rating from 1 to 5 based on the performance rating definitions described at the bottom of the form. Next, multiply the rating assigned by the weight shown and enter the result in the "weight x rating" box (i.e. 25% x 5 = 1.25).

PERFORMANCE OBJECTIVES	ACHIEVEMENT	W E I G H T	R A T I N G	W R E A T H N
1. Production		25%		
2. Administration		25%		
3. Budgetary		15%		
4. Legislative		25%		
5. Industry		10%		
Total Score				

PERFORMANCE RATINGS: The annual review will be classified in one of the following areas.

- 1. UNSATISFACTORY:** Employee is not performing the minimum requirements of the responsibility area in a satisfactory manner. Performance meets few or none of the key goals/standards. Improved performance is required for continuation in the position.
- 2. BELOW REQUIREMENTS:** Employee is not consistently performing all the requirements of the responsibility area. Performance is below expectations showing consistent weakness. Improved performance is necessary. Requires more than expected supervision.
- 3. MEETS REQUIREMENTS:** Employee is performing all requirements of the responsibility area. Performance is standard, although some requirements are performed above expectations and occasionally below. Performance meets most key goals/standards. Fully competent performer.
- 4. EXCEEDS REQUIREMENTS:** Employee is performing most requirements of the responsibility area consistently above expectations and significantly exceeds some requirements. Requires less supervision than expected.
- 5. SIGNIFICANTLY EXCEEDS REQUIREMENTS:** Employee is consistently performing all requirements of the responsibility area significantly above expectations. There are no weaknesses on key goals/standards. Makes significant contributions well beyond job demands.

Part II. Performance Objectives

1. Production

- Intervals between the effective dates of CU examinations shall not exceed 18 months.
- E-Time ratio shall not be less than 65% of available work time.
- 100% of reports of examination should be mailed within 20 days of last date on site.
- 100% applications submitted will be approved/denied not later than the 60th day after the date notice is published in the *Texas Register*.
- 100% of complaints will be responded to within 45 days.
- 100% of rule changes will be provided to credit unions within 60 days of adoption.
- Meet or exceed 90% of the Operating Plan's production targets within +/- 5% of the projected target.

2. Administration

- Attain and maintain at least 95% staffing level with continued.
- Participate in no less than 4 job fair events within the plan period.
- Post job vacancies within 7 days of notice of upcoming vacancy.
- Non-retirement turnover not to exceed 15% for plan period.
- Continue in the implementation and assimilation technology changes to increase efficiency.
- Conduct an annual examiner conference to ensure examiners receive adequate training to perform their duties.

3. Budgetary

- Ensure agency expenditures are necessary, prudent, and within budgetary constraints.
- Present quarterly financial statements to Commission and post on agency website
- Ensure compliance with all regulatory requirements for a SDSI agency
- Ensure revenues collected are adequate to cover expenditures and provide a cash reserve that complies with Commission policies.

4. Legislative

- Submit SDSI biennial and annual report filings in a timely manner.
- Prepare materials for the Legislature as requested or required.
- Respond timely to new legislative issues or requests for information or testimony.
- Remain active and involved at the national level on supervisory issues affecting credit unions.
- Attend at least one conference or training meeting during the plan period.
- Monitor and modify Texas Administrative Code rules as necessary.

5. Industry

- Continue to develop effective communication with credit unions and interested department stakeholders.
- Maintain an ongoing awareness of credit union risk profiles and the condition of the economy.
- Maintain continued accreditation from the National Association of State Credit Union Supervisors
- Publish a monthly newsletter for the industry
- Issue Interpretations and opinions within 30 days of request
- Share monthly accomplish report with Commission Members

Part III
Special Projects/ Other Non-Quantifiable Objectives

Commission Member: _____

Objectives	Weight	(1) Low Achievement	(2)	(3) Medium Achievement	(4)	(5) High Achievement
		()	()	()	()	()

ANNUAL REGULAR MEETING SCHEDULE FOR THE
COMMISSION

b. (2) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Delegate Authority to the Commissioner to Establish an Annual Regular Meeting Schedule for the Commission that will meet Statutory Requirements and Allow the Commission to Function Efficiently.

BACKGROUND: At its last meeting, a motion was adopted by the Committee to recommend to the Commission that the Commissioner be authorized to annually establish a meeting schedule for the Commission that will meet statutory requirements and allow the Commission to function efficiently. Through an administrative oversight this recommendation has yet to be presented to the Commission for its consideration. The Committee will have further discussion on this matter at its October 15, 2015 meeting.

RECOMMENDED ACTION: The Committee's final recommendation will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Commissioner Evaluation Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

FY 2015 PERFORMANCE EVALUATION

b. (3) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission the Proposed FY 2015 Performance Evaluation and FY 2016 Remuneration for the Commissioner.

BACKGROUND: Commission policy requires the Committee to coordinate the annual evaluation of the Commissioner's performance. The Committee will also review whether to recommend any changes to the Commissioner's remuneration at its October 15, 2015 meeting.

RECOMMENDED ACTION: The Committee's recommendations will be discussed at the meeting.

NOTE: Coming upon a recommendation from the Commissioner Evaluation Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.



**CREDIT UNION DEPARTMENT
COMMISSIONER EVALUATION FORM
FY 2015**

Name _____

Date Employed _____ Date of Last Evaluation _____

RATING SUMMARY

To determine the Overall Rating, enter the Total Results Achievement and Skills Evaluation scores below, multiply the individual scores by the weights placed on each section as indicated, and add the results together.

I. Results Achievement

_____ x 0.75 = _____
(Total Score from Pg. 2)

II. Skills Evaluation

_____ x 0.25 = _____
(Total Score from Pg. 3)

Overall Rating (Sum of I and II) _____

GENERAL OBSERVATIONS:

RECOMMENDATIONS:

GENERAL:

SALARY:

Chair, Commissioner Evaluation Committee

Date

I. JOB RESPONSIBILITIES AND PERFORMANCE CRITERIA

For each job responsibility/performance category, assign a rating from 1 to 5 based on the performance rating definitions described at the bottom of the form. Next, multiply the rating assigned by the weight shown and enter the result in the "weight x rating" box (i.e. 25% x 5 = 1.25).

JOB RESPONSIBILITIES AND PERFORMANCE CRITERIA (Responsibility statements from the job description or established criteria)	ACHIEVEMENT	W E I G H T	R A T I N G	W E I G H T	R A T I N G
1. Examination Program	Intervals between CU Exams shall not exceed 18 months Examiner's E-time will be 60% of worktime available 85% of Exam reports will be mailed within 20 days	25%			
2. Supervision	CAMEL composition ratings Supervisory action analysis	25%			
3. Administrative Practices	Office Administration/Budget Complaints 92% of complaints will be resolved within 30 days Complaint Resolution will average 23 days or less	25%			
4. Communication	85% of CUs will indicate quality service from TCUD Legislative responsiveness for department	15%			
5. Commission Interaction	10 days before Commission meeting agenda packets will be mailed 8 periodic reports will be mailed to Commission members	10%			
I. Total Score (Sum of numbers shown in the "weight x rating" boxes. [Score must not be less than 1 nor greater than 5]. Enter this score in Results Achievement Section on page 1.)					
<p>PERFORMANCE RATINGS: The annual review will be classified in one of the following areas.</p> <p>1. UNSATISFACTORY: Employee is not performing the minimum requirements of the responsibility area in a satisfactory manner. Performance meets few or none of the key goals/standards. Improved performance is required for continuation in the position.</p> <p>2. BELOW REQUIREMENTS: Employee is not consistently performing all the requirements of the responsibility area. Performance is below expectations showing consistent weakness. Improved performance is necessary. Requires more than expected supervision.</p> <p>3. MEETS REQUIREMENTS: Employee is performing all requirements of the responsibility area. Performance is standard, although some requirements are performed above expectations and occasionally below. Performance meets most key goals/standards. Fully competent performer.</p> <p>4. EXCEEDS REQUIREMENTS: Employee is performing most requirements of the responsibility area consistently above expectations and significantly exceeds some requirements. Requires less supervision than expected.</p> <p>5. SIGNIFICANTLY EXCEEDS REQUIREMENTS: Employee is consistently performing all requirements of the responsibility area significantly above expectations. There are no weaknesses on key goals/standards. Makes significant contributions well beyond job demands.</p>					

II. SKILLS EVALUATION

For each skill, circle the performance rating (as defined on page 2) which most accurately describes the commissioner's performance.

		COMMENTS				
1. Initiative -- The ability to execute independent action and begin working without supervision; sets own goals and direction; self-starter.	1 2 3 4 5					
2. Technical Knowledge -- The familiarity with and understanding of specific information related to the job. Capacity and ability to perform assigned responsibilities with current knowledge.	1 2 3 4 5					
3. Creativity/Innovation -- The ability to conceive and introduce original ideas, methods and programs through imaginative thinking.	1 2 3 4 5					
4. Decisiveness/Judgment -- Shows willingness to accept risk and act with available data. Chooses best course of action from several alternatives in timely manner. The ability to weigh relevant data and draw sound conclusions. Considers variety of factors, places them in proper perspective to reach logical conclusions based on evidence at hand.	1 2 3 4 5					
5. Planning/Organization -- Establishes short and long-range objectives, an appropriate course of action to accomplish them, who is to do them, and the timing for completion. Arranges work in systematic manner to promote efficiency; assigns work in proper priorities; establishes clear relationships of responsibility and priorities, and prevents duplications of effort.	1 2 3 4 5					
6. Leadership -- To direct or influence the operations, activities, and performance of a group. To demonstrate the capacity to inspire teamwork and motivate others to accomplish objectives. To command attention and respect and to display a genuine air of confidence.	1 2 3 4 5					
7. Professional Image	1 2 3 4 5					

I. **Total Score:** _____

(Add all circled numbers above and divide by seven. [Score must not be less than 1 nor greater than 5]. Enter this score in Skills Evaluation section on page 1.)

UNFINISHED BUSINESS

Two pending items from previous meetings are being presented to the Commission for its information, consideration, and/or possible action. Specifically, the Commission will discuss and consider:

- (a) The Department's FY 2015 Financial Performance and the FY 2016 Budget.
- (b) The Financial Condition of the State Credit Union System.

RECOMMENDED ACTION: The Department requests that the Commission take action as indicated in the documents contained in **TAB E**.

E

FY 2015 FINANCIAL PERFORMANCE AND THE FY 2016 BUDGET

E. (a) Discussion and Consideration of the Department's FY 2015 Financial Performance and the FY 2016 Budget.

BACKGROUND: In February 2014, the Commission adopted a Strategic Plan for Fiscal Year 2015-2019. The \$3.5 million FY 2015 Budget, includes the maintenance and operation budget and capital improvement budget in support of the first year of the Strategic Plan.

The following preliminary Year-End FY 2015 Report is designed to provide a high-level overview of the financial results for the fiscal year ended August 31, 2015. As you will note, the preliminary numbers reflect total revenue of \$3,452,064, which is \$15,013 more than budget projections. Total year-end expenditures in FY 2015 are estimated to be \$260,000 under projections.

The FY 2016 budget of \$3.7 million was approved by the Commission at its June 2015 meeting. Financial statements for the first month of FY 2016 will be distributed at the meeting. At this time, no adjustments are being proposed for the FY 2016 budget.

RECOMMENDED ACTION: No action is anticipated.

FINANCIAL SERVICES MARKET AND CREDIT UNIONS
REGULATED BY THE DEPARTMENT

E. (b) Discussion and Consideration of Current Status of the Financial Services Market and the Effect on Credit Unions Regulated by the Department.

BACKGROUND: The operating environment for Texas credit unions has continued to improve as the economy rebounds, although a small percentage of state-chartered credit unions continue to struggle. Overall, credit unions continue to be impacted by a combination of historically low interest rates, weak demand for loan products, and to lesser extent, unemployment. Boards and management are working very hard to capture the financial business of their members; however, the costs associated with advancing technology, and achieving and maintaining regulatory compliance are creating challenges for all credit unions. These costs are typically not recoverable, so improving operational efficiency is critical.

INDUSTRY STATUS: At **June 30, 2015**, there were **185** state-chartered credit unions in Texas. Assets in these credit unions totaled **\$33.54 billion**, which is an increase of **\$1.83 billion** since **June 30, 2014**, for an annualized growth rate of **5.75%**. The aggregate net worth ratio rose to **10.10%**, up from **9.83%** a year ago.

Loans for Texas chartered credit unions totaled **\$22.93 billion** as of **June 30, 2015**. This is an increase of **\$2.10 billion** since **June 30, 2014** for an annualized growth rate of **10.0%**.

Shares for Texas chartered credit unions totaled **\$29.30 billion** as of **June 30, 2015**. This is an increase of **\$1.40 billion**, or **5.0%** from a year ago.

Texas chartered credit unions average loan delinquency ratio was **0.58%** as of **June 30, 2015**, compared to a ratio of **0.62%** at **June 30, 2014**.

At **June 30, 2015**, **40** state-chartered credit union reported net operating losses, compared to **36** at **June 30, 2014**. These credit unions reported aggregate negative net earnings of **\$1.63 million**; while the remaining **145** credit unions reported aggregate net income **\$158.15 million**.

PROBLEM INSTITUTIONS: Currently, there are **33** credit unions assigned a CAMEL rating of **3** or higher. Credit unions in this category are

monitored through a combination of off-site monitoring, regular on-site contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

ENFORCEMENT ISSUES: The Department has the following administrative sanctions outstanding:

Dividend Restrictions	5
LUAs	0
Determination Letters	5
Conservatorships	1
Cease and Desist	3

Chartering Activity

New Charter	2
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RECOMMENDED ACTION: No formal action is anticipated.

RATIO ANALYSIS

June 2015/June 2014

	June 30, 2015	June 30, 2014	Difference
# of Credit Unions	186	188	-2
Total Assets	\$33.540 B	\$31.715 B	\$1.825 B
Average Assets/CU	5.44 M	6.83 M	-1.39 K
Net Worth/Total Assets	10.10	9.82	+0.28
Net Worth Growth	\$9.43 M	\$8.43 M	+1 M
Return on Average Assets	0.95	0.78	+0.17
Net Interest Margin/ Average Assets	3.11	3.14	-0.03
Fee & Other Income/Average Assets	1.67	1.66	+0.01
Operating Expense/Average Assets	3.66	3.68	-0.02
Provision for Loan Loss/Average Assets	0.38	0.36	+0.02
% of (Negative) Credit Union Earnings	22.0	18.1	+3.9
Total Loans/Total Shares	78.28	74.68	+3.6
Delinquent Loans/Total Loans	0.58	0.62	-0.04
Net Charge-Offs/Average Loans	0.54	0.57	-0.03
Share Growth	7.05	7.47	-0.42
Loan Growth	8.16	9.68	-1.52
Asset Growth	7.57	8.01	-0.44
Membership Growth	1.91	2.50	-0.59

NEW BUSINESS

Two (2) new items are being presented to the Commission for its consideration and possible formal action. Specifically, the Commission will have:

- (a) Discussion, Consideration, and Possible Vote to Readopt the Department's Equal Employment and Workforce Diversity Plan.
- (b) Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for February 21, 2016.

RECOMMENDED ACTION: The Department requests that the Commission take action as indicated on the documents contained in **TAB F**.

F

EQUAL EMPLOYMENT AND WORKFORCE DIVERSITY PLAN

F. (a) Discussion, Consideration, and Possible Vote to Readopt the Department's Equal Employment and Workforce Diversity Plan.

BACKGROUND: Finance Code Section 15.313 requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The Commission originally approved the policy on October 10, 1997 and readopted it last on October 17, 2014. The policy statement must be approved annually. Accordingly, the policy is presented for Commission consideration and approval.

RECOMMENDED ACTION: The Department requests that the Commission readopt the Equal Employment and Workforce Diversity Plan with additional reporting on disability status.

RECOMMENDED MOTION: I move that we readopt the Department's Equal Employment and Workforce Diversity Plan as recommended by Staff.



**STATE OF TEXAS
CREDIT UNION DEPARTMENT**

**EQUAL EMPLOYMENT AND
WORKFORCE DIVERSITY PLAN**

Approved by Commission on October 10, 1997

Readopted by Commission on _____, 2015

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PREFACE

This Equal Employment and Workforce Diversity Plan has been developed to formalize the Credit Union Commission's and the Credit Union Department's commitment to equal employment opportunity. The plan is designed to assure that the Department's personnel policies and practices promote equal employment opportunities and diversity in the workplace.

The Department recognizes that the full and equal participation of minorities, women, and disabled persons in all employment opportunities is a necessary component of any effective equal employment and diversity program. To achieve the goals in practical and meaningful terms, the Department has established objectives and timetables, and has assigned specific responsibilities to Commission members and Department staff.

The Department's Equal Employment and Workforce Diversity Plan is intended to conform in good faith with Title VII of the Civil Rights Act of 1964, Section 503 of the 1973 Rehabilitation Act, the Age Discrimination in Employment Act of 1967, and the Texas Labor Code, as well as the guidelines adopted by the Equal Employment Opportunity Commission on October 17, 1989 and Presidential Executive Order 11246.

FOREWORD

The Department's Equal Employment and Workforce Diversity Plan has been developed in accordance with the principles set forth in the Equal Employment Opportunity Coordinating Council's Affirmative Action Policy Statement. These principles outline the intent and goals of the Department's philosophy:

Equal Opportunity is the law of the land. In the public sector of our society, this means that all persons, regardless of race, color, religion, sex, national origin, age or disability, shall have equal access to positions in public service limited only by ability to do the job.

...vigorous enforcement of the laws against discrimination is essential. But equally, and perhaps even more important, are affirmative, voluntary efforts to assure that positions in the public service are genuinely and equally accessible to qualified persons, without regard to their sex, racial or ethnic characteristics. Without such efforts, Equal Employment Opportunity is no more than a wish...

CREDIT UNION DEPARTMENT EQUAL EMPLOYMENT AND WORKFORCE DIVERSITY PLAN

Policy Statement

It shall be the public policy of the Credit Union Department not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or disability status. The Department shall take all necessary affirmative steps to insure the employment and promotion of otherwise qualified minorities, women, and disabled persons who may be underrepresented in the Department's work force.

The Department is committed to the principles of equal employment opportunity law and the spirit of workplace diversity. This plan has been prepared to ensure that the Department's equal employment and diversity policies shall be properly implemented and to ensure that no artificial barriers shall be intentionally or otherwise created to deny applicants for employment or employees of the Department equal employment opportunities. The plan is available in the Department's office for review by employees and applicants for employment. The plan is available to the general public on request.

The Department is fully committed to protecting the rights of all current and prospective employees by ensuring that these individuals are being properly treated and provided with employment and advancement opportunities based solely on each individual's qualifications and performance, without regard to his or her race, color, religion, national origin, sex, age or disability. These rights are promulgated in the statutes listed in the preface.

Supervisors are required to ensure that all employees and prospective employees are afforded equal employment opportunities. Also, through the Department's recruiting process, supervisors must strive to attain a work force profile that is in parity with Texas' statewide labor force availability by race/ethnicity and sex.

Advancement within the Department's organizational structure will be attained by meritorious performance; however, occupational parity based upon Texas' statewide labor force availability will be given consideration during the selection process.

The supervisors of the Credit Union Department shall not discriminate with regard to employment opportunities. They must work together and communicate freely with each other to ensure discrimination is not fostered within the Department.

Responsibilities

The Department's Equal Employment and Workforce Diversity Plan has the support of the Commission members, Commissioner, and other management or supervisory personnel. Specific

responsibilities have been assigned and delegated to the Commission and management personnel to ensure that the necessary authority and power is available to implement the provisions of the plan.

The Commission is responsible for establishing policies and monitoring the implementation of the plan through periodic reports submitted by the Commissioner. The Commission, through Department staff, shall review the plan annually for purposes of revision or modification. The staff shall review the work force analysis and personnel policies, procedures, and practices and shall include recruitment, selection, promotions, job descriptions, classifications, compensation, discipline, or other terms and conditions affecting the equal employment opportunities of applicants for employment or employees. Any changes to the plan resulting from the annual review will be submitted to the Commission for approval.

The Assistant Commissioner shall be designated as the representative of the Department with the authority for execution of the plan. It shall be the responsibility of the Assistant Commissioner to ensure that compliance with the Commission's policies is implemented in an efficient and effective manner.

Goals

- I. To insure objectivity, consistency, uniformity and job relatedness through design and implementation of appropriate personnel policies, procedures and practices which affect the equal employment opportunities of the Department's employees and applicants for employment.
- II. To insure a diverse work force through the establishment of a monitoring and reporting system.

Actions to Achieve Goals

- I. Policy Dissemination
 - A. The Department shall use the communication network of the Texas Workforce Commission to provide notice of the Department's equal employment and diversity policy. In notifications posted for vacant positions, including posting on the Department's website, the Department shall include information that it is an equal employment opportunity employer.
 - B. As part of new employee in-processing, each new employee shall receive a copy of the Department's Equal Employment and Workforce Diversity Plan and its Equal Employment Policy.

II. Recruitment

- A. To the extent possible, the Department shall utilize a wide range of recruiting sources to secure the maximum number of qualified minority, female and disabled applicants for available positions within all classification. Such sources shall include, as appropriate, statewide minority, female and disability associated organizations, educational institutions, newspapers, and the Texas Workforce Commission. The Department shall continue to expand and update its list of such recruiting sources including appropriate contact persons.
- B. Notices of vacant positions shall be posted in accordance with the regular ten (10) working day posting rule. Where vacancies occur in classifications that have been identified as being underutilized, the Department shall place emphasis on recruiting from minority, female, and disabled applicant sources, by distributing position notices to all appropriate recruitment sources identified in II.A.
- C. An Applicant Flow Record shall be maintained to determine the mix of candidates applying for vacant positions according to race, national origin, sex, and disability. This information shall be incorporated into the Agency Application Log.

III. Selection Procedures

The U. S. Equal Employment Opportunity Commission, the U. S. Civil Service Commission, the Department of Labor and the Department of Justice have issued Uniform Guidelines on Employee Selection Procedures. These guidelines address all phases of an employer's selection process and provide suggested requirements that, if adhered to, will greatly reduce an employer's susceptibility to charges of employment discrimination that involve the selection process.

- A. Position audits shall be conducted on a continuing basis (within resources available) to ensure that current position descriptions accurately reflect the actual duties, tasks, and responsibilities required to successfully perform the job. These audits shall also be used to determine the appropriateness of the minimum qualifications for the positions and to ensure that only valid, job-related qualifications are required.
- B. All testing and screening procedures shall be reviewed on a continuing basis (within resources available) to ensure their job-relatedness and validity. Information acquired from the position audits shall be used to construct valid, job-related tests and screening procedures.
- C. All employment interviews shall be reviewed for job relatedness. Non-job-related questions and those items that may tend to screen out a particular ethnic or racial

group shall be eliminated. Technical assistance in the construction of interview questions and interviewing procedures shall be given to hiring authorities.

- D. All test scores and interview results shall be maintained for each classification in accordance with the State's record retention schedule. This information is to assess the presence of artificial barriers to equal employment opportunity.

IV. Upward Mobility

- A. Employees shall be encouraged to participate in training or educational opportunities that enhance their skills.
- B. In-service training programs shall be designed and implemented to increase promotion opportunities for employees. On-the-job training and/or cross-training programs shall be developed to expose employees to a broad range of job duties and experiences.

Discipline Procedures

The Department shall institute a progressive discipline system that is linked to specific policies and procedures with which personnel are expected to comply. Such a progressive discipline system will be designed in steps of severity ranging from written warnings to termination. This disciplinary system shall be designed and applied to ensure uniformity and consistency with Department policies prohibiting discrimination.

Appeal and Grievance Procedures

The Department shall provide appeal and grievance procedures designed to resolve complaints of employment discrimination alleged by employees. These procedures shall provide aggrieved employees the opportunity to discuss their problems at several levels.

These procedures shall help protect both the employee and the employer by providing both parties with the opportunity to have their position reviewed and considered by an impartial authority. These procedures shall provide safeguards against any and all occurrences of discrimination or any other preferential treatment that may adversely affect employees of the Department.

Monitoring Achievement

The Assistant Commissioner shall be responsible for administering and monitoring the implementation of the Department's Equal Employment and Workforce Diversity Plan and for identifying any revisions necessary to assure effective application. The Assistant Commissioner shall review such reports as include the following Annual EEO/Diversity Progress Report:

- A. Workforce Analysis by Race, National Origin, Sex, and EEO Category
- B. Personnel Transactions

The Commissioner shall submit to the Commission, at each regular Commission meeting, a status report which shall include a record of the following personnel transactions: 1) salary report, listed by race, national origin, sex, disability and experience, 2) employees promoted, listed by race, national origin, sex, disability and experience; and 5) employees terminated and resigned, listed by race, national origin, sex, and disability.

- C. Applicant Flow

The Applicant Flow Report shall include a breakdown of all applicants by race, national origin, sex, disability, and position vacancy. The report, which is part of the Agency Application Log, shall also indicate whether or not a job offer was made, and the position of the person(s) who made the employment decision.

- D. Appeal and Grievance Status

This report shall be submitted to the Commission. It will provide an itemized statistical summary of the number, status, and issues raised by employee grievances and discrimination complaints. No report is necessary if there have been no grievances or discrimination complaints.

Time Frame for Implementation

The Department shall implement and review the action program previously identified annually.

NEW BUSINESS

(b) Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for February 21, 2016.

G

EXECUTIVE SESSION
(closed to public)

G. Under Section 551.074 of the Government Code, the Commission will enter into Executive Session for the purpose of discussing certain issues:

(a) Consideration of the Commissioner's Annual Performance Evaluation and FY 2016 Remuneration.

H

OTHER BUSINESS

H. (a) Vote on Matters Discussed in Executive Session – Discussion and Possible Vote to Adjust the Commissioner's FY 2016 Remuneration.

(b) Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for February 21, 2016.

Adjournment

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION

EEO/DIVERSITY PROGRESS REPORT

4th Quarter Fiscal Year 2015

A. WORKFORCE ANALYSIS BY RACE, NATIONAL ORIGIN, SEX, AND EEOC CATEGORY

During the fiscal year 2015, the Department was authorized to have 27.5 employees.

4TH Quarter FY 2015 Workforce Analysis	White¹		Black²		Asian³		American Indian⁴		Hispanic⁵		Other		Disability	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Numbers of Employees Total: 25	12	4	2	5	1	0	0	0	0	1	0	0	0	0
Resignations Total: 2	1	1	0	0	0	0	0	0	0	0	0	0	0	0
New Hires Total: 2	0	2	0	0	0	0	0	0	0	0	0	0	0	0
Promotions	1	0	0	0	0	0	0	0	0	0	0	0	0	0

¹ White or Caucasian (not of Hispanic origin): All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

² Black or African-American (not of Hispanic origin): All persons having origins in any of the Black racial groups of Africa.

³ Black or African-American (not of Hispanic origin): All persons having origins in any of the Black racial groups of Africa.

⁴ Native American or Alaskan Native: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

⁵ Hispanic or Latino: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

B. PERSONNEL TRANSACTIONS SALARY REPORT

During the 4th Quarter of FY 2015, the average of all Department salaries was \$75,477.

Salary Averages	White	Black	Asian	American Indian	Hispanic	Other	Disability
Average of Salaries – Male	\$91,504	\$55,711	\$88,188	\$0	\$0	\$0	\$0
Average of Salaries – Female	\$59,257	\$64,471	\$0	\$0	\$62,113	\$0	\$0
Average of Total Salaries	\$81,427	\$65,197	\$88,188	\$0	\$62,113	\$0	\$0

During the 4th Quarter of FY 2015, the average monthly tenure of all Department employees was 137.3 months.

Tenure Averages in Months	White	Black	Asian	American Indian	Hispanic	Other	Disability
Average of Tenure Male	161.5	15.6	184.8	0	0	0	0
Average of Tenure Female	69.8	139.5	0	0	393.7	0	0
Average of Total Tenure	132.9	104.1	184.8	0	393.7	0	0

During the 4th Quarter of FY 2015, the average Examiners' Salary was \$70,964.

Experience Categories	Average Salary
Less than 1 year	\$42,600
1 – 2 years	\$50,884
2 – 5 years	\$56,624
5 – 10 years	\$90,993
Over 10 years	\$94,247

C. APPLICANT FLOW

Position: General Counsel III (15-11) Position Closed

Applicant Flow	White			Black			Asian			American Indian			Hispanic			Other			Race/Ethnicity/ National Origin Not Given			Disability		
	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N
Applications Received Total: 12	1	2	0	2	0	0	0	0	0	0	0	0	1	2	0	0	0	0	1	3	0	0	0	12
Interviewed Total: 5	0	1	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	2	0	0	0	5
Offers Total: 1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Accepted Total: 1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Declined Total: 0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Person Making the Hiring Decision: Commissioner

Position: Financial Examiner I (15-12) Position Still Open

Applicant Flow	White			Black			Asian			American Indian			Hispanic			Other			Race/Ethnicity/ National Origin Not Given			Disability		
	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N
Applications Received	4	2	0	2	6	0	1	0	0	0	0	0	1	3	0	0	1	0	0	0	0	0	22	
Total: 22																								
Interviewed	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Total: 1																								
Offers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total: 0																								
Accepted	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total: 0																								
Declined	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total: 0																								

Person Making the Hiring Decision: Field Manager

Position: Financial Examiner II (15-13) Position Still Open

Applicant Flow	White			Black			Asian			American Indian			Hispanic			Other			Race/Ethnicity/ National Origin Not Given			Disability		
	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N
Applications Received	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Total: 1																								
Interviewed	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total: 0																								
Offers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total: 0																								
Accepted	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total: 0																								
Declined	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total: 0																								

Person Making the Hiring Decision: Field Manager

Total Applicant Flow for All Positions.

Total Applicant Flow	White			Black			Asian			American Indian			Hispanic			Other			Race/Ethnicity/ National Origin Not Given			Disability		
	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N	M	F	N			
Applications Received	5	4	0	5	6	0	1	0	0	0	0	0	2	5	0	0	1	0	1	3	2	0	0	35
Total: 35																								
Interviewed	0	2	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	2	0	0	6	
Total: 6																								
Offers	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	1	
Total: 1																								
Accepted	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	1	
Total: 1																								
Declined	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	
Total: 0																								

Reason for selection of the final candidate: Preliminary application score above threshold; final candidate appeared to be the best fit following interview.

D. APPEAL AND GRIEVANCE STATUS

During the 4th Quarter of FY 2015, there have been no grievances nor appeals.

Number of grievances received: 0

Number of appeals received: 0

AFFIRMATIVE ACTION/EEO QUARTERLY REPORT
4th Quarter - FISCAL YEAR 2015

During this fiscal year the Department is authorized to have 27.5 Employees.

		White		Black		Hispanic		Asian		Total
		Male	Female	Male	Female	Male	Female	Male	Female	
No. of Employees on	3rd quarter	11	4	2	5	0	1	1	0	24
Resignations (retirees)		0	0	0	0	0	0	0	0	0
New Hires		1	0	0	0	0	0	0	0	1
No. of Employees on	4th quarter	12	4	2	5	0	1	1	0	25
Resignations (retirees)		1	1	0	0	0	0	0	0	2
New Hires --		0	2	0	0	0	0	0	0	2
Grand Total of Employees		11	5	2	5	0	1	1	0	25
Promotions - 4th Quarter		1								1

Percent Male 56.00%
Percent Female 44.00%

Salary Breakdown

	3rd quarter	4th quarter	Average Tenure
Average of Salaries	\$ 73,412	\$ 75,477	137.3 months
Average Salaries - White	\$ 79,327	\$ 81,427	132.9 months
Male 11	\$ 85,492	\$ 91,504	161.5 months
Female 5	\$ 60,831	\$ 59,257	69.8 months
Average Salaries - Black	\$ 62,882	\$ 65,197	104.1 months
Male 2	\$ 54,606	\$ 55,711	15.6 months
Female 5	\$ 62,136	\$ 64,471	139.5 months
Average Salaries - Hispanic	\$ -	\$ 62,113	393.7 months
Male 0	\$ -	\$ -	0.0 months
Female 1	\$ 59,724	\$ 62,113	393.7 months
Average Salaries - Asian	\$ 86,448	\$ 88,188	184.8 months
Male 1	\$ 86,448	\$ 88,188	184.8 months
Female 0	\$ -	\$ -	0.0 months
25			

Exmr. Experience - 4th quarter

Less than 1 year	3	Average Salary	\$ 42,600
1 - 2 years	4	Average Salary	\$ 50,884
2 - 5 years	1	Average Salary	\$ 56,624
5 - 10 years	2	Average Salary	\$ 90,993
Over 10 years	6	Average Salary	\$ 94,247
Total	16	Average Salary	\$ 70,964

Credit Union Department

Executive Summary

As of 05/31/15

*Information from call report cycle

ACTIVITY	YTD 2013	YTD 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MOVEMENT PROFILE							
Number of CUs	190	188	188	187	186		
Total Assets (Millions)	*29,549	*31,715	*31,822	*32,317	*33,508		
APPLICATIONS (Received)							
Charters	0	0	0	0	0		0
Foreign Branches	0	0	0	0	0		0
Conversions	1	0	1	0	1		2
Mergers	13	3	3	3	2		8
Bylaws	53	64	11	13	19		43
Articles of Incorporation	2	5	1	0	1		2
Total	69	72	16	16	23	0	55
EXAMINATION ACTIVITIES							
Regular	90	68	18	19	44		81
Joint	70	95	19	16	40		75
Remedial	44	44	10	6	19		35
Total	214	207	47	41	103	0	191
ENFORCEMENT ACTIONS (In Force)							
Determination Letters	5	5	3	4	5		
LUAs	2	2	2	2	0		
Cease & Desist Orders	1	0	2	3	2		
Dividend Restrictions	0	0	0	0	0		
Conservatorships	1	1	1	1	1		
Liquidations	1	1	2	2	2		
Total	10	9	10	12	10	0	
PERSONNEL STAFFING							
Field Examiners	15	17	15	14	14		
Total Personnel	25	26	25	24	24		
FINANCIAL OPERATIONS (In Thousands)							
Budgeted Expenditures	2,969	3,024	799	805	858	0	2,462
Actual Expenditures	2,769	3,009	724	741	729	0	2,194
Gifts and Bequests	n/a	n/a	n/a	n/a	n/a	0	n/a
Actual Revenue	2,746	2,851	1,893	1	1,555	0	3,449

Credit Union Department
Application Activities - Detail

ACTIVITY	4th Qtr 2013	4th Qtr 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
CHARTERS							
Pending at Beginning of Period	0	0	0	0	0	0	
Add: New Applications Filed	0	0	0	0	0	0	
Less: Approved	0	0	0	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	0	0	0	0	
FOREIGN BRANCH OFFICES							
Pending at Beginning of Period	0	0	0	0	0	0	
Add: New Applications Filed	0	0	0	0	0	0	
Less: Approved	0	0	0	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	0	0	0	0	
CONVERSIONS							
Pending at Beginning of Period	0	0	0	1	1	0	
Add: Applications Filed	1	0	1	0	1	0	
Less: Approved	0	0	0	0	1	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	1	0	1	1	1	0	
MERGERS							
Pending at Beginning of Period	4	2	0	3	2	0	
Add: Applications Filed	5	1	3	3	2	0	
Less: Approved	4	2	0	4	1	0	
Denied/Withdrawn	0	1	0	0	0	0	
Pending at End of Period	5	0	3	2	3	0	
BYLAWS							
Pending at Beginning of Period	3	1	5	4	1	0	
Add: Applications Filed	17	15	11	13	19	0	
Less: Approved	13	11	12	16	15	0	
Denied/Withdrawn	0	0	0	0	1	0	
Pending at End of Period	7	5	4	1	4	0	
ARTICLES OF INCORPORATION							
Pending at Beginning of Period	1	0	0	1	0	0	
Add: Applications Filed	0	1	1	0	0	0	
Less: Approved	1	1	0	1	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	1	0	0	0	

Credit Union Department
Movement Profile - Condition Summary

CAMEL RATING	4th Qtr 2013	4th Qtr 2014	2015 FISCAL YEAR				
			*1st Qtr	*2nd Qtr	*3rd Qtr	*4th Qtr	
1	27	26	27	27	27	0	
2	128	133	129	128	128	0	
3	30	28	29	28	26	0	
4	5	1	2	3	5	0	
5	0	0	0	0	0	0	
Total	190	188	187	186	186	0	

*Information from Master List

Texas Credit Union Department
Enforcement Actions - Detail

TYPE OF ACTION	In Force 8/31/2013	Issued	Activity Terminated	In Force 8/31/2014	Issued	Activity Terminated	In Force 5/31/2015
Determination Letters	5	1	1	5	2	1	6
LUAs	2	1	1	2	0	1	1
Cease & Desist Orders	1	0	1	0	3	0	3
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	1	0	0	1	0	0	1
Liquidations	1	0	0	1	1	0	2
Total	10	2	3	9	6	2	13

Texas Credit Union Department
Examination Activities
Analysis of Current Year

TYPE OF EXAM	Budgeted Number	Actual Number	% Budget	% of Total	% Mailed Within 20 Days
Regular	67	44	66	23	43%
Joint	62	40	65	21	39%
Remedial	30	19	63	10	18%
Total	159	103	65	49	100%

Credit Union Department
Movement Profile - Consumer Complaints

CONSUMER COMPLAINTS	YTD 2013	YTD 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Received	223	224	54	55	75	0	184
Closed	223	230	50	55	67	0	172
Avg. Days to Process	15	14	12	13	14	0	19.5
% Resolved in 30 Days	100%	98%	98%	96%	100%	0%	98%

Texas Credit Union Department
Consumer Complaint - Detail

TYPES OF COMPLAINTS	YTD 2013	YTD 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
LOAN ISSUES							
Collections/Loans	28	12	3	3	6	0	12
Procedure Irregularity	11	34	10	4	4	0	18
Denial	5	0	0	0	0	0	0
Cross Collateralization	4	0	0	1	1	0	2
Credit Report Issues	11	21	5	4	2	0	11
Collateral Protection Insurance	10	5	2	3	2	0	7
ACCOUNT ISSUES							
NSF/Overdraft	30	0	0	0	0	0	0
Electronic Funds Transfer	6	7	0	5	8	0	13
Holds on Checks	9	1	1	1	2	0	4
Posting Order	5	7	0	0	1	0	1
Fraud/Unauthorized	9	15	7	3	4	0	14
Fees	12	29	9	7	6	0	22
Billing Disputes	0	5	0	1	3	0	4
Other	0	21	0	1	9	0	10
OTHER PRODUCTS/SERVICES							
Account/Loan Balance	37	35	6	6	9	0	21
Account Closed/Frozen	12	8	2	7	3	0	12
Customer Service	34	22	5	7	5	0	17
Deceptive Advertisment	0	3	0	1	0	0	1
Vehicle Title	0	4	0	1	1	0	2
Website Issues	0	1	0	0	1	0	1
TOTAL	223	230	50	55	67	0	172

Credit Union Department
Merger/Conversion Finalized

ACTIVITY	YTD 2013	YTD 2014	2015 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MERGERS							
Number:							
State-to-State	5	1	0	0	0	0	0
Federal-to-State	5	5	0	2	1	0	3
State-to-Federal	1	2	0	0	0	0	0
Total	11	8	0	2	1	0	3
Assets:							
State-to-State	53,478,655	20,338,698	-				-
Federal-to-State	216,192,063	99,044,519	-	19,975,026	845,708	-	20,820,734
State-to-Federal	1,103,403	5,839,695	-	-			-
Total	270,774,121	125,222,912	-	19,975,026	845,708	-	20,820,734
CONVERSIONS							
Number:							
Federal-to-State	2	1	0	0	0		0
State-to-Federal	0	0					
State-to-Mutual Bank	0	0					
Assets:							
Federal-to-State	507,898,295	44,814,185	-	-	-		0
State-to-Federal	-						
State-to-Mutual Bank							
Total	507,898,295	44,814,185	-	-	-	-	-

Credit Union Department
Web Site Statistics
Report Range: 03/01/15 thru 05/31/15

		Number
Total Visits:	Number of Visits	7,068
	Visitors	3,999
	Page Views	17,556
	Number of Repeat Visitors	3,419
	Average Pages per Visit	2.48
	Average Visit Duration	3:19
Most Requested Pages:	Home Page	5,977
	Employment	1,300
	Rules for Credit Unions	1,294
	Job Postings	1,274
	Contact Us	509
Most Downloaded Files:	April 2015 Newsletter	574
	Rules for Credit Unions	552
	March 2015 Newsletter	539
	Credit Union Listings 11-19-14	493
	Change 40 Rules for Credit Unions	479

Credit Union Department
Quarter Assessment of HUB Related Activities
May 31, 2015

PROCUREMENT CATEGORY	GOAL	QTR	YTD
		PERFORMANCE	PERFORMANCE
Heavy Construction	11.2%	*	*
Building Construction	21.1%	*	*
Special Trade Construction	32.9%	0%	0%
Professional Services	23.7%	0%	0%
Other Services	26.0%	17%	29%
Commodities	21.1%	20%	70%

* This goal is generally not applicable to the Department

Total Expenditure During this Quarter							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	296				6,623	9,996	6,919
Commodities		3,575			2,215	3,486	5,790
Total	296	3,575	0	0	8,838	13,482	12,709

Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized this Quarter							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	1				1	8	2
Commodities		1			2	10	3

Credit Union Department
Year to Date Assessment of HUB Related Activities
May 31, 2015

Total Expenditure YTD							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction						9,356	
Professional Services							
Other Services	888				27,911	70,901	28,799
Commodities		5,200			27,642	13,792	32,842
Total	888	5,200	0	0	55,552	94,049	61,641

Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized YTD							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction						2	
Professional Services							
Other Services	3				4	31	7
Commodities		2			8	23	10

Survey Responses from June 2015 thru August 2015

Examinations

Reflects summary responses from 12 surveys received or 17 % of the 71 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. The lead-time was sufficient to gather the information requested prior to the on-site examination.	9	1		2		
Q 2. The pre-examination requests were reasonable in scope.	7	4	1			
Q 3. Materials requested in the pre-examination were used during the examination.	7	2	2	1		
Q 4. The pre-examination request made the examination run more efficiently.	7	3	1	1		
Q 5. The examiners were knowledgeable about your credit union.	7	2		2		1
Q 6. The examiners demonstrated a thorough understanding of safety and soundness issues.	8	2		1	1	
Q 7. The examiners were responsive to your questions and concerns.	8	2	1	1		
Q 8. The examiners communicated effectively with the credit union throughout the examination.	6	4		2		
Q 9. The examiners treated you professionally.	7	3		1		1
Q 10. The examiners explained the CAMEL Ratings in sufficient detail.	7	4	1			
Q 11. All major findings of the examination were discussed with you prior to the examiners leaving your credit union.	6	6				
Q 12. Management was given the opportunity to react to the examination findings.	5	7				
Q 13. The examination was completed within a reasonable timeframe.	9	1	1	1		
Q 14. The report accurately reflected the examination findings as conveyed to you during the examination.	6	4	1	1		
Q 15. The report was easy to understand.	6	4		2		
Q 16. The report accurately portrayed your credit union's practices and condition.	6	2	2	2		
Q 17. The transmittal letter and other written communications concerning the examination report was clear and concise.	8	3		1		
Q 18. The report contained useful recommendations for improving safety and soundness practices.	3	3	2	3		

Examinations (Continued)

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 19. The examination findings will assist you in enhancing your safety and soundness practices.	5	2	3	2		
Q 20. The examination was conducted in a fair and objective manner.	7	3	1	1		

Applications

Reflects summary responses from 2 surveys received or 10 % of the 21 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. Department staff provided timely and accurate feedback/answers.	2					
Q 2. Department staff communicated with me in a courteous and professional manner.	1	1				
Q 3. The application process was efficient.	1		1			
Q 4. The Department's requests for information were reasonable.	1		1			
Q 5. The Department's website was helpful in completing my application.	1	1				

Complaints

Reflects summary responses from 5 surveys received or 7.6 % of the 66 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. It was relatively easy to file a complaint with the Department.	2	3				
Q 2. Department staff communicated with me in a courteous and professional manner.	2	1	1		1	
Q 3. I believe Department staff understood the basis of my complaint.	2			1	2	

Complaints (Continued)

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 4. The response provided by the Department addressed the important aspects of my complaint.	1	1		3		
Q 5. The explanation give was fair considering applicable laws.	1	1		3		
Q 6. The Department website was helpful in the complaint process.	2	1			2	