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# Credit Union Department



## NEWSLETTER

No. 12-07

[www.t cud.state.tx.us](http://www.t cud.state.tx.us)

December 31, 2007

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### NOTICE OF LEGISLATIVE ADVISORY COMMITTEE MEETING

The Legislative Advisory Committee will be meeting on Friday, January 18, 2008, at 9:00 a.m. in Austin at the offices of the Credit Union Department. For your convenience, the agenda will be available on the TCUD website the week of January 1st.

### COMMISSION ADOPTS RULE AMENDMENTS; READOPTS TRUST POWERS RULES

At its meeting on October 19, 2007, the Commission adopted changes to the investment rules of Chapter 91, Subchapter H, the reserves and dividend rules of Chapter 91, Subchapter I, and Rule 91.1003, concerning mergers and consolidations. In addition, the Commission readopted Chapter 91, Subchapter O, Trust Powers. The rules were published in the *Texas Register* on November 2, 2007 and were effective on November 11, 2007. The complete text of the rules is on the Department's website ([www.t cud.state.tx.us](http://www.t cud.state.tx.us)) and a packet of the revisions was mailed to all credit unions on November 28, 2007. Below is a summary of the significant changes to the affected rules.

Overall, the amendments to Subchapter H provide additional guidance and clarification for the investment activities of credit unions. **Section 91.801** was amended to provide that the investment limits in CUSOs are based on generally accepted accounting principles. The amendments also eliminated the need for a separate audit of a CUSO if the CUSO is wholly owned by the credit union and is included in the consolidated audit of the credit union. In addition, the Commissioner has been given authority to limit a credit union's investment activities if there are financial or management reasons. Finally, the amendments provide that if the profitability of an investment in a CUSO causes the investment to exceed the limits set out in the rule, the credit union is not required to divest the excess.

The amendments of **Section 91.802** restrict permissible ratings for some investments and require that maturity dates match for repurchase transactions. In addition, Section 91.802 now has a federal parity provision as well as provisions for terminating a credit union's investment authority and for waiving the limitations of Subchapter H.

**Section 91.803** now specifies that the board of directors must review the credit union's designated depository at least annually. The amendments to **91.808** require that the credit union report the impact of a 300 basis point shift in market interest rates for securities and add a definition of the term "embedded option".

**Section 91.902** was amended to set out the information a credit union must submit if it is required to obtain approval to pay a dividend or interest refund. The subsections have been reordered as well.

Finally, **Section 91.1003**, which addresses mergers and consolidations, was amended to prohibit a credit union from offering an inducement to members of another credit union to promote a merger of the two credit unions.

### **RECEIPT OF VISA, INC. STOCK**

On November 26, 2007, the Department issued a letter to the Texas Credit Union League regarding the ability of state-chartered credit unions to receive and retain shares of stock issued by VISA, Inc. to members of VISA U.S.A., as a part of a corporate restructuring. Although state-chartered credit unions generally may not purchase shares of stock for investment purposes, in this situation the ownership is the indirect and unsolicited result of a contractual relationship between individual credit unions and VISA U.S.A. State-chartered credit unions that receive the VISA stock will not purchase these shares; the credit unions will receive the shares automatically as a by-product of the credit unions' participation in an otherwise permissible activity. Accordingly, state-chartered credit unions may retain the stock of VISA, Inc., provided the Department does not raise any safety and soundness concerns for individual credit unions.

### **GUIDANCE ON PANDEMIC PLANNING**

The NCUA, as part of the Federal Financial Institutions Examination Council (FFIEC), has issued guidance for use by credit unions in identifying the continuity planning that should be in place to minimize the potential adverse effects of a pandemic. The NCUA and the other FFIEC agencies believe the potentially significant effects a pandemic could have on an institution justify establishing specific plans to address how an institution will manage a pandemic event.

The guidance is available at <http://www.ffiec.gov/press/pandemicguidance.pdf>.

### **ADDITIONAL INFORMATION NEEDED FOR IRS FORM 990**

The Department has learned it will be required to complete in much greater detail several parts of the 2007 consolidated IRS Form 990. As a result, the Department will be asking credit unions to provide information concerning unrelated business income, compensation of key employees and directors, and credit unions' ownership in business interests.

The Form 990 authorization and certification, previously included with the call reports, will be sent out as a separate mailing in January. The certification will specify the information needed and will include a form credit unions must complete on the compensation of their key employees and directors. The Department will be amending the certification to require credit unions to state whether or not they are required to file a Form 990-T and whether or not they have an ownership interest in another business entity. You should contact your CPA if you have questions about any of these requirements.

If a credit union does not timely submit the information requested by the Department, it will not be included in the consolidated Form 990 and will be required to complete an individual Form 990.

## **5300 CALL REPORTS**

The 5300 Call Reports for the year ending December 31, 2007, will be mailed to each credit union on January 2nd and are due on or before **January 22, 2008**. Please note that all errors must be resolved before a transmission file can be created. Additionally, a comment is now required for all warnings. If you run into problems, please call Isabel Velasquez as soon as possible prior to the due date.

Credit unions with Internet should upload the Call Reports directly to the NCUA using the eSend feature contained in the 5300 software. The eSend option allows 5300 data to be transferred via the Internet to an NCUA processing server where it is electronically validated and compared to historical data. If any unusual or unlikely conditions exist, the credit union using the eSend option will receive via email a copy of the Historical Warnings Report for review.

## **REPORT SUBMITTAL DEADLINES**

The Department has established the following schedule for submittal of required reports and supporting information during the first quarter of 2008.

**Fourth Quarter Call Report** – Submittal Deadline: January 22, 2008.

- Report of accounting and statistical information from your credit union's records as of December 31, 2007. The call report program and instructions for completion will be mailed to each credit union on January 2, 2008.

**Report of Officials** – Submittal Deadline: Within 10 days after election of the board officers after the 2008 annual meeting.

- Report provides the name and contact information for each of your credit union's directors and other key officials for the current year. The Report of Officials program and instructions will be mailed to each credit union with the call report packet on January 2, 2008.

**Authorization to File IRS Form 990 for Texas Credit Unions** -- Submittal Deadline: March 3, 2008.

- Authorization for the Department to file a group 990 tax return with the IRS on behalf of all Texas state-chartered credit unions. The authorization form and request for the supporting information necessary to file the return will be mailed to each credit union in a separate mailing in mid-January.

**Credit Union Department Operating Fee** – Submittal Deadline: March 30, 2008.

- Semi-annual installment of the annual operating fee for state-chartered credit unions based on your credit union's assets as of June 30, 2007. A billing statement will be sent to each credit union on or before March 1, 2008.

## NEWSLETTER NOTICE

As required by statute, each state agency must obtain an annual confirmation from individuals receiving monthly publications at no charge. Specifically, the law requires that a notice be placed in three consecutive issues of the publication, and that anyone desiring to continue to receive the publication must so indicate in writing. Please submit the enclosed form to our office if you desire to continue to receive the Department's newsletter each month. Faxes are welcomed ([Click here for the form](#)).

If you responded to last month's notice, you need not take any further action.

## PUBLISHING NOTICE OF APPLICATIONS IN THE TEXAS REGISTER

In order to meet the submission deadlines for the applicable issues of the *Texas Register*, it is necessary for the Department to establish the schedule included below. Completed applications received after the deadline for the month cannot be published until the following month.

<u>Published In</u>	<u>Deadline for Receipt</u>
January, 2008	Friday, January 11
February, 2008	Friday, February 15

## APPLICATIONS RECEIVED

The following applications were received and published in the December 28, 2007 issue of the Texas Register:

Field of Membership Expansion(s):

**First Service Credit Union** (Houston) (#1) -- To permit employees of GoDISH.com who work in or are paid from Houston, Texas, to be eligible for membership in the credit union.

**First Service Credit Union** (Houston) (#2) -- To permit employees of Green, Tweed & Company who work in or are paid from Houston, Texas, to be eligible for membership in the credit union.

**Members Choice Credit Union** (Houston) -- To permit persons who live, work, attend school or worship in and businesses located within a 10-mile radius of the following branches of Members Choice Credit Union: 8951 S. Fry Road, Katy, TX 77494, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.tcred.state.tx.us/applications.html>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

Merger(s) or Consolidation(s) Changes:

An application was received from **Pegasus Credit Union** (Dallas) seeking approval to merge with **First Aviation Federal Credit Union** (Dallas), with Pegasus Credit Union being the surviving credit union.

An application was received from **Texans Credit Union** (Richardson) seeking approval to merge with **Central Dallas Federal Credit Union** (Dallas), with Texans Credit Union being the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

<b><u>2008 Meeting Schedule</u></b> <b><u>Austin, Texas</u></b>  <b><u>Commission Meetings</u></b>	
➤ Friday, February 8, 2008	Credit Union Department Office
➤ Friday, June 20, 2008	Credit Union Department Office
➤ Friday, October 17, 2008	Credit Union Department Office
<i>Meetings begin at 10:00 a.m. unless notified differently</i>	
<b><u>Legislative Advisory Committee Meetings</u></b>	
➤ Friday, January 18, 2008	Credit Union Department Office
➤ Friday, May 2, 2008	Credit Union Department Office
➤ Friday, September 19, 2008	Credit Union Department Office
<i>Meetings begin at 9:00 a.m. unless notified differently</i>	

**HOLIDAY SCHEDULE FOR TCUD**

The Department's office will be closed on **January 21, 2008**, in observance of Martin Luther King, Jr., Day.

## NEW YEAR WISH

The Credit Union Commission and the Staff of the Department would like to extend our best wishes for a New Year of health, happiness, and prosperity.

