
Credit Union Department



NEWSLETTER

No. 02-08

www.tcu.state.tx.us

February 29, 2008

FEBRUARY COMMISSION MEETINGS: RULE CHANGE ADOPTED; AMENDMENTS PROPOSED

At its regular meeting on February 8, 2008, the Commission adopted changes to 7 TAC §91.704, Real Estate Lending, incorporating the mortgage fraud notice requirements of HB 716. The rule now provides that credit unions making home loans must notify the borrowers of the penalties for making false or misleading statements to obtain a residential mortgage loan. The revised rule is effective on March 2, 2008. You may view the revised rule by visiting our website at [Section 91.704](#).

The Commission also considered amendments to 7 TAC §§91.301 and 91.302 and is seeking comments on the proposed changes. The text of the proposed changes is on our website at [Sections 91.301 and 91.302](#). Written comments on these proposed revisions must be received by the Department no later than March 23, 2008.

Finally, at its special meeting on February 26, 2008, the Commission voted to approve for publication and comment proposed amendments to three home equity interpretations: §§153.22, 153.51 and 153.84. Proposition 8 (HJR 72), approved by the voters effective December 4, 2007, amended some of the provisions of Section 50 of the Texas Constitution. The proposed changes to §§153.22, 153.51 and 153.84 conform the interpretations to those constitutional amendments. You may view a copy of the proposed amendments by visiting our website at [Sections 153.22, 153.51, and 153.84](#). Written comments on these proposed revisions must be received by the Department no later than April 14, 2008.

SMALL CREDIT UNION TRAINING WORKSHOP

The National Credit Union Administration (NCUA) has announced that it will be holding a training workshop hosted by NCUA's Office of Small Credit Union Initiatives in Houston on June 21, 2008. The workshops will be free to credit unions and will discuss current issues significant to small credit unions.

Credit unions can visit NCUA's website to register and view the most current information online at www.ncua.gov/CreditUnionDevelopment/Events/Index.htm.

NEW REQUIREMENTS FOR IDENTITY THEFT REPORTING

Effective March 1, 2008, financial institutions, including state and federal credit unions, must notify check verification entities when one of their customers or members is a victim of identity theft. Under the statute (Business & Commerce Code §35.595), the notification requirement is activated when a member completes four steps:

1. Notifies the credit union that the member was the victim of an offense under Section 32.51 of the Penal Code (generally, identity theft);
2. Requests that the credit union close the account that was compromised by the alleged offense;
3. Gives the credit union a copy of a police report (or the case number issued by the police department) for the offense; and
4. Gives the credit union a sworn statement by the member that the member was the victim of an offense under that section, and gives written authorization to submit account information through the electronic notification system.

Model sworn statement forms are on the Department of Banking website at <http://www.banking.state.tx.us/> under Check Verification Entities. Once the credit union has received the documents listed above, the credit union has two business days to submit the following information to the electronic notification system:

1. member's name, address, phone number, date of birth, and driver's license number or government-issued identification number
2. the account number that was compromised by the offense and closed as a result of the offense
3. the credit union's routing number and
4. the number on any check that was lost, stolen, or compromised.

The Department of Banking has established a secure electronic fraud notification system (CANS) at <https://www.banking.state.tx.us/cans>. Credit unions will submit the data, which will then be retrieved by the check verification entities. First time users will register at the site and will be sent an email validation. There is on-line help (FAQs) as well as an email address for questions that are not answered in the on-line help.

The Finance Commission has adopted rules which provide additional guidance on the reporting requirements, including procedures for correcting erroneous information submitted through the electronic notification system. The rules can be found on the Department of Banking website at <http://www.banking.state.tx.us/> under Check Verification Entities. For your convenience, the Texas Credit Union Department's website also has links to these rules, to the model sworn statement forms, and to CANS.

THE IMPORTANCE OF TIMELY AND EFFECTIVE SUSPICIOUS ACTIVITY REPORTS

History clearly shows that there is often a financial connection to crime. Connecting the dots between criminal activity and the financial transactions that facilitate such activity is invaluable, not only in identifying, investigating, and ultimately prosecuting criminals, but also in preventing and deterring crime. Suspicious Activity Reports (SARs) play a critical role in exposing the

financial links to illicit activities, on both a case-by-case and industrywide basis. The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN), regulatory agencies, and law enforcement depend on SARs to identify, investigate, and analyze criminal activity. Overall, credit unions have been diligent in detecting and reporting suspicious activity; however, merely filing a SAR may not be enough. The agencies depend on complete, accurate, and timely reports to use SAR information effectively and efficiently.

REPORT SUBMITTAL DEADLINES

The following schedule provides a listing of required reports that must be submitted to the Department within the next 60 days:

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

- Provides the name and contact information for the credit union's directors and other key officials for 2008. The Report of Officials software program and instructions were 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 7, 2008.

- Authorizes 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 supporting information were mailed to each credit union on January 17, 2008.

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

- Semi-annual installment of the Credit Union Department's annual operating fee for credit unions based on mid-year assets. A billing statement was mailed to each credit union on February 28, 2008.

First Quarter 5300 Call Report – Submittal Deadline: April 23, 2008.

- Details accounting and statistical information for each credit union as of March 31, 2008. The call report program and instructions for completion will be mailed to each credit union on or before April 4, 2008.

MEMBER BUSINESS LENDING EXPERTISE

It is critically important to the success of a member business loan program that management find and retain individuals who understand the intricacies of business lending. It is important to strive for a breadth of business lending expertise and knowledge suitable to the loan types provided for in the credit union's policy. The experience required in Rule 91.709(k) is a minimum. The expertise factor becomes more important as the breadth of business loan products increases, as the size of the loans grow, and as the speed of the overall program growth increases. Experience derived through an entire business cycle is highly desirable for larger more complex loans and portfolios. In addition, if the loan or portfolio size is sufficiently large or if the loan type pursued by the credit union is higher risk, it is very important for the individual with the expertise to have adequate authority (and accountability) to guide the business lending program.

RULE REVIEW

The Department is currently reviewing and considering for re-adoption, revision, or repeal Rules **91.7000** (Certificates of Indebtedness), and **91.8000** (Discovery of Confidential Information). Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures for the Department. In addition, the Department invites comments on how to make these rules easier to understand. For example:

- ❑ Do the rules organize the material to suit your needs? If not, how could the material be better organized?
- ❑ 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?
- ❑ Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?
- ❑ Would more (but shorter) sections be better in any of the rules? If so, what sections should be changed?

Written comments regarding these rules should be received no later than **March 31, 2008**. Any comments should be sent to Credit Union Department, 914 East Anderson Lane, Austin, Texas, 78752-1699 or by e-mail to info@tcud.state.tx.us.

COMMISSION ELECTS VICE CHAIRMAN

The Credit Union Commission elected Thomas F. Butler to serve another term as its Vice Chairman. Mr. Butler is a resident of Deer Park and a member of the La Porte Chamber of Commerce and volunteer for Youth Victim Witness.

LOAN DIVERSIFICATION REQUIREMENT

Commission Rule 91.701 requires that each credit union's loan policy address loan portfolio diversification standards to avoid undue concentrations of risk. The extent of the diversification standard will depend on the size, complexity and financial condition of the credit union. At a minimum, each credit union's loan policy should include permissible concentration limits for potentially higher risk obligations such as real estate loans, unsecured loans, business loans, and subprime loans. The diversification standard established by the board of directors for each category must be defined as either a percentage of the total loan portfolio or a percentage of the credit union's net worth.

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>
March, 2008	Friday, March 14
April, 2008	Friday, April 11

APPLICATIONS APPROVED

Applications approved since January 31, 2008 include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
Field of Membership Change(s) Approved:	
First Service Credit Union (Houston) (#1)	See Newsletter No. 12-07
First Service Credit Union (Houston) (#2)	See Newsletter No. 12-07

APPLICATIONS RECEIVED

The following applications were received and published in the February 29, 2008 issue of the Texas Register:

Field of Membership Expansion(s):

Texans Credit Union (Richardson) – To permit persons who live, work or attend school in Grayson County, Texas, to be eligible for membership in the credit union.

U. S. Employees Credit Union (The Woodlands) – To permit persons who live, work, worship, or attend school within a ten mile radius of the credit union’s branch office located at 24909 Kuykendahl, Tomball, Texas 77375, to be eligible for membership in the credit union.

TexasOne Community Credit Union (Houston) – To permit persons who live, work or attend school in and businesses within a ten mile radius of the branch office located at 1657 S. Fry Road, Katy, Texas 77450, 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.t cud.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.