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# Credit Union Department



## NEWSLETTER

No. 03-08

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

March 31, 2008

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### The Sunset Review of the Credit Union Department

The mission and performance of the Texas Credit Union Department are currently being reviewed by the Legislature as required under the Texas Sunset Act. The Act provides that the Sunset Commission, composed of legislators and public members, periodically evaluate a state agency to determine if the agency is still needed, and what improvements are needed to ensure that state funds are well spent. Based on the recommendations of the Sunset Commission, the Texas Legislature ultimately decides whether an agency continues to operate into the future.

The Sunset review involves three steps. First, Sunset Commission staff will evaluate the Credit Union Department and, in August 2008, will issue a report recommending solutions to problems found. The Sunset Commission will then meet to hear public testimony on the agency and the recommendations of the Sunset staff. This meeting is scheduled for September 23 and 24, 2008. Please refer to our website or call our office for updated meeting schedule information. Based on public input and the Sunset staff report, the Sunset Commission will adopt recommendations for the full Legislature to consider when it convenes in January 2009.

Through the Sunset review, every Texan has the opportunity to suggest ways in which the mission and operations of the Credit Union Department can be strengthened. If you would like to share your ideas about the agency, please contact Karen Latta of the Sunset staff. Suggestions are preferred by May 16, 2008, so they can be fully considered by the Commission staff.

Sunset Advisory Commission

P. O. Box 13066

Austin, Texas 78711

512/463-1300

Fax: 512/463-0705

**Email: [sunset@sunset.state.tx.us](mailto:sunset@sunset.state.tx.us)**

Information about the Sunset process, including information on Sunset Commission meetings, can be found at: [www.sunset.state.tx.us](http://www.sunset.state.tx.us).

## **GETS Pilot Program for Disaster Recovery**

The U.S. Department of Treasury has recently announced that it is sponsoring a pilot program of the Government Emergency Telecommunications Service (GETS) to enhance disaster preparedness for financial institutions operating in the hurricane regions of this country. GETS is a nationwide priority telecommunications service intended for use in a crisis, disaster, or other emergency, when the probability of completing a phone call has significantly decreased.

The Department and the National Association of State Credit Union Supervisors (NASCUS) are collaborating with Treasury's Financial and Banking Information Infrastructure Committee (FBIIC) to ensure GETS is available to credit unions located in Texas. Read more about the pilot program on our website at **[GETS Pilot Program Brochure](#)**.

The Department encourages credit unions in the targeted regions of this State to apply for a GETS card. The GETS program, offered by the Department of Homeland Security's National Communications System (NCS) could be an important resource for credit unions in maintaining communications resiliency during any type of disruption. GETS cards will be granted to financial institutions based on a variety of factors. If you have an interest in participating in this Pilot Program, please visit <http://www.fbiic.gov/getspilotprogram/> and submit an application. Applications must be received by May 2.

### **Interest Rate Risk**

As credit unions contemplate investment strategies in this highly uncertain interest rate environment, they should carefully consider their risk tolerance. Given the long-term risks to earnings and capital from investment decisions made now, credit unions should not make strategic and policy changes to permit more aggressive risk profiles without careful consideration of their risk management capabilities. The Board of Directors should review the credit union's risk management framework for investment risks and confirm that it provides appropriate controls over the current level of risk. The Board should also formally approve changes to policies and practices that permit increased risk tolerance. It is understandably difficult to reinvest cash flows from called or prepaid high yielding assets at today's low yields. However, for many credit unions it may be more prudent to accept somewhat lower than expected earnings for the near term in order to increase the likelihood of more favorable earnings for the long term. Credit unions should focus on long-term performance.

### **Annual Audit Requirement**

Commission Rule 91.516 requires the board of directors of each credit union to obtain or cause to be performed an annual audit or supervisory committee review of the credit union. The annual audit requirement is satisfied if an acceptable audit or supervisory committee review is completed once each calendar year. The Department considers the date the work was performed, rather than the effective date of the audit, in determining whether an audit was completed in a specific calendar year. For an audit with an effective date more than 12 months from the previous effective date, the officials must ensure that the consecutive calendar year requirement is met.

## Change 19, Rules for Texas Credit Unions

On March 24, 2008, Change 19 to update the Rules for Credit Unions was mailed to all credit unions. The effective date of this revision is March 2, 2008. Additional copies of the rules or any updates may be purchased from the Texas Credit Union League, 4455 LBJ Freeway, Farmers Branch, Texas 75244.

### Upcoming Legislative Advisory Committee Meeting

The Legislative Advisory Committee is scheduled to meet on Friday, May 2, 2008. The meeting will convene at 9:00 am in the Department's conference room. Among the agenda items will be the mandatory review and consideration of Rules **91.7000** (Certificates of Indebtedness), and **91.8000** (Discovery of Confidential Information). The Committee is soliciting feedback from credit unions on the delineated rules.

### Does My Credit Union Need To File A Form 990-T?

Many credit unions have asked the Department if they need to file a Form 990-T. Although tax exempt organizations have been required to complete a Form 990-T on unrelated business income for many years, the issue came to the forefront for credit unions after the IRS issued Technical Advice Memoranda (TAMs). The TAMs listed several products the IRS considers not related to the purpose of credit unions. Among those products are credit life and disability insurance, accidental death and dismemberment insurance, group life and health insurance, GAP insurance, securities and investment products, and non-member ATM fees. The IRS considers the income from those products subject to unrelated business income tax (UBIT). Direct and indirect expenses related to this income, such as salaries and occupancy costs, can offset this income, however, and many credit unions have calculated a zero tax liability. CUNA's website, [www.cuna.org](http://www.cuna.org) has additional information on the TAMs and also offers guidance and a worksheet on allocating expenses to the income.

Some credit unions believe that if they owe no tax, they do not have to file the return. The filing requirement is triggered, however, not by the amount of tax that might be owed, but by the amount of unrelated business income the credit union has for the tax year. The threshold is \$1000 in gross, not net, income. Several credit unions indicated that they had \$1000 in gross unrelated business income but were not filing a Form 990-T. Any credit union with \$1000 in unrelated business income should consult a tax professional for additional guidance on the filing requirements. The Form 990-T is due on May 15, 2008.

### Report Submittal Deadlines

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

## **First Quarter Call Report – Submittal Deadline: April 21, 2008**

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

## **Emergency Contact Information**

On March 17, 2008, a 2008 Emergency Contact Information was mailed to all credit unions. You are reminded to complete the questions and return the contact form to the Department by **March 31, 2008**. For your convenience, the form can be downloaded from our website at [www.t cud.state.tx.us](http://www.t cud.state.tx.us) under "What's New".

## **How Are We Doing?**

On March 17, 2008, the Department mailed a questionnaire to all state-chartered credit unions soliciting comments on such topics as the Department's examination process, examination report quality, and application procedures. Although this is a voluntary questionnaire, your feedback will provide valuable assistance in determining how the Department can serve you in the future.

## **NCUA Encourages Participation in HOPE NOW**

The National Credit Union Administration (NCUA) is encouraging federally insured credit unions servicing securitized subprime adjustable rate residential mortgages to utilize the HOPE NOW alliance's loan modification standards to report foreclosure prevention efforts.

HOPE NOW is an alliance of major mortgage servicers, mortgage counselors, government officials and non-profit groups intended to strengthened efforts to help struggling homeowners keep their homes. It was formed under the direction of the U.S. Treasury Department in October 2007.

In a letter to federally insured credit unions (Letter No. 08-CU-05), NCUA noted that the HOPE NOW reporting format will assist industry efforts of measuring foreclosure prevention activity by standardizing data fields regarding modifications of subprime adjustable rate residential real estate loans. In addition, NCUA suggested that federally insured state-chartered credit unions should be responsive to other data and information requests designed to track loss mitigation efforts.

## **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.

### **Published In**

**April, 2008**  
**May, 2008**

### **Deadline for Receipt**

**Friday, April 11**  
**Friday, May 16**

## Applications Approved

Applications approved since February 29, 2008 include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
Field of Membership Change(s) Approved:	
<b>Star of Texas Credit Union</b> (Austin)	See Newsletter No. 01-08
Merger or Consolidation Change(s) Approved:	
<b>THD District 13 CU with Texas Dow Employees CU</b>	See Newsletter No. 11-07

## Applications Received

The following applications were received and published in the March 28, 2008 issue of the Texas Register:

Field of Membership Expansion(s):

**Firstmark Credit Union** (San Antonio) -- To permit members of San Antonio Friends of the Parks, to be eligible for membership in the credit union.

**Cooperative Teachers Credit Union** (Tyler) (#1) – To permit employees of Goodwill Industries of East Texas who work in or are paid from Tyler, Texas, to be eligible for membership in the credit union.

**Cooperative Teachers Credit Union** (Tyler) (#2) – To permit employees of Exceptional Home Care who work in or are paid or supervised from Tyler, Texas, to be eligible for membership in the credit union.

**Delta Community Credit Union** (Atlanta, GA) - To expand the field of membership of its branch office located in Southlake, Texas. The proposal would permit employees of G2 Secure Staff, L.L.C. who work in or are paid or supervised from Irving, Texas, 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.tcup.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 or Consolidation Change(s):

An application was received from **Energy Capital Credit Union** (Houston) seeking approval to merge with **Houston Highway Credit Union** (Houston). Energy Capital Credit Union will be the surviving credit union.

The following applications were received and will be published in the April 11, 2008 issue of the Texas Register:

An application was received from **Neighborhood Credit Union** (Dallas) seeking approval to merge with **BMA Credit Union** (Mesquite). Neighborhood Credit Union will be the surviving credit union. In accordance with Texas Finance Code §122.005(b) and 7 TAC §91.104(b), the Commissioner has the authority to waive or delay public notice of an action.

Article of Incorporation(s):

An application for a new charter was received for **NCI Community Development Credit Union**, Houston, Texas. The proposed new credit union will serve any person who resides, works, worships, volunteers, or attends school in the following zip codes in Houston, Texas: 77036, 77074, and 77081. NCI Community Development Credit Union will also allow its employees to join 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. 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.**

