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# Credit Union Department



## NEWSLETTER

No. 10-08

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

October 31, 2008

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### Commission Action on Rules

At its meeting on October 24, 2008, the Commission adopted changes to 7 TAC §91.405 as published in the Texas Register. The changes allow credit unions greater latitude in how they retain and preserve records.

The Commission also approved six rules for publication and comment. Proposed changes to 7 TAC §91.704 clarify loan-to-value limits; proposed changes to 7 TAC §91.801 limit the total loans to and investments in CUSOs to 10% of the total assets. In addition, the Commission proposes a new complaint notification rule, 7 TAC §91.121, and proposes to repeal 7 TAC §97.106 which contains the current complaint notice requirements. Finally, the Commission proposes to move subsection (b), concerning reporting of criminal violations, from 7 TAC §91.209, and expand it in a new 7 TAC §91.208, entitled Notice of Known or Suspected Criminal Violations.

You may view the text of the adopted and proposed rules on the agency's website at [www.t cud.state.tx.us](http://www.t cud.state.tx.us) under Resources. Click on the *Laws/Rules* link and choose either the *Adopted* or *Proposed* tab under *Rules*. The new adopted and proposed rules will be available on the website the week of November 3<sup>rd</sup>.

### Commission to Continue Filing IRS Form 990 for One More Year

The Commission has directed the Department to file the IRS Consolidated Group Form 990 one more time for the tax year 2008. This will be the last year the Department files the return on behalf of all the state-chartered credit unions. More than 60 credit unions told the Commission they would be willing to cooperate with the Department in providing the additional information required by the new IRS Form 990.

The Department will be asking each credit union to complete the Form 990 and any required schedules and submit it to the Department by **February 28, 2009**. (Credit unions that wish to

**complete the return individually should notify the Department by February 15, 2009).** The Department must compile and total the information submitted by all of the credit unions and put it in the consolidated group return for the IRS, so it is important that each credit union answer all questions as directed by the instructions and submit the information by the deadline. Credit unions will receive more information on this in early January, but can begin reviewing the new form by going to the IRS website and clicking on the **Charities/Nonprofits** tab (<http://www.irs.gov/charities/index.html>).

There are resources available to help you complete the forms. IRS provides basic information on the new requirements in a series of on-line courses through StayExempt.org ([www.stayexempt.org/home\\_mini\\_courses.html](http://www.stayexempt.org/home_mini_courses.html)). The five mini-courses, entitled Preparing to File the New Form 990 and the Redesignated Form Parts I-IV, appear mid-way down the page. In addition, NASCUS will be conducting a webinar on November 19 at 1:00 Eastern time. For more information or to register, go to <http://www.nascus.org/education/webinars.htm>.

### *Payday Lending Alternatives: Permissible Fees*

Many credit unions have indicated they are interested in offering alternatives to payday loans. Most credit unions are aware that the Credit Union Act limits interest rates; it is more difficult to determine what fees a credit union may charge for these loans.

Finance Code §124.101 provides that a credit union may require a member to pay all *reasonable* expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan, whether or not those expenses or fees are paid to third parties. Section 124.103 states that an expense or fee authorized by Section 124.101 is not interest.

Although neither the Credit Union Act nor the Commission have defined *reasonable*, the Department believes that credit unions should not be permitted to charge fees that are higher than permitted by Chapter 342 of the Finance Code and the rules promulgated by the Office of Consumer Credit Commissioner (OCCC). Under OCCC rule 7 TAC §83.503, an administrative fee cannot exceed \$20 if the cash advance is \$1000 or less, and \$25 if the cash advance is more than \$1000. Consequently, credit unions should adhere to these reasonable limits when making these types of loans.

### *FTC Delays Compliance Deadline*

The Federal Trade Commission (FTC) has announced the suspension of enforcement of the new “Red Flags Rule” until May 1, 2009, to give additional time in which to develop and implement written identity theft prevention programs. The Red Flags Rule was developed pursuant to the Fair and Accurate Credit Transactions (FACT) Act of 2003. The Rule mandates that financial institutions and creditors with covered accounts must have identity theft prevention programs in place to identify, detect, and respond to patterns, practices, or specific activities that could indicate identity theft. Although, for Fact Act Compliance, FTC rules apply to state-chartered credit unions, the Department encourages credit unions to comply with the Red Flag rule as quickly as possible.

[Click here](#) to view the FTC’s news release about the six-month delay of enforcement of the ‘Red Flags’ rule.

## Department Contacts

The Department is available to answer questions regarding regulatory issues that are within our purview. It should be noted that we can not provide credit unions with legal advice, and any issue that requires a formal opinion by the Commissioner should be submitted in writing. For general questions regarding the topics included below, the appropriate staff member can be reached at 512-837-9236. The individuals can also be contacted by email using the format: [firstname.lastname@tcud.state.tx.us](mailto:firstname.lastname@tcud.state.tx.us)

Examination-Related: Robert Baxter or James Deese  
Call Report: Isabel Velasquez or Robert Baxter  
Field of Membership: Betsy Loar or Linda Clevlen  
Rule/Compliance: Robert Baxter, Betsy Loar, or James Deese

## Newsletter Notice

As required by statute, each state agency must obtain an annual confirmation from individuals receiving a paper copy of a monthly publication 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 a paper copy of the publication must so indicate in writing. Please submit the enclosed form to our office if you desire to continue to receive a paper copy of the Department's newsletter each month. Faxes are welcomed ([Click here for the form](#)).

## 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>
November, 2008	Friday, November 14
December, 2008	Friday, December 12

## Applications Approved

Applications approved since September 30, 2008 include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
Field of Membership Change(s) Approved:	
<b>PosTel Family Credit Union</b> (Wichita Falls)	See Newsletter No. 07-08
<b>Anheuser-Busch Employees CU (#1)</b> (St. Louis, MO)	See Newsletter No. 08-08
<b>Anheuser-Busch Employees CU (#2)</b> (St. Louis, MO)	See Newsletter No. 08-08
<b>West Texas Educators Credit Union</b> (Odessa)	See Newsletter No. 08-08
<b>Texas Dow Employees Credit Union (#1)</b> (Lake Jackson)	See Newsletter No. 08-08

Merger(s) or Consolidation(s) Changes Approved:

**Sid Richardson State Empl. CU with Members Financial FCU** See Newsletter No. 05-08  
**Sherwin-Williams Texas FCU with America's Credit Union** See Newsletter No. 06-08

New Charter Approved:

**NCI Community Development Credit Union** (Houston) See Newsletter No. 03-08  
Persons who live, work, worship, or attend school in the following U.S. Postal Service Zip Codes in Houston, Texas: 77036, 77074, and 77081; Employees of Neighborhood Centers Inc. (NCI), the sponsor company; and members of the family of such persons.

### *Applications Received*

The following applications were received and published in the October 31, 2008 issue of the *Texas Register*.

Field of Membership Expansion(s):

**Abilene State School Credit Union** (Abilene) – To permit persons who live, work, worship or attend school in Taylor County, Texas, to be eligible for membership in the credit union.

**Neighborhood Credit Union** (Dallas) – To permit persons who work, reside, worship or attend school in Denton County, Texas, to be eligible for membership in the credit union.

**Auto Parts Employees Credit Union** (Fort Worth) – To permit persons who live, work or worship within a 5 mile radius of the credit union office located at 1216 Everman Parkway, Fort Worth, Texas 76140, 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.tcud.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):

An application was received from **Associated Credit Union of Texas** (Texas City) seeking approval to merge with **Island Teachers Federal Credit Union** (Galveston), with Associated Credit Union of Texas 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.

## Upcoming Holiday Schedule for TCUD

The Department's office will be closed on **November 11, 2008** in observance of Veterans Day.

The Department's office will be closed on **November 27-28, 2008** in observance of Thanksgiving.

