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# Credit Union Department



## NEWSLETTER

No. 02-10

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

February 28, 2010

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### Commission Action on New and Amended Rules

At its meeting on February 19, 2010, the Commission voted to adopt two new rules and to adopt amendments to four existing rules. New 7 TAC 91.404 requires a credit union to seek authorization from the Department before it purchases a substantial portion of a financial institution's assets or assumes the deposits or liabilities of a financial institution. The rule sets out the application process and describes the factors the Department will consider in making its decision. The other new rule, 7 TAC 97.401, establishes guidelines for advisory committees appointed by the Commission. This rule was required by Sunset Commission-sponsored legislation.

Under the amendments to 7 TAC 91.401 credit unions must now receive board approval before selling an asset to an immediate family member of a director, committee member, or senior management employee. Definitions for immediate family member, real property, and senior management employee were added, and the requirements for requesting a waiver of the fixed asset limits were clarified. Amendments to 7 TAC 91.402 emphasize that a member's purchase of insurance must be voluntary. The amendments also notify credit unions that it will be considered an unsafe and unsound practice for a director, officer, or employee of a credit union to profit from the sale of insurance to a member.

7 TAC 91.403 was amended to remove the requirement that credit unions purchase insurance to mitigate the risk of debt cancellation insurance, putting state credit unions on parity with federal credit unions. Finally, the Commission adopted changes to 7 TAC 91.121 to incorporate amendments to Finance Code Section 15.409. (See related article in this newsletter.)

The Department will mail these new and amended rules to credit unions in March. The text of these rules is currently on the Department's website at [www.t cud.state.tx.us](http://www.t cud.state.tx.us) under Resources.

## **Complaint Notification**

Credit unions should be aware of the changes to the complaint notification rule. The amendments prescribe new language for the complaint notice and require that the credit union put the notice on its website (if it maintains a website) and once a year in its newsletter, as well as in each of its lobbies. Credit unions that do not have a website or that do not distribute a newsletter must include the notice with any privacy notice the credit union is required to give or send to its members. The text of the rule is at [www.tcad.state.tx.us](http://www.tcad.state.tx.us) under Resources. The Department has placed a sample complaint notice on its website [www.tcad.state.tx.us](http://www.tcad.state.tx.us) under Forms.

The Department has received many complaints and communications from members who thought they were contacting the credit union. Please be sure that the placement of the notice on your website clearly indicates that this is for making a complaint to the Department, rather than to the credit union.

## **Asset and Liability Concentrations**

A review of recent credit union examinations has identified concerns regarding asset and liability concentrations and related risk management practices. Higher-risk asset and liability concentrations have contributed to an increased number of institutions experiencing problems. Therefore, the Department encourages credit unions to revisit their existing concentration policies given the current economic environment.

Examiners will review higher risk concentrations during examinations. These reviews will assess the credit union's ability to establish appropriate concentration limits and implement effective risk management systems. The Department will exercise supervisory discretion in limiting or curtailing activities to prevent and limit unsafe and unsound business activities. The Department will pursue corrective action or enforcement action when a credit union does not maintain appropriate concentration limits or takes excessive risks.

## **Reporting Known or Suspected Criminal Violations**

Commission Rule 91.208 requires that each credit union provide written notice to the Department of certain crimes or suspected crimes. Notice must be submitted within 30 days of the discovery of any known or suspected criminal violations involving: 1) insider abuse of any amount; 2) other transactions aggregating \$5,000 or more, and; 3) losses resulting from a robbery or burglary. When applicable, a credit union may meet the reporting requirement by providing the Department a copy of a Suspicious Activity Report prepared in accordance with Part 748 of the NCUA's Rules and Regulations.

## Reporting Investments in Credit Union Service Organizations

A review of quarterly Call Report data disclosed discrepancies in the information some credit unions are reporting on Credit Union Service Organizations (CUSO) in their Online Profile. Under the new call reporting system, CUSO data is reported in both the Credit Union Online Profile and the quarterly Call Report. However, in some instances, the amount of investments/loans/total cash outlay in CUSOs being reported in the Online Profile is different than the amounts reported in the credit union's quarterly Call Report.

As noted in the Call Report Instructions, the aggregate amount of financial interests (investments/loans/total cash outlay) the credit union has in CUSOs, as reported on Page 17 of the Call Report, should match the sum of all detailed CUSO information entered in the Credit Union's Online Profile. To ensure the accuracy of the CUSO information reported in the quarterly Call Report and the Online Profile, credit unions must compare the information each quarter, and update the Online Profile information to ensure the figures balance back to those reported in the Call Report.

Credit unions are encouraged to review the accuracy of the CUSO information reported in their Online Profiles and to update that information, when necessary, to ensure that it matches what is being reported in the most recent quarter-end Call Report.

### *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 volunteers for Youth Victim Witness.

### Operating Fee

On February 23, 2010, the invoices for the second installment of the Operating Fee for fiscal year 2010 were mailed to credit unions. All fees must be received on or before **March 30, 2010** to avoid the payment of any penalties. If you do not receive an invoice, please contact Isabel Velasquez at (512) 837-9236.

### Emergency Contact Information

Each credit union has been required to submit to the Department annually an Emergency Contact Information Form that includes the credit union's primary and secondary contacts and its disaster recovery location. In lieu of requesting that a separate form be completed, we will accept the information in the Credit Union Online Profile of the National Credit Union Administration's (NCUA) new web-based system. It will, therefore, be the legal responsibility of each credit union to ensure that its Credit Union Profile is updated as changes occur. If you encounter problems updating the profile, please call Isabel Velasquez as soon as possible at (512) 837-9236.

## Rule Review

The Texas Credit Union Commission will review and consider for re-adoption, revision, or repeal **Chapter 91, §§91.701** (Lending Powers), **91.702** (Records for Lending Transactions), **91.703** (Interest), **91.704** (Real Estate Lending), **91.705** (Home Improvement Loans), **91.706** (Home Equity Loans), **91.707** (Reverse Mortgages), **91.708** (Real Estate Appraisals), **91.709** (Member Business Loans), **91.710** (Overdraft Protection), **91.711** (Loan Participations), **91.712** (Plastic Cards), **91.713** (Indirect Financing of Motor Vehicles or Other Chattels), **91.714** (Leasing), **91.715** (Exceptions to the General Lending Policies), **91.716** (Prohibited Fees), **91.717** (More Stringent Restrictions), **91.718** (Charging Off or Setting Up Reserves) and **91.719** (Loans to Officials and Senior Management Employees) of Title 7, Part 6 of the Texas Administrative Code in preparation for the Commission's Rule Review as required by Section 2001.039, Government Code.

The Commission will assess whether the reasons for adopting or readopting these rules continue to exist. 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 of the Credit Union Department.

Comments or questions regarding these rules may be submitted in writing to, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699, or electronically to [info@tcud.state.tx.us](mailto:info@tcud.state.tx.us). The deadline for comments is April 12, 2010.

The Commission also invites your 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?

Any proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption by the Commission.

## Credit Union Rankings as of 12/31/09

The 2009 credit union rankings by assets can be viewed on our website under the "Reports" tab or you can contact Isabel Velasquez for a printed copy.

## Publishing Notice of Applications in the Texas Register

To meet the submission deadlines for the applicable issues of the *Texas Register*, the Department has established the schedule 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, 2010	Friday, March 12
April, 2010	Friday, April 16

### Applications Approved

Applications approved since January 31, 2010 include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
Field of Membership Change(s) Approved:	
<b>Cabot &amp; NOI Employees Credit Union</b> (Pampa)	See Newsletter No. 11-09
<b>Cabot &amp; NOI Employees Credit Union</b> (Pampa)	See Newsletter No. 12-09
Field of Membership Change Closed:	
<b>Baptist Credit Union</b> (San Antonio)	See Newsletter No. 12-09
Field of Membership Change Vacated:	
<b>Neighborhood Credit Union</b> (Dallas)	See Newsletter No. 10-08
Merger(s) or Consolidation(s) Approved:	
<b>Dallas City Packing FCU with Texas Telcom Credit Union</b>	See Newsletter No. 08-09
Articles of Incorporation Change(s) Approved:	
<b>EDS Credit Union</b> (Plano)	See Newsletter No. 10-09
<b>Graphic Arts Credit Union</b> (Houston)	See Newsletter No. 12-09

### Applications Received

The following applications were received and published in the February 26, 2010 issue of the Texas Register:

Field of Membership Expansion(s):

**The Education Credit Union** (Amarillo) -- To permit persons who live, work, worship, or attend school within a ten (10) mile radius of the credit union office located at 1801 S. FM 2381, Bushland, Texas 79124, to be eligible for membership in the credit union.

**Members Choice Credit Union** (Houston) – To permit members of The ARC of Greater Houston, to be eligible for membership in the credit union.

**Texas Bay Area Credit Union** (Houston) – To permit persons who live, work, attend school, or worship in and businesses located within 10 miles of the office of Texas Bay Area Credit Union located at 12611 Fuqua Street, Houston, TX 77034, to be eligible for membership in the credit union.

**Cabot & NOI Employees Credit Union** (Pampa) (#1) – To permit employees of Midwest Compressor Systems, LLC, 2517 Milliron Road, Pampa, Texas 79065, to be eligible for membership in the credit union.

**Cabot & NOI Employees Credit Union** (Pampa) (#2) – To permit employees of Thurmond-McGlothlin, Inc., who work in or are paid from Pampa, 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.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 or Consolidation:

An application was received from **TexasOne Community Credit Union** (Houston) seeking approval to merge with **PrimeWay Federal Credit Union** (Houston), with the latter being the continuing 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.

