



Newsletter

No. 08-13



August 21, 2013



Credit Union Department
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CUD is the state agency that regulates and supervises credit unions chartered by the State of Texas. The Department is professionally accredited by the National Association of State Credit Union Supervisors (NASCUS) certifying that CUD maintains the highest standards and practices in state credit union supervision.

*Our **Mission** is to safeguard the public interest, protect the interests of credit union members and promote public confidence in credit unions.*

Credit Union Commission

The Commission is the policy making body for CUD. The Commission is a board of private citizens appointed by and responsible to the Governor of Texas.

Members:

Manuel Cavazos IV, Chair
Gary D. Tuma, Vice Chair
Gary L. Janacek
Sherri B. Merket
Allyson "Missy" Morrow
Rob Kyker
Kay Stewart
Vik Vad
A. John Yogerter

Next Commission Meeting

Friday, October 18, 2013 beginning at 8:00 a.m. in the offices of CUD.

Supervision by Risk

The Department's examination process has evolved to something more than simply a group of examiners converging on a credit union every 12 to 18 months to perform standard procedures. Our experience suggest that the examination process needs to be dynamic, tailored to each credit union, and encourage clear communication throughout the supervisory cycle, including the time between on-site examinations.

To provide continuity in the examination process and to better ensure that we truly have a grasp on the key risks facing a credit union at any point in time, we will be instituting a new procedure that will encourage more frequent and ongoing dialogue between the credit union and the Department's examiner. Each credit union will be assigned to an examiner who will serve as the point of contact between the credit union and the Department. In addition, the examiner will be responsible for ongoing communication with credit union management, not only during an examination, but also on an interim basis. As a result, the examiner will be periodically contacting the credit union president or other key management officials between examinations to discuss, among other things, any observe changes in the credit union's financial information and ensure effective supervision and early identification and resolution of supervisory concerns. We believe this open, two-way communication is critical to ensuring effective supervision by risk. All credit unions should receive a letter, later this month, with the name and contact information for the examiner assigned to their credit union.



Operating Fee

On August 30, 2013 the invoices for the first installment of the Operating Fee for Fiscal Year 2014 will be mailed to all credit unions. All fees must be received on or before **September 30, 2013** to avoid the payment of any penalties. If you do not receive an invoice, please contact Isabel Velasquez at (512) 837-9236.

Dealing with the Problem Member

The Texas Finance Code, section 122.051 (d) allows credit unions to terminate or suspend membership when the member is “physically or verbally abusing a credit union member or employee.” This is a valuable protection for credit unions and their employees, but its application may be confusing at times, especially when dealing with a member who is upset or angry (or maybe just really annoying). Where can you draw the line on member behavior when a situation seems to be getting out of hand? Each situation depends on the specific facts of the interaction between the member and the credit union. However, the following information may offer some guidelines to credit unions seeking to answer this question:

What is verbal abuse?

Verbal abuse, as used in section 122.051 (d), is not specifically defined in the Finance Code or other Texas statutes. The Texas Penal Code does address illegal verbal conduct in the sections defining harassment, terroristic threat, and disorderly conduct. Harassment may include conduct such as repeated anonymous phone calls where the caller seeks to annoy the recipient with incessant rings or hang-ups, threats of immediate bodily injury or felony acts against property, or obscene comments and proposals of an inappropriate sexual nature. Terroristic threat includes verbal statements that place a person in fear of imminent serious bodily injury or that cause a room or building to be evacuated. Disorderly conduct includes the use of language that is so offensive that it tends to incite a breach of the peace, displaying a weapon in a threatening manner, or exposing genitals in a lewd or reckless manner. In each example above, the conduct is severe and the offender intends for the conduct to harass, threaten, or disrupt. However, a person who has committed these types of illegal conduct may be able to defend the actions by showing he had “significant provocation” for the abusive or threatening conduct. Clearly, illegal conduct directed at a credit union employee or another member would be considered grounds for termination of membership.

What is not verbal abuse?

Complaints about services or criticisms of credit union staff, though they may be upsetting or unjustified, do not generally rise to the level of verbal abuse; revocation of membership in retaliation for filing complaints could be problematic for the credit union. A member’s statement that he or she may have to file for bankruptcy or is considering moving to another financial service provider does not constitute an abusive threat. Likewise, a member stating he is considering taking legal action in response to a perceived wrong is not making an abusive threat.

Members who are just upset or angry, even if they raise their voices during a conversation, are not necessarily abusive. When a member has made frequent calls trying to resolve an unsettled issue with the credit union, the repeated calls in this context do not usually constitute verbal abuse; this is especially true if the member’s calls have not been promptly answered or returned in the past. Swear words used by an upset or angry member – especially ones you might commonly hear in the media or casual conversation – are unlikely to be considered “so offensive that they tend to incite a breach of the peace.” Credit unions must be careful not to confuse ordinary emotional or uncomfortable conduct with the kind of abusive behavior that justifies revocation of membership.

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Dealing with the Problem Member

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What can credit unions do?

Employees can attempt to de-escalate situations with difficult or upset members, before conduct becomes abusive. Respectful and courteous interaction with a member, particularly empathetic listening to the member's concerns, can calm an upset person even when the problem cannot be satisfied in the member's favor. Telling an overdrawn member "this wouldn't happen if you would learn to balance your checkbook" is not helpful to anyone in that situation (even if it is true), but calmly empathizing with the member's predicament and informing the member about helpful programs or tools to avoid future problems may help defuse a volatile situation. In some cases, the credit union may want to direct difficult members to interact with skilled senior staff member who is trained to calm upset customers and avoid making a difficult situation worse.

Credit unions may wish to document all problematic interactions with members. While a single incident may not rise to the level of abuse, a member who shows a pattern of problem behavior may be considered abusive over time. It is also important for the credit union to follow its internal written procedures when it is necessary to terminate membership for misconduct. Of course, credit union staff should contact the appropriate law enforcement agency if facing a serious or immediate threat of harmful conduct. For further clarification on this issue, credit unions may wish to consult independent legal counsel or contact the Credit Union Department.



2013 Annual Survey Questionnaire

We would like to thank each of you that participated in the 2012 Annual Survey. The Feedback we received from credit unions is valuable, and the Department is committed to enhancing its examination and regulatory oversight. We are pleased by the positive comments we received, especially given the operational challenges that credit unions have been facing.

We appreciate all of the views expressed and would like to encourage you to provide additional comments or suggestions throughout the year. The agency relies on your feedback to identify concerns. Your thoughtful comments contribute to the success of our agency.



Rule Review

The Texas Credit Union Commission will review and consider for re-adoption, revision, or repeal **Chapter 91, §§91.401** (Purchase, Lease, or Sale of Fixed Assets), **91.402** (Insurance for Members), **91.403** (Debt Cancellation Products; Federal Parity), **91.404** (Purchasing Assets and Assuming Deposits and Liabilities of another Financial Institution), **91.405** (Records Retention and Preservation), **91.406** (Credit Union Service Contracts), **91.407** (Electronic Notification), **91.408** (User Fee for Shared Electronic Terminal), **91.4001** (Authority to Conduct Electronic Operations), **91.4002** (Transactional Web Site Notice Requirement; and Security Review), **91.5001** (Emergency Closing), **91.5002** (Effect of Closing), and **91.5005** (Permanent Closing of an Office) 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.

Rule Review

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An assessment will be made by the Commission as to 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@cud.texas.gov](mailto:info@ cud.texas.gov). The deadline for comments is September 16, 2013.

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.



Publication Deadlines

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>Publication Date</u>	<u>Application Deadline</u>
September, 2013	Friday, September 13
October, 2013	Friday, October 11



Applications Approved

Applications approved since July 17, 2013 include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
<i>Articles of Incorporation Change – Approved:</i>	
American Baptist Association Credit Union (Pearland)	See Newsletter No. 06-13
<i>Field of Membership Changes – Approved:</i>	
Amarillo Postal Employees Credit Union (Amarillo) (Amended)	See Newsletter No. 04-13
Suntide Credit Union (Corpus Christi)	See Newsletter No. 05-13
Reeves County Teachers Credit Union (Pecos)	See Newsletter No. 06-13
<i>Merger or Consolidation – Approved:</i>	
StarTrust FCU (Houston) and InvesTex Credit Union (Houston)	See Newsletter No. 03-13
Toledo Bend Teachers CU (Hemphill) and Doches CU (Nacogdoches)	See Newsletter No. 05-13



Applications Received

The following applications were received and will be published in the August 30, 2013 issue of the Texas Register.

Field of Membership Expansion:

Doches Credit Union (Nacogdoches) -- To permit persons who live, work, or worship in Sabine County, Texas, to be eligible for membership in the credit union.

MemberSource Credit Union (Houston) (#1) -- To permit employees of Emerson/Roxar and their subsidiaries, affiliates or successors who work in, are paid or supervised from Houston, Texas, to be eligible for membership in the credit union.

MemberSource Credit Union (Houston) (#2) -- To permit persons who live, work, worship, or attend school in and businesses in Fort Bend County, Texas, to be eligible for membership in the credit union.

Texas Telcom Credit Union (Dallas) -- To permit members of VFW Post 9180, District 30, located at 13300 FM 1641, Forney, TX, 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.cud.texas.gov/page/bylaw-charter-applications>. 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.

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Applications Received

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Merger or Consolidation:

An application was received from **Educators Credit Union** (Waco) seeking approval to merge with **Tribune Herald Federal Credit Union** (Waco). Educators Credit Union will be the surviving credit union.

An application was received from **Firstmark Credit Union** (San Antonio) seeking approval to merge with **Southside Credit Union** (San Antonio). Firstmark Credit Union will be 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 Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

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## ***Holiday Schedule for CUD***

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The Department's office will be closed on **September 2, 2013**, in observance of Labor Day.

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This newsletter is produced monthly as a part of the Department's continued communication outreach with the credit unions it regulates. Delivery is generally provided by electronic notification of its availability on the Department's website.

Suggestions and comments concerning the newsletter or its content are welcomed.

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To learn more about CUD click <http://www.cud.texas.gov> or contact us at 914 E. Anderson Lane, Austin, TX 78752

