



# CREDIT UNION COMMISSION MEETING

*Credit Union Department Building  
914 East Anderson Lane  
Austin, Texas*

**March 10, 2017  
9:00 a.m.**

## **AGENDA**

Public comment on any agenda item or issue under the jurisdiction of the Credit Union Commission is allowed. Unless authorized by a majority vote of the meeting quorum, the comments of any persons wishing to address the Commission will be limited to no more than ten (10) minutes.

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<b>C.</b>	Review of Pending and Ongoing Matters Before the Commission	
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- g. Discussion, Consideration, and Possible Vote to Take Action to Approve the Proposed Amendments to the Commission’s Policies Manual, as Part of its Annual Policy Review, to Revise the Ethics Standards Policy to Include an Exception to the Specific Restriction Related to a Indebtedness by Department Employees 67
- h. Discussion, Consideration, and Possible Vote to Take Action on the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department’s FY 2018 Budget 69
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Adjournment

**Note:** The Credit Union Commission may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

**Meeting Recess:** In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

**Meeting Accessibility:** Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Michelle Archie, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

A

## CALL TO ORDER

### **TEXAS CREDIT UNION COMMISSION MEMBERS**

- *Manuel “Manny” Cavazos, Chair*
- *Allyson “Missy” Morrow*
- *Beckie Stockstill Cobb*
- *Yusuf E. Farran*
- *Steven “Steve” Gilman*
- *Sherri B. Merket*
- *Kay Stewart*
- *Gary D. Tuma*
- *Vik Vad*

### ***Legal Counsel***

- *Melissa Juarez*

### ***Staff***

- *Harold E. Feeney*
- *Robert W. Etheridge*
- *Joel R. Arevalo*
- *Isabel Velasquez*

**FUTURE CREDIT UNION  
COMMISSION MEETING DATES**

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**Friday, July 14, 2017**

**Friday, November 3, 2017**

**Friday, March 9, 2018**

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**All regular scheduled meetings will begin at 9:00 a.m. unless notified differently.**

**If anyone has conflicts with the proposed dates, please contact Isabel Velasquez at (512) 837-9236.**

**B**

**CREDIT UNION COMMISSION MEETING MINUTES**

Draft copies of the minutes for the November 4, 2016 meeting, and the corresponding follow-up action report, are located under **Tab B**.

**RECOMMENDED ACTION:** The Department requests that the Commission approve the minutes as presented.

**RECOMMENDED MOTION:** I move that the minutes of the Commission's regular meeting of November 4, 2016 be approved as presented.

**CREDIT UNION COMMISSION  
MEETING MINUTES  
NOVEMBER 4, 2016**

**A. CALL TO ORDER - ASCERTAIN A QUORUM** – Chair Manuel “Manny” Cavazos called the meeting to order at 9:10 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included Allyson “Missy” Morrow, Beckie Stockstill Cobb, Steven “Steve” Gilman, Sherri Merket, Kay Stewart, Gary Tuma. Commission members Yusuf Farran and Vik Vad were absent due to a health issue and a schedule conflict, respectively. Assistant Attorney General Melissa Juarez was in attendance to serve as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner, Robert E. Etheridge, Deputy Commissioner and Shari Shivers, Assistant Commissioner and General Counsel. Chair Cavazos appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted (October 24, 2016, TRD#2016007327).

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chair Cavazos invited public input on matters that were not scheduled items on the agenda for possible future consideration by the Commission. No public comments were received.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES**  
– Chair Cavazos inquired if there were any requests or motions to excuse an absence. Mr. Tuma moved to excuse Commission members Yusuf Farran



and Vik Vad from the Commission meeting on November 4, 2016. Mrs. Merket seconded the motion, and the motion was unanimously adopted.

❖ **B. RECEIVE MINUTES OF PREVIOUS MEETING (July 8, 2016).**

The Chair referred the members to the draft minutes contained in the agenda packet. Mr. Gilman moved for approval of the minutes of July 8, 2016 as presented. Mrs. Stewart seconded the motion, and the motion was unanimously adopted.

**C. COMMITTEE REPORTS**

**Commissioner Evaluation Committee -- Discussion, Consideration and Possible Vote on the Proposed FY 2016 Performance Evaluation for the Commissioner** -- Mrs. Merket, Commissioner Evaluation Committee Chair, reported on the Committee's public meeting held on November 3 and 4, 2016. Mrs. Merket explained that the Committee met yesterday and earlier this morning, in a public meeting, to review the information submitted by each Commission member and prepare a proposed evaluation. She indicated the Commission will have an opportunity, in the Executive Session to edit or revise that proposal prior to it being presented to the Commissioner. No action was taken by the commission at this time.

**D. (a) Discussion and Consideration and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC Section 91.709 Concerning Member Business Loans.** Commissioner Feeney explained that at its July meeting, the Commission had approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.709. He noted that the Commission received fifteen (15) written comments on the proposed rule amendments during

the comment period. He further noted that the Commission also received one comment on the proposal after the conclusion of the official comment period. Mr. Feeney reported that twelve (12) commenters were in favor of the proposed rule. One commenter was partially in favor and partially objected to the proposed rule. Two commenters opposed to the proposed amendments. Commissioner Feeney explained that the comment received after the comment period urged the Commission to suspend adoption of the rule pending the outcome of the Independent Community Bankers of America lawsuit against NCUA. He indicated that staff was recommending three non-substantive changes to the proposed amendments that were previously published. The first non-substantive change was in Subsection (c)(1)(D) adding the missing verb “evaluating” between the words “in” and “collateral”. The second non-substantive change was in Subsection (i)(1)(C), changing the subparagraph (4) to subparagraph (3), and the third non-substantive change was in Subsection (k) changing the statutory cite from 121.003 to 124.003.

After careful consideration and review of all comments received, Mrs. Morrow moved that the Commission adopt the proposed amendments to 7 TAC Section 91.709 with non-substantive changes to the proposal that was previously published in the *Texas Register*. Mrs. Cobb seconded the motion and the motion was unanimously adopted.

**D. (b) Discussion, Consideration and Possible Vote to Take Action on the Adoption of the Amendments to 7 TAC, Part 8, Chapter 153, Concerning Home Equity Lending, Resulting from Rule Review.** Commissioner Feeney reported that at its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to 7 TAC, Part 8,

Chapter 153. He noted that the main purpose of the amendments is to implement changes resulting from the Commission's review of this chapter under Texas Government Code Section 2001.039. Mr. Feeney further indicated that the Commission received no written comments on the proposed rule amendments during the comment period.

After a short discussion, Mr. Gilman moved that the Commission adopt the proposed amendments to **7 TAC, Part 8, Chapter 153** as previously published in the *Texas Register*. Mrs. Stewart seconded the motion and the motion was unanimously adopted.

**D. (c) Discussion and Consideration of the Department's FY 2016 Financial Performance and the FY 2017 Budget.** Commissioner Feeney briefly highlighted the financial performance for FY 2016 indicating that total revenues for the period were \$3,710,447, which was \$9,530 more than the budgeted amount. He also explained that during the same period \$3,466,068 was spent operating the Department, which was \$234,849 less than the amount budgeted for the period.

There being no question, Mr. Feeney indicated that during the first month of FY 2017, operating income totaled \$2,029,994, and \$297,606 was spent operating the Department. After a brief discussion, no formal action was taken by the Commission.

**(d) Discussion and Consideration of Current Status of the Financial Services Market and the Effect on Credit Unions Regulated by the Department.** Deputy Commissioner Etheridge noted that the business

environment continues to reflect improvement as the overall Texas economy remains favorable. He indicated that this is primarily attributable to the healthy Texas economy, good regulatory oversight and effective operational and administrative management at our credit unions. While there are a small number of credit unions experiencing financial and operational challenges, the overall financial trends for Texas credit unions is positive. Overall, while some economic challenges exist in certain industries and geographic areas, we are optimistic that the Texas economy will continue to have a positive impact on the Texas state chartered credit union system.

After a brief discussion of some of the key financial trends, no formal action was taken by the Commission.

**E. (a) Discussion, Consideration, and Possible Vote to Take Action on the Readoption of the Department's Equal Employment and Workforce Diversity Plan.** Commissioner Feeney noted that Section 15.313, Finance Code, requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity. He indicated the Commission originally approved the Plan back in 1997 and that the Plan covers a 12-month period, and therefore, must be ratified annually.

After a brief discussion, Mrs. Merket moved that the Commission adopt the revised Department's Equal Employment and Workforce Diversity Plan as recommended by Staff. Mrs. Cobb seconded the motion and the motion was unanimously adopted.

**E. (b) Discussion and Consideration of the Findings of the Audit being Conducted by the State Auditor's Office.** Commissioner Feeney reported that the State Auditor's Office began the audit in May 2016 and that it is currently anticipated that the final audit report will be publicly released later in the month of November. He noted that the State Auditor's Office has indicated that the final audit report will be emailed to each commission member when it becomes public information. No formal action was taken by the commission.

**F. EXECUTIVE SESSION—**Mr. Cavazos stated that the Commission would be entering into Executive Session as provided under Section 551.074 of the Government Code, for the purpose of discussing certain personnel issues related to the Commissioner's Annual Performance Evaluation and FY 2017 Remuneration. The Commission entered into Executive Session at 9:50 a.m. and reconvened in open session at 10:05 a.m.

Chairman Cavazos noted that no final action, decision, or vote was made on matters discussed during the Executive Session.

**G. (a) Consideration and Possible Vote to Approve the Commissioner's Proposed FY 2016 Performance Evaluation.** Mrs. Merket made a motion that the Commission approve a one-time merit award for Commissioner Feeney in the amount of \$5,375.00 to be effective on December 1, 2016. Mrs. Cobb seconded the motion and the motion was unanimously adopted.

**(b) Next Commission Meeting –** Chairman Cavazos reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for March 10, 2017 at 9:00 a.m. in Austin.

**ADJOURNMENT** – There being no further business for the Credit Union Commission, Chairman Cavazos adjourned the meeting at 10:12 a.m.

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Manuel “Manny” Cavazos  
Chairman

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Isabel Velasquez  
Recording Secretary

**Distribution:**

Legislative Reference Library

DRAFT

# FOLLOW-UP ACTION REPORT CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 02-16-17)
<b><u>November 4, 2016</u></b>		
Chapter 153.5, 153.8, 153.13, 153.14, and 153.17 (relating to Home Equity Lending)	Published in <i>Texas Register</i> as adopted interpretation rules	Published in <i>Texas Register</i> on 11-18-16
7 TAC Section 91.709 Member Business Lending	Published in <i>Texas Register</i> as adopted rule	Published in <i>Texas Register</i> on 11-18-16

C



## **PENDING AND ONGOING MATTERS**

Three pending items from previous meetings are being presented to the Commission for its information, consideration, and/or possible action. Specifically, the Commission will discuss, consider and possibly take action on:

- (a) the Department's FY 2017 Budget and Financial Performance;
- (b) the status of the State Credit Union System; and
- (c) the State Auditor's Audit Report (17-014) on the Credit Union Department: A Self-Directed, Semi-Independent Agency.

**RECOMMENDED ACTION:** The Department requests that the Commission take action as indicated in the documents contained in **TAB C**.

**DEPARTMENT'S FY 2017 BUDGET AND  
FINANCIAL PERFORMANCE**

**C. (a) Discussion and Consideration of the Department's FY 2017 Budget and Financial Performance.**

**BACKGROUND:** In March 2016, the Commission adopted a Strategic Plan for Fiscal Years 2017-2021. The \$3.9 million FY 2017 Budget, approved by the Commission in July 2016, includes the maintenance and operation budget and capital improvement budget in support of the first year of the Strategic Plan.

The following report highlights the Department's financial results for the period ended January 31, 2017.

The financial report is unaudited and is prepared on a cash basis of accounting. In most cases, expenditures are expensed 30 days after the invoice due date.

**RECOMMENDED ACTION:** No action is anticipated.

Credit Union Department  
 Operating Statement & Budget Analysis  
 For the Period Ended 01/31/17

	FY 2017 Budget	FY 2017 YTD Budgeted Revenues	FY 2017 YTD Actual Revenues	Over (Under) Budget	Percent of Budget
<b>REVENUES:</b>					
Operating Income					
Operating Fees	\$3,935,394	\$2,049,262	\$2,049,262	\$0	100%
Out-of-State Branch Fees	\$10,500	\$10,500	\$10,500	\$0	100%
Examination Fees			\$2,425	\$2,425	
Application Fees			\$0	\$0	
Penalties		\$0	\$500	\$500	
Other			\$0	\$0	
<b>Operating Income Subtotal</b>		\$2,059,762	\$2,062,687	\$2,925	
Interest Income					
Interest Trust			\$2,498	\$2,498	
Interest USAS			\$0	\$0	
<b>Interest Income Subtotal</b>		\$0	\$2,498	\$2,498	
Refunds		\$0	\$0	\$0	
<b>TOTAL REVENUES</b>	<b>\$3,945,894</b>	<b>\$2,059,762</b>	<b>\$2,065,185</b>	<b>\$5,423</b>	
<b>Excess Reserve Funds</b> <i>utilized to reduce operating fees</i>	<b>\$239,686</b>	<b>\$239,686</b>	<b>\$239,686</b>	<b>\$0</b>	
<b>FY 16 Remaining Balance in USAS</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	
<b>TOTAL FUNDS AVAILABLE TO COVER EXPENDITURES</b>	<b>\$4,185,580</b>	<b>\$2,299,448</b>	<b>\$2,304,871</b>		

Credit Union Department  
 Operating Statement & Budget Analysis  
 For the Period Ended 01/31/17

	FY 2017 Budget	FY 2017 YTD Budget	FY 2017 YTD Actual	(Over)Under Budget	Percent of Budget
<b>EXPENDITURES:</b>					
<b>Personnel Expenses:</b>					
Salaries and Wages	\$2,413,819	\$992,843	\$943,244	\$49,599	95%
Employee Benefits	\$762,997	\$317,077	\$293,575	\$23,502	93%
<b>Total Personnel Expenses</b>	<b>\$3,176,816</b>	<b>\$1,309,920</b>	<b>\$1,236,819</b>	<b>\$73,101</b>	<b>94%</b>
Travel Expenses:					
In State	\$407,921	\$169,967	\$152,641	\$17,326	90%
Out-of-State	\$10,000	\$3,330	\$819	\$2,511	25%
Commission	\$11,000	\$4,716	\$1,870	\$2,846	40%
<b>Total Travel Expenses</b>	<b>\$428,921</b>	<b>\$178,013</b>	<b>\$155,329</b>	<b>\$22,683</b>	<b>87%</b>
<b>Other Operating Expenses:</b>					
Communication/Utilities	\$38,320	\$12,773	\$10,299	\$2,474	81%
Professional Services/Fees	\$15,800	\$28,680	\$28,231	\$449	98%
Supplies/Materials	\$36,518	\$9,292	\$8,674	\$618	93%
Printing and Reproduction	\$2,855	\$1,190	\$708	\$482	59%
Repairs/Maintenance	\$101,247	\$26,433	\$7,693	\$18,740	29%
Rentals and Leases	\$5,520	\$3,320	\$3,354	(\$34)	101%
Other Operating	\$129,397	\$27,500	\$33,503	(\$6,003)	122%
<b>Total Other Operating Expenses</b>	<b>\$329,657</b>	<b>\$109,188</b>	<b>\$92,462</b>	<b>\$16,726</b>	<b>85%</b>
<b>TOTAL EXPENDITURES</b>	<b>\$3,935,394</b>	<b>\$1,597,121</b>	<b>\$1,484,610</b>	<b>\$112,511</b>	<b>93%</b>
TOTAL Budget Variance(over) under				\$117,933	
<b>REMAINING FUNDS TO COVER EXPENDITURES</b>			\$820,261		

## FINANCIAL CONDITION

### **C. (b) Discussion of the Financial Condition of the State Credit Union System.**

#### **BACKGROUND:**

The operating environment for Texas credit unions continues to be positive as the overall Texas economy remains sound. Overall, most areas in Texas continue to have a positive economic outlook. The Texas economy advanced steadily in December 2016 as the number of jobs increased by over 6,100. The state unemployment rate remains below 5 percent. Additionally, the energy sector continued to improve in December 2016, as oil and gas prices reached their highest levels since 2014, and the number of operating rigs increased 11.7 percent during the month. Also, Texas housing demand returned to normal levels in December following a robust November. The November 2016 growth presumably occurred as homebuyers expedited home purchases prior to anticipated interest rate increases.

Texas credit unions, in general, are performing well and continue to realize positive loan growth, strong asset quality trends, good earnings performance and sound net worth positions. Management's efforts to capture the financial business of their members appears to be paying off, as the credit union share of consumer borrowing (at a national level) reached an 18 year high in December 2016. However, the costs associated with advancing technology, and achieving and maintaining regulatory compliance continue to create operational challenges for credit unions and hinder their bottom line. To absorb these costs, improving operational efficiency remains critical, as well as the need to identify strategic initiatives to generate additional revenue.

**INDUSTRY STATUS:** At **September 30, 2016**, there were **184** state-chartered credit unions in Texas. Assets in these credit unions totaled **\$36.49 billion**, which is an increase of **\$2.29 billion** since **September 30, 2015**, for an annualized growth rate of **6.70%**. The average net worth ratio rose to **10.16%**, similar to the **September 30, 2015** level of **10.15%**.

Loans for Texas chartered credit unions totaled **\$25.81 billion** as of **September 30, 2016**. This is an increase of **\$1.99 billion** since **September 30, 2015** for an annualized growth rate of **8.4%**.

Shares for Texas chartered credit unions totaled **\$31.53 billion** as of **September 30, 2016**. This is an increase of **\$1.81 billion**, or **6.1%** since **September 30, 2015**.

Texas chartered credit unions average loan delinquency ratio was **0.73%** as of **September 30, 2016**, compared to a ratio of **0.64%** as of **September 30, 2015**.

At **September 30, 2016**, **38** state-chartered credit union reported year to date net operating losses, compared to **34** at **September 30, 2015**. These credit unions reported aggregate year to date negative net earnings of **\$2.81 million**; while the remaining **146** credit unions reported aggregate net income of **\$180.8 million**.

**PROBLEM INSTITUTIONS:** As of **December 31, 2016**, there were **19** credit unions assigned a CAMEL rating of 3 or higher, compared to **33** credit unions at **December 31, 2015**. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

**ENFORCEMENT ISSUES:** As of **December 31, 2016**, the Department had the following administrative sanctions outstanding:

Dividend Restrictions	<b>0</b>
LUAs	<b>0</b>
Determination Letters	<b>2</b>
Conservatorships	<b>0</b>
Cease and Desist	<b>2</b>

**Chartering Activity**

New Charter	<b>1</b>
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**RECOMMENDED ACTION:** No formal action is anticipated.

# RATIO ANALYSIS

September 2016/September 2015

	September 30, 2016	September 30, 2015	Difference
# of Credit Unions	184	186	-2
Total Assets	\$36.49 B	\$34.20 B	+\$2.29 B
Average Assets/CU	6.03 M	6.96 M	-0.93 K
Net Worth/Total Assets	10.16	10.15	+0.01
Net Worth Growth	\$6.43 M	\$9.77 M	-\$3.34 M
Return on Average Assets	0.67	0.96	-0.29
Net Interest Margin/ Average Assets	4.85	4.91	-0.06
Fee & Other Income/Average Assets	1.69	1.72	-0.03
Operating Expense/Average Assets	3.68	3.71	-0.03
Provision for Loan Loss/Average Assets	0.53	0.41	+0.12
% of (Negative) Credit Union Earnings	20.7	18.3	+2.4
Total Loans/Total Shares	81.84	80.14	+1.7
Delinquent Loans/Total Loans	0.73	0.64	+0.09
Net Charge-Offs/Average Loans	0.65	0.55	+0.1
Share Growth	5.48	6.69	-1.21
Loan Growth	8.12	10.78	-2.66
Asset Growth	5.92	7.78	-1.86
Membership Growth	1.96	4.26	-2.3

## **STATE AUDITOR'S AUDIT REPORT**

### **C. (c) Discussion and Consideration of the State Auditor's Audit Report (17-014) on the Credit Union Department: A Self-Directed, Semi-Independent Agency.**

**BACKGROUND:** The State Auditor's Office began its audit of the Department in May 2016. The objective of this audit was to verify the accuracy of certain financial and performance data and the effectiveness of related controls, and the evaluation of the agencies' process for setting fees and penalties. The work also included the automated systems and processes that support the function being audited. Fieldwork on the audit was completed in August 2016. The final Report of Audit was released publicly in December 2016.

In general terms, the Report of Audit noted the following:

1. The Department accurately calculated, properly collected, and properly reduced/waived credit union operating fees in compliance with Department requirements, policies, and procedures.
2. The Department had a reasonable budget process to ensure that revenue adequately covered its operational costs.
3. The Department should improve controls over waiving late payment penalties.
4. The Department should strengthen controls over its reporting processes and specifically address the identified weaknesses in its accounts payable and inventory processes, which contributed to the Department's reporting errors.
5. The Department should improve certain controls to ensure that it continues to accurately calculate performance measures.
6. The Department should strengthen controls over internal and contracted information technology operations.

**RECOMMENDED ACTION:** No formal action is anticipated.



D

## **NEW MATTERS**

Eleven (11) new items are being presented to the Commission for its consideration and possible action. Specifically, the Commission will have:

- a. Discussion, Consideration, and Possible Vote to Take Action on the Completed Rule Review of 7 TAC, Part 6, Chapter 97 (relating to Commission Policies and Administrative Rules).
- b. Discussion, Consideration, and Possible Vote to Take Action on the Proposal and Publication for Comment on Repeal of 7 TAC Section 97.104 Concerning Petitions for Adoption or Amendment of Rules.
- c. Discussion, Consideration, and Possible Vote to Take Action on the Proposal and Publication for Comment on New Subchapter F of 7 TAC, Part 6, Chapter 97 Concerning Rulemaking.
- d. Discussion, Consideration, and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC Section 97.105 Concerning Frequency of Examination.
- e. Discussion, Consideration, and Possible Vote to Take Action to Approve and Authorize the Submission of the Department's Annual Risk Assessment Report for FY 2017 as Required by Section 2102.004, Government Code.
- f. Discussion, Consideration, And Possible Vote To Conditionally Permit the Deputy Commissioner to Remain Indebted, as a Borrower, to a Federal Credit Union that has Subsequently Converted to a State-Chartered Credit Union.
- g. Discussion, Consideration, and Possible Vote to Take Action to Approve the Proposed Amendments to the Commission's Policies Manual, as Part of its Annual Policy Review, to Revise the Ethics Standards Policy to Include an Exception to the Specific Restriction Related to a Previously Contracted Indebtedness by Department Employees.
- H. Discussion, Consideration, and Possible Vote to Take Action on the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2018 Budget.
- i. Discussion, Consideration, and Possible Vote to Take Action on Resolutions Commemorating Amplify Credit Union, Lone Star Credit Union, Shared Resources Credit Union, and Reeves County Teachers Credit Union on the Respective Milestone Anniversary Dates of their Origin.

## **PROCEDURES FOR ADOPTING A PROPOSED RULE**

1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.
2. The proposed rule is presented to the commission for consideration.
3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.
4. The proposed rule is adjusted by staff (if required), furnished to legal counsel, and transmitted to the *Texas Register* for publication as a "proposed" rule.
5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.
6. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in the rule reverting to step four.
7. The rule is adopted as "final" and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
8. The rule is published or announced through the Department's newsletter.

## **EMERGENCY RULES**

Rules, which are approved by the commission for emergency adoption, are transmitted to the *Texas Register* for filing. These rules become effective immediately upon filing unless another effective date is specified. They can be effective only for 120 days with a renewal provision for an additional 60 days a maximum of 180 days. "Day one" is the day of filing or the date specified as the effective date. While these emergency rules are in effect, regular rules should be initiated using the normal procedure described above. The Department rarely adopts emergency rules.

## **PROCEDURES FOR REQUIRED RULE REVIEW**

*Section 2001.39, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. To comply with this requirement, the Commission follows the procedure below:*

1. Every four years, the Commission adopts and publishes a Rule Review Plan, which establishes a date for the required review of each existing rule.
2. At least sixty days prior to a particular rule's scheduled review date, the Department publishes notice in the Newsletter reminding interested persons of the review and encouraging comments on the rules up for review.
3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
4. If in reviewing existing rules, staff believes certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
6. At a public meeting, the Rules Committee accepts public testimony on the each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers the proposal, as recommended by staff, to the Commission.
7. The Committee's recommendation is presented to the Commission for consideration.
8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.

11. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.
12. The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

## **MANDATORY RULE REVIEW**

### **D. (a) Discussion, Consideration, and Possible Vote to Take Action on the Completed Rule Review of 7 TAC, Part 6, Chapter 97 (relating to Commission Policies and Administrative Rules).**

**BACKGROUND:** Section 2001.39, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 8, 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed 7 TAC Sections 97.101, 97.102, 97.103, 97.104, 97.105, 97.107, 97.113, 97.114, 97.115, 97.116, 97.200, 97.205, 97.206, 97.207, 97.300, and 97.401 and believes that certain revisions are appropriate and necessary. Amendments to Chapter 97 are being separately presented for proposal.

Notice of review and a request for comments on these rules were published in the December 16, 2016 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rule continue to exist.

**RECOMMENDED ACTION:** The Department recommends that the Commission approve and adopt the rule review of Chapter 97 as the reasons for these rules continue to exist.

**RECOMMENDED ACTION:** I move that the Commission find that the reasons for adopting Chapter 97 continues to exist and that the Commission re-propose and readopt these rules.

The Credit Union Commission (Commission) has completed its review of Chapter 97 (relating to Commission Policies and Administrative Rules) of the Texas Administrative Code, Title 7, Part 6, consisting of <\*>97.101 - 97.105, 97,107, 97.113 - 97.116, 97.200, 97.205 - 97.207, 97.300, and 97.401. The Commission proposes to readopt these rules.

The rules were reviewed as a result of the Department's general rule review.

Notice of the review of 7 TAC, Part 6, Chapter 97 was published in the *Texas Register* as required on December 16, 2016 (41 TexReg 9983). The Department received no comments on the notice of intention to review.

The Department hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to readopt.

As a result of the internal review by the Department, the Commission has determined that certain revisions are appropriate and necessary. The Commission is concurrently proposing amendments to Chapter 97, as published elsewhere in this issue of the *Texas Register*. Subject to the concurrently proposed amendments to Chapter 97, the Commission find that the reasons for initially adopting these rules continue to exist, and readopts Chapter 97 in accordance with the requirements of Texas Government Code, <\*>2001.039. This concludes the review of 7 TAC, Part 6, Chapter 97.

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## CHAPTER 97

### Subchapter A. General Provisions

#### §97.101. Meetings.

The time and place of regular and special meetings of the Commission and its committees shall be determined by the applicable chair and posted in accordance with the Open Meetings Act (Government Code, Chapter 551). The minutes of each meeting shall be in writing, shall be posted on the Department's website, and shall be available to any person to examine during the Department's regular office hours.

#### §97.102. Delegation of Duties.

The Commissioner is authorized to complete all filings necessary to facilitate the rule making powers of the Commission. The Commissioner may draft and sign final adoption orders and other such instruments where delegation is not restricted by statute or rule. Notwithstanding other provisions of this rule, this authority is conveyed only to promote administrative efficiency and to expedite properly approved decisions of the Commission.

#### §97.103. Recusal or Disqualification of Commission Members.

- (a) A commission member may not vote on or otherwise participate in the deliberation or decision of a matter pending before the commission:
  - (1) in which the commission member has a personal or private interest; or
  - (2) which directly affects the credit union of which the commission member is an officer, director, or member.
- (b) The term "personal or private interest" shall be given the meaning as prescribed in Texas Government Code, Section 572.058, and includes a direct personal or financial interest in a credit union or other matter which is the subject of commission action.
- (c) A commission member who is disqualified under subsection (a) of this section shall publicly disclose the fact to the commission in a meeting called and held in compliance with the Open Meetings Act, Texas Government Code, Chapter 551. The disclosure shall be entered in the minutes of the meeting.
- (d) A commission member who is recused or disqualified will be counted in determining a quorum.

#### §97.104. Petitions for Adoption or Amendment of Rules.

- (a) An interested party may submit a petition to the Department to adopt or amend a rule pursuant to Government Code, <\*>2001.021. The petition must be in writing, must be directed to the commissioner, and must include:
  - (1) a brief explanation of the proposed rule or of the proposed amendment to the rule;
  - (2) the full text of the proposed rule, or, if the petition is to amend an existing rule, the text of the rule that clearly identifies any words to be added or deleted from the existing text by underlining new language and striking through language to be deleted; and
  - (3) any additional information the commissioner may request.



(b) If the petition complies with the requirements of subsection (a) of this section, the Department shall notify the applicant that the petition has been accepted for filing and will be processed in accordance with subsection (c) of this section. If the petition does not comply, the Department shall notify the applicant in writing of the deficiencies and give the applicant an opportunity to cure them by filing an amended petition. If the applicant does not file an amended petition curing the deficiencies by 5:00 p.m. on the 15th day following the date that the Department mailed a notice of deficiencies to the applicant, the petition shall be deemed denied for the reasons stated in the deficiency notice without the necessity of further action.

(c) Within 60 days of the date that a petition is accepted for filing, the Department must either deny the petition for reasons stated in writing or initiate a rulemaking proceeding.

#### **§97.105. Frequency of Examination.**

The department shall perform an examination of each credit union authorized to do business under the Act at least once each year. Intervals between examinations shall not exceed 18 months, unless a longer interval is authorized in writing by the commission. In lieu of conducting an examination required by this rule, the commissioner in the exercise of discretion may accept examinations or reports from other credit union supervisory agencies or insuring organizations.

#### **§97.107. Related Entities.**

(a) Definition. For the purposes of this section, a related entity is defined as:

1. a credit union service organization in which a credit union has a material interest by contracting with, lending to or investing in the organization;
2. a subsidiary or affiliate of a credit union service organization that is wholly owned or controlled by a credit union;
3. an organization engaged primarily in the business of managing a credit union; and
4. third-party contractors providing electronic data processing, electronic fund transfers, or other member services to or on behalf of a credit union.

(b) General Supervision. A credit union should perform a thorough analytical assessment to identify, measure, monitor, and establish controls to manage the risks associated with related entities and avoid excessive risk-taking that may threaten the safety and soundness of a credit union. The department may review the risks associated with any related entity and its activities together with other credit union risks using its supervision-by-risk framework. The department shall assess the effectiveness of a credit union's oversight program of related entities, including its strategic planning, third-party selection process, and ongoing monitoring.

(c) Examination. A credit union's use of related entities to achieve its strategic goals does not diminish the responsibility of the department to ensure that the activity is conducted in a safe and sound manner and in compliance with applicable law. Although in most situations, these activities should be conducted in the same manner that would be expected if the credit union were conducting the activities directly, the department shall consider the following factors in determining whether to examine exam related entities:

1. the high risk or unusual nature of the activities conducted by the related entity for the credit union;
2. the significance of the activities conducted by the related entity for the credit union to the credit union's operations and income; and
3. the extent to which the credit union has sufficient systems, controls, and personnel to adequately monitor, measure, and control risks arising from activities conducted by the related

entity. The department may examine a related entity, as the commissioner deems necessary to ensure that a credit union is not assuming excessive risk.

(d) Examination Fee. The related entity shall pay a supplemental examination fee as prescribed in §97.113(e) of this title (relating to Supplemental examination fees). A credit union may elect to pay the fee on behalf of the related entity. The supplemental examination fee for a related entity may be waived or reduced if the commissioner determines it is appropriate.

## **Subchapter B. Fees**

### **§97.113. Fees and Charges.**

(a) Remittance of fees.

(1) Each credit union authorized to do business under the Act shall remit to the department an annual operating fee. The fee shall be paid in semi-annual installments, billed effective September 1 and March 1 of each year. The final installment may be adjusted as provided by subsection (d) of this section. Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(2) Credit unions that exit the Texas credit union system on or before August 31 or February 28 of a given year, will not be subject to the semi-annual assessment for the period beginning September 1 or March 1, respectively. Only those credit unions leaving the state credit union system prior to the close of business on those dates avoid paying the semi-annual assessment for the period beginning September 1 or March 1, as applicable.

(b) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date. The commissioner is authorized to increase the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.

#### **For Credit Unions with Total Assets Of:**

#### **The Operating Fee is:**

Less than \$200,000	\$200
\$200,000 but less than \$1M	\$200 plus .001625 of excess over \$200,000
\$1M but less than \$10M	\$1,500 plus .00034 of excess over \$1M
\$10M but less than \$25M	\$4,560 plus .00014 of excess over \$10M
\$25M but less than \$50M	\$6,660 plus .00017 of excess over \$25M

\$50M but less than \$100M	\$10,910 plus .00019 of excess over \$50M
\$100M but less than \$500M	\$20,410 plus .000080 of excess over \$100M
\$500M but less than \$1,000M	\$52,410 plus .000072 of excess over \$500M
\$1,000M but less than \$2,000M	\$88,410 plus .000069 of excess over \$1,000M
\$2,000M and over	\$157,410 plus .000062 of excess over \$2,000M

(c) Waiver of operating fees. The commissioner is authorized to waive the operating fee for an individual credit union when good cause exists. The commissioner shall document the reason(s) for each waiver of operating fees and report such waiver to the commission at its next meeting.

(d) Adjustment of an installment. The commissioner in the exercise of discretion may, after review and consideration of actual revenues to date and projected revenues for the remainder of the fiscal year, lower the amount of the final installment due from credit unions.

(e) Supplemental examination fees.

(1) If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union is subject to a supplemental charge to cover the cost of time and expenses incurred in the examination.

(2) The credit union shall pay a supplemental fee of \$50 for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The department shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.

(f) Foreign credit union branches. Credit unions operating branch offices in Texas as authorized by §91.210 of this title (relating to Foreign Credit Unions) shall pay an annual operating fee of \$500 per branch office.

(g) Credit union conversion fee. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in subsection (b) of this section shall serve as the basis for calculating the operating fee. All provisions set forth in subsection (b) of this section shall apply to converting credit unions with the following exceptions:

(1) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.

(2) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seven-twelfths of the amount of the operating fee calculated using December 31 base date.

(3) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(h) Mergers/Consolidations. In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before August 31, the surviving credit union's asset base, for purposes of calculating the operating fee prescribed in subsection (b) of this section, will be increased by the amount of the merging credit union's total assets as of the June 30 base date.

(i) Special assessment. The commission may approve a special assessment to cover material expenditures, such as major facility repairs and improvements and other extraordinary expenses.

(j) Foreign credit union fee for field of membership expansion. A foreign credit union applying to expand its field of membership in Texas shall pay a fee of \$200. This fee shall be paid at the time of filing to cover the cost of processing the application. In addition, the applicant shall pay any cost incurred by the department in connection with a hearing conducted at the request of the applicant.

(k) Foreign credit union examination fees.

(1) If the commissioner schedules an examination of a foreign credit union, the credit union is subject to supplemental charges to cover the cost of time and expenses incurred in the examination.

(2) The foreign credit union shall pay a fee of \$50 for each hour of time expended by each examiner on the examination. The commissioner may waive the examination fee or reduce the fee as he deems appropriate.

(3) The foreign credit union shall also reimburse the department for actual travel expenses incurred in connection with the examination, including mileage, public transportation, food, and lodging in addition to the fee set forth in paragraph (2) of this subsection. The commissioner may waive this charge at his discretion.

(l) Contract Services. In addition, the commissioner may charge, or otherwise cause to be paid by, a credit union, a foreign credit union or related entities the actual cost incurred by the department for an examination or a review of all or part of the operations or activities of a credit union, a foreign credit union or related entity that is performed under a personal services contract entered into between the department and third parties.

#### **§97.114. Charges for Public Records.**

(a) Reproduction Charges. Copies of documents not excepted from disclosure by the Texas Public Information Act (Government Code, Chapter 552) may be obtained upon written request to the department at rates established by the Office of the Attorney General in 1 TAC Sections §§70.1-70.12 (relating to Cost of Copies of Public Information) or other applicable law.

(b) Request for Information. The following guidelines apply to requests for records under the Public Information Act (Government Code, Chapter 552).

(1) Request must be in writing and reasonably identify the records requested.

(2) Records access will be by appointment only.

(3) Records access is available only during the regular business hours of the department.

(4) Generally, unless confidential information is involved, review may be by physical access or by duplication, at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will be provided only the option of receiving copies by duplication.

(5) When the safety of any public record is at issue, physical access may be denied, and the records will be provided by duplication as previously described.

(6) Confidential files will not be made available for inspection or for duplication unless required by a court order or Attorney General decision.

(c) Waiver of Fees or Charges. The commissioner may waive or reduce an established charge when, in his or her discretion, a waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public. The fee may also be waived if the cost of processing the collection of a charge will exceed the amount of the charge.

#### **§97.115. Reimbursement of Legal Expenses.**

(a) The commissioner may seek reimbursement of expenses from an individual credit union for legal fees incurred solely and necessarily because the credit union acted in an unreasonable or egregious manner or acted outside the course and scope of what is permitted by statute or regulation. To ensure that the rights and interest of all parties are protected, this section shall not apply to any adjudicative proceedings in which the legal rights, duties, or privileges of the credit union are being determined by the Department after an opportunity for hearing. This section also does not apply to court proceedings where the individual credit union's legal rights, duties, or privileges are being determined as against the Department.

(b) The credit union has thirty days from the date it receives the assessment to pay in full or to appeal in writing to the Commission.

(c) If a credit union files a written notice of appeal, the Commission shall hear the appeal at its next regularly scheduled meeting. In making its decision, the Commission shall consider whether the credit union acted reasonably under the circumstances or acted within its legal rights.

(d) When possible, the Department will notify a credit union before the Department requests legal assistance which may be charged to a credit union under this section.

#### **§97.116. Recovery of Costs for Extraordinary Services Not Related to an Examination.**

(a) The commissioner may seek reimbursement from an individual credit union for non examination-related expenses incurred solely and necessarily because the credit union acted in an unreasonable or egregious manner, or acted outside the course and scope of what is permitted by statute or regulation. Expenses can include personnel costs, transportation costs, meals, lodging, and other incidental expenses. If the commissioner determines that recovery of costs is appropriate, the Department shall provide advance notice to the credit union of its intention to recover the expenses.

(b) In seeking reimbursement, the commissioner shall consider the amount of the costs involved, the nature of the credit union's conduct, the service provided, the financial impact on the credit union, and the impact of the activity on other Department services. The commissioner may reduce the charges and bill the credit union less than the full amount of the costs.

(c) The credit union has thirty days from the date it receives the assessment to pay in full or to appeal in writing to the Commission.

(d) If a credit union files a written notice of appeal, the Commission shall hear the appeal at its next regularly scheduled meeting. In making its decision, the Commission shall consider whether the credit union acted reasonably under the circumstances or acted within its legal rights.

## Subchapter C. Department Operations

### §97.200. Employee Training Program.

(a) Components of program. The employee training program for the department consists of one or more of the following components:

(1) Agency-sponsored training to include in-house training sessions and on-the-job training;

(2) Formal training program conducted through the National Credit Union Administration as administrator of the National Credit Union Share Insurance Fund.

(3) Seminars and conferences; and

(4) Formal course of study at an accredited institution of higher education.

(b) In order for the cost of training and the time related to that training to be reimbursed by the department, the employee must demonstrate that the course has direct applicability to the employee's job with the department. Attendance at an approved training session described in subsection (a)(1)-(3) will be considered part of the employee's normal work duties and will not require the employee to use accrued leave to attend.

(c) Requests to attend an external training program, seminar or conference pursuant to this section must be approved by the commissioner. Approval of a request is contingent upon availability of funds. If limited funds are available, and more than one employee wishes to participate, a decision regarding who will attend will be based upon the extent of their previous use of funds, the training's merit and its value to the department's operations.(d) Continuing education courses. Continuing education courses required by licensing or certifying bodies for employees to maintain a professional license or designation will only be reimbursed if such courses relate directly to the employee's job duties with the department and there are funds available.

(e) Tuition reimbursement. The Commissioner must authorize in writing the reimbursement of tuition in accordance with this subsection.

(1) The department may reimburse full-time employees for part or all of tuition and required fees for formal courses of study described in subsection (a)(4) provided the eligibility criteria set forth below are met.

(A) An employee must have completed 24 consecutive months of full-time employment with the department prior to requesting approval to receive tuition reimbursement. However, the 24-month requirement may be waived if the commissioner finds that the employee needs a particular course to fulfill his or her work duties.

(B) An employee must be performing consistently above that normally expected or required and must have achieved an overall performance rating of at least 3.50 on the employee's most recent performance evaluation.

(C) An employee must not have been subject to formal disciplinary action for at least twelve months prior to requesting approval. As used in this section, "disciplinary action" includes a formal written reprimand, suspension without pay, or salary reduction for disciplinary reasons.

(D) The course work must be related to a current or prospective duty assignment within the department.

(E) An employee, before the course begins, must agree in writing to the repayment requirement stated in this subsection.

(F) At the time of the request for approval to receive tuition reimbursement, comparable training must not be scheduled to be offered in-house or through the National Credit Union Administration during the period of time covered by the tuition reimbursement.

(G) The employee's participation must not adversely affect workload or performance.

(H) The employee must complete the course within the semester for which tuition reimbursement was requested.

(I) The employee must receive a passing grade in the course. A passing grade is a grade which will entitle the employee to receive credit for the course from the educational institution offering the course.

(2) Reimbursable costs. Criteria addressing the extent to which cost of tuition may be reimbursed are as follows:

(A) The maximum amount an employee may be reimbursed for an approved tuition reimbursement request is \$250 per semester, not to exceed \$500 per fiscal year. The maximum amount of reimbursement may be increased up to \$400 per semester for good cause shown upon approval by the commissioner.

(B) Reimbursable costs include tuition, related fees, and required textbooks and workbooks. Employees will not be reimbursed for auditing a course.

(C) Costs described in subparagraph (B) of this paragraph will be paid to the employee at the completion of the course upon the employee submitting proof that the course was completed and a passing grade was received.

(3) Repayment. Should an employee separate from department service within 12 months of completion of the course, the employee must reimburse the department for all reimbursable costs expended by the department for that course in accordance with section 656.103 of the Texas Government Code (relating to Restrictions on Certain Training Costs). The commission may adopt an order waiving this requirement upon finding that such action is in the best interest of the department or is warranted because of an extreme personal hardship suffered by the employee.

(4) Prohibition on use of state resources. Employees may not use department equipment, such as computers, calculators or typewriters to complete course work.

### **§97.205. Use of Historically Underutilized Businesses.**

Pursuant to Chapter 2161 of the Government Code, the Department hereby incorporates by reference the rules of the Comptroller of Public Accounts, 34 TAC §§20.11-20.28 (relating to Historically Underutilized Business Program), or any successor rules, regarding historically underutilized businesses. The Department shall comply, to the extent applicable, with the requirements of these rules when purchasing goods and services that are paid for with State appropriated money.

### **§97.206. Posting Of Certain Contracts: Enhanced Contracts And Performance Monitoring.**

(a) Pursuant to section 2261.253 of the Texas Government Code, the Department will implement the following procedures for contracts for the purchase of goods or services from private vendors:

(1) The Department will list information pertaining to its contract with private vendors on its website. The information will include:

(A) The name of the vendor with whom the contract is made;

(B) A description of the competitive bidding process for the contract, or, if the contract did not involve competitive bidding, a citation and explanation of the legal authority supporting exemption from the competitive bidding process;

(C) A link to a copy of the request for proposal for the contract, if applicable until the contract expires or is completed; and

(D) A link to a copy of the contract with the vendor until the contract expires or is completed.

(2) Enhanced contract or performance monitoring procedure until the contract expires or is completed.

(A) For each contract whose value is greater than \$25,000, the Commissioner and the Department Procurement Director will evaluate whether enhanced contract or performance monitoring is appropriate. Criteria that may be considered include:

(i) Total cost of the contract.

(ii) Risk of loss to the Department under the contract.

(iii) Department resources available for enhanced contract or performance monitoring.

(B) After evaluation of the contract, the Commissioner will immediately report to the Commission Members:

(i) The basis for determination as to whether enhanced contract or performance monitoring is appropriate;

(ii) Include any serious issues or risks identified with the contract, if applicable; and

(iii) If enhanced contract or performance monitoring is appropriate, the Department's plan for carrying out the enhanced contract or performance monitoring.

(C) Commission members may agree to convene a special commission meeting for the purposes of discussion or deciding upon matters related to enhanced contract or performance monitoring of Department contracts. This meeting would be conducted in conformity with the Texas Open Meetings Act.

(b) This rule applies only to contracts for which the request for bids or proposals is made public on or after September 1, 2015; or, if the contract is exempt from competitive bidding, where the contract is entered into on or after September 1, 2015. This rule does not apply to memorandums of understanding, interagency contracts, interlocal agreements or contracts that do not involve a cost to the Department.

#### **§97.207. Contracts for Professional or Personal Service.**

(a) In connection with the authority granted to the commissioner to negotiate, contract or enter into an agreement for professional or personal services under §15.414, Texas Finance Code, the Department hereby incorporates by reference the procurement rules of the Comptroller of Public Accounts, 34 TAC Chapter 20 (relating to Texas Procurement and Support Services), or any successor rules, regarding soliciting and awarding contracts. The Department shall comply, to the extent applicable, with the requirements of these rules when contracting for professional or personal services that are paid for with State appropriated money or paid by credit unions pursuant to 7 TAC §97.113(l) of this title (relating to Fees and Charges).

(b) Any professional or personal service contracts between the Department and entities that receive funds from the State of Texas shall contain the following language regarding the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds: "Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation



in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirements to cooperate is included in any subcontract it awards."

(c) Any professional or personal service contracts between the Department and entities that receive funds from the State of Texas shall contain the following language regarding dispute resolution: "The parties shall attempt to resolve any dispute arising under this contract by using the Department's dispute resolution process." The Department hereby incorporates by reference as its dispute resolution process the rules found in 1 TAC Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes), or any successor rules.

## **Subchapter D. Gifts and Bequests**

### **§97.300. Gifts of Money or Property.**

(a) The department may accept money or property by gift, bequest, devise, or otherwise ("Donation"), only from an organization described in Section 501(c)(3), Internal Revenue Code of 1986, for the purposes of funding or performing any authorized activity ("Donor").

(b) All Donations must be accepted in an open meeting by a majority of the commission members present and reported in the minutes of the meeting setting forth the name of the Donor and the purpose of the Donation. Before accepting a Donation, the commission may require the Donor to provide information that the commission deems reasonable and necessary to ensure itself that the Donation is not being conveyed to directly or indirectly influence an official act of the department or the commission.

(c) The department may not solicit money or property from any person or organization to settle an administrative action or to keep the department from taking formal enforcement action.

## **Subchapter E. Advisory Committees**

### **§97.401. General Requirements.**

(a) Definition. For purposes of this rule, the term "advisory committee" means a committee, council, board, task force, or other entity with multiple members established to provide advice and counsel to the commission.

(b) Creation. The commission may establish advisory committees to advise the commission on issues within the jurisdiction of the department.

(c) Function. Unless otherwise provided by law, an advisory committee's responsibility is limited to those matters about which advice or counsel is sought. An advisory committee will have no authority to make rules or establish department policy.

(d) Expiration of advisory committee. Unless expressly provided in this subchapter or other law, an advisory committee will expire on the fourth anniversary of the date of its creation. The date of creation shall be the effective date of the rule establishing the advisory committee.

(e) Membership and Quorum. The chairman may appoint a maximum of 24 individuals to serve on an advisory committee. A majority of those individuals shall constitute a quorum. Unless otherwise provided by specific statute, the appointments shall be balanced to ensure representation of credit unions regulated by the department and consumers of services provided by those credit unions. Each advisory committee shall include at least one department employee

as an ex officio member. This employee shall not be considered a committee member for purposes of establishing the maximum number of members or for purposes of determining a quorum.

(f) Term of members. Unless expressly provided in this subchapter or other law, each member of an agency advisory committee will serve a term of four years. The terms may be staggered. Members' terms will expire at the end of four years or upon the termination of the advisory committee, whichever is earlier. Members may be reappointed. Members serve at the will of the chairman and may be removed at any time by the chairman.

(g) Presiding officer. The presiding officer of each advisory committee shall be selected by the members of the advisory committee from its membership. The chairman may make a recommendation to the advisory committee regarding the presiding officer.

(h) Meetings. Meetings shall be subject to the requirements of Chapter 551 of the Government Code. Each committee shall meet at least annually, but may meet as often as necessary. The department ex officio member of each advisory committee shall work with the presiding officer to schedule advisory committee meetings and provide adequate notice to department staff and to other members.

(i) Reports. On or before October 1 of each year, each advisory committee shall submit a report to the commission. Upon receipt of the report, the commission shall evaluate the advisory committee's work, usefulness, and costs related to the committee's existence, including the cost of department staff time spent in support of the committee's activities. Each report shall include the following:

(1) a summary or minutes of meetings conducted during the previous fiscal year (September 1-August 31);

(2) a summary of recommendations from the advisory committee; and

(3) other information determined by the advisory committee or the chairman to be appropriate and useful.

(j) Expenses. Members of each advisory committee will serve without compensation or reimbursement for travel or other out-of-pocket expenses.

(k) Rules. For each advisory committee appointed, the commission shall adopt rules that address the purpose of the advisory committee and membership qualifications, including experience requirements, geographic representation, and training requirements. Such rules may also address the terms of service, operating procedures, and other standards to ensure the effectiveness of an advisory committee appointed under this subchapter.

**PETITIONS FOR ADOPTION OR AMENDMENT OF RULES**

**D. (b) Discussion, Consideration, and Possible Vote to Take Action on the Proposal and Publication for Comment on Repeal of 7 TAC Section 97.104 Concerning Petitions for Adoption or Amendment of Rules.**

**BACKGROUND:** The repeal of the rule is proposed as a result of the Department's general rule review and informal comments from interested parties. The Department believes that greater clarity and ease of use could be achieved if the existing 7 TAC Section 97.104 was updated and relocated to a new subchapter.

**RECOMMENDED ACTION:** The Department recommends that the Commission approve for publication and comment the proposed repeal of the 7 TAC Section 97.104.

**RECOMMENDED MOTION:** I move that we approve for publication and comment in the *Texas Register* the proposed repeal of 7 TAC Section 97.104.

The Credit Union Commission (the Commission) proposes to repeal <\*>97.104 concerning petitions for adoption or amendment of rules. This rule is being replaced by <\*>97.500 which updates the rule and relocates it in a new subchapter entitled rulemaking for better transparency and ease of reference.

The repeal of the rule is proposed as a result of the Department's general rule review and informal comments from interested parties. The Department believes that greater clarity and ease of use could be achieved if the existing <\*>97.104 was updated and relocated to a new subchapter.

Harold E. Feeney, Commissioner, has determined that for the first five year period the rule is repealed there will be no fiscal implications for state or local government as a result of repealing the rule.

Mr. Feeney has also determined that for each year of the first five years the rule is repealed, the public benefits anticipated as a result of repealing and replacing the rule will be ease of use by interested persons. There is no anticipated effect on small businesses as a result of repealing and replacing the rule. There is no economic cost anticipated to credit unions or individuals for repealing and replacing the rule.

Written comments on the proposed amendments may be submitted in writing to Harold E. Feeney, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@tud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

The repeal is proposed under the provision of the Texas Finance Code, <\*>15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code..

The specific sections affected by the proposed repeal are Government Code, <\*>2001.021.

**~~§97.104. Petitions for Adoption or Amendment of Rules.~~**

~~(a) — An interested party may submit a petition to the Department to adopt or amend a rule pursuant to Government Code, <\*>2001.021. The petition must be in writing, must be directed to the commissioner, and must include:~~

~~(1) — a brief explanation of the proposed rule or of the proposed amendment to the rule;~~

~~(2) — the full text of the proposed rule, or, if the petition is to amend an existing rule, the text of the rule that clearly identifies any words to be added or deleted from the existing text by underlining new language and striking through language to be deleted; and~~

~~(3) — any additional information the commissioner may request.~~

~~(b) — If the petition complies with the requirements of subsection (a) of this section, the Department shall notify the applicant that the petition has been accepted for filing and will be processed in accordance with subsection (c) of this section. If the petition does not comply, the Department shall notify the applicant in writing of the deficiencies and give the applicant an opportunity to cure them by filing an amended petition. If the applicant does not file an amended petition curing the deficiencies by 5:00 p.m. on the 15th day following the date that the Department mailed a notice of deficiencies to the applicant, the petition shall be deemed denied for the reasons stated in the deficiency notice without the necessity of further action.~~

~~(c) — Within 60 days of the date that a petition is accepted for filing, the Department must either deny the petition for reasons stated in writing or initiate a rulemaking proceeding.~~

## **RULEMAKING**

### **D. (c) Discussion, Consideration, and Possible Vote to Take Action on the Proposal and Publication for Comment on New Subchapter F of 7 TAC, Part 6, Chapter 97 Concerning Rulemaking.**

**BACKGROUND:** The new rules are proposed to comply with the provisions of Government Code §§2001.021 and 2001.29, which requires a state agency to prescribe the procedures for the submission, consideration, and disposition of a petition to initiate rulemaking and provide an opportunity for a public hearing before the agency adopts a substantive rule.

**RECOMMENDED ACTION:** The Department recommends that the Commission approve the proposed new rules for publication and comment.

**RECOMMENDED MOTION:** I move that the Commission approve for publication and comment in the Texas Register the proposed new 7 TAC Sections 97.500 and 97.501 related to rulemaking proceedings and hearings on proposed rules.

The Credit Union Commission (Commission) proposes new Subchapter F of 7 TAC, Chapter 97. The new subchapter, entitled Rulemaking, contains two new rules which describe procedures for petitions to initiate rulemaking proceedings and hearings on proposed rules.

The new rules are proposed to comply with the provisions of Government Code <\*>2001.021 and 2001.29, which requires a state agency to prescribe the procedures for the submission, consideration, and disposition of a petition to initiate rulemaking and provide an opportunity for a public hearing before the agency adopts a substantive rule.

<\*>97.500, Petitions to Initiate Rulemaking Proceedings, replaces <\*>97.104 that the Commission is concurrently proposing repeal as published elsewhere in this issue of the *Texas Register*. The new rule sets out the procedure for an interested person to petition the Department to initiate rulemaking proceedings.

<\*> 97.501, Hearings on Proposed Rules, is proposed to implement the provisions of Government Code <\*>2001.029, which requires a state agency to grant an opportunity for a public hearing before it adopts a substantive rule if a public hearing is requested. The new rule authorizes the commissioner or his designee to hold these hearings and set appropriate hearing processes and procedures.

Harold E. Feeney, Commissioner has determined that for the first five year period the new rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed new rule.

Mr. Feeney has also determined that for each year of the first five years the proposed new rule is in effect, the public benefits anticipated as a result of enforcing the rule will be greater clarity and ease of use of the rule. There is no anticipated effect on small businesses as a result of adopting the new rule. There is no economic cost anticipated to credit unions or individuals for complying with the new rule if adopted.

Written comments on the proposed amendments may be submitted in writing to Harold E. Feeney, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@tud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

The new rules are proposed under the provisions of the Texas Finance Code, <\*>15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code, and under Government Code <\*>2001.021 and 2001.029, which directs the Commission to adopt rules for an interested person to petition the Department to initiate rulemaking proceedings and provide an opportunity for a public hearing before the agency adopts a substantive rule.

The specific section affected by the proposed rule is Government Code <\*>2001.021 and 2001.029.

## Subchapter F. Rulemaking

### §97.500. Petitions to Initiate Rulemaking Proceedings.

(a) Petitions to initiate rulemaking proceeding pursuant to Government Code, §2001.021, must be submitted to the Department in writing. A petition must include:

(1) a brief explanation of the proposed rule;

(2) the full text of the proposed rule, and, if the petition is to amend an existing rule, the text of the rule that clearly identifies any words to be added or deleted from the existing text by underlining new language and striking through language to be deleted; and

(3) a concise explanation of the legal authority to adopt the proposed rule, including a specific reference to the particular statute or other authority that authorizes it.

(b) When the Department receives a rulemaking petition, the Department shall review it for compliance with the requirements of subsection (a) of this section. If the petition is determined to comply, the Department shall notify the applicant that the petition has been accepted for filing and will be processed in accordance with Government Code, §2001.021(c). If it is determined the petition does not comply with subsection (a), the Department shall notify the applicant in writing of all deficiencies found and give the petitioner an opportunity to cure them by filing an amended petition. If no amended petition curing the deficiencies is filed with the Department by 5:00 p.m. on the 15th calendar day following the date that the Department mailed a notice of deficiencies to the petitioner, the petition shall be deemed denied for the reasons stated in the deficiency notice without the necessity of further action.

(c) If the petition is accepted for filing, within 60 days of the date that a petition is accepted for filing, the Department must either deny the petition for reasons stated in writing or initiate a rulemaking proceeding.

### §97.501. Hearing on Proposed Rules.

(a) The Department shall grant an opportunity for a public hearing before adoption of any substantive rule as required by Government Code, §2001.029(b), or other applicable statute.

(b) The hearing may be held by the commissioner or by any other person designated by the commissioner. In the exercise of discretion, the commissioner may impose reasonable time limits on presentation of evidence and argument, determine the order of the presentations, and conduct the hearing in a manner suitable to the particular proceeding. Public hearings on proposed rules are neither contested cases nor full legal adversary proceedings. Ex parte prohibitions do not apply.



## **FREQUENCY OF EXAMINATION**

### **D. (d) Discussion, Consideration, and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC Section 97.105 Concerning Frequency of Examination.**

**BACKGROUND:** The amendments clarify that the annual examination requirement means credit unions must be examined at least once during each twelve-month period. The proposed amendments also provide specific authority for the Department to extend the annual examination intervals to 18 months without prior written approval of the Commission.

**RECOMMENDED ACTION:** The Department recommends that the Commission approve the proposed amendments for publication and comment in the *Texas Register*.

**RECOMMENDED MOTION:** I move that the Commission approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 97.105 related to frequency of examination.

The Credit Union Commission (the Commission) proposes amendments to <\*>97.105 concerning frequency of examination. The proposed amendments to <\*>97.105 clarify that the annual examination requirement means credit unions must be examined at least once during each twelve-month period. The proposed amendments also provide specific authority for the Department to extend the annual examination intervals to 18 months without prior written approval of the Commission.

The amendments are proposed as a result of the Department's general rule review, under Tex. Government Code section 2001.039, which was published in December 2016.

The proposed amendments help ensure that examination resources are appropriately and efficiently directed to credit unions commensurate with the credit union's size and risk profile.

Harold E. Feeney, Commissioner, has determined that for the first five year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Mr. Feeney has also determined that for each year of the first five years the proposed amendments are in effect, the public benefits anticipated as a result of enforcing the rule will be greater clarity of the rule. There will be no effect on small or micro businesses as a result of adopting the amended rule. There is no economic cost anticipated to the credit union system or to individuals for complying with the amended rule if adopted.

Written comments on the proposed amendments may be submitted in writing to Harold E. Feeney, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to [CUDMail@cud.texas.gov](mailto:CUDMail@ cud.texas.gov). To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

The amendments are proposed under Texas Finance Code, <\*>15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code and under Texas Finance Code <\*>126.051, concerning examinations.

The specific section affected by the proposed amended rule is Texas Finance Code, <\*>126.051.

The proposed rule amendments have been reviewed by legal counsel and found to be within the state agency's authority to adopt.

**§97.105. Frequency of Examination.**

The department shall perform an examination of each credit union authorized to do business under the Act at least once during each 12-month period year. Annual examination intervals may be extended by the Department to a maximum 18 months, subject to safety and soundness considerations. Intervals between examinations shall not exceed 18 months, unless a longer interval is authorized in writing by the commission. In lieu of conducting an examination required by this rule, the commissioner in the exercise of discretion may accept examinations or reports from other credit union supervisory agencies or insuring organizations.

DRAFT

**INTERNAL RISK ASSESSMENT REPORT**

**D. (e) Discussion, Consideration, and Possible Vote to Approve and Authorize the Submission of the Department's Annual Risk Assessment Report for FY 2017 as Required by Section 2102.004, Government Code.**

**BACKGROUND:** Section 2102.013 of the Texas Government Code requires state agencies which meet certain requirements to conduct a formal risk assessment each year and submit the assessment to the State Auditor's Office. The Department has completed the internal risk review and has prepared the required written assessment of the risks for submission to the State Auditor's Office.

**RECOMMENDED ACTION:** The Department requests that the Commission approve the 2017 Internal Risk Assessment Report and authorize its submission to the State Auditor's Office.

**RECOMMENDED MOTION:** I move that the Commission approve the Department's Internal Risk Assessment Report for 2017 and authorize its submission to the State Auditor's Office.

Activities from Brainstorming -- CREDIT UNION DEPARTMENT								
1	perform regular and remedial examinations	13	purchase supplies	25	approve/ deny applications	37	work with federal regulator	49
2	monitor credit unions	14	report to state agencies	26	pay bills	38	prepare for new programs	50
3	answer questions from credit unions and public	15	prepare, edit and issue examination reports	27	maintain financial records	39	maintain NASCUS accreditation	51
4	hire employees	16	manage office paperwork	28	prepare/submit financial reports to applicable parties	40		52
5	maintain employee policies & records	17	comply with state/ federal regulations	29	maintain computer security	41		53
6	manage employees	18	respond to complaints	30	maintain supply inventory	42		54
7	manage/monitor examiner travel	19	manage computer system, including hardware and software	31	maintain building	43		55
8	manage examination schedule	20	issue interpretations and opinions	32	maintain office procedures	44		56
9	meet with industry representatives	21	review, revise rules	33	report to Legislature	45		57
10	hold Commission & committee meetings	22	publishing rules	34	draft legislation	46		58
11	hold public hearings	23	provide new rules to credit unions	35	maintain agency website	47		59
12	report to Commission	24	receive, review, & publish applications	36	maintain security of office building	48		60

AGENCY NAME

CREDIT UNION DEPARTMENT		INTERNAL RISK ASSESSMENT FY 2017	
CONSOLIDATED ACTIVITIES			PRIORITIZED CONSOLIDATED ACTIVITIES
		1	Perform Cost-Effective Comprehensive Examinations of Credit Unions
		2	Process, Investigate, and Evaluate Applications
		3	Finance and Accounting
		4	IT
		5	Purchasing
		6	Human Resources
		7	Complaints and Education

RISK ASSESSMENT TABLE--PRE CONTROLS--CREDIT UNION DEPARTMENT

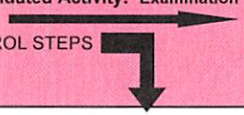
PRIORITY	CONSOLIDATED ACTIVITY	IMPACT RATING		PROBABILITY RATING		RISKS		IMPACT RATING		PROBABILITY RATING		RISKS		IMPACT RATING		PROBABILITY RATING		RISKS		IMPACT RATING		PROBABILITY RATING		RISKS		IMPACT RATING		PROBABILITY RATING		RISKS																	
		M	H	M	H					M	H	M	H					M	H	M	H					M	H	M	H																		
1	Examination & supervision	M	H			Inconsistent Enforcement	H	H					Employee Turnover/ Inexperienced Staff/Morale Issues	M	H			Inconsistent Exam Procedures/ Exam Integrity	H	M					Loss of Agency Credibility	H	H					Lack of Adequate Training for Staff	H	H			Failure of CUs	M	H			Failure to Meet Deadlines	H	M			Loss of CUs as Low Cost Financial Institutions
2	Evaluate Applications	M	M			Information Not Accessible to Credit Unions	L	L					Failure to Meet Deadlines	H	M			Inaccurate Information Provided	M	M					Inconsistent Approval	H	M					Weaker CU System	M	L			Loss of Agency Credibility										
3	Finance & Accounting	H	M			Insufficient Fees Collected	H	M					Theft/ Embezzlement	M	M			Loss of Assets	H	M					Overspending Budget	H	M					Inaccurate Payroll Processing	H	M			Lack of Backup	H	M			Non-Compliance with APS	M	H			Inaccurate Reporting
4	IT	H	H			Department Applications Failure	H	H					System Security Breach (External)	M	M			Hardware Failure	H	H					System Security Vulnerabilities	H	M					Lost or Compromised Data	H	M			Employee Turnover/No Backup	H	H			Employee Harm to Data or Equipment	M	H			IT Services Unavailability
5	Purchasing	H	M			Fraudulent Purchasing	H	M					Late Delivery of Critical Items	M	H			Incorrect Coding	M	H					Lack of Authorization/ Failure to Follow Purchasing Rules	M	H					Insufficient HUB Purchases	M	M			Wasteful Purchases	M	M			No Delivery Slip	M	H			Loss of Delegated Authority
6	Human Resources	H	M			Inadequate staff coverage due to turnover	M	M					Inaccurate Assessment of Employees	M	M			Worker's Comp/ Unemployment Claims	H	H					Non-Compliance with Laws/ Changes in Laws	H	M					Lawsuits	M	L			Poor Morale from Low Salary or Benefits	M	L			Absenteeism					
7	Complaints & Education	M	H			Inadequate investigation of complaints	H	M					Loss of Agency Credibility	M	M			Inaccurate Information Provided																													

RISK ASSESSMENT TABLE--POST CONTROLS--CREDIT UNION DEPARTMENT

PRIORITY	CONSOLIDATED ACTIVITY	IMPACT RATING		RISKS	IMPACT RATING		RISKS	IMPACT RATING		RISKS	IMPACT RATING		RISKS	IMPACT RATING		RISKS	IMPACT RATING		RISKS						
		M	L		M	L		M	L		M	L		M	L		M	L							
				1			2			3			4			5			6			7			8
1	Examination & Supervision	M	L	Inconsistent Enforcement	H	M	Employee Turnover/ Inexperienced Staff	M	L	Inconsistent Exam Procedures/ Exam Integrity	H	L	Loss of Agency Credibility	H	L	Lack of Adequate Training for Staff	H	M	Failure of CUs	M	L	Failure to Meet Deadlines	H	L	Loss of CUs as Low Cost Financial Institutions
2	Evaluate Applications	M	L	Information Not Accessible to Credit Unions	M	L	Failure to Meet Deadlines	M	L	Inaccurate Information Provided	M	L	Inconsistent Approval	M	L	Weaker CU System	M	L	Loss of Agency Credibility						
3	Finance & Accounting	H	L	Insufficient fees collected	H	L	Theft/ Embezzlement	M	L	Loss of Assets	H	L	Overspending Budget	H	L	Inaccurate Payroll Processing	H	L	Lack of Backup	H	L	Non-Compliance with APS	M	L	Inaccurate Reporting
4	IT	H	M	Department Applications Failure	M	L	System Security Breach (External)	H	L	Hardware Failure	H	L	System Security Vulnerabilities	M	L	Lost or Compromised Data	H	M	Employee Turnover/No Backup	M	L	Employee Harm to Data or Equipment	M	L	IT Services Unavailability
5	Purchasing	H	L	Fraudulent Purchasing	H	L	Late Delivery of Critical Items	M	L	Incorrect Coding	M	L	Lack of Authorization/ Failure to Follow Purchasing Rules	M	L	Insufficient HUB Purchases	M	L	Wasteful Purchases	M	L	No Delivery Slip	M	L	Loss of Delegated Authority
6	Human Resources	M	M	Inadequate staff coverage due to turnover	M	L	Inaccurate Assessment of Employees	M	L	Worker's Comp/ Unemployment Claims	H	L	Non-Compliance with Laws/ Changes in Laws	M	L	Lawsuits	M	M	Poor Morale	M	L	Absenteeism			
7	Complaints & Education	M	M	Inadequate investigation of complaints	M	L	Loss of Agency Credibility	M	L	Inaccurate Information Provided															



**RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT**

<b>Consolidated Activity: Examination</b> <b>RISKS</b> <b>CONTROL STEPS</b> 	Inconsistent enforcement	Employee turnover/ inexperienced staff/morale issues	Inconsistent exam procedures/ exam integrity	Loss of Agency Credibility	Lack of adequate training for staff	Failure of CUs	Failure to meet deadlines	Loss of CUs as low cost financial institutions	
	Standardized exam software program	x		x	x	x	x	x	
Review of all exam reports by Department (random sample reviewed by Field Supervisors)	x		x	x	x	x	x	x	
NASCUS accreditation & annual review	x		x	x	x	x		x	
Joint oversight with deposit insurer	x		x	x	x	x		x	
Training program (including OTJ training and specialized courses)	x	x	x	x	x	x	x	x	
Regular employee performance evaluations	x	x	x	x	x		x		
Quarterly monitoring of CU financial data by both field and office staff	x	x	x	x	x	x		x	
Periodic rule review by Commission	x		x	x		x		x	
Career ladder/merit raises		x		x					
Experienced management oversight	x	x	x	x	x	x	x	x	
Examiner's Guide	x		x	x	x	x		x	
Performance measures	x			x	x		x		
Management information systems	x		x	x	x	x	x		
Technology tools for field examiners	x	x	x	x	x	x	x	x	

**RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT**

Consolidated Activity: Evaluate Applications							
RISKS 							
CONTROL STEPS 	Information not accessible to credit unions	Failure to meet deadlines	Inaccurate information provided	Inconsistent approval	Weaker credit union system	Loss of Agency Credibility	
Management information systems		x	x	x		x	
Management oversight	x	x	x	x	x	x	
Written policies and procedures	x	x	x	x			
Performance measures	x	x			x	x	
Training program		x	x	x			
Cross-training		x	x				
Right to SOAH appeal	x	x	x	x		x	
Periodic rule review by Commission	x	x	x	x	x	x	
Publications: website/newsletter	x		x	x			

RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT

Consolidated Activity: Finance & Accounting RISKS CONTROL STEPS	Insufficient Fees Collected	Theft/ embezzlement	Loss of assets	Overspending budget	Inaccurate payroll processing	Lack of backup	Non-compliance with APS	Inaccurate Reporting	
Reconciliation	x	x	x	x	x	X	x	x	
Segregation of duties		x	x	x	x		x	x	
Written policy and procedures	x	x	x	x	x	x	x	x	
Audit by oversight agencies		x	x	x	x	x	x	x	
Budget monitoring	x	x	x	x	x		x	x	
Completion of performance measures								x	
Training/cross training		x	x	x	x	x	x	x	
Enforcement of fees for submitting late call reports	x		x						
Procedures for preparing and reviewing AFR, SDSI and Reports of Non-Financial Data								x	
Documented process to record assets purchased or discarded		x	x					x	

Are there specific performance measures regarding the accuracy of financial reporting.

**RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT**

Consolidated Activity: Purchasing RISKS → CONTROL STEPS ↴	Fraudulent purchasing	Late delivery of critical items	Incorrect coding	Lack of authorization/ failure to follow purchasing rules	Insufficient HUB purchases	Wasteful purchases	Loss of delegated authority		
Procurement plan				x	x	x	x		
Separation of duties	x			x			x		
Multiple signatures	x			x		x	x		
Requisition log	x	x		x		x	x		
Purchasing training		x	x	x	x	x	x		
Policies, manuals, website resources	x	x	x	x	x	x	x		
HUB policy				x	x		x		
Audits	x	x	x	x		x	x		
Internal purchasing review	x	x	x	x	x	x	x		
Assign specific purchasing duties	x	x	x	x	x	x	x		

**RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT**

Consolidated Activity: IT RISKS → CONTROL STEPS ↓	Department Applications Failure	System security breach (external)	Hardware failure	System Security Vulnerabilities	Lost or compromised data	Employee turnover/lack of backup	Employee Harm to Data or Equipment	IT Services Unavailability	
Back-up Systems & Procedures/Contract IT support	x	x	x	x	x	x		x	
Off-site storage	x	x	x		x		x	x	
Upgrade Hardware & Software	x	x	x	x	x			x	
Update software	x	x	x	x	x	x		x	
Maintain firewall	x	x		x	x		x	x	
User access profile		x		x	x	x	x		
Maintenance agreements	x	x	x	x	x	x		x	
IT Training for IT & Department Employees	x	x	x	x	x	x	x	x	
DIR security test	x	x		x	x		x	x	
Written procedures	x	x	x	x	x	x	x	x	

**RISK MANAGEMENT TABLE--CREDIT UNION DEPARTMENT**

Consolidated Activity: Human Resources RISKS CONTROL STEPS	Inadequate staff coverage due to turnover	Inaccurate assessment of employees	Worker's comp/ unemployment claims	Non-compliance with laws/ changes in laws	Lawsuits	Poor morale from low salary or benefits	Absenteeism	
Employee performance evaluation	x	x		x	x	x	x	
Cross-training	x			x	x	x	x	
Written policies and procedures	x	x	x	x	x	x	x	
Standardized screening of applicants				x	x		x	
Pre-employment testing		x		x	x			
Training	x	x	x	x	x	x	x	
Written job descriptions	x	x	x	x	x		x	
Written staff succession/career progression plan	x			x	x	x	x	
Increased salary structure for FEI and FEII positions.	x				x	x	x	

Consolidated Activity: Complaints and education RISKS → CONTROL STEPS ↓	Inadequate investigation of complaints	Inaccurate information provided	Loss of Agency Credibility	
Investigation procedures	x	x	x	
Training	x	x	x	
Survey of complainant satisfaction	x	x	x	
Consumer resources on website	x	x	x	
Laws and rules accessible through website	x	x	x	
Final complaint response approved by CUD management	x	x	x	
Performance measure requires timely investigation and response.	x	x	x	

**Significant Changes in Risk Assessment - CREDIT UNION DEPARTMENT**

<p><b>Identified in FY 2017 - Consolidated Activity</b></p>	<p>No new risks identified in FY 2017.</p>
<p><b>Additions, Deletions in Control Steps - List by Consolidated Activity</b></p>	<p><b>Finance and Accounting:</b>                  1) Procedures for preparing and reviewing Annual Financial Reports (AFRs), SPSI Reports and Reports of Non-Financial Data.                  2) Documented process to record assets purchased or discarded.</p> <p><b>Human Resources:</b>                  1) Pre-employment testing                  2) Increased salary structure for FEI and FEII positions.</p> <p><b>Complaints and Education:</b>                  1) Final response to complaint approved by CUD management.                  2) Performance measure requires timely investigation and response.</p>



1) State Auditor's Office Performance Measures Audit and Audit Review	Jun-07	No Outstanding Issues
2) Sunset Review	Jul-09	
3) IT Audits		None
4) Legislative Budget Board Performance Measure Review	Oct-07	No Outstanding Issues
5) Comptroller Post Payment Audit	Sep-09	No Outstanding Issues
6) SORM Risk Assessment Audit	Feb-13	No Outstanding Issues
7) Texas Workforce Commission and Review	Mar-13	No Outstanding Issues
9) State Auditor's Office - Audit of Financial and Performance Data for Fiscal Years 2016 and 2016.	Dec-16	The Department is in the process of developing IT policies and procedures, per the audit report recommendations.

## **DEPUTY COMMISSIONER**

### **D. (f) Discussion, Consideration, and Possible Vote to Conditionally Permit the Deputy Commissioner to Remain Indebted, as a Borrower, to a Federal Credit Union that has Subsequently Converted to a State-Chartered Credit Union.**

**BACKGROUND:** The Commission has established a policy which specifically provides that neither the Commissioner nor the Deputy Commissioner may be a member of, or be indebted to, any credit union under the Department's jurisdiction. (Section XV(F) - Specific Restrictions.) As a result of the conversion of Amplify Federal Credit Union to a Texas charter on January 1, 2017, an unintentional violation of this policy resulted as the Deputy Commissioner was a member and had both a boat loan and a Home Equity Line of Credit with Amplify Federal Credit Union. Since the indebtedness was contracted before the credit union came under the Department's jurisdiction, the Deputy Commissioner is seeking the Commission's consent to keep his loans with Amplify Credit Union subject to any conditions the Commission may deem appropriate.

Pending action by the Commission, the Department has required the Deputy Commissioner to officially disclose his membership and the two loan transactions and has formally disqualify him from participating in any discussion, deliberation, or decision related to this credit union. In addition, the Deputy Commissioner has stipulated that no future modifications will be made or additional funds advanced on either indebtedness until the loans have been moved to a suitable institution.

**RECOMMENDED ACTION:** Staff recommends that the Commission authorize the Deputy Commissioner to maintain the existing borrowing relationship with Amplify Credit Union provided that no future modifications are made or additional funds advanced on either indebtedness.

**RECOMMENDED MOTION:** I move that Commission approve the requested exception to policy as recommended by Staff.

## **POLICIES MANUAL**

**D. (g) Discussion, Consideration, and Possible Vote to Take Action to Approve the Proposed Amendments to the Commission's Policies Manual, as Part of its Annual Policy Review, to Revise the Ethics Standards Policy to include an Exception to the Specific Restriction related to a Indebtedness by Department Employees.**

**BACKGROUND:** In accordance with Commission Policy, the Commission is required to review its policies manual at least once each year. After review and consideration, staff is proposing certain changes to Sections XV. More specifically it is suggested that subsection F, Section XV, Ethics Standards, be amended to provide an exception to the prohibition on indebtedness to a credit union or affiliate for certain employees if the indebtedness was permissible when incurred and became prohibited as a result of employment by the Department or circumstance over which the employee has no control.

**RECOMMENDED ACTION:** The Department recommends that the Commission approve the suggested revisions and any others it deems necessary.

**RECOMMENDED MOTION:** I move that the record reflect that the Commission reviewed its policies manual and approved the proposed changes as recommended by staff.

## XV. ETHICAL STANDARDS

- F. Specific Restrictions.** Lending transactions and deposit relationships with credit unions by individuals having regulatory authority over those institutions could be interpreted by the public as a conflict of interest. Such unfavorable perceptions could diminish public confidence in credit unions or the regulatory agency. Therefore, neither the Commissioner, the Deputy Commissioner, nor the General Counsel may be a member of, or be directly or indirectly indebted to, any credit union under the Department's jurisdiction, or any affiliate of such credit union (hereafter referred to collectively as "Credit Union"). In addition, examiners may not become directly or indirectly indebted to a Credit Union. Other individuals employed by the Department may be indebted to a Credit Union as long as the employee meets the financial requirements to obtain such credit or loan, the terms of the credit or loan are not more favorable than those available to the general membership, and the relationship is fully and properly disclosed to the Department before funding. With the exception of the Commissioner, the prohibition on indebtedness to a Credit Union does not apply to an employee if the indebtedness was permissible under this policy when incurred and became prohibited as a result of employment by the Department or circumstance over which the employee had no control, including a merger, conversion, or purchase or sale of assets involving a Credit Union. An employee is restricted from examining a Credit Union and may not knowingly participate in or consider any matter concerning a Credit Union if the employee has or has had a borrowing relationships, past employment, pension interests and relatives working in a Credit Union. An indebtedness that was permissible when incurred and that becomes prohibited as a result of employment by the Department or circumstances over which the employee has no control, may be continued as long as no additional funds are advanced and the indebtedness is not modified on terms more favorable than those extended to other credit union members.

**DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS  
AND PARAMETERS**

**D. (h) Discussion, Consideration, and Possible Vote to Take Action on the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2018 Budget.**

**BACKGROUND:** Finance Code Section 16.003 gives the Commission the exclusive responsibility for approving the Department's budget each year. Since the budget must be adopted at the July meeting, staff is seeking approval of guidelines for developing the FY 2018 budget to present at the July meeting.

**RECOMMENDED ACTION:** The Department recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2018 budget.

**RECOMMENDED MOTION:** I move that the Commission adopt the proposed budget assumptions and parameters for FY 2018 as recommended by Staff.

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## BUDGET ASSUMPTIONS FOR FY 2018

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The following broad assumptions will establish the basic foundation for the development of the Department's FY 2018 budget and provide a framework to staff and the Commission for setting priorities, determining service levels, and allocating limited financial resources.

1. **Balance Budget** – In accordance with Commission policy, the budget will be balanced using FY 2017 ending reserve balance funds in excess of the aggregate contingency reserves limit.
2. **Contractual Obligations** – The Department intends to meet all contractual obligations. Purchase orders or contracts which were placed and committed prior to the end of FY 2017 for which the requested goods and services were not received or performed until after the start of FY 2018 are considered obligated funds. The budget authority for these obligated funds will automatically be carried over to FY 2018 and the FY 2018 budget will be increased by an amount exactly equal to the obligated amount.
3. **Compliance** – The budget shall provide sufficient funding to continue compliance with all applicable statutes, governmental requirements, administrative rules, and Department policy in regulating and supervising the safety and soundness of credit unions.
4. **Strategic Plan Initiatives** – Consistent with the FY 2017-2021 strategic plan, the budget will provide appropriate funding to implement the delineated initiatives for FY 2018.
5. **Salary and Benefits** – The expenditures for FY 2018 will be based on authorized and existing positions as of August 31, 2017 and include any scheduled salary increases/promotions prescribed in the *Salary Administration Plan for Examination Staff*. Filled positions will be budgeted at the actual salary for the individual in that position and vacant positions will be budgeted at the mid-point of the salary range for the positions. Employee Benefits will be automatically calculated on all salaries with the appropriate benefit rates established for state agencies.
6. **Merit Increases** – To foster, support, and reward outstanding performance and to retain key high performing staff, aggregate merit increase awards for staff are estimated at an amount equivalent to 3.0% of the total salaries for those positions and will be awarded based on the established merit pay tiers. The corresponding increase in Employee Benefits, resulting from the proposed merit awards, will also be properly reflected in the budget.

7. **Inflation Factor** – No inflationary increases are anticipated, with the exception of increases in the cost of utilities and travel.
8. **Statewide Indirect Cost** – Statewide indirect cost allocations are a result of a statewide plan established by the Comptroller of Public Accounts. Changes in indirect cost allocations are anticipated to be allowable budget adjustments.
9. **Out-of-State Travel** – Travel related to regulatory matters, including examinations, inspections, and training will be exempt from the limitations on out-of-state travel; expenditures for all other out-of-state travel by the Department will not exceed \$10,000.
10. **Electronic Document Management System** – The budget shall provide funding to replace the obsolete Sage/Act! database with a platform that can automate the tracking and reporting of internal organizational processes, and integrate with our SharePoint Online Document Management System.
11. **Information Technology** – The budget shall provide sufficient funding for computer network upgrades and computer equipment replacement in accordance with the Information Resources Strategic Plan.
12. **Improvements** – The budget shall provide sufficient funding for scheduled maintenance and repairs in accordance with the Replacement/Capital Improvement Plan.
13. **NASCUS Dues** – The budget shall provide sufficient funding to accommodate the projected increase in the professional association’s dues.
14. **Accreditation Fees** – The budget shall provide sufficient funding to accommodate the fees associated with the Department’s continued NASCUS accreditation.
15. **Overnight Travel Stipend** – The budget shall provide sufficient funding to pay examiners an overnight travel stipend in accordance with the qualifying conditions included in the Department’s policy. The stipend will not be considered a one-time merit award and may be paid to the eligible examiners regardless of their last merit pay or promotion action.

**RESOLUTIONS COMMEMORATING**  
**CREDIT UNIONS**

**D. (i) Discussion, Consideration, and Possible Vote to Adopt Resolutions Commemorating Amplify Credit Union, Lone Star Credit Union, Shared Resources Credit Union, and Reeves County Teachers Credit Union for their Contributions to the Citizens of Texas on the Respective Milestone Anniversary Dates of their Origin.**

**BACKGROUND:** In accordance with Section VII. D of the Commission's Policies Manual, the Commission may adopt resolutions honoring credit unions for reaching certain milestones dates.

**RECOMMENDED MOTION:** I move that we adopt the Resolutions Commemorating **Amplify Credit Union, Lone Star Credit Union, Shared Resources Credit Union, and Reeves County Teachers Credit Union** for their Contributions to the Citizens of Texas on the Respective Milestone Anniversary of their Origin and that a copy of the appropriate resolutions be mailed to the credit unions.



# CONGRATULATORY RESOLUTION

**Whereas, Amplify Credit Union, Austin, Texas, was issued a Federal Charter and opened for business in 1967, under the name of Amplify Federal Credit Union; and on January 1, 2017, converted to a State charter #955 under the name of Amplify Credit Union, and**

**Whereas, Amplify Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and**

**Whereas, Amplify Credit Union holds total assets in excess of \$851.6 million as of December 31, 2016, reflecting strong performance and capable management; now therefore,**

**Be it Resolved, that the Credit Union Commission congratulates Amplify Credit Union on its 50 years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and**

**Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.**

**READ, ADOPTED, AND APPROVED** unanimously by the Credit Union Commission, State of Texas, this 10th day of March, 2017.

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Manuel "Manny" Cavazos, Chairman

# CONGRATULATORY RESOLUTION

**Whereas, Lone Star Credit Union, Dallas, Texas, was issued a Federal Charter and opened for business in 1967, under the name of Enserch Federal Credit Union; and on September 1, 2000, converted to a State charter #934 under the name of Lone Star Credit Union, and**

**Whereas, Lone Star Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and**

**Whereas, Lone Star Credit Union holds total assets in excess of \$117.3 million as of December 31, 2016, reflecting strong performance and capable management; now therefore,**

**Be it Resolved, that the Credit Union Commission congratulates Lone Star Credit Union on its 50 years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and**

**Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.**

**READ, ADOPTED, AND APPROVED** unanimously by the Credit Union Commission, State of Texas, this 10th day of March, 2017.

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Manuel "Manny" Cavazos, Chairman

# **CONGRATULATORY RESOLUTION**

**Whereas, Shared Resources Credit Union, Pasadena, Texas, was issued Charter #656 and opened for business on June 29, 1967, under the name of Phillips Employees Credit Union; and**

**Whereas, Shared Resources Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and**

**Whereas, Shared Resources Credit Union holds total assets in excess of \$729.6 million as of December 31, 2016, reflecting strong performance and capable management; now therefore,**

**Be it Resolved, that the Credit Union Commission congratulates Shared Resources Credit Union on its 50 years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and**

**Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.**

**READ, ADOPTED, AND APPROVED** unanimously by the Credit Union Commission, State of Texas, this 4th day of March, 2016.

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Manuel "Manny" Cavazos, Chairman

# **CONGRATULATORY RESOLUTION**

**Whereas, Reeves County Teachers Credit Union, Pecos, Texas, was issued Charter #648 and opened for business on February 8, 1967, under the name of Reeves County Teachers Credit Union; and**

**Whereas, Reeves County Teachers Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and**

**Whereas, Reeves County Teachers Credit Union holds total assets in excess of \$11.7 million as of December 31, 2016, reflecting strong performance and capable management; now therefore,**

**Be it Resolved, that the Credit Union Commission congratulates Reeves County Teachers Credit Union on its 50 years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and**

**Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.**

**READ, ADOPTED, AND APPROVED** unanimously by the Credit Union Commission, State of Texas, this 4th day of March, 2016.

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Manuel "Manny" Cavazos, Chairman

**RESOLUTION FOR RICHARD L. ENSWEILER**

**D. (j) Discussion, Consideration, and Possible Vote to Take Action on a Resolution to Acknowledge the Retirement of Richard L. Ensweiler, President and CEO of the Cornerstone Credit Union League.**

**BACKGROUND:** Richard Ensweiler is retiring from the credit union movement after more than five decades of dedicated service – 22 as the President/CEO of the Texas Credit Union League and its successor organization Cornerstone Credit Union League. Throughout his career with the Texas/Cornerstone Credit Union League, Mr. Ensweiler has been an effective advocate for credit unions and a stalwart supporter of a safe, sound, and competitive credit union system in Texas. Mr. Ensweiler’s last day in the office will be April 30, 2017.

**RECOMMENDED ACTION:** The Department recommends that the Commission acknowledge Mr. Enweiler’s efforts and contributions to advancing the credit union system in Texas.

**RECOMMENDED MOTION:** I move that we adopt the Resolution acknowledging Richard Ensweiler’s retirement and that a copy of the appropriate resolution be given to him as a token of our appreciation for his many years of service to Texas credit unions.



## RESOLUTION

The Credit Union Commission, State of Texas, hereby acknowledges, commends, and honors the service to the Texas credit union industry by

### *Richard L. Ensweiler*

**WHEREAS**, Mr. Ensweiler has had a distinguished 52 year career in the credit union industry with the last 22 years having been distinctively serving Texas credit unions.

**WHEREAS**, during his tenure as President of the Texas Credit Union League and more recently its successor organization, Cornerstone Credit Union League, Mr. Ensweiler has been an advocate for credit unions and a stalwart supporter of a safe, sound, and competitive credit union system in Texas.

**WHEREAS**, Mr. Ensweiler has lead efforts to help state leaders better understand the importance of enhancing the quality and effectiveness of credit union regulation and supervision in Texas.

**WHEREAS**, Mr. Ensweiler has been a leader in national and state-level credit union organizations, in particular the Credit Union National Association (CUNA) for which he served a tenure as its Chair.

**WHEREAS**, Mr. Ensweiler has decided to retire as President of the Cornerstone Credit Union League as of April 30, 2017 and enjoy the passage of time with family and friends.

**WHEREAS**, the Members of the Credit Union Commission wish to thank Mr. Ensweiler for his efforts and contributions to advancing the Texas Credit Union System.

**NOW, THEREFORE LET IT BE RESOLVED** that the Members of the Credit Union Commission do hereby extend to Mr. Ensweiler, our sincere appreciation for his dedicated service to Texas credit unions, our congratulations on his well-earned retirement, and our best wishes for continued success, happiness, and good health in the years to come.

**READ, ADOPTED, AND APPROVED** by the Credit Union Commission, State of Texas, this tenth day of March 2017.

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Manuel "Manny" Cavazos, Chairman

## **LEGISLATIVE ISSUES**

### **D. (k) Discussion and Consideration of Legislative Issues and Activities Relating to the 85<sup>th</sup> Regular Session that may Impact the Department or Credit Unions under its Jurisdiction.**

**BACKGROUND:** The gavel is down and the debates have begun. There is a plethora of issues to be debated. Legislators have been filing bills since November 14 and have until March 10 to file bills without restriction. Between both the House and the Senate, there will be over 6,500 pieces of legislation filed for the 85th legislative session.

As the session continues to take shape and we have a more comprehensive view of what has been filed and what is being pursued, the Department will be actively working with the various Committees, as well as tracking legislation that could affect credit unions and the agency.

Regardless of which issues legislators, the Governor, Lt. Governor and Speaker see as important, one thing we can count on is that everything will hinge on the budget. The budget is tighter this session due to a slowdown in oil & gas. Something else we can count on is that the legislature will finish their work in 140 days. Well, maybe. Perhaps we will see a special session.

### **Dates of Interest**

**Friday, March 10, 2017** – Deadline for filing bills.

**Monday, May 29, 2017** – Last day of 85th Regular Session.

**Sunday, June 18, 2017** – Last day Governor can sign or veto bills passed during the 84th Regular Session.

**Monday, August 28, 2017** – Date that bills without specific effective dates become law.

**RECOMMENDED ACTION:** No formal action is anticipated.

# 85<sup>th</sup> Legislative Session

## Sampling of Bills Filed

<b>HB 454</b>	Representative John Cyrier
Relating to the use of insurance proceeds paid to an insured and a lender for residential property damage.	
<b>HB 471</b>	Representative Eric Johnson
Relating to authorizing a credit union or other financial institution to conduct savings promotion raffles.	
<b>HB 741</b>	Representative Diego Bernal
Relating to the affordability of extension of consumer credit.	
<b>HB 916</b>	Representative Shawn Thierry
Relating to requiring financial institutions to report the suspected financial abuse of elderly persons.	
<b>HB 959</b>	Representative Shawn Thierry
Relating to the financial abuse of elderly persons, including requiring financial institutions to report suspected financial abuse of elderly persons.	
<b>HB 993</b>	Representative Armando Walle
Relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.	
<b>HB 1733</b>	Representative Tomas Uresti
Relating to the maximum permitted sum of fees interest, and other amounts due under certain extensions of consumer credit.	
<b>HB 1752</b>	Representative Jessica Farrar
Relating to certain account disclosures provided by a financial institution to a customer.	
<b>HB 1985</b>	Representative Dan Flynn
Relating to debt cancellation agreements offered in connection with certain loans and retail installment contracts and to amounts charged for certain agreements offered in connection with certain loans and retail installment.	
<b>HB 2333</b>	Representative Gary Elkins
Relating to a breach of system security of a business that exposes consumer credit card or debit card information; providing a civil penalty.	
<b>HJR 37</b>	Representative Eric Johnson
Proposing a constitutional amendment relating to legislative authority to permit credit unions and other financial institutions to award prizes by lot to promote savings.	
<b>SB 210</b>	Senator Lois Kolkhorst
Relating to the required repeal or amendment of two state agency rules before adoption of a new state agency rule that increases costs to regulated persons.	
<b>SB 791</b>	Senator Borris Miles
Relating to the financial abuse of elderly persons, including requiring financial institutions to report suspected financial abuse of elderly persons.	
<b>SB 792</b>	Senator Borris Miles
Relating to requiring financial institutions to report the suspected financial abuse of elderly persons.	
<b>SB 830</b>	Senator Jose Rodriquez
Relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.	



***CREDIT UNION DEPARTMENT***

***INDUSTRY STATUS***

***AND***

***DEPARTMENTAL OPERATION***

**AFFIRMATIVE ACTION/EEO QUARTERLY REPORT  
1st Quarter - FISCAL YEAR 2017**

11/30/2016

During this fiscal year the Department is authorized to have 29.5 employees.

	White		Black		Hispanic		Asian		Total
	Male	Female	Male	Female	Male	Female	Male	Female	
No. of Employees on 4th quarter	11	5	1	4	0	4	3	0	28
Resignations (retirees)	0	0	0	1	0	0	0	0	1
New Hires	0	0	1	0	0	0	0	0	1
No. of Employees on 1st quarter	11	5	2	3	0	4	3	0	28
Resignations (retirees)	0	0	0	0	0	1	0	0	1
New Hires --	0	0	0	1	0	1	0	0	2
Grand Total of Employees	11	5	2	4	0	4	3	0	29
Promotions - 1st Quarter	1	1		1		1	2		6

Percent Male 55.17%  
Percent Female 44.83%

**Salary Breakdown**

	<u>4th quarter</u>	<u>1st quarter</u>	<u>Average Tenure</u>
Average of Salaries	\$ 74,014	\$ 76,855	106.3 months
Average Salaries - White	\$ 84,255	\$ 87,437	125.5 months
Male 11	\$ 94,322	\$ 96,831	144.0 months
Female 5	\$ 62,108	\$ 66,769	84.9 months
Average Salaries - Black	\$ 67,139	\$ 71,829	70.4 months
Male 2	\$ 73,700	\$ 65,002	31.8 months
Female 3	\$ 65,498	\$ 71,361	96.9 months
Average Salaries - Hispanic	\$ 51,840	\$ 54,869	141.3 months
Male 0	\$ -	\$ -	0.0 months
Female 4	\$ 51,840	\$ 54,869	141.3 months
Average Salaries - Asian	\$ 60,422	\$ 64,963	73.5 months
Male 3	\$ 60,422	\$ 64,963	73.5 months
Female 0	\$ -	\$ -	0.0 months
28			

**Exmr. Experience - 1st quarter**

Less than 1 year	4	Average Salary	\$ 50,225
1 - 2 years	5	Average Salary	\$ 58,612
2 - 5 years	3	Average Salary	\$ 66,232
5 - 10 years	0	Average Salary	
Over 10 years	6	Average Salary	\$ 101,056
Total	18	Average Salary	\$ 76,677

# Credit Union Department

## Executive Summary

As of 11/30/16

\*Information from call report cycle

ACTIVITY	YTD 2015	YTD 2016	2017 FISCAL YEAR					YTD
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr		
<b>MOVEMENT PROFILE</b>								
Number of CUs	185	184	185					
Total Assets (Millions)	*33,540	*35,882	*36,399					
<b>APPLICATIONS (Received)</b>								
Charters	0	0	0				0	
Foreign Branches	0	0	0				0	
Conversions	0	4	1				1	
Mergers	9	2	1				1	
Bylaws	60	45	20				20	
Articles of Incorporation	2	1	1				1	
<b>Total</b>	71	52	23	0	0	0	23	
<b>EXAMINATION ACTIVITIES</b>								
Regular	81	104	31				31	
Joint	75	62	12				12	
Remedial	35	37	9				9	
<b>Total</b>	191	203	52	0	0	0	52	
<b>ENFORCEMENT ACTIONS (In Force)</b>								
Determination Letters	5	2	2					
LUAs	0	0	0					
Cease & Desist Orders	2	1	1					
Dividend Restrictions	0	0	0					
Conservatorships	1	0	0					
Liquidations	2	2	1					
<b>Total</b>	10	5	4	0	0	0		
<b>PERSONNEL STAFFING</b>								
Field Examiners	14	18	18					
Total Personnel	24	28	27					
<b>FINANCIAL OPERATIONS (In Thousands)</b>								
Budgeted Expenditures	3,329	3,701	962	0	0	0	962	
Actual Expenditures	3,006	3,476	884	0	0	0	884	
Gifts and Bequests	n/a	n/a	n/a				n/a	
Actual Revenue	3,452	3,263	2,045	0	0	0	2,045	

Credit Union Department  
Application Activities - Detail

ACTIVITY	4th Qtr 2015	4th Qtr 2016	2017 FISCAL YEAR			
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
<b>CHARTERS</b>						
Pending at Beginning of Period	0	0	0			
Add: New Applications Filed	0	0	0			
Less: Approved	0	0	0			
Denied/Withdrawn	0	0	0			
Pending at End of Period	0	0	0	#####	#####	#####
<b>FOREIGN BRANCH OFFICES</b>						
Pending at Beginning of Period	0	0	0			
Add: New Applications Filed	0	0	0			
Less: Approved	0	0	0			
Denied/Withdrawn	0	0	0			
Pending at End of Period	0	0	0	#####	#####	#####
<b>CONVERSIONS</b>						
Pending at Beginning of Period	1	2	3			
Add: Applications Filed	0	1	1			
Less: Approved	1	0	1			
Denied/Withdrawn	0	0	0			
Pending at End of Period	0	3	3	#####	#####	#####
<b>MERGERS</b>						
Pending at Beginning of Period	3	1	1			
Add: Applications Filed	1	0	0			
Less: Approved	2	0	0			
Denied/Withdrawn	0	0	0			
Pending at End of Period	2	1	1	#####	#####	#####
<b>BYLAWS</b>						
Pending at Beginning of Period	4	4	6			
Add: Applications Filed	17	11	20			
Less: Approved	11	9	17			
Denied/Withdrawn	0	0	0			
Pending at End of Period	10	6	9	#####	#####	#####
<b>ARTICLES OF INCORPORATION</b>						
Pending at Beginning of Period	1	0	0			
Add: Applications Filed	0	0	1			
Less: Approved	1	0	1			
Denied/Withdrawn	0	0	0			
Pending at End of Period	0	0	0	#####	#####	#####

Credit Union Department  
Movement Profile - Condition Summary

CAMEL RATING	4th Qtr 2015	4th Qtr 2016	2017 FISCAL YEAR			
			*1st Qtr	*2nd Qtr	*3rd Qtr	*4th Qtr
1	27	34	40			
2	126	125	123			
3	28	22	18			
4	4	3	4			
5	0	0	0			
<b>Total</b>	185	184	185	#VALUE!	#VALUE!	#VALUE!

\* Information from exam master list

Texas Credit Union Department  
Enforcement Actions - Detail

TYPE OF ACTION	In Force 8/31/2015	Issued	Activity Terminated	In Force 8/31/2016	Issued	Activity Terminated	In Force 11/30/2016
Determination Letters	5	2	5	2	0	0	2
LUAs	0	0	0	0	0	0	0
Cease & Desist Orders	2	1	2	1	0	0	1
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	1	0	1	0	0	0	0
Liquidations	2	0	0	2	0	0	1
<b>Total</b>	10	3	8	5	0	0	4

Texas Credit Union Department  
Examination Activities  
Analysis of Current Year

TYPE OF EXAM	Budgeted Number	Actual Number	% Budget	% of Total	% Mailed Within 20 Days
Regular	25	31	124%	17%	100%
Joint	12	12	100%	7%	100%
Remedial	9	9	100%	5%	100%
<b>Total</b>	46	52	113%	29%	100%

**Credit Union Department  
Movement Profile - Consumer Complaints**

CONSUMER COMPLAINTS	YTD 2015	YTD 2016	2017 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Received	264	261	76				76
Closed	253	265	77				77
Avg. Days to Process	13	14	12				12
% Resolved in 30 Days	98%	99%	100%				100%

**Texas Credit Union Department  
Consumer Complaint - Detail**

TYPES OF COMPLAINTS	YTD 2015	YTD 2016	2017 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
<b>LOAN ISSUES</b>							
Collections/Loans	21	16	3				3
Procedure Irregularity	21	17	3				3
Denial	0	0	0				0
Cross Collateralization	3	3	0				0
Credit Report Issues	16	24	14				14
Collateral Protection Insurance	8	5	3				3

<b>ACCOUNT ISSUES</b>							
NSF/Overdraft	0	0	0				0
Electronic Funds Transfer	15	14	7				7
Holds on Checks	6	6	0				0
Posting Order	3	1	1				1
Fraud/Unauthorized	22	25	9				9
Fees	33	29	8				8
Billing Disputes	5	5	4				4
Other	20	30	13				13

<b>OTHER PRODUCTS/SERVICES</b>							
Account/Loan Balance	26	33	6				6
Account Closed/Frozen	18	16	1				1
Customer Service	32	34	3				3
Deceptive Advertisement	1	2	0				0
Vehicle Title	2	4	1				1
Website Issues	1	1	0				0
<b>TOTAL</b>	<b>253</b>	<b>265</b>	<b>76</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>76</b>

Credit Union Department  
Merger/Conversion Finalized

ACTIVITY	YTD 2015	YTD 2016	2017 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
<b>MERGERS</b>							
Number:							
State-to-State	2	2	0				0
Federal-to-State	3	1	0				0
State-to-Federal	0	0	0				0
<b>Total</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Assets:							
State-to-State	49,143,057		0				0
Federal-to-State	20,820,734	43,448,790	0				0
State-to-Federal	-	-	0				0
<b>Total</b>	<b>69,963,791</b>	<b>43,448,790</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CONVERSIONS</b>							
Number:							
Federal-to-State	1	1	1				1
State-to-Federal	0	0	0				0
State-to-Mutual Bank	0	0	0				0
Assets:							
Federal-to-State	331,371,403	161,809,958	245,379,241	0	0	0	245,379,241
State-to-Federal	-		0				
State-to-Mutual Bank			0				
<b>Total</b>	<b>331,371,403</b>	<b>161,809,958</b>	<b>245,379,241</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>245,379,241</b>

**Credit Union Department**  
**Quarter Assessment of HUB Related Activities**  
**November 30, 2016**

PROCUREMENT CATEGORY	GOAL	QTR	YTD
		PERFORMANCE	PERFORMANCE
Heavy Construction	11.2%	*	*
Building Construction	21.1%	*	*
Special Trade Construction	32.9%	0%	0%
Professional Services	23.7%	0%	0%
Other Services	26.0%	26.0%	26.0%
Commodities	21.1%	53.7%	53.7%

\* This goal is generally not applicable to the Department

Total Expenditure During this Quarter							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	592				4,627	14,867	5,219
Commodities	117	407			3,057	3,085	3,581
<b>Total</b>	<b>\$709</b>	<b>\$407</b>	<b>0</b>	<b>\$0</b>	<b>\$7,684</b>	<b>\$17,952</b>	<b>\$8,800</b>

Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized this Quarter							
PROCUREMENT CATEGORY	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB TOTAL
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	1				2	13	3
Commodities	2	2			6	6	10



**Credit Union Department**  
**Year to Date Assessment of HUB Related Activities**  
**November 30, 2016**

<b>Total Expenditure YTD</b>							
<b>PROCUREMENT CATEGORY</b>	<b>AFRICAN AMERICAN</b>	<b>ASIAN AMERICAN</b>	<b>HISPANIC AMERICAN</b>	<b>NATIVE AMERICAN</b>	<b>NON-MINORITY WOMAN</b>	<b>NON HUB</b>	<b>HUB TOTAL</b>
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	592				4,627	14,867	5,219
Commodities	117	407			3,057	3,085	3,581
<b>Total</b>	<b>\$709</b>	<b>\$407</b>	<b>\$0</b>	<b>\$0</b>	<b>\$7,684</b>	<b>\$17,952</b>	<b>\$8,800</b>

<b>Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized YTD</b>							
<b>PROCUREMENT CATEGORY</b>	<b>AFRICAN AMERICAN</b>	<b>ASIAN AMERICAN</b>	<b>HISPANIC AMERICAN</b>	<b>NATIVE AMERICAN</b>	<b>NON-MINORITY WOMAN</b>	<b>NON HUB</b>	<b>HUB TOTAL</b>
Heavy Construction							
Building Construction							
Special Trade Construction							
Professional Services							
Other Services	1				2	13	3
Commodities	2	2			6	6	10

**Credit Union Department  
Web Site Statistics  
Report Range: 09/01/16 thru 01/31/17**

	<b>Number</b>
<b>Total Visits:</b>	
<b>Number of Visits</b>	10,275
<b>Visitors</b>	5,731
<b>Page Views</b>	23,931
<b>Number of Repeat Visitors</b>	4,871
<b>Average Pages per Visit</b>	2.33
<b>Average Visit Duration</b>	2:40
 <b>Most Requested Pages:</b>	
<b>Home</b>	9,266
<b>Job Postings</b>	1,885
<b>Texas Rules for Credit Unions</b>	1,572
<b>Department Newsletter</b>	1,167
<b>Employment</b>	1,132
 <b>Most Downloaded Files:</b>	
<b>Complaint Form</b>	1,213
<b>Rules for Credit Unions</b>	816
<b>Texas Credit Union Listings</b>	669
<b>September 2016 Newsletter</b>	603
<b>October 2016 Newsletter</b>	583

**Monthly Survey Results  
Examinations  
September, 2016 thru December, 2016**

Reflects summary responses from 8 surveys received or 2 % of the 49 surveys mailed

<b>Questions</b>		<b>Strongly Agree</b>	<b>Somewhat Agree</b>	<b>Neutral</b>	<b>Somewhat Disagree</b>	<b>Strongly Disagree</b>	<b>No Response</b>
Q 1. The lead-time was sufficient to gather the information requested prior to the on-site examination.	5	2	1				
Q 2. The pre-examination requests were reasonable in scope.	4	1	2				1
Q 3. Materials requested in the pre-examination were used during the examination.	5	2	1				
Q 4. The pre-examination request made the examination run more efficiently.	5	2	1				
Q 5. The examiners were knowledgeable about your credit union.	4	1	3				
Q 6. The examiners demonstrated a thorough understanding of safety and soundness issues.	4	2	1				
Q 7. The examiners were responsive to your questions and concerns.	3	4	1				
Q 8. The examiners communicated effectively with the credit union throughout the examination.	5	2	1				
Q 9. The examiners treated you professionally.	5	2	1				
Q 10. The examiners explained the CAMEL Ratings in sufficient detail.	6		1	1			
Q 11. All major findings of the examination were discussed with you prior to the examiners leaving your credit union.	7		1				
Q 12. Management was given the opportunity to react to the examination findings.	5	2	1				
Q 13. The examination was completed within a reasonable timeframe.	6	1	1				
Q 14. The report accurately reflected the examination findings as conveyed to you during the examination.	6	1	1				
Q 15. The report was easy to understand.	7		1				
Q 16. The report accurately portrayed your credit union's practices and condition.	5	2	1				
Q 17. The transmittal letter and other written communications concerning the examination report was clear and concise.	6	1	1				
Q 18. The report contained useful recommendations for improving safety and soundness practices.	4	2	2				

### Examinations (Continued)

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 19. The examination findings will assist you in enhancing your safety and soundness practices.	4	3	1			
Q 20. The examination was conducted in a fair and objective manner.	5	2	1			

### Applications

Reflects summary responses from 0 surveys received or 0 % of the 16 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. Department staff provided timely and accurate feedback/answers.	0	0	0	0	0	0
Q 2. Department staff communicated with me in a courteous and professional manner.	0	0	0	0	0	0
Q 3. The application process was efficient.	0	0	0	0	0	0
Q 4. The Department's requests for information were reasonable.	0	0	0	0	0	0
Q 5. The Department's website was helpful in completing my application.	0	0	0	0	0	0

### Complaints

Reflects summary responses from 7 surveys received or 28 % of the 25 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. It was relatively easy to file a complaint with the Department.	4	1	1	1		
Q 2. Department staff communicated with me in a courteous and professional manner.	5	1			1	
Q 3. I believe Department staff understood the basis of my complaint.	1		2	2	2	

### Complaints (Continued)

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 4. The response provided by the Department addressed the important aspects of my complaint.	1	2		1	3	
Q 5. The explanation give was fair considering applicable laws.	1	1	1	1	3	
Q 6. The Department website was helpful in the complaint process.	4	1	1		1	