
Credit Union Department



NEWSLETTER

No. 06-06

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June 30, 2006

Results of Credit Union Commission Meetings

The Credit Union Commission held two meetings on Friday, June 9, 2006. At those meetings the Commission took the following actions regarding Commission Rules and Interpretations.

- Adopted the following new rules and interpretations:

91.1005 – Conversion to a Texas Credit Union; **91.1006** – Conversions to a Federal or Out-of-State Credit Union; **91.1007** – Conversion to a Mutual Savings; Institution **91.1008** – Conversion Voting Procedures and Restrictions; Filing Requirements; **93.214** – Recovery of Department Costs; **153.13** – Preclosing Disclosures; **153.18** – Limitation on Application Proceeds; and **153.20** – No Blanks in Any Instrument

- Adopted amendments to **93.301** – Finality and Request for SOAH Hearing
- Approved ASI as authorized source of Share and Deposit Insurance coverage
- Directed the Legislative Advisory Committee to review whether the Department should continue to file the consolidated group return 990.
- Approved for publication and comment in the Texas Register proposed amendments to the following sections:
91.701 – [Lending Powers](#); **91.704** – [Real Estate Lending](#); **91.708** – [Real Estate Appraisals or Evaluations](#); **91.710** – [Overdraft Protection](#); **91.711** – [Loan Participations](#); **91.712** – [Plastic Cards](#); **91.713** – [Indirect Financing of Motor Vehicles or Other Chattels](#); **91.714** – [Leasing](#); **91.715** – [Exceptions to the General Lending Policies](#); **91.718** – [Charging Off or Setting Up Reserves](#); **91.719** – [Loans to Officials and Senior Management Employees](#)

(Click on the title to view the proposed amendments).

Comments on Proposed Amendments

Written comments on the proposed amendments to Rules **91.701, 91.704, 91.708, 91.710, 91.711, 91.712, 91.713, 91.714, 91.715, 91.718, and 91.719** should be submitted to the Department as soon as possible. To be considered by the Commission written comments must be received no later than **July 30, 2006**. Comments should be sent to: Credit Union Department, 914 East Anderson Lane, Austin, Texas, 78752-1699 or by e-mail to info@tcred.state.tx.us.

Rule Review

The Department is currently reviewing and considering for re-adoption, revision,, or repeal Rules **95.100** (Account Insurance), **95.200** (Appointment of Liquidating Agent), **95.300** (Share and Deposit Guaranty Credit Union), **95.301** (Authority for a Guaranty Credit Union), **95.302** (Powers), **95.303** (Subordination of Right, Title, or Interest), **95.304** (Accounting for Membership Investment Shares), **95.305** (Audited Financial Statements; Accounting Procedures; Reports), and **95.306** (Requirements of Member Credit Unions). Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures for the Department. In addition, the Department invites comments on how to make these rules easier to understand. For example:

- ❑ Do the rules organize the material to suit your needs? If not, how could the material be better organized?
- ❑ Do the rules clearly state the requirements? If not, how could the rule be more clearly stated?
- ❑ Do the rules contain technical language or jargon that isn't clear? If so, what language requires clarification?
- ❑ Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?
- ❑ Would more (but shorter) sections be better in any of the rules? If so, what sections should be changed?

Written comments regarding these rules should be received no later than **August 31, 2006**. Any comments should be sent to Credit Union Department, 914 East Anderson Lane, Austin, Texas, 78752-1699 or by e-mail to info@tcred.state.tx.us.

General Counsel/Assistant Commissioner Resigns

The Department wishes a fond farewell to General Counsel Kerri Galvin. Ms. Galvin has made many significant contributions to the Department with long hours of dedicated work, and, although she will be sorely missed, we wish her good health and great success in her future endeavors. Ms. Galvin's last day in the office will be July 6, 2006.

Appointments to the Commission

Governor Perry has announced the appointment of two individuals to the Credit Union Commission.

Cydney C. Donnell of Fredericksburg, is an executive professor and the director of real estate program at the Mays Business School at Texas A&M University. She is a graduate of Texas A&M University, with a bachelor's degree in Finance and has a master's degree from Southern Methodist University. She serves on the board of directors of American Campus Communities and Madison Harbor Balanced Strategies, Inc., as well as a board member of the Mays Business School Finance Council and formerly served as a board member of the Association of Former Students at Texas A&M University. Mrs. Donnell's, whose term will expire February 15, 2009, replaces Richard Glasco of Austin, whose term expired.

Manuel Cavazos IV of Austin, is a certified public accountant and is corporate counsel to TexCom. He is a graduate of the University of Texas and received a law degree from William Howard Taft University. He is a member of the American Bar Association and the Texas Society of Certified Public Accountants, and served on the Texas Water Commission and on the boards of the Hispanic Chamber of Commerce of Travis County and the Texas Society to Prevent Blindness. Mr. Cavazos, whose term will expire February 15, 2011, replaces Floyd Burnside of San Antonio, whose term expired.

Consolidated Group Return for Texas-Chartered Credit Unions

State credit unions are required under the federal Internal Revenue Code to file annually a Form 990 (informational return). Since 1976, the Department has prepared and filed with the IRS a Form 990 consolidated group return on behalf of state credit unions; however, the growing complexity of federal tax laws and the anticipated IRS pronouncement on Unrelated Business Income Tax (UBIT) raises concerns regarding the ability and appropriateness of the Department reporting an individual credit union's tax liability position. Accordingly, the Commission has directed its Legislative Advisory Committee to review and study the issues surrounding the Department's continued filing of the IRS 990 (Organization Exempt for Income Tax) Consolidated Group Return for Texas-chartered credit unions. Therefore, the Committee will take up and consider the matter at its next meeting on September 15, 2006. Credit unions with views on the subject may submit written comments to the Department or attend the scheduled meeting.

Approval of Additional Provider of Primary Share Insurance Protection

On June 9, 2006, the Department authorized American Mutual Share Insurance Corporation (ASI) to provide credit union primary share and deposit insurance protection in Texas. Under Section 15.410 of the Finance Code, the Department has the statutory authority to approve the sources of share and deposit insurance protection; however, the Department neither endorses nor recommends any particular provider. Prior to this action, the only authorized provider of credit union share insurance protection was the National Credit Union Share Insurance Fund.

ASI was formed in 1974 under the provisions of the Ohio Guaranty Act to protect the solvency of member credit unions. Currently, ASI provides primary share insurance for up to the first \$250,000 per account for 184 credit unions in eight states (Alabama, California, Idaho, Illinois, Indiana, Maryland, Nevada, and Ohio). It is currently the only non-federal primary credit union share insurance carrier providing this type of coverage.

If a credit union should decide to pursue this private share insurance option, the proposed activity is subject to extensive regulation by the National Credit Union Administration. Part 708b of NCUA's Rules and Regulations describes the procedures and notice requirements for federally-insurance, state-chartered credit unions to convert to private insurance.

Reporting of Crimes and Catastrophic Acts

Commission Rule 91.209 specifies that a credit union must notify the Department within 10 days of their discovery of certain crimes or catastrophic acts. A crime or suspected crime is reportable if a Suspicious Activity Report (SAR) is required to be filed in accordance with federal regulations. The Department's reporting requirement may be satisfied by submitting a copy of the SAR directly to the Department. The rule also specifies that a credit union must report the occurrence of any catastrophic act that impacts the credit union's offices. A late fee of up to \$100 per day may be assessed for late filing of the required information.

Mid-Year Call Reports

The Mid-Year Call Reports were mailed to all credit unions on June 30, 2006. If you do not receive a hard copy of the report and the *PC 5300 Windows* program compact disk, please call Isabel Velasquez at (512) 837-9236. The call reports must be submitted to the Credit Union Department in an electronic format using the "*eSend to NCUA*" program or by regular mail on a rewritable compact disk on or before **July 24, 2006**. Reports received after that date will be assessed a late fee. Please direct any questions to Isabel Velasquez, Executive Assistant or Robert Baxter, Chief Examiner.

2006 Credit Union Department Satisfaction Questionnaire Results

According to the results of the Department's eleventh annual survey, credit unions continue to believe that the Department provides quality service. The questionnaire, which was mailed in March to the presidents of all state-chartered credit unions, serves as a benchmark measurement in areas such as the appropriateness and thoroughness of examination procedures; the professionalism and responsiveness of examination teams; the procedures for processing applications; and solicits opinions on how to improve the quality and efficiency of the services provided by the Department.

Completion of the survey was voluntary and anonymous, and 74% of the presidents responded in 2006. For the first time, when asked if the Department is providing quality service, 100% percent of the respondents replied affirmatively.

The Department extends its gratitude to all of the credit unions that took the time to complete this year's questionnaire. We sincerely appreciate the input and will use the results in the Department's decision-making process.

Publishing Notice of Applications in the Texas Register

In order to meet the submission deadlines for the applicable issues of the *Texas Register*, it is necessary for the Department to establish the schedule included below. Completed applications received after the deadline for the month cannot be published until the following month.

<u>Published In</u>	<u>Deadline for Receipt</u>
July, 2006	Friday, July 14
August, 2006	Friday, August 11
September, 2006	Friday, September 15

APPLICATIONS APPROVED

Applications approved since May 31, 2006 include:

<u>Credit Union</u>	<u>Changes or Groups Added</u>
Field of Membership Change(s) Approved:	
South Texas Credit Union (Kenedy)	See Newsletter No. 04-06
Field of Membership Change(s) Withdrawn:	
City Credit Union (#2) (Dallas)	See Newsletter No. 05-06
City Credit Union (#3) Dallas)	See Newsletter No. 05-06

Charter Change(s) Approved:

Public Employees Credit Union (Austin)	50 Years to Perpetuity
Star of Texas Credit Union (Austin)	50 Years to Perpetuity
San Jacinto Area Credit Union (Pasadena)	50 Years to Perpetuity
Sears Waco Credit Union (Waco)	50 Years to Perpetuity
Corner Stone Credit Union (Lancaster)	50 Years to Perpetuity
E E South Texas Credit Union (Corpus Christi)	50 Years to Perpetuity
United Savers Trust Credit Union (Houston)	50 Years to Perpetuity
Texas Telcom Credit Union (Dallas)	50 Years to Perpetuity
Coburn Credit Union (Beaumont)	50 Years to Perpetuity
Doches Credit Union (Nacogdoches)	50 Years to Perpetuity
Beaumont Municipal Employees Credit Union (Beaumont)	50 Years to Perpetuity
Texas Health Credit Union (Austin)	50 Years to Perpetuity

APPLICATIONS RECEIVED

The following applications were received and published in the June 30, 2006 issue of the Texas Register.

Field of Membership Expansion(s):

CTECU (#1), Houston, Texas -- To permit employees of Chevron Phillips Chemical Company LP, who are paid from The Woodlands, Texas, to be eligible for membership in the credit union.

CTECU (#2) (Houston) -- To permit employees of Chevron Corporation and any affiliates, divisions, or subsidiaries that are located within Texas, to be eligible for membership in the credit union.

Members Choice Credit Union (Houston) -- To permit persons who worship in and businesses located in its various geographic-based fields of membership, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.tcup.state.tx.us/applications.html>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

Articles of Incorporation Change(s):

Plus4 Credit Union (Houston) -- To amend its Articles of Incorporation relating to primary place of business.

Foreign Credit Union to Operate a Branch Office:

An application was received from **Assemblies of God Credit Union** (Springfield, Missouri) to operate a Foreign (out-of-state) Branch Office at 1200 Sycamore, Waxahachie, Texas.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.



Holiday Schedule for TCUD

The Department's office will be closed on **July 4, 2006**, in observance of Independence Day.

Legal Advisory—Recent Home Equity Lending Interpretations
From the Credit Union Commission and Finance Commission Agencies

The Credit Union Commission and the Finance Commission recently revised and re-adopted three home equity lending interpretations concerning the timing of preclosing disclosures (7 TAC §153.13), certain limitations on the use of loan proceeds (7 TAC §153.18), and the requirement that no instrument to be signed by the owner contain blanks “left to be filled in” (7 TAC §153.20). The new interpretations are published in the June 23, 2006 edition of the Texas Register (31 TexReg 5080), see [Adoption of §§153.13, 153.18, 153.20](#).

Following adoption, we discovered a typographical error in §153.13 (the preclosing disclosure requirement) that could lead to mistaken conclusions regarding the intent of this interpretation. Specifically, the word “or” between §153.13(3)(B)(i) and (ii) should obviously have been the word “and.” We wish to clearly point out that a literal reading of the word “or” in this context would conflict with the Texas Constitution. In brief, the requirements of both clauses (§153.13(3)(B)(i) and (ii)) must be met to establish the *de minimis* good cause standard that permits an owner to consent to delivery of a modified disclosure on the date of closing.

Texas Constitution, Article XVI, Section 50(a)(6)(M)(ii), requires a lender to provide an owner with a preclosing disclosure of fees, costs, points, and charges at least one day prior to closing a home equity loan. Initial delivery of or changes to a timely delivered disclosure are not permitted after that time unless good cause exists and the owner consents. Generally, revised §153.13 provides that good cause exists to deliver a modified disclosure on the date of closing if the variance in total costs is insignificant (a *de minimis* increase) under a specified formula (see §153.13(3)(B)(i)).

However, an insignificant change in total costs can be misleading if it conceals material but offsetting changes in individual fees, costs, points, and charges. Because variances of this nature demand more thoughtful analysis and consideration, the *de minimis* good cause standard requires the variance in any individual fee, cost, point, or charge to also be insignificant under the formula provided (see §153.13(3)(B)(ii)).

The obviously erroneous use of the term “or” in lieu of “and” between the two clauses that define the *de minimis* good cause standard does not mean that satisfying only one of these two conditions is sufficient to meet the *de minimis* good cause standard, and we will not endorse or support such a reading. We will seek formal correction of this typographical error at the earliest opportunity. Any questions or comments regarding this interpretation should be directed to Harold Feeney, Credit Union Commissioner, 914 East Anderson Lane, Austin, Texas 78752-1699, commissioner@tcud.state.tx.us, or to Sealy Hutchings, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, sealy.hutchings@occc.state.tx.us.

Credit Union Department
Office of Consumer Credit Commissioner
Department of Savings and Mortgage Lending
Department of Banking