

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
and via videoconference
August 27, 2021

A. CALL TO ORDER -- Chair Yusuf Farran called the meeting to order at 9:03 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, Liz Bayless, Karyn Brownlee, Beckie Stockstill Cobb, Steven “Steve” Gilman, Sherri Merket, and David Shurtz. Assistant Attorney General Melissa Juarez was in attendance via videoconference to serve as legal counsel. Representing the Department staff were John J. Kolhoff, Commissioner, Robert E. Etheridge, Deputy Commissioner, and Director of Information and Technology Joel Arevalo. Chair Farran appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (**August 11, 2021 TRD#2021004802**).

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** –

Chair Farran inquired if there were any requests or motions to excuse an absence. Mrs. Merket moved to excuse commission members Jim Minge and Kay Swan from the Commission meeting on August 27, 2021. Mr. Gilman seconded the motion, and the motion was unanimously adopted.

❖ **GENERAL PUBLIC COMMENT** -- Chair Farran 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.

B. MINUTES OF PREVIOUS MEETING (June 4, 2021) -- The Chair referred the members to the draft minutes of the previous meeting included in the

agenda packet and asked for any proposed edits. Hearing none, the chair asked for a motion to approve the minutes. Mrs. Cobb moved for approval of the minutes of June 4, 2021 as presented. Mrs. Bayless seconded the motion, and the commission carried the motion unanimously.

C. DEPARTMENT'S FY 2021 BUDGET & FINANCIAL

PERFORMANCE – Commissioner Kolhoff reported that in 2020 the Commission adopted a strategic plan for Fiscal Years 2021-2025. The \$4.3 million FY 2021 budget approved by the Commission in August 2020 includes the maintenance and operating and capital improvement budget in support of the Strategic Plan. At the end of the eleven months, total expenditures were \$3.190 million or approximately 17% less than budgeted projections of \$3.867 million. Almost all lines performed below budgeted levels apart from maintenance costs for FY 2021. Mr. Kolhoff further reported that the remediation of the water intrusion issue on the west side of the building has been addressed on the external wall of the building and that final finish work on the interior is complete. The full costs associated with this remediation project approximated \$20,000 and are now reflected in the financial information. Additional repairs were initiated to address deterioration of the landscaping walls at the entrance of the building and to replace plants that were killed by the extended period of freezing temperatures in February. The Commission approved the allocation of the approximate \$11,000 costs for this project at the June 2021 commission meeting. Mr. Kolhoff indicated that the unspent funds from the FY 2021 budget predominately represents travel related savings because of the pandemic and personnel savings due to vacancies.

After a brief discussion, the Commission took no action.

D. STATE CREDIT UNION SYSTEM – Commissioner Kolhoff indicated the information presented in the meeting packet is based on the last financial numbers available and that Mr. Etheridge would proceed with a more detailed report on the

state credit union system. Mr. Etheridge reported that while current unemployment levels in the United States and Texas remains higher than levels experienced during the Summer of 2020, the recovery trends indicate that the United States and Texas economies are rebounding well. The continuation of economic recoveries at both the state and national level may hinge, to some extent, on the impact(s) of new variants of COVID and the ability to control/limit the spread of such. Overall, Texas credit unions continue to perform well and are safe and sound. While there remain a few credit unions that have experienced deterioration of their financial performance, most have shown a strengthening of their financial condition. Second quarter 2021 earnings performance data for Texas credit unions reflect high levels of net income have been generated which are sufficient to cover operating costs and build net worth levels. The biggest challenge for credit unions has been their ability to control asset growth (driven by stimulus deposits), to prevent a dilution of their net worth ratios. Net worth ratios for credit unions declined significantly during 2020 from 11.11% to 10.36% due to rapid asset growth outpacing net worth growth. The net worth ratios for Texas credit unions during 2021 have remained relatively stable and are at 10.21% for the first half of the year. Moving forward, the Department must continue to work collaboratively with Texas charters to safeguard the financial interests of millions of Texans and work cooperatively with our credit unions as they continue to encounter any challenges associated with the pandemic.

After a brief discussion, the commission took no action.

E. PROPOSED INTERNAL AUDITOR REQUEST (RFP) – Commissioner Kolhoff reported that the Sunset Commission recommended that the Department initiate an internal audit program that exceeds statutory requirements for an Agency of the Department’s size and nature. Department management and the Commission agreed to implement a program and formed an Audit Committee, whose first meeting was held in June 2021. The Committee has been working with Commissioner Kolhoff to initiate the required procurement process including the

development of an Acquisition Plan and Request for Proposal to solicit bids from vendors who could provide such services.

After a short discussion, Mr. Gilman moved that the Commission approve the Request for Proposal to solicit bids from appropriately qualified vendors. Mrs. Brownlee seconded the motion, and the commission carried the motion unanimously.

F. MANDATORY RULE REVIEW

(a) Mr. Shurtz reported that Section 2001.039, 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. At its February 2020 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 has reviewed **7 TAC, Part 6, Chapter 91, Subchapter D (Powers of Credit Unions), Subchapter M (Electronic Operations) and Subchapter N (Emergency or Permanent Closing of Office or Operations)** and is recommending that no changes be made. The Department received one comment on the notice of intention to review. The comment, specific to Section 91.403 agreed the reasons for adopting the rule continue to exist and no revisions are necessary.

After a short discussion, Mr. Shurtz made a motion on behalf of the Rules Committee that the Commission find the reasons for adopting 7 TAC, Part 6, Chapter 91, Subchapter D (Powers of Credit Unions), Subchapter M (Electronic Operations), and Subchapter N (Emergency or Permanent Closing of Office or Operations) continue to exist and that the Commission readopt these rules. Because the motion was a committee recommendation, a second was not needed, and the motion passed unanimously.

(b) Approve for Publication and Comment Proposed Amendments to 7 TAC, Part 6, Chapter 91, Subchapter A, Section 91.121 (Complaint Notices and Procedures). Mr. Shurtz noted that the purpose of the proposed amendments is to implement amendments to Finance Code, Section 15.408 that resulted from the passage of SB 707, 78th Regular Legislative Session (2021). The Finance Code, Section 15.408 provides that the Commission shall maintain a system to promptly and efficiently act on complaints filed with the Credit Union Department (Department).

Mr. Shurtz then made a motion on behalf of the Rules Committee that the Commission approve for publication and comment the proposed rule 7 TAC Section 91.121 concerning Complaint Notices and Procedures. Because the motion was a committee recommendation, a second was not needed, and the motion passed unanimously.

(c) Approve for Publication and Comment Proposed Amendments to 7 TAC, Part 6, Chapter 91, Subchapter C, Section 91.301 (Field of Membership). Mr. Shurtz reported that the rule amendment is proposed to: (1) ensure consistency with the field of membership language provided by the Texas Finance Code, Section 122.051; (2) recognize the growing consumer expectation of operational efficiencies obtained through safety and soundness implications of digital delivery of financial services; and (3) ensure competitiveness with the National Credit Union Administration (NCUA) field of membership rules. Commissioner Kolhoff further explained that the purpose of the proposed amendments to Section 91.301 are to remove the local service area definition, which exceeds the legislative requirements found in the Texas Finance Code, Section 122.051, and allow the Commissioner to consider an institution's ability to provide financial services through digital channels to meet the needs of its membership. The proposed amendments will provide credit unions the full extent of the field of membership provisions found the Texas Finance Code and will help ensure parity

with both federal and foreign state credit unions doing business in Texas. Finally, the proposed deletion of Section 91.301(e)(2) removes the related physical office requirements for an approved underserved community field of membership, to ensure the same consideration of digital delivery of financial services available to the Commissioner.

Mr. Shurtz then made a motion on behalf of the Rules Committee that the Commission approve for publication and comment the proposed rule 7 TAC Section 91.301 concerning Field of Membership. Because the motion was a committee recommendation, a second was not needed, and the motion passed unanimously.

Chairman Farran opened the floor to the public for discussion.

❖ **Melodie Durst, Executive Director, Credit Union Coalition of Texas.**

Mrs. Durst briefly explained that for those who were not present at the Rules committee meeting, she did make a suggested change to Section (a)(3) to remove the words “facilities and staffing” and to insert the word “ability”. The purpose of that change was to better align for consistency purposes with other rules where the word “ability” is used. By doing so, it still gives the Commissioner wide authority when it comes to approving these types of applications. It certainly offers some consistency for credit unions as they look at other rules in the terminology of ability.

❖ **Gili Carter, Executive Director, Texas Credit Union Association.** Ms.

Carter explained that the Texas Credit Union Association is the government affairs arm of the Cornerstone Credit Union League. The Association represents 140 affiliated credit unions across the state of Texas. She expressed a strong support in favor of the Commission publishing this rule as it addresses all of the financial marketplace changes

due to increased usage of technology, virtual services and especially in light of the pandemic. She expressed sincere appreciation of all the hard work the staff has put in on this rule.

- ❖ **Steve Gilman, Commission Member.** Mr. Gilman reported being 100% in agreement with the comments from the public. He believes it is important as the credit unions expand with the goal of meeting people's financial needs to enact a broad interpretation of ability to serve.

Mr. Shurtz then made a motion on behalf of the Rules Committee that the Commission approve for publication and comment the proposed rule 7 TAC Section 91.301 concerning Field of Membership. Because the motion was a committee recommendation, a second was not needed, and the motion passed unanimously.

(d) Approve for Publication and Comment Proposed Amendments to 7 TAC, Part 8, Chapter 153 (Home Equity Lending). Mr. Shurtz reported that the interpretations in 7 Texas Administrative Code, Chapter 153 are administered by the Joint Financial Regulatory Agencies ("Agencies") consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The Agencies distributed an early pre-publication draft of proposed changes to interested stakeholders for review and then held an online webinar regarding the proposed changes. In general, the purposes of the proposed rule changes to 7 Texas Administrative Code, Chapter 153 are to: (1) specify requirements for electronic disclosures and (2) describe Section 50 applicability to out-of-state financial institutions. The Agencies received one informal pre-publication comment on the draft rule.

Chairman Farran opened the floor to the public for discussion.

❖ **Melodie Durst, Executive Director, Credit Union Coalition of Texas.**

Mrs. Durst briefly explained there was a webinar hosted by the financial services agencies, which included the Credit Union Department, and agencies that are under the Finance Commission, and anyone that was participating had an opportunity to comment early on this proposal. The Coalition supports this effort for giving an opportunity for members of the various industries involved as well as the public to participate in that webinar.

Mr. Shurtz then made a motion on behalf of the Rules Committee that the Commission approve for publication and comment the proposed rule 7 TAC Part 8, Chapter 153 concerning home equity lending. Because the motion was a committee recommendation, a second was not needed, and the motion passed unanimously.

G. Future Commission Meetings: Agenda Items, Arrangements, and Dates.

Chair Farran reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for November 5, 2021 at 9:00 a.m., in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Farran adjourned the meeting at 9:41 a.m.

Yusuf E. Farran
Chairman

Isabel Velasquez
Recording Secretary

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