

**CREDIT UNION COMMISSION RULES COMMITTEE
MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
and via videoconference**

AUGUST 26, 2021

A. CALL TO ORDER – Chairman David Schurtz called the meeting to order at 1:00 p.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, and Beckie Stockstill Cobb. Assistant Attorney General Veena Mohan was in attendance via videoconference to serve as legal counsel. Staff members in attendance was John J. Kolhoff, Commissioner. Chairman Shurtz 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#2021004801**).

- ❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** – Chair Shurtz inquired if there were any requests or motions to excuse an absence. Mrs. Cobb moved to excuse committee member Steve Gilman from the Rules meeting on August 26, 2021. Mrs. Bayless seconded the motion, and the motion was unanimously adopted.

- ❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chairman Shurtz invited public input on matters regarding rulemaking for future consideration by the committee. There was none.

B. RECEIVE MINUTES OF PREVIOUS MEETING (March 4, 2021)

Mrs. Bayless moved to approve the minutes of March 4, 2021, as presented. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

C. MANDATORY RULE REVIEW

(a) It was the consensus of the Committee, and no objections, that 7 , Texas Administrative Code, 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) be handled as one motion as no changes or comments were received to the proposed existing rules during the comment period:

Mrs. Cobb moved to recommend that the Committee find that the reasons for adopting the rules in **7 Texas Administrative Code, Part 6, Chapter 91, Subchapters D, M, and N** continue to exist and that the Commission readopt the rules in these subchapters. Mrs. Bayless seconded the motion and the motion was unanimously adopted.

(b) **Approve for Publication and Comment Proposed Amendments to 7 Texas Administrative Code, Part 6, Chapter 91, Subchapter A, Section 91.121 Concerning Complaint Notices and Procedures.** Commissioner Kolhoff briefly explained that the proposed amendments are to implement amendments to Finance Code, Section 15.408 that resulted from the passage of SB 707. 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). He further noted that the proposed rule changes incorporate the redesign of Finance Code, Section 15.408 from provisions previously found in Section 15.409 and further amendments, providing for

additional data element tracking and annual reporting related to complaints filed with the Department against state-chartered credit unions.

After a short discussion, Mrs. Bayless made a motion to recommend that the Commission approve for publication and comment the proposed rule **7 Texas Administrative Code, Section 91.121** concerning complaint notices and procedures as presented, plus the edits to section (7)(A) of this rule, as discussed in the meeting. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

(c) Approve for Publication and Comment Proposed Amendments to 7 Texas Administrative Code, Part 6, Chapter 91, Subchapter C, Section 91.301 Concerning Field of Membership. Commissioner Kolhoff explained that the amended rule 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. Furthermore, the proposed changes within Section 91.301(a) remove the definition of local service area and related physical office requirement to allow the Commissioner to consider the ability of an institution to provide

digital delivery channels as a viable option in its ability to serve its membership. 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.

Committee Chairman Shurtz opened the floor to the public for discussion.

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

Mrs. Durst explained they represent credit unions across the State in the regulatory and legislative process. Mrs. Durst thanked the Department for taking the necessary steps to propose these changes. Furthermore, the Coalition certainly supports those changes and is asking the Rules committee if they might consider one additional change in this draft. She referred the Committee to Section (a)(3) by suggesting removing the words “facilities and staffing” and insert the word “ability” which is used in other rules pertaining to other areas of performance by credit unions. She further explained the Commissioner is not charged with only looking at facilities and staffing in those areas, and it would seem reasonable that in this case he also given the ability to look at everything in its totality, rather than just facilities and staffing. It does not limit him, but actually expands his ability to look at their ability to provide the digital services.

After a lengthy discussion, Mrs. Cobb made a motion to recommend that the Commission approve for publication and comment the proposed rule **7 Texas Administrative Code, Section 91.301** concerning field of membership as presented, plus the edit to section (a)(3) of this rule, as discussed in the meeting. Mrs. Bayless seconded the motion and the motion was unanimously adopted.

(d) Approve for Publication and Comment Proposed Amendments to 7 Texas Administrative Code, Part 8, Chapter 153 (Home Equity Lending). Commissioner Kolhoff 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. These Agencies distributed an early pre-comment 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-comment on the rule text draft.

After a short discussion, Mrs. Bayless made a motion to recommend that the Commission approve for publication and comment the proposed amendments to **7 Texas Administrative Code, Part 8, Chapter 153** concerning home equity lending. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

ADJOURNMENT -- There being no other items to come before the Committee, and without objection, the meeting was adjourned at 1:27 p.m.

David F. Shurtz
Chairman

Isabel Velasquez
Recording Secretary

Distribution:

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