



CREDIT UNION DEPARTMENT

DATE: **March 31, 2016**

TO: **State Chartered Credit Unions**

SUBJECT: **Change 43 to Update the Texas Rules for Credit Unions**

The attached pages constitute changes to the Texas Rules for Credit Unions. Your book of rules should be updated as follows:

<u>REMOVE PAGES</u>	<u>INSERT</u>	<u>AMENDMENTS OR NEW RULES</u>
Index – pages i thru ii	Index – pages i thru ii	Updated Index
91-21 thru 91-22-b	91-21 thru 91-22-b	Readopted Rules 91.302, 91.310 and 91.315 (No changes)
91-58-c thru 91-58-d	91-58-c thru 91-58-d	Corrected Printing Error in Change 37

FOR YOUR RECORDS - Please keep this letter of transmittal behind the **Update Tab** of the Rules Section of your binder as a record to show your rules are up to date.

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needs of the area are being met, as well as requiring such reports before allowing a credit union to add an additional underserved area.

(f) Parity with Federal Credit Unions.

Credit unions will be allowed to have, at a minimum, at least as much flexibility as federal credit unions have in field of membership regulation. If a credit union proposes a type of Group that the National Credit Union Administration has previously determined meets the Federal requirements, the commissioner shall approve the application unless the commissioner finds that the credit union has not demonstrated sufficient managerial and financial capacity to safely and soundly serve such expanded membership.

(g) Application.

In order to request the approval of the commissioner to add a Group to its bylaws, a credit union must submit a written application to the Department. The applicant credit union shall have the burden to show to the Department such facts and data that support the requirements and considerations in this rule. In reviewing such application, the commissioner shall consider:

- (1) Whether the Group has adequate unifying characteristics or a mutual interest such that the safety and soundness of the credit union is maintained;
- (2) The ability of credit unions to maintain parity and to compete fairly with their counterparts;
- (3) Service by the credit union that is responsive to the convenience and needs of prospective members;
- (4) Protection for the interest of current and future members of the credit union; and
- (5) The encouragement of economic progress in this State by allowing opportunity to expand services and facilities.

Source: The provisions of this §91.301 adopted to be effective February 11, 2001, 26 TexReg 1132; adopted to be effective January 7, 2004, 29 TexReg 82; readopted to be effective June 22, 2004, 29 TexReg 6423; reviewed and amended to be effective July 13, 2008, 33 TexReg 5294; reviewed and readopted to be effective February 17, 2012, 37 TexReg 1518.

§91.302. Election or Other Membership Vote By Electronic Balloting, Early Voting, Absentee Voting, or Mail Balloting.

(a) All credit unions should actively promote member participation in elections and other membership votes as long as the costs are reasonable and the integrity of the vote is not compromised. Any credit union instituting alternative procedures or systems to benefit members who find it difficult or inconvenient to vote at annual or special meetings must ensure that the alternative is thoroughly explained and publicized so that all members will be able to take advantage of those procedures or systems.

(b) The board of directors, before holding an election or other membership vote that uses electronic balloting, early voting, absentee voting, or mail balloting, shall establish written election rules, including procedures to: control, tabulate and retain ballots; identify invalid ballots; and handle disputed election results and tie votes.

(c) Any elections or other membership vote using electronic balloting, early voting, absentee voting, or mail balloting are subject to the following conditions:

- (1) The election tellers shall be appointed by the board of directors;

(2) At least 30 days prior to the annual or special meeting, the board of directors will cause either a printed ballot or notice of a ballot, along with appropriate instructions, to be mailed to all members eligible to vote;

(3) Completed electronic or mail ballots cast during early or absentee voting must be received prior to convening the annual or special meeting;

(4) The votes will be tallied by the tellers and the results of the vote will be made public at the annual or special meeting.

(d) In the event of a malfunction of the electronic balloting system, the board of directors may in its discretion order elections or other vote to be held by mail ballot only. The board may make reasonable adjustments to the voting time frames in subsection (c) of this section, or postpone the annual or special meeting if necessary, to complete the elections prior to the annual or special meeting.

Source: The provisions of this §91.302 adopted to be effective November 13, 2000, 25 TexReg 11278; amended to be effective November 14, 2004, 29 TexReg 10253, reviewed and amended to be effective July 13, 2008, 33 TexReg 5295; reviewed and readopted to be effective February 17, 2012, 37 TexReg 1518; reviewed and readopted to be effective March 7, 2016, 41 TexReg 2179.

§91.310. Annual Report to Membership.

(a) Every credit union shall provide to its membership an annual written report, as prescribed below. The report must be updated before the credit union's annual meeting and shall be available on the credit union's website throughout the year. Any credit union that does not maintain a website shall distribute the report at its annual meeting and must notify members at least annually that copies of the report are available upon request.

(b) The annual report shall cover the credit union's operations during the preceding calendar year and shall contain, at a minimum, the following information:

(1) the names and dates of expiration of the terms of office for each director on the credit union's board;

(2) the names of any honorary or advisory directors appointed by the board;

(3) a brief description of any changes, since the last report, to the credit union's:

- A. senior management staff;
- B. bylaws or articles of incorporation;
- C. financial condition and operating results;
- D. membership size and services offered; and

(4) the credit union's year end balance sheet and income/expense statement.

(c) For purposes of this rule, senior management staff shall include the chief executive officer, any assistant chief executive officers, including any vice-presidents and above, and the chief financial officer.

Source: The provisions of this §91.310 adopted to be effective November 8, 2009, 34 TexReg 7625; reviewed and readopted to be effective February 17, 2012, 37 TexReg 1518; reviewed and readopted to be effective March 7, 2016, 41 TexReg 2179.

§91.315. Members' Access to Credit Union Documents.

(a) Required Notice. Every credit union shall provide notice to its membership of the availability of certain documents related to the credit union's finances and management.

(b) Delivery of Required Notice. A credit union shall post a copy of the required notice on its website throughout the year. The notice required by this section shall be published in the credit union's newsletter twice a year. If a credit union does not maintain a website and distribute a newsletter at least semiannually, the credit union shall provide the notice at least semiannually with each member's account statement.

(c) Documents Available to Members. Upon request, a member is entitled to review or receive a copy of the most recent version of the following credit union documents:

1. balance sheet and income statement (the non-confidential pages of the latest call report may be given to meet this requirement);
2. a summary of the most recent annual audit completed in accordance with §91.516 of this chapter (relating to Audits and Verifications);
3. written board policy regarding access to the articles of incorporation, bylaws, rules, guidelines, board policies, and copies thereof; and
4. Internal Revenue Service Form 990.

Source: The provisions of this §91.315 adopted to be effective November 8, 2009, 34 TexReg 7627; reviewed and readopted to be effective February 17, 2012, 37 TexReg 1518; reviewed and readopted to be effective March 7, 2016, 41 TexReg 2179.

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(c) **Limitation.** Accessibility and expediency are important factors for many members with emergency or other short-term needs. Therefore, small-dollar credit products must balance the need for quick availability of funds with the fundamentals of responsible lending. Sound underwriting criteria should focus on a member's history with the credit union and ability to repay a loan within an acceptable timeframe. Given the small dollar amounts of each individual credit request, documenting the member's ability to repay can be streamlined and may need to include only basic information, such as proof of recurring income. The aggregate total of streamlined underwritten small-dollar credit products outstanding, however, shall not exceed 20% of the credit union's net worth.

(d) **Fees.** A credit union may require a member to pay reasonable expenses and fees incurred in connection with making or closing a loan. With respect to expenses and fees being assessed on small-dollar, short-term credit products, the expenses and fees are presumed to be reasonable if the aggregate total is \$20 or less. In addition, if the credit union refinances a small-dollar, short-term credit product, it may charge such expenses and fees only once in a 180-day period. Credit unions may also charge a late fee as permitted by Finance Code §124.153.

(e) **Payments.** Credit unions should structure payment programs in a manner that reduces the principal owed. For closed-end products, loans should be structured to provide for affordable and amortizing payments. Lines of credit should require minimum payments that pay off principal. Excessive renewals or the prolonged failure to reduce the outstanding balance are signs that the product is not meeting the member's credit needs and will be considered an unsound practice.

(f) **Required Savings.** Credit unions may structure small-dollar credit programs to include a savings component. The funds in this account may also serve as a pledge against the loan or extension of credit.

Source: The provisions of this §91.720 adopted to be effective July 11, 2010, 35 TexReg 5807; reviewed and readopted to be effective June 23, 2014, 39 TexReg 5203.

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