

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
November 1, 2019

I. CALL TO ORDER -- Chair Yusuf Farran called the meeting to order at 9:05 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, Jim Minge, David Shurtz and Kay Rankin-Swan. Assistant Attorney General Melissa Juarez was in attendance 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 (**October 21, 2019, TRD#2019006294**).

❖ **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.

II. MINUTES OF PREVIOUS MEETING (July 12, 2019). The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet. Mr. Gilman moved for approval of the minutes of July 12, 2019 as presented. Mrs. Merket seconded the motion, and the commission carried the motion unanimously.

Chair Farran recognized and welcomed our three new commission members Karyn Brownlee, David Shurtz and Kay Rankin-Swan.

III. Consideration of Report and Recommendations of the Commissioner Evaluation Committee Related to the Commissioner’s FY 2019 Performance Review and FY 2020 Remuneration. – The Chair announced this agenda item would be postponed and be called later in the meeting.

IV. PENDING AND ONGOING MATTERS

(a) Adoption of Amendments to 7 TAC Section 91.101 Concerning Definitions and Interpretations. Commissioner Kolhoff indicated that at its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.101. The amended rule defines the term “consolidated CUSO” utilized in Section 91.401 and addresses minor grammar and formatting. No comments were received on the proposed amendments to the rule.

After a short discussion, Mr. Minge moved that the Commission adopt the amendments to **7 TAC Section 91.101** concerning definitions and interpretations. Mrs. Bayless seconded the motion and the commission carried the motion unanimously.

(b) Adoption of Amendments to 7 TAC Section 91.801 Concerning Investments in Credit Union Service Organizations. Commissioner Kolhoff noted that its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.801. The amended rule recognizes parity with federal regulations by specifically authorizing credit union ability to invest in CUSOs providing property management services. No comments were received on the proposed amendments to the rule.

After a brief discussion, Mrs. Cobb moved that the Commission adopt the amendments to **7 TAC Section 91.801** concerning investments in credit union

service organizations. Mr. Gilman seconded the motion, and the commission carried the motion unanimously.

(c) **Adoption of Amendments to 7 TAC Section 91.803 Concerning Investment Limits and Prohibitions.** Commissioner Kolhoff explained that at its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.803. The amended rule clarifies that limits imposed by Section 91.803 apply only to investments as outlined by the Subchapter heading and to provide minor grammar edits. No comments were received on the proposed amendments to the rule.

After a short discussion, Mrs. Brownlee moved that the Commission adopt the amendments to **7 TAC Section 91.803** concerning investment limits and prohibitions. Mrs. Merket seconded the motion and the commission carried the motion unanimously.

(d) **Adoption of Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements.** Commissioner Kolhoff indicated that at its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.901. The amended rule ensures uniformity from a 10-day to a 14-day deadline between state and federal regulatory agencies in a waiver process.

After a brief discussion, Mrs. Cobb moved that the Commission adopt the amendments to **7 TAC Section 91.901** concerning reserve requirements. Mr. Gilman seconded the motion and the commission carried the motion unanimously.

(e) **Department's FY 2019 Financial Performance including Commission/Commissioner FY 2019 Travel.** Commissioner Kolhoff indicated there was a request for a travel breakdown between the Commission, Commissioner Kolhoff, and former Commissioner Feeney. Mr. Kolhoff further reported that there's

no formal action anticipated, and this report was just an informational item that was requested. Mr. Kolhoff also reported that during the first month of FY 2020, revenues collected totaled \$4,084,444, which is \$126,465 below the YTD budgeted amount. Mr. Kolhoff reminded everyone that most bills are not paid until 30 days after the due date so some of September's operating cost will not be reflected until October.

After a brief discussion, the Commission took no action.

(f) Status of the State Credit Union System. Deputy Commissioner Etheridge indicated that Texas credit unions remain financially and operationally stable. He further explained that, generally, Texas economy continues to benefit the operating performance of our institutions. The second quarter data for this year reflects that Texas was ranked first in the nation in annualized growth with a 3.2% increase in real income per capita. As of August 2019, the unemployment rate in Texas was 3.4%, down from 3.9% from a year earlier and just under the national unemployment rate as of September 2019 of 3.5%.

After a short discussion of some of the key financial trends, the commission took no formal action.

(g) Sunset Review Status Update. Commissioner Kolhoff reported that the Sunset Self-Evaluation report had been submitted and can be found on the Department's website. In addition, the Sunset review estimated cost for our agency's review is now \$79,240 and will be invoiced August 1, 2020. Furthermore, the Sunset commission contacted our agency and stated our contact review will be starting in early April. On May the onsite review will begin and final report on July. Mr. Kolhoff outlined three issues in the Sunset Self-Evaluation report that our agency faces:

- Making sure that we have qualified staff;

- Ensuring a competitive charter with not just federal credit unions, but with other service financial service providers; and
- The necessity to update statutory foreign state charter branch consideration when reviewing competition with Texas state charters.

After a brief discussion, the commission took no formal action.

V.. NEW MATTERS

(a) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter K (Relating to Credit Union Development Districts), Sections 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005, and 91.2006, and Readoption of Rules. Commissioner Kolhoff reported that according to Texas Government Code Section 2001.039 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. Staff has reviewed 7 TAC, Part 6, Chapter 91, Subchapter K (Credit Union Development Districts) and believes certain revisions are appropriate and necessary. Mr. Kolhoff further indicated that one comment was received regarding the review.

After a short discussion, Mr. Minge moved that the Commission find that the reasons for adopting **7 TAC, Part 6, Sections 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005 and 91.2006** continue to exist and that subject to the separately proposed amendments, the Commission readopts these rules. Mrs. Bayless seconded the motion, and the commission unanimously carried the motion.

(b) Discussion, Consideration, and Possible Action to Approve the for Publication and Comment the Proposed Amendments to 7 TAC Section 91.2000 Concerning Purpose and Scope. Commissioner Kolhoff indicated that the purpose of the proposed amendments corrects reference to the Tex. Tax Code relevant to the

Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act.

Mr. Gilman moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.2000** concerning purpose and scope. Mrs. Merket seconded the motion and the motion was unanimously adopted.

(c) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter O (Relating to Trust Powers), Sections 91.6001, 91.6002, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6011, 91.6012, , and 91.6015, and Readoption of Rules. Commissioner Kolhoff explained that due to an oversight not all of the rules under Subchapter O were listed on the agenda. . Mr. Kolhoff recommended that we start the rule review process over simply because we want to make sure the credit union industry has an opportunity to comment on all rules.

After a short discussion, it was the consensus of the Commission to table the adoption Rule Review of **7 TAC, Part 6, Chapter 91, Subchapter O (Relating to Trust Powers)** and start the rule review process over at the next commission meeting.

(d) – (i) Agenda items concerning approval for publication and Comment Proposed Amendments to 7 TAC Sections, 91.6001, .6003, .6004, .6006, and .6010, and .6014 — These agenda items were tabled to be presented pursuant to the rule review process for 7 TAC Ch. 91, Subchapter O, which will be on the agenda for the next board meeting.

(j) Proposed Amendments to 7 TAC Section 95.200 Commissioner Kolhoff noted that the proposed amendments would allow the Department to name a liquidating agent other than a deposit insurer as authorized under the Texas Finance code, ensure consistent language relative to both federal and private deposit

insurance providers and reference the specific guidelines for liquidation action found within the Texas Finance Code Section §126.201 instead of reiterating the specific guidelines within the rule.

After a brief discussion, Mrs. Bayless moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 95.200** concerning Notice of Taking Possession; Appointment of Liquidating Agent; Subordination of Rights. Mr. Minge seconded the motion, and the commission carried the motion unanimously.

(k) Department's Equal Employment and Workforce Diversity Plan. Commissioner Kolhoff noted that various State laws require the Department to prepare and maintain a written policy statement to assure implementation of a program of equal employment and workforce diversity. He indicated the Commission originally approved a Plan back in 1977 and that the Plan covers a 12-month period, and therefore, must be ratified annually.

After a short discussion, Mr. Gilman moved that the Commission adopt the Department's Equal Employment and Workforce Diversity Plan as recommended by Staff. Mrs. Merket seconded the motion and the commission carried the motion unanimously.

(l) Resolutions of Appreciation for Outgoing Commission Members Missy Morrow, Kay Stewart and Rick Ybarra. Commissioner Kolhoff indicated that it is the practice of the Commission to adopt a resolution of appreciation to recognize the service of Commission members upon the completion of their terms of office.

After a brief discussion, Mrs. Merket moved to approve the Resolutions of Appreciation for Outgoing Commission Members Missy Morrow, Kay Stewart and Rick Ybarra, as presented, and directed that a copy of the appropriate resolutions be

given to the former members as a token of the Commission's appreciation. Mrs. Cobb seconded the motion and the commission carried the motion unanimously.

(m) Designation of a Vice Chair and Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation). Chair Farran noted that as stipulated in Commission Policy, the Chair was reappointing Sherri Merket as Vice Chair of the Commission. Mr. Farran also designated members to serve on the two standing committees. He noted that the minutes should reflect the following appointments:

Rules Committee

Steve Gilman, Chair
Karyn Brownlee, Vice Chair
David Shurtz
Kay Rankin-Swan

Commissioner Evaluation Committee

Beckie Stockstill Cobb, Chair
Sherri Merket, Vice Chair
Liz Bayless
Jim Minge

After a brief discussion, the Commission took no action.

(n) Tentative Date for Next Commission Meeting – Chair Farran reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for February 7, 2020 at 9:00 a.m. in Austin, and the Commission discussed having four meetings in the upcoming year:

February 7, 2020
May 8, 2020
August 7, 2020
November 6, 2020

III. Consideration of Report and Recommendations of the Commissioner Evaluation Committee Related to the Commissioner's FY 2019 Performance Review and FY 2020 Remuneration. — Mr. Farran recalled this agenda item III and announced 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 2020 Remuneration. The Commission entered into Executive Session at 9:57 a.m. and reconvened in open session at 10:44 a.m.

Chairman Farran noted after returning to open session that no action, decision, or vote was made on matters discussed during the Executive Session.

- **Consideration and Possible Vote to Approve the Commissioner's Proposed FY 2019 Performance Evaluation.** Mr. Minge made a motion that Commissioner Kolhoff's FY 2019 Performance Evaluation be approved. Mr. Gilman seconded the motion and the commission carried the motion unanimously.
- **Discussion and Possible Vote to Adjust the Commissioner's FY 2020 Remuneration.** Mrs. Cobb made a motion that Commissioner Kolhoff's salary be increased to \$190,000 effective December 1, 2019. Mrs. Bayless seconded the motion and the commission carried the motion unanimously.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Farran adjourned the meeting at 10:46 a.m.

Yusuf E. Farran
Chairman

Isabel Velasquez
Recording Secretary

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