CREDIT UNION COMMISSION MEETING

Credit Union Department Building
914 East Anderson Lane
Austin, Texas

February 7, 2020
9:00 a.m.

AGENDA

The Commission may discuss and/or take action regarding any item on this agenda

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	• Discussion of Agenda Format	
K.	Adjournment	

Note: The Credit Union Commission may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

Meeting Recess: In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

Meeting Accessibility: Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Joel Arevalo, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

A

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

- *Yusuf E. Farran, Chair*
- *Elizabeth L. "Liz" Bayless*
- *Karyn C. Brownlee*
- *Beckie Stockstill Cobb*
- *Steven "Steve" Gilman*
- *Sherri B. Merket*
- *Jim Minge*
- *David F. Shurtz*
- *Kay Rankin-Swan*

Legal Counsel

- *Melissa Juarez*

Staff

- *John J. Kolhoff*
- *Robert W. Etheridge*
- *Joel R. Arevalo*
- *Isabel Velasquez*

FUTURE CREDIT UNION

COMMISSION MEETING DATES

Friday, May 8, 2020

Friday, August 7, 2020

Friday, November 6, 2020

All regular scheduled meetings will begin at 9:00 a.m. unless notified differently.

If anyone has conflicts with the proposed dates, please contact Isabel Velasquez at (512) 837-9236.

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the November 1, 2019 meeting, and the corresponding follow-up action report, are located under **Tab B.**

RECOMMENDED ACTION: The Department requests that the Commission approve the minutes as presented.

RECOMMENDED MOTION: I move that the minutes of the Commission's regular meeting of November 1, 2019 be approved as presented.

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

Distribution:

Legislative Reference Library

DRAFT

FOLLOW-UP ACTION REPORT
CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 01-14-2020)
November 1, 2019		
7 TAC Section 91.101 Definitions and Interpretations	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 11/15/19
7 TAC, Part 6, Chapter 91, Subchapter K – Relating to Credit Union Development Districts 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005, and 91.2006	Published in *Texas Register* as readopted rules.	Published in *Texas Register* on 11/15/19
7 TAC Section 91.801 Investments in Credit Union Service Organizations	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 11/15/19
7 TAC Section 91.803 Investment Limits and Prohibitions	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 11/15/19
7 TAC Section 91.2000 Purpose and Scope	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 11/15/19
7 TAC Section 95.200 Notice of Taking Repossession; Appointment of Liquidating Agent; Subordination of Rights	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 11/15/19

C

DEPARTMENT'S FY 2020 FINANCIAL PERFORMANCE

C. Discussion and Consideration of the Department's FY 2020 Financial Performance.

BACKGROUND: In March 2018, the Commission adopted a Strategic Plan for Fiscal Years 2019-2023. The $4.4 million FY 2020 Budget approved by the Commission in July 2019 includes the maintenance and operation budget and capital improvement budget in support of the Strategic Plan.

The following report highlights the Department's financial results for the period ended November 30, 2019.

At the end of the 1st quarter of FY 2020 all expenditures are below budgeted forecasts over the same period with total expenditures $150,503 below budget. At November 30, 2019, funds of $1,466,751 remain available to cover the second quarter FY 2020 expenses projected. The Commission has approved appropriations of $1,273,594 for the same timeframe. As per normal operating practices, any excess funds available will be netted against the second billing cycle of FY 2020 resulting in a discounted rate to Texas state-chartered credit unions.

The financial report is unaudited and is prepared on a cash basis of accounting. In most cases, expenditures are expensed 30 days after the invoice due date.

RECOMMENDED ACTION: No action is anticipated.

Credit Union Department
BY 2020 Budget Analysis
For the Period Ended 11/30/19

	BY 2020 Budget	BY 2020 YTD Budgeted	BY 2020 YTD Actual	Over (Under) Budget	Percent of YTD Budget
REVENUES:					
Operating Income					
Operating Fees	$4,445,694	$2,222,847	$2,313,160	$90,313	104%
Out-of-State Branch Fees	$0	$0	$9,000	$9,000	100%
Examination Fees	$0	$0	$0	$0	
Application Fees	$0	$0	$200	$200	
Penalties	$0	$0	$100	$100	
Other	$0	$0	$0	$0	
Operating Income Subtotal	**$4,445,694**	**$2,222,847**	**$2,322,460**	**$99,613**	104%
Interest Income (Trust Acct #2972)	$0	$0	$6,487	$6,487	
Contingency Reserve Fund Interest Income (Acct #3268)	$0	$0	$3,912	$0	
TOTAL REVENUES	**$4,445,694**	**$2,222,847**	**$2,332,859**	**$106,100**	**105%**
Total Unexpended Funds From FY19	$0	$0	$86,570	$86,570	100%
TOTAL FUNDS AVAILABLE TO COVER EXPENDITURES	**$4,445,694**	**$2,222,847**	**$2,419,429**	**$192,670**	**109%**

EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	$2,631,146	$646,332	$611,111	$35,221	95%
Employee Benefits	$847,687	$211,922	$183,236	$28,685	86%
Total Personnel Expenses	**$3,478,833**	**$858,253**	**$794,347**	**$63,906**	**93%**
Travel Expenses:					
In State					100%
Examinations			$91,657		
Training/Conferences			$7,219		
Meetings			$320		
Public Forums			$0		
Other			$163		
Total In-State	$451,972	$112,993	$99,359	$13,634	88%
Out-of-State	$30,000	$7,500	$589	$6,911	8%
Commission	$11,000	$2,750	$491	$2,259	18%
Total Travel Expenses	**$492,972**	**$123,243**	**$100,439**	**$22,804**	**81%**
Other Operating Expenses:					
Communication/Utilities	$48,800	$12,200	$8,952	$3,248	73%
Professional Services/Fees	$250,040	$62,510	$15,987	$46,523	26%
Supplies/Materials	$73,270	$18,318	$9,781	$8,536	53%
Printing and Reproduction	$2,755	$689	$0	$689	0%
Repairs/Maintenance	$4,140	$1,035	$909	$127	88%
Rentals and Leases	$7,250	$1,813	$343	$1,469	19%
Other Operating	$86,784	$21,696	$18,496	$3,200	85%
Total Other Operating Expenses	**$473,039**	**$118,260**	**$54,468**	**$63,792**	**46%**
TOTAL EXPENDITURES	**$4,444,844**	**$1,099,756**	**$949,253**	**$150,503**	**86%**
REMAINING FUNDS TO COVER EXPENDITURES			**$1,470,175**		
REMAINING COMMISSION APPROPRIATED EXPENDITURES (YTD Budgeted Revenue less YTD Actual Expenditures)			**$1,273,594**		

D

STATE CREDIT UNION SYSTEM

D. Status of the State Credit Union System.

BACKGROUND: Texas state-chartered credit unions remain sound overall with few institutions facing modest to minor regulatory concerns. Chartered credit unions are well capitalized overall and continue to maintain strong earnings performance. Delinquencies for the industry continue to show declines in the third quarter 2019 to very modest levels with charge-offs numbers indicating stable levels over the last several years.

INDUSTRY STATUS: At **September 30, 2019**, there were **180** state-chartered credit unions in Texas down three charters from the proceeding **December 31, 2018**. Assets in these credit unions totaled **$43.7 billion**, an increase of **$1.7 billion** since **December 31, 2018**, for an annualized growth rate of **5.81%**. The aggregate net worth ratio rose to **11.04%**, a 22-basis point increase from the **December 31, 2018** level of **10.82%**. **One $3 million-dollar** institution did merge into another Texas charter in **December 2019**.

Loans for Texas chartered credit unions totaled **$32.59 billion** as of **September 30, 2019**. This is an increase of **$1 billion** since **December 31, 2018** for an annualized growth rate of **4.18%**.

Shares for Texas chartered credit unions totaled **$37.4 billion** as of **September 30, 2019**. This is an increase of **$1.7 billion**, or **6.4%** since **December 31, 2018**.

Texas chartered credit unions aggregate loan delinquency ratio was **0.62%** as of **September 30, 2019**, compared to a ratio of **0.75%** as of **December 31, 2018**.

At **September 30, 2019**, **20** state-chartered credit unions reported year to date net operating losses. These institutions represent **11.17%** of Texas state charters aggregating **$370 million** in assets with an average size of **$18.5 million** but represent less than **1%** of total assets under supervision. Non-profitable credit unions, in aggregate, lost approximately **$1 million** year-to-date 2019. **One hundred fifty-nine** profitable institutions equating to **88.8%** of Texas state charters were profitable for the quarter year to date.

Profitable institutions represent **$43.4 billion** in total assets with an average size of **$272 million** and earned approximately **$296 million** year to date **2019** in aggregate.

PROBLEM INSTITUTIONS: As of **December 31, 2019**, there were **23** credit unions assigned a CAMEL rating of 3 or higher, compared to **23** credit unions at **December 31, 2018**. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

ENFORCEMENT ISSUES: As of **December 31, 2018**, the Department had the following administrative sanctions outstanding:

Dividend Restrictions	0
LUAs	0
Determination Letters	1
Conservatorships	1
Cease and Desist	2

Chartering Activity

New Charter	0

RECOMMENDED ACTION: No formal action is anticipated.

E

SUNSET REVIEW

E. Sunset Review Status Update.

BACKGROUND: The Department submitted our Sunset review self-evaluation on August 29, prior to the deadline of September 3. A copy of the Sunset Self-Evaluation Report can be found on the Department's website.

The Sunset review estimated cost for the Credit Union Department's review is now $79,240 to be invoiced August 1, 2020 and due September 30, 2020.

Lauren Ames, Policy Analyst with the Sunset Commission contacted the Department and states our review will be starting in early April 2020 and end around July 2020. In March the Sunset Commission staff will reach out to schedule a meeting with us for introductions and to start the onsite review process.

RECOMMENDED ACTION: No formal action is anticipated.

F

RULEMAKING MATTERS

Twelve items are being presented to the Commission for its information, consideration, and/or possible action. Specifically, the Commission will discuss, consider and possibly take action on:

(a) Adoption of amendments to 7 TAC Section 91.2000 concerning Credit Union Development Districts, Purpose and Scope;
(b) Adoption of amendments to 7 TAC Section 95.200 concerning Liquidating Agents; Notice of Taking Possession; Appointment of Liquidating Agent; Subordination Rights;
(c) Adoption of the Completed Rule Review of 7 TAC, Part 6; Chapter 91 Subchapter O (Trust Powers), and re-adoption of rules;
(d) Proposed amendments to 7 TAC Section 91.6001 concerning Fiduciary Duties;
(e) Proposed amendments to 7 TAC Section 91.6003 concerning Notice Requirements;
(f) Proposed amendments to 7 TAC Section 91.6004 concerning the Exercise of Fiduciary Powers;
(g) Proposed amendments to 7 TAC Section 91.6006 concerning Policies and Procedures;
(h) Proposed amendments to 7 TAC Section 91.6010 concerning Custody of Fiduciary Assets;
(i) Proposed amendments to 7 TAC Section 91.6014 concerning Errors and Omissions Insurance;
(j) Proposed amendments to 7 TAC Section 91.1003 concerning Changes in Corporate Status Merger/Consolidations
(k) Adoption of the Completed Rule Review of 7 TAC, Part 6, Chapter 91 Subchapter C (Members), and re-adoption of rules; and
(l) Adopt the Rule Review Plan for Fiscal Years 2021-2024, as Required by Section 2001.039, Government Code.

RECOMMENDED ACTION: The Department requests that the Commission take action as indicated in the documents contained in **TAB F**.

PROCEDURES FOR ADOPTING A PROPOSED RULE

1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.

2. The proposed rule is presented to the commission for consideration.

3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.

4. The proposed rule is adjusted by staff (if required), furnished to legal counsel, and transmitted to the **Texas Register** for publication as a "proposed" rule.

5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.

6. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in the rule reverting to step four.

7. The rule is adopted as "final" and transmitted to the ***Texas Register*** for publication as a final rule. The rule becomes effective 20 days following filing for publication.

8. The rule is published or announced through the Department's newsletter.

EMERGENCY RULES

Rules, which are approved by the commission for emergency adoption, are transmitted to the ***Texas Register*** for filing. These rules become effective immediately upon filing unless another effective date is specified. They can be effective only for 120 days with a renewal provision for an additional 60 days a maximum of 180 days. "Day one" is the day of filing or the date specified as the effective date. While these emergency rules are in effect, regular rules should be initiated using the normal procedure described above. The Department rarely adopts emergency rules.

PROCEDURES FOR REQUIRED RULE REVIEW

Section 2001.39, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. To comply with this requirement, the Commission follows the procedure below:

1. Every four years, the Commission adopts and publishes a Rule Review Plan, which establishes a date for the required review of each existing rule.
2. At least sixty days prior to a particular rule's scheduled review date, the Department publishes notice in the Newsletter reminding interested persons of the review and encouraging comments on the rules up for review.
3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
4. If in reviewing existing rules, staff believes certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
6. At a public meeting, the Rules Committee accepts public testimony on each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers the proposal, as recommended by staff, to the Commission.
7. The Committee's recommendation is presented to the Commission for consideration.
8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.
11. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is

available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.

12. The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

PURPOSE AND SCOPE

F. (a) Adoption of Amendments to 7 TAC Section 91.2000 Concerning Purpose and Scope.

BACKGROUND: At its November meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.2000. No comments were received on the proposed amendments to the rule.

The amended rule corrects reference to the Tex. Tax Code relevant to the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the amendments as previously published.

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.2000 without changes to the proposed text as published in the *Texas Register*.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter K.	Credit Union Development Districts

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter K, Section 91.2000, concerning purpose and scope, without changes to the proposed text as published in the November 15, 2019 issue of the *Texas Register* (44 TexReg 6985). The amendments will not be republished.

The amended rule corrects a reference to the Texas Tax Code relevant to the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act.

The Commission received no written comments on the proposed amendments to the rule.

The rule changes are proposed under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

<rule>

Subchapter K. Credit Union Development Districts

§91.2000. Purpose and Scope.

(a) This subchapter implements Tex. Fin. Code §279.001 et seq. regarding the establishment of credit union development districts.
(b) This subchapter does not affect or circumvent requirements under the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act (Tex. Tax Code, Chapters 311 and 312, respectively), including requirements for designation of an area as a municipal or county reinvestment zone or for authorization to enter into a tax abatement agreement.

NOTICE OF TAKING POSSESSION; APPOINTMENT OF LIQUIDATING AGENT; SUBORDINATION OF RIGHTS

F. (b) Adoption of Amendments to 7 TAC Section 95.200 Concerning Liquidating Agent; Notice of Taking Possession; Appointment of Liquidating Agent; Subordination Rights.

BACKGROUND: At its November meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 95.200. No comments were received on the proposed amendments.

The amended rule would allow the Department to name a liquidating agent other than a deposit insurer as authorized under the Texas Finance Code, ensure consist 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 them within the rule.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the amendments as previously published.

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 95.200 without changes to the proposed text as published in the *Texas Register*.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 95.	Share and Depositor Insurance Protection
Subchapter B.	Liquidating Agents

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter B, Section 95.200, notice of taking possession; appointment of liquidating agent; subordination of rights, without changes to the proposed text as published in the November 15, 2019, issue of the *Texas Register* (44 TexReg 6986). The amendments will not be republished.

The amended rule allows 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 guidelines for liquidation action found within the Texas Finance Code §126.201 instead of reiterating specific guidelines within the rule.

The Commission received no written comments on the proposed amendments to the rule.

The rule changes are proposed under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

<rule>

Subchapter B. Liquidating Agents

§95.200. Notice of Taking Possession; Appointment of Liquidating Agent; Subordination of Rights.

(a) The department shall give prompt notice to the NCUA or other applicable insuring organization whenever the commissioner through conservatorship takes possession of the property and assets of a respective insured or participating credit union. The Department shall give further prompt notice of the Commissioner's intent to liquidate the property and assets of such insured or participating credit union.
(b) If the commissioner finds the liquidation of the credit union's assets is prudent under the guidelines established by Texas Finance Code §126.201, the insuring organization, may be appointed liquidating agent for the credit union.
(c) When any member's share or deposit account is paid, the NCUA or, alternatively, the insuring organization shall be subrogated to all rights of the member, up to the amount paid by the NCUA or the insuring organization to such member.

MANDATORY RULE REVIEW

F. (c) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter O (Relating to Trust Powers), Sections 91.6001, 91.6002, 91.6003, 91.6004, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6010, 91.6011, 91.6012, 91.6013, 91.6014 and 91.6015, and Readoption of Rules.

BACKGROUND: 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. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 2016 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 O (Trust Powers) and believes certain revisions are appropriate and necessary. Amendments to the noted chapters are being separately presented for proposal.

Notice of the review and a request for comments on the rules in this chapter was published in the November 22, 2019 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rules continue to exist.

RECOMMENDED ACTION: The Department recommends that the Commission adopt these rules.

RECOMMENDED MOTION: I move that the Commission find that the reasons for adopting 7 TAC, Part 6, Sections **91.6001, 91.6002, 91.6003, 91.6004, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6010, 91.6011, 91.6012, 91.6013, 91.6014 and 91.6015** continue to exist and that subject to the separately proposed amendments, the Commission readopts these rules.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter O (relating to Trust Powers), of the Texas Administrative Code, Title 7, Part 6, consisting of §§91.6001, 91.6002, 91.6003, 91.6004, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6010, 91.6011, 91.6012, 91.6013, 91.6014 and 91.6015.

The rules were reviewed as a result of the Department's quadrennial rule review under Texas Government Code §2001.039.

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter O, was published in the November 22, 2019, issue of the *Texas Register* (44 TexReg 7190). The Department received no comments on the notice of intention to review.

After reviewing these rules, the Commission finds that the reasons for initially adopting these rules continue to exist, and readopts Chapter 91, Subchapter O, §§91.6001, 91.6002, 91.6003, 91.6004, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6010, 91.6011, 91.6012, 91.6013, 91.6014 and 91.6015, in their entirety in accordance with the requirements of Texas Government Code, §2001.039. However, the Commission has determined certain sections should be amended and will propose changes in a separate section of the Texas Register. This concludes the review of 7 TAC, Part 6, Chapter 91, Subchapter O.

The Department hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter O. Trust Powers

§91.6001. Fiduciary Duties.

A credit union must conduct its trust operations in accordance with applicable law, and must exercise its fiduciary powers in a safe and sound manner. All fiduciary activities shall be under the direction of the credit union's board of directors. In carrying out its responsibilities, the board may assign, by action duly entered in the minutes, any function related to the exercise of fiduciary powers to any director, officer, employee, or committee thereof.

§91.6002. Fiduciary Capacities.

A credit union is subject to this chapter if it acts in a fiduciary capacity. A credit union acts in a fiduciary capacity when it acts in any of the following capacities:

(1) Trustee.
(2) Custodian.
(3) Executor.
(4) Administrator.
(5) Guardian.
(6) Receiver.

§91.6003. Notice Requirements.

(a) Intent. A credit union is required to notify the commissioner in writing of its intent to exercise fiduciary powers, at least 31 days prior to the anticipated commencement date of such fiduciary activities. The notice must contain:

(1) A statement describing the fiduciary powers that the credit union will exercise;

(2) An opinion of counsel that the proposed activities do not violate law, including citations to applicable law;

(3) A statement that the capital of the credit union is not less than the capital required by law of other financial institutions exercising comparable fiduciary powers;

(4) Sufficient biographical information on proposed trust management personnel to enable the Department to assess their qualifications; and

(5) A description of the locations where the credit union will conduct fiduciary activities.

(b) Prior Activity. A credit union that has initiated trust activities prior to the effective date of this rule shall file the notice prescribed in subsection (a) by October 1, 2003.

§91.6004. Exercise of Fiduciary Powers.

(a) Supervisory Review. Unless otherwise notified by the department, a credit union may exercise its fiduciary powers on the 30th day after the credit union receives written confirmation from the Department that the notice required under Section 91.6003 of this title (relating to Notice Requirements) is complete and accepted for filing. The Department will consider the following factors when reviewing such a notice:

(1) The credit union's financial condition.
(2) The credit union's capital and whether that capital is sufficient under the circumstances.
(3) The credit union's overall performance.
(4) The fiduciary powers the credit union proposes to exercise.

(5) The availability of legal counsel.
(6) The experience and expertise of proposed trust management personnel.
(7) The needs of the members to be served.
(8) Any other facts or circumstances that the Department considers appropriate.

(b) Written Notice. Prior to expiration of the 30 day period referred to in subsection (a), the commissioner may give the credit union written notice of denial or consent, subject to certain conditions.

(c) Acceptance of Conditions. Commencement of the exercise of fiduciary powers constitutes confirmation of acceptance of all conditions imposed by the commissioner under subsection (b) and shall be considered an enforceable agreement against the credit union for all purposes.

§91.6005. Exemption from Notice.

A credit union does not need to provide notice under section 91.6003 (relating to notice requirements) to act as a trustee or custodian of any form of retirement, pension, profit sharing or deferred income accounts for its members, pension funds of self-employed individuals eligible for membership and pension funds of a company or organization whose employees are eligible for membership in the credit union if acting as such will only involve holding the funds on deposit and reporting information to the account holders and government agencies. All contributions to such fiduciary accounts, however, must be initially made to a share or deposit account in the credit union and the credit union may not directly or indirectly provide any investment advice for such fiduciary accounts.

§91.6006. Policies and Procedures.

A credit union exercising trust powers shall adopt and follow written policies and procedures adequate to maintain its fiduciary activities in compliance with applicable law. Among other relevant matters, the policies and procedures should address, where appropriate, the credit union's:

(1) Brokerage placement practices;

(2) Methods for ensuring that fiduciary officers and employees do not use material inside information in connection with any decision or recommendation to purchase or sell any security;

(3) Methods for preventing self-dealing and conflicts of interest;

(4) Selection and retention of legal counsel who is readily available to timely review trust instruments or other documents creating the credit union's fiduciary status and advise the credit union and its fiduciary officers and employees on all fiduciary related matters; and

(5) Investment of funds held as fiduciary, including short-term investments and the treatment of fiduciary funds awaiting investment or distribution.

§91.6007. Review of Fiduciary Accounts.

(a) Pre-acceptance review. Before accepting a fiduciary account, a credit union shall review the prospective account and related instruments and documents to determine whether it can properly administer the account.

(b) Initial post-acceptance review. Upon the acceptance of a fiduciary account for which a credit union has investment discretion, the credit union shall conduct a prompt review of all assets of the account to evaluate whether they are appropriate for the account.

(c) Annual review. At least once during every calendar year, a credit union shall conduct a review of all assets of each fiduciary account for which the credit union has investment discretion to evaluate whether they are appropriate, individually and collectively, for the account.

§91.6008. Recordkeeping.

A credit union shall adequately document the establishment and termination of each fiduciary account and shall maintain adequate records for all fiduciary accounts. All records pertaining to a fiduciary account shall be separate and distinct from other records of the credit union.

§91.6009. Audit.

At least once during each calendar year, a credit union shall arrange for a suitable audit by a certified public accountant in accordance with generally accepted standards for attestation engagement. The audit must ascertain whether the credit union's internal control policies and procedures provide reasonable assurance of three things:

(1) The credit union is administering fiduciary activities in accordance with applicable law and the trust instrument or other documents creating the fiduciary responsibility; (2) The credit union is properly safeguarding fiduciary assets; and

(3) The credit union is accurately recording transactions in appropriate accounts in a timely manner.

§91.6010. Custody of Fiduciary Assets.

(a) A credit union shall place assets of fiduciary accounts in the joint custody or control of not fewer than two the fiduciary officers or employees designated for that purpose by the board of directors.

(b) A credit union shall keep assets of fiduciary accounts separate from the assets of the credit union. Except as otherwise authorized by applicable law and as may be in the best interests of the beneficiaries of the fiduciary account, a credit union shall keep assets of each fiduciary account separate from all other accounts.

§91.6011. Trust Funds.

All monies received by a credit union as fiduciary on trust business shall be deposited in a specially designated account or accounts, shall not be commingled with any funds of the credit union and shall remain on deposit until disbursed or invested in accordance with powers and duties of the credit union in its capacity as such fiduciary.

§91.6012. Compensation, Gifts, and Bequests.

A credit union may not permit its directors, officers, or employees to retain any compensation for acting as co-fiduciary with the credit union in the administration of a fiduciary account, except with the specific approval of the board of directors. In addition, a credit union may not permit any fiduciary officer or employee to accept a bequest or gift of fiduciary assets, unless the bequest or gift is directed or made by a relative of the director, officer, or employee or is specifically approved by the board of directors.

§91.6013. Bond Coverage.

A credit union is required to maintain a bond for protection and indemnity of members, in reasonable amounts against dishonesty, fraud, defalcation, forgery, theft, embezzlement, and other similar insurable losses with an insurance or surety company authorized to do business in this state. Coverage against such losses shall include all agents who do not otherwise provide protection and indemnity for the credit union, directors, officers, and employees of the credit

union acting independently or in collusion or combination with any person or persons whether or not they draw salary or compensation.

§91.6014. Errors and Omissions Insurance.

The credit union shall procure errors and omission insurance of at least five hundred thousand dollars.

§91.6015. Litigation File.

A credit union shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of fiduciary powers.

FIDUCIARY DUTIES

F. (d) Proposed Amendments to 7 TAC Section 91.6001 Concerning Fiduciary Duties.

BACKGROUND: The proposed amendment represents only minor grammar changes.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6001.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6001.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6001	Fiduciary Duties

The Credit Union Commission (the Commission) proposes amendments to §91.6001, relating to a credit union fiduciary duty in conducting trust operations. This rule is proposed as a result of its rule review under Texas Government Code §2001.039.

The proposed amendments represent only minor grammatical changes and do not change the meaning of the rule.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. John J. Kolhoff, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments, under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has determined, under Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement.
Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;

- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS. The proposed rule is not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to John J. Kolhoff, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D, specifically §123.207.

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

Subchapter O. Trust Powers

§91.6001. Fiduciary Duties.

A credit union must conduct **[its]** trust operations in accordance with applicable law**[,]** and must exercise **[its]** fiduciary powers in a safe and sound manner. All fiduciary activities shall be under the direction of the credit union's board of directors. In carrying out its responsibilities, the board may assign, by action duly entered in the minutes, any function related to the exercise of fiduciary powers to any director, officer, employee, or committee thereof.

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NOTICE REQUIREMENTS

F. (e) Proposed Amendments to 7 TAC Section 91.6003 Concerning Notice Requirements.

BACKGROUND: The proposed amendment represents minor grammar changes and rescinds an originally established notification phase-in of fiduciary activity prior to October 1, 2003 that is no longer necessary.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6003.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6003.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6003	Notice Requirements

The Credit Union Commission (the Commission) proposes amendments to §91.6003, relating to a credit union's notice requirements when initiating fiduciary activities. The Commission proposes these amendments as a result of its regular rule review under Texas Government Code §2001.039.

The proposed amendment to §91.6003 represents minor grammatical changes, clarifies that a credit union must identify the address where it proposes to conduct fiduciary duties, and removes language that established a phased-in notification requirement for fiduciary activity prior to October 1, 2003, which no longer is necessary.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. John J. Kolhoff, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments, under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has determined, under Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement.

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Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS. The proposed rule is not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to John J. Kolhoff, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically §123.207.

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

§91.6003. Notice Requirements.

[(a)] Intent. A credit union is required to notify the commissioner in writing of its intent to exercise fiduciary powers, at least 31 days prior to the anticipated commencement date of such fiduciary activities. The notice must contain:

(1) A statement describing the fiduciary powers **[that]** the credit union will exercise;

(2) An opinion of counsel that the proposed activities do not violate law, including citations to applicable law;

(3) A statement that the capital of the credit union is not less than the capital required by law of other financial institutions exercising comparable fiduciary powers;

(4) Sufficient biographical information on proposed trust management personnel to enable the Department to assess their qualifications; and

(5) **[A description of the locations]** **The physical address of each location** where the credit union will conduct fiduciary activities.

[(b) Prior Activity. A credit union that has initiated trust activities prior to the effective date of this rule shall file the notice prescribed in subsection (a) by October 1, 2003.]

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EXERCISE OF FIDUCIARY POWERS

F. (f) Proposed Amendments to 7 TAC Section 91.6004 Concerning Exercise of Fiduciary Powers.

BACKGROUND: The proposed amendment represents a change in terminology to using a credit union's "net worth position", instead of the current term of "capital", as a commissioner considered factor toward determining if a credit union's exercise of fiduciary powers notification is complete and accepted for filing. The term net worth is more readily defined by accounting and statutory sources and provides greater clarity to both the industry and the Department regarding the factors considered. Use of the term net worth would also synchronize federal and state terminology.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6004.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6004.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6004	Exercise of Fiduciary Powers

The Credit Union Commission (the Commission) proposes amendments to §91.6004, relating to a credit union's exercise of fiduciary powers. The Commission proposes the amendment as a result of its regular rule review under Texas Government Code §2001.039.

The proposed amendment represents a change in terminology to using a credit union's "net worth position," instead of the current term "capital," as a factor the commissioner considers in determining if a credit union's notice of its intent to exercise fiduciary powers is complete and accepted for filing. The term "net worth" is more readily defined by accounting and statutory sources and provides greater clarity to both the industry and the Department regarding the factors to be considered. Use of the term net worth would also synchronize federal and state terminology.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. John J. Kolhoff, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments, under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has determined, under Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

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GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement.
Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS. The proposed rule is not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to John J. Kolhoff, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically §123.207.

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

§91.6004. Exercise of Fiduciary Powers.

(a) Supervisory Review. Unless otherwise notified by the department, a credit union may exercise **[its]** fiduciary powers on the 30th day after the credit union receives written confirmation from the Department that the notice required under Section 91.6003 of this title (relating to Notice Requirements) is complete and accepted for filing. The Department will consider the following factors when reviewing such a notice:

(1) The credit union's financial condition.

(2) The **adequacy of the** credit union's **[capital]** **net worth** **[and whether that]** **position**. **[capital is sufficient under the circumstances.]**

(3) The credit union's overall performance.

(4) The fiduciary powers the credit union proposes to exercise.

(5) The availability **and expertise** of legal counsel.

(6) The experience and expertise of proposed trust management personnel.

(7) The needs of the members to be served.

(8) Any other facts or circumstances that the Department considers appropriate.

(b) Written Notice. Prior to expiration of the **[30 day]** **30-day** period referred to in subsection (a), the commissioner may give the credit union written notice of denial or consent, **[subject to certain]** **which consent may include** conditions.

(c) Acceptance of Conditions. Commencement of the exercise of fiduciary powers constitutes **a credit union's** confirmation of acceptance of all conditions imposed by the commissioner under subsection (b) and shall be considered an enforceable agreement against the credit union for all purposes.

DRAFT

POLICIES AND PROCEDURES

F. (g) Proposed Amendments to 7 TAC Section 91.6006 Concerning Policies and Procedures.

BACKGROUND: The proposed amendments include minor grammar changes and require certain policies, when appropriate, based on types of trust activity.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6006.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6006.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6006	Policies and Procedures

The Credit Union Commission (the Commission) proposes amendments to Section §91.6006, relating to a credit union's development of appropriate policies and procedures for the exercise of trust powers. The commission proposes these amendments as a result of its regular rule review under the Texas Government Code Section §2001.039.

The proposed amendments include minor grammatical changes and require certain policies, when appropriate, based on types of trust activity.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. John J. Kolhoff, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments, under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has determined, under Government Code §2001.024(a)(5) that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement.
Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;

- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS. The proposed rule is not a "major environmental rule" as defined by Government Code, §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to John J. Kolhoff, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically §123.207.

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

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§91.6006. Policies and Procedures.

A credit union exercising trust powers shall adopt and follow **appropriate** written policies and procedures **[adequate]** to maintain its fiduciary activities in compliance with applicable law. Among other relevant matters, the policies and procedures **[should]** **must** address, where appropriate, the credit union's:

(1) Brokerage placement practices;

(2) Methods for ensuring that fiduciary officers and employees do not use material inside information in connection with any decision or recommendation to purchase or sell any security;

(3) Methods for preventing self-dealing and conflicts of interest;

(4) Selection and retention of legal counsel who is readily available to timely review trust instruments or other documents creating the credit union's fiduciary status and advise the credit union and its fiduciary officers and employees on all fiduciary related matters; and

(5) Investment of funds held as fiduciary, including short-term investments and the treatment of fiduciary funds awaiting investment or distribution.

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CUSTODY OF FIDUCIARY ASSETS

F. (h) Proposed Amendments to 7 TAC Section 91.6010 Concerning Custody of Fiduciary Assets.

BACKGROUND: The proposed amendments include a minor grammar change.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6010.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6010.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6010	Custody of Fiduciary Assets

The Credit Union Commission (the Commission) proposes an amendment to Section §91.6010, relating to a credit union's custody of fiduciary assets. The amendment is proposed as a result of its regular rule review under Texas Government Code Section §2001.039.

The proposed amendment consists of a minor grammatical correction.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. John J. Kolhoff, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments, under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has determined, under Government Code §2001.024(a)(5) that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement.
Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;

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- require an increase or decrease in future legislative appropriations to the agency;
- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS. The proposed rule is not a "major environmental rule" as defined by Government Code, §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to John J. Kolhoff, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register.*

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically §123.207.

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

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§91.6010. Custody of Fiduciary Assets.

(a) A credit union shall place assets of fiduciary accounts in the joint custody or control of not fewer than two **[the]** fiduciary officers or employees designated for that purpose by the board of directors.

(b) A credit union shall keep assets of fiduciary accounts separate from the assets of the credit union. Except as otherwise authorized by applicable law and as may be in the best interests of the beneficiaries of the fiduciary account, a credit union shall keep assets of each fiduciary account separate from all other accounts.

DRAFT

ERRORS AND OMISSIONS INSURANCE

F. (i) Proposed Amendments to 7 TAC Section 91.6014 Concerning Errors and Omissions Insurance.

BACKGROUND: The proposed amendments maintain the original $500 thousand-dollar coverage floor while requiring annual analysis of the appropriateness of the coverage relative to trust activities undertaken.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6014.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6014.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6014	Errors and Omissions Insurance

The Credit Union Commission (the Commission) proposes amendments to §91.6014, relating to a credit union's errors and omissions insurance coverage for trust powers. The Commission proposes these amendments as a result of its regular rule review under Texas Government Code §2001.039.

The proposed amendments to §91.6014 maintain the original $500,000 coverage floor while requiring annual analysis and documentation of the appropriateness of the coverage relative to the trust activities undertaken.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. John J. Kolhoff, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has determined, under Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement.
Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

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- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS. The proposed rule is not a "major environmental rule" as defined by Government Code, §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to John J. Kolhoff, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically §123.207.

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

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§91.6014. Errors and Omissions Insurance.

The credit union shall procure errors and omission insurance **sufficient to mitigate the risks involved in fiduciary activities, but at no time shall errors and omissions insurance coverage be less than** **[of at least]** five hundred thousand dollars. **A credit union shall conduct and document the annual analysis of the appropriateness of the current coverage.**

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MERGERS/CONSOLIDATIONS

F. (j) Proposed Amendments to 7 TAC Section 91.1003 Concerning Mergers/Consolidations.

BACKGROUND: The proposed amendments would reference the Hart-Scott Rodino Act (HSRA) requirements of proposed mergers instead of repeating specific thresholds within the HSRA that change over time. The language is presented to refer institutions directly to the federal HSRA language and its specific requirements and thresholds instead of duplicating all, or part of the federal provision, within the state rule. Currently the rule refers to an outdated dollar threshold for measurement of HSRA applicability. This improves the current rule, which does not refer to all of the tests used to determine if HSRA applies to a merger transaction.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.1003.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.1003.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter J.	Changes in Corporate Status
Rule §91.1003	Mergers/Consolidations

The Credit Union Commission (the Commission) proposes amendments to Section 91.1003, relating to Mergers and Consolidations. The proposed amendments would reference Hart-Scott Rodino Act (HSRA) requirements of proposed mergers instead of repeating specific thresholds within the HSRA that change over time.

The Commission proposes the following amendment to Section 91.1003. The language is presented to refer institutions directly to the federal HSRA language and its specific requirements and thresholds instead of duplicating all, or part of the federal provision, within the state rule. Currently the Rule refers to an outdated dollar threshold for measurement of HSRA applicability. This improves the current rule, which does not refer to all of the tests used to determine if HSRA applies to a merger transaction.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. John J. Kolhoff, Commissioner, has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has determined, under Government Code §2001.024(a)(5), that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6).

COST TO REGULATED PERSONS (COST-IN/COST-OUT). This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-

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businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement.
Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS. The proposed rule is not a "major environmental rule" as defined by Government Code, §2001.0225. The proposed rule is not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to John J. Kolhoff, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@cud.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D. Authority to adopt these amendments is found also in Texas Finance Code Sections 122.1531 and 122.156.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D specifically Finance Code, Sections 122.005, 122.151 - .156, and 124.003.

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

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§91.1003. Mergers/Consolidations.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Acquirer credit union - The credit union that will continue in operation after the merger/consolidation.

(2) Acquiree credit union - The credit union that will cease to exist as an operating credit union at the time of the merger/consolidation.

(3) Merger inducement – A promise by a credit union to pay to the members of another credit union a sum of money or other material benefit upon the successful completion of a merger of the two credit unions.

(4) Substantial – An amount that is large in size, value, or importance. For purposes of this section, an amount is substantial if it exceeds $1,000.00 in total.

(b) Two or more credit unions organized under the laws of this state, another state, or the United States, may merge/consolidate, in whole or in part, with each other, or into a newly incorporated credit union to the extent permitted by applicable law, subject to the requirements of this rule. A credit union may not offer a merger inducement to another credit union's members as a means of promoting a merger of the two credit unions.

(c) Notice of Intent to Merge/Consolidate. The credit unions shall notify the commissioner in writing of their intent to merge/consolidate within ten days after the credit unions' boards of directors formally agree in principle to merge/consolidate.

(d) Plan for Merger/Consolidation. Upon approval of a proposition for merger/consolidation by the boards of directors, the credit unions must prepare a plan for the proposed merger/consolidation. The plan shall include:

(1) The terms and conditions of the merger/consolidation including a detailed description of any substantial remuneration, such as bonuses, deferred compensation, early payout of retirement benefits, severance packages, retainers, services agreements, or other substantial financial rewards or benefits that any board member or senior management employee of the acquiree credit union may receive in connection with the merger/consolidation;

(2) the current financial reports of each credit union;

(3) the combined financial reports of the two or more credit unions;

(4) an analysis of the adequacy of the combined Allowance for Loan and Lease Losses account;

(5) an explanation of any proposed adjustments to the members' shares, or provisions for reserves, dividends, or undivided profits;

(6) a summary of the products and services proposed to be available to the members of the acquirer credit union, with an explanation of any changes from the current products and services provided to the members;

(7) a summary of the advantages and disadvantages of the merger/consolidation;

(8) the projected location of the main office and any branch location(s) after the merger/consolidation and whether any existing office locations will be permanently closed; and

(9) any other items deemed critical to the merger/consolidation agreement by the boards of directors.

(e) Submission of an Application to Merge/Consolidate to Department.

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(1) An application for approval of the merger/consolidation will be complete when the following information is submitted to the commissioner:

(A) the merger/consolidation plan, as described in this rule;

(B) a copy of the corporate resolution of each board of directors approving the merger/consolidation plan;

(C) the proposed Notice of Special Meeting of the members;

(D) a copy of the ballot form to be sent to the members;

(E) the current delinquent loan summaries for each credit union;

(F) **[if the acquire credit union has $65.2 million or more in assets on its latest call report,]** a statement as to whether the transaction is subject to the Hart-Scott Rodino Act premerger notification filing requirements; and

(G) a request for a waiver of the requirement that the plan be approved by the members of any of the affected credit unions, in the event the board(s) seek such a waiver, together with a statement of the reason(s) for the waiver(s).

(2) If the acquirer credit union is organized under the laws of another state or of the United States, the commissioner may accept an application to merge or consolidate that is prescribed by the state or federal supervisory authority of the acquirer credit union, provided that the commissioner may require additional information to determine whether to deny or approve the merger/consolidation. The application will be deemed complete upon receipt of all information requested by the commissioner.

(3) Notice of the proposed merger must be published in the *Texas Register* and Department Newsletter as prescribed in §91.104 (relating to **Public Notice and Comment on Certain Applications [Notice of Applications]**).

(f) Commissioner Action on the Application.

(1) The commissioner may grant preliminary approval of an application for merger/consolidation conditioned upon specific requirements being met, but final approval shall not be granted unless such conditions have been met within the time specified in the preliminary approval.

(2) The commissioner shall deny an application for merger/consolidation if the commissioner finds any of the following:

(A) the financial condition of the acquirer credit union before the merger/consolidation is such that it will likely jeopardize the financial stability of the merging credit union or prejudice the financial interests of the members, beneficiaries or creditors of either credit union;

(B) the plan includes a change in the products or services available to members of the acquiree credit union that substantially harms the financial interests of the members, beneficiaries or creditors of the acquiree credit union;

(C) the merger/consolidation would probably substantially lessen the ability of the acquirer credit union to meet the reasonable needs and convenience of members to be served;

(D) the credit unions do not furnish to the commissioner all information requested by the commissioner which is material to the application;

(E) the credit unions fail to obtain any approval required from a federal or state supervisory authority; or

(F) the merger/consolidation would be contrary to law.

(3) For applications to merge/consolidate in which the products and services of the acquirer credit union after merger/consolidation are proposed to be substantially the same as those

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of the acquiree and acquirer credit unions, the commissioner will presume that the merger/consolidation will not significantly change or affect the availability and adequacy of financial services in the local community.

(g) Procedures for Approval of Merger/Consolidation Plan by the Members of Each Credit Union.

(1) The credit unions have the option of allowing their members to vote on the plan in person at a meeting of the members, by mail ballot, or both. With prior approval of the commissioner, a credit union may accept member votes by an alternative method that is reasonably calculated to ensure each member has an opportunity to vote.

(2) Members shall be given advance notice of the meeting in accordance with the credit union's bylaws. The notice of the meeting shall:

(A) specify the purpose of the meeting and state the date, time, and place of the special meeting;

(B) state the reasons for the proposed merger/consolidation;

(C) contain a summary of the merger plan and state that any interested person may obtain more detailed information about the merger from the credit union at its principal place of business, or by any method approved in advance by the commissioner;

(D) provide the name and location of the acquirer credit union;

(E) specify the methods permitted for casting votes; and

(F) if applicable, be accompanied by a mail ballot.

(h) Completion of Merger/Consolidation.

(1) Upon approval of the merger/consolidation plan by the membership, if applicable, the Certificate of Merger/Consolidation shall be completed, signed and submitted to the commissioner for final authority to combine the records. Necessary amendments to the acquirer credit union's articles of incorporation or bylaws shall also be submitted at this time.

(2) Upon receipt of the commissioner's written authorization, the records of the credit unions shall be combined as of the effective date of the merger/consolidation. The board of the directors of the acquirer credit union shall certify the completion of the merger/consolidation to the commissioner within 30 days after the effective date of the merger/consolidation.

(3) Upon receipt by the commissioner of the completion of the merger/consolidation certification, any article of incorporation or bylaw amendments will be approved and the charter of the acquiree credit union will be canceled.

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MANDATORY RULE REVIEW

F. (k) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter C (Members), Sections 91.301, 91.302, 91.310, and 91.315, and Readoption of Rules.

BACKGROUND: 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. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 2016 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 C (Members) and is recommending that no changes be made.

Notice of the review and a request for comments on the rules in this chapter was published in the November 22, 2019 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rules continue to exist.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

RECOMMENDED MOTION: I move that the Commission find that the reasons for adopting 7 TAC, Part 6, Sections **91.301, 91.302, 91.310,** and **91.315** continue to exist and that the Commission readopt these rules.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter C.	Members

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter C (relating to Chartering, Operations, Mergers, Liquidations), of the Texas Administrative Code, Title 7, Part 6, consisting of §§91.301, 91.302, 91.310 and 91.315.

The rules were reviewed as a result of the Department's quadrennial rule review under Texas Government Code §2001.039.

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter C, was published in the November 22, 2019, issue of the *Texas Register* (44 TexReg 7190). The Department received no comments on the notice of intention to review.

After reviewing these rules, the Commission finds that the reasons for initially adopting these rules continue to exist, and readopts Chapter 91, Subchapter C, §§91.301, 91.302, 91.310 and 91.315, in their entirety in accordance with the requirements of Texas Government Code, §2001.039.

The Department hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter C. Members

§91.301. Field of Membership.

(a) General. Membership in a credit union shall be limited to one or more groups, each of which (the Group) has its own community of interest and is within the credit union's local service area. In this section, local service area generally consists of one or more contiguous political subdivisions that are within reasonable proximity of a credit union's offices. Political subdivision has the meaning assigned by TEX. LOCAL GOV'T CODE §172.003(3). For purposes of field of membership, the Group as a whole will be considered to be within the local service area when:

(1) a majority of the persons in the Group live, work, or gather regularly within the local service area;

(2) the Group's headquarters is located within the local service area; or

(3) the persons in the Group are "paid from" or "supervised from" an office or facility located within the local service area.

The commissioner may impose a geographical limitation on any Group if the commissioner reasonably determines that the applicant credit union does not have the facilities and staffing to serve a larger group or there are other operational or management concerns.

(b) Other persons eligible for membership. A number of persons by virtue of their close relationship to a Group may be included in the field of membership at the option of the applicant credit union. These include:

(1) members of the family or household of a member of the Group;

(2) volunteers performing services for or on behalf of the Group;

(3) organizations owned or controlled by a member or members of the Group, and any employees and members of those organizations;

(4) spouses of persons who died while in the Group;

(5) employees of the credit union;

(6) subsidiaries of the credit union and their employees; and businesses and other organizations whose employees or members are within the Group.

(c) Multiple-groups.

(1) The commissioner may approve a credit union's original articles of incorporation and bylaws or a request for approval of an amendment to a credit union's bylaws to serve one or more communities of interest or a combination of types of communities of interest.

(2) In addition to general requirements, special requirements pertaining to multiple-Group applications may be required before the commissioner will grant such a certificate or approve such an amendment.

(A) Each Group to be included in the proposed field of membership of the credit union must have its own community of interest.

(B) Each associational or occupational Group must individually request inclusion in the proposed credit union's field of membership.

(d) Overlap protection.

(1) The commissioner will only consider the financial effect of an overlap proposed by an application to expand a credit union's field of membership or when a charter application proposes an overlap for a Group of 3,000 members or more.

(2) The commissioner will weigh the information in support of the application and any information provided by a protesting or affected credit union. If the applicant has the financial capacity to serve the financial needs of the proposed members, demonstrates economic feasibility,

complies with the requirements of this rule, and no protestant reasonably establishes a basis for denying the request, it shall be approved.

(3) If a finding is made that overlap protection is warranted, the commissioner shall reject the application or require the applicant to limit or eliminate the overlap by adding exclusionary language to the text of the amendment, e.g., "excluding persons eligible for primary membership in any occupation or association based credit union that has an office within a specified proximity of the applicant credit union at the time membership is sought." Exclusionary clauses are rarely appropriate for inclusion on a geographic community of interest.

(4) Generally, if the overlapped credit union does not submit a notice of protest form, and the department determines that there is no safety and soundness problem, an overlap will be permitted. If, however, a notice of protest is filed, the commissioner will consider the following in performing an overlap analysis:

(A) whether the overlap is incidental in nature, i.e., the group(s) in question is so small as to have no material effect on the overlapped credit union;

(B) whether there is limited participation by members of the group(s) in the overlapped credit union after the expiration of a reasonable period of time;

(C) whether the overlapped credit union provides requested service;

(D) the financial effect on the overlapped credit union;

(E) the desires of the group(s); and

(F) the best interests of the affected group(s) and the credit union members involved.

(5) Where a sponsor organization expands its operations internally, by acquisition or otherwise, the credit union may serve these new entrants to its field of membership if they are part of the community of interest described in the credit union's bylaws. Where acquisitions are made which add a new subsidiary or affiliate, the group cannot be served until the entity is included in the field of membership through the application process.

(6) Credit unions affected by the organizational restructuring or merger of a group within its field of membership must apply for a modification of their fields of membership to reflect the group to be served.

(e) Underserved communities.

(1) All credit unions may include underserved areas or areas designated as a credit union development district in accordance with Subchapter K (related to Credit Union Development Districts) in their fields of membership, without regard to location. More than one credit union can serve the same underserved community.

(2) Once an underserved community has been added to a credit union's field of membership, the credit union must establish and maintain an office or facility in the area under this subsection.

(3) A credit union desiring to add an underserved community must document that the area meets the applicable definition in §91.101 (relating to Definitions and Interpretations). In addition, the credit union must develop a business plan specifying how it will serve the community. The business plan, at a minimum, must identify the credit and depository needs of the community and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan to determine if the community is being adequately served. The commissioner may require periodic service status reports from a credit union pertaining to the underserved area to ensure that the 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.

§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.

§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.

§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.

FY 2021-2024 RULE REVIEW PLAN

F. (l) Discussion of and Possible Vote to Approve the Department's 2021-2024 Rule Review Plan as Required by Section 2001.039, Government Code.

BACKGROUND: Section 2001.39, Government Code, provides that a state agency shall review a rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. Further, each agency is required to develop a plan under which the agency will review all of its existing rules. The plan must state for each of those rules the date by which the agency will begin the review required by Section 2001.039, Government Code.

In accordance with that above cited requirement, staff developed the attached schedule for review and consideration.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the rule review plan as presented.

RECOMMENDED MOTION: I move that the Commission approve the four year plan as presented.

FY 2021 THROUGH FY 2024 RULE REVIEW PLAN

Section	Review Type	Scheduled Submission of Proposed Rule to Commission	Scheduled Submission for Final Rule to Commission
Title 7, Part 6, Chapter 97 Subchapter A-F	Regular 4 Year Review	February, 2021	May, 2021
Title 7, Part 6, Chapter 91 Subchapter A, B, J, L	Regular 4 Year Review	May, 2021	August, 2021
Title 7, Part 6, Chapter 91 Subchapter D, M, N	Regular 4 Year Review	August, 2021	November, 2021
Title 7, Part 6, Chapter 93 Subchapter A - F	Regular 4 Year Review	November, 2021	February, 2022
Title 7, Part 6, Chapter 91 Subchapter G	Regular 4 Year Review	February, 2022	May, 2022
Title 7, Part 6, Chapter 95 Subchapter A - D	Regular 4 Year Review	May, 2022	August, 2022
Title 7, Part 6, Chapter 91 Subchapter E, F	Regular 4 Year Review	August, 2022	November, 2022
Title 7, Part 6, Chapter 91 Subchapter H, I	Regular 4 Year Review	November, 2022	February, 2023
Title 7, Part 6, Chapter 91 Subchapter O, K	Regular 4 Year Review	February, 2023	May, 2023
Title 7, Part 6, Chapter 91 Subchapter C	Regular 4 Year Review	May, 2023	August, 2023

FY 2021 THROUGH FY 2024 RULE REVIEW PLAN

Section	Review Type	Scheduled Submission of Proposed Rule to Commission	Scheduled Submission for Final Rule to Commission
Title 7, Part 6, Chapter 91 Subchapter P, Q	Regular 4 Year Review	August, 2023	November, 2023
Title 7, Part 8, Chapter 151	Regular 4 Year Review	November, 2023	February, 2024
Title 7, Part 8, Chapter 152	Regular 4 Year Review	February, 2024	May, 2024
Title 7, Part 8, Chapter 153	Regular 4 Year Review	May, 2024	August, 2024

INTERNAL RISK ASSESSMENT REPORT

G. Department's Annual Risk Assessment Report for FY 2020 as Required by Section 2102.004, Government Code.

BACKGROUND: Section 2102.013 of the Texas Government Code requires state agencies which meet certain requirements to conduct a formal risk assessment each year and submit the assessment to the State Auditor's Office. The Department has completed the internal risk review and has prepared the required written assessment of the risks for submission to the State Auditor's Office.

RECOMMENDED ACTION: The Department requests that the Commission approve the 2020 Internal Risk Assessment Report and authorize its submission to the State Auditor's Office.

RECOMMENDED MOTION: I move that the Commission approve the Department's Internal Risk Assessment Report for FY 2020 and authorize its submission to the State Auditor's Office.

Small Agency Risk Assessment - Fiscal Year 2020
Activities from Brainstorming - Credit Union Department

1	perform regular and remedial credit union examinations	13	purchasing (equipment, supplies, services)	25	approve/ deny applications	37	maintain security of office building	49	
2	monitor credit unions	14	report to state agencies	26	pay bills	38	work with federal regulator(s)	50	
3	answer questions from credit unions and public	15	prepare, edit and issue examination reports	27	maintain financial records	39	work with state regulating agencies	51	
4	hire employees	16	manage office paperwork	28	prepare/submit financial reports to applicable parties	40	prepare for new programs	52	
5	maintain employee policies & records	17	comply with state/ federal regulations	29	maintain the agency's server, desktop/laptop computer security	41	maintain NASCUS accreditation	53	
6	manage employees	18	respond to credit union member complaints (of credit union and agency)	30	cybersecurity-raising awarenes and educating users	42	maintain building and its infrastructure	54	
7	manage/monitor examiner travel	19	manage computer system, including hardware and software	31	maintain agency website	43	maintain all agency's assset inventory	55	
8	manage examination schedule	20	issue interpretations and opinions	32	Meet the IT requirements of the agency and all stakeholders	44	maintain agency's consumable supply inventory	56	
9	meet with industry representatives	21	review, revise rules	33	Inventory and maintain database of IT infrastructure and IT assets	45	Maintain Risk Management program	57	
10	hold Commission & committee meetings	22	publishing rules	34	maintain agency procedures and policies	46	Maintain Continuity of Operations Plan	58	
11	hold public hearings	23	provide new rules to credit unions	35	report to Legislature	47		59	
12	report to Commission	24	receive, review, & publish applications	36	draft legislation	48		60	

Small Agency Risk Assessment - Fiscal Year 2020
Consolidated Activities - Credit Union Department

CONSOLIDATED ACTIVITIES
Finance and Accounting
Purchasing
IT Infrastructure and cybersecurity
Human Resources Management
Process, Investigate, and Evaluate Applications
Complaints and Education
Perform Cost-Effective Comprehensive Examinations of Credit Unions

	PRIORITIZED CONSOLIDATED ACTIVITIES
1	Perform Cost-Effective Comprehensive Examinations of Credit Unions
2	Process, Investigate, and Evaluate Applications
3	Finance and Accounting
4	IT Infrastructure and cybersecurity
5	Purchasing
6	Human Resources
7	Complaints and Education
8	

Small Agency Risk Assessment - Fiscal Year 2020
Risk Assessment Table - Pre-Controls - Credit Union Department

PRIORITY	CONSOLIDATED ACTIVITY	IMPACT RATING	PROBABILITY RATING	RISKS 1	IMPACT RATING	PROBABILITY RATING	RISKS 2	IMPACT RATING	PROBABILITY RATING	RISKS 3	IMPACT	PROBABILITY RATING	RISKS 4	IMPACT RATING	PROBABILITY RATING	RISKS 5	IMPACT RATING	PROBABILITY RATING	RISKS 6	IMPACT RATING	PROBABILITY RATING	RISKS 7	IMPACT RATING	PROBABILITY RATING	RISKS 8	IMPACT RATING	PROBABILITY RATING	RISKS 9
1	Examination & supervision	M	H	Inconsistent Enforcement	H	H	Employee Turnover/ Inexperienced Staff/Morale Issues	M	H	Inconsistent Exam Procedures/ Exam Integrity	H	M	Loss of Agency Credibility	H	H	Lack of Adequate Training for Staff	H	H	Failure of CUs	M	H	Failure to Meet Deadlines	H	M	Loss of CUs as Low Cost Financial Institutions			
2	Evaluate Applications	M	M	Information Not Accessible to Credit Unions	L	L	Failure to Meet Deadlines	H	M	Inaccurate Information Provided	M	M	Inconsistent Approval	H	M	Weaker CU System	M	L	Loss of Agency Credibility									
3	Finance & Accounting	H	M	Insufficient Fees Collected	H	M	Theft/ Embezzlement	M	M	Loss of Assets	H	M	Overspending Budget	H	M	Inaccurate Payroll Processing	H	M	Lack of Backup	H	M	Non-Compliance with APS	M	H	Inaccurate Reporting			
4	IT Infrastructure and security	H	H	Department Applications unavailability or Failure	H	H	System Security Breach (External)	M	M	Hardware Failure	H	H	System Security Vulnerabilities	H	M	Lost or Compromised Data	H	M	IT Staff Turnover/No Backup	H	H	Internal/Employee Harm to Data or Equipment	M	H	IT Services Unavailability			
5	Purchasing	H	M	Fraudulent or unauthorized Purchasing	H	M	Late Delivery of Critical Items	M	H	Incorrect Coding	M	H	Lack of Authorization/ Failure to Follow Purchasing Rules	M	H	Insufficient HUB Purchases	M	M	Wasteful Purchases	M	M	No Delivery Slip	M	H	Loss of Delegated Authority	M	M	Inventory Control
6	Human Resources	H	M	Inadequate staff coverage due to turnover	M	M	Inaccurate Assessment of Employees	M	M	Worker's Comp/ Unemployment Claims	H	H	Non-Compliance with Laws/ Changes in Laws	H	M	Lawsuits	M	L	Poor Morale from Low Salary or Benefits	M	L	Absenteeism						
7	Complaints & Education	M	H	Inadequate investigation of complaints	H	M	Loss of Agency Credibility	M	M	Inaccurate Information Provided																		

Small Agency Risk Assessment - Fiscal Year 2020
Risk Management Table - Credit Union Department
Consolidated Activity

RISKS → / CONTROL STEPS ↓	Inconsistent enforcement	Employee turnover/ inexperienced staff/morale issues	Inconsistent exam procedures/ exam integrity	Loss of Agency Credibility	Lack of adequate training for staff	Failure of CUs	Failure to meet deadlines	Loss of CUs as low cost financial institutions	
Standardized exam software program	x		x	x	x	x	x		
Review of all exam reports by Department (random sample reviewed by Field Supervisors)	x		x	x	x	x	x	x	
NASCUS accreditation & annual review	x		x	x	x	x		x	
Joint oversight with deposit insurer	x		x	x	x	x		x	
Training program (including OTJ training and specialized courses)	x	x	x	x	x	x	x	x	
Regular employee performance evaluations	x	x	x	x	x		x		
Quarterly monitoring of CU financial data by both field and office staff	x	x	x	x	x	x		x	
Periodic rule review by Commission	x		x	x		x		x	
Career ladder/merit raises		x		x					
Experienced management oversight	x	x	x	x	x	x	x	x	
Examiner's Guide	x		x	x	x	x		x	
Performance measures	x			x	x		x		
Management information systems	x		x	x	x	x	x		
Technology tools for field examiners	x	x	x	x	x	x	x	x	

Small Agency Risk Assessment - Fiscal Year 2020
Risk Assessment Table - Post-Controls - Credit Union Department

PRIORITY	CONSOLIDATED ACTIVITY	IMPACT RATING	PROBABILITY RATING	RISKS	IMPACT RATING	PROBABILITY RATING	RISKS	IMPACT RATING	PROBABILITY RATING	RISKS	IMPACT	PROBABILITY RATING	RISKS	IMPACT RATING	PROBABILITY RATING	RISKS	IMPACT RATING	PROBABILITY RATING	RISKS	IMPACT RATING	PROBABILITY RATING	RISKS	IMPACT RATING	PROBABILITY RATING	RISKS	IMPACT RATING	PROBABILITY RATING	RISKS
				1			2			3			4			5			6			7			8			9
1	Examination & Supervision	M	L	Inconsistent Enforcement	H	M	Employee Turnover/ Inexperienced Staff	M	L	Inconsistent Exam Procedures/ Exam Integrity	H	L	Loss of Agency Credibility	H	L	Lack of Adequate Training for Staff	H	M	Failure of CUs	M	L	Failure to Meet Deadlines	H	L	Loss of CUs as Low Cost Financial Institutions			
2	Evaluate Applications	M	L	Information Not Accessible to Credit Unions	M	L	Failure to Meet Deadlines	M	L	Inaccurate Information Provided	M	L	Inconsistent Approval	M	L	Weaker CU System	M	L	Loss of Agency Credibility									
3	Finance & Accounting	H	L	Insufficient fees collected	H	L	Theft/ Embezzlement	M	L	Loss of Assets	H	L	Overspending Budget	H	L	Inaccurate Payroll Processing	H	L	Lack of Backup	H	L	Non-Compliance with APS	M	L	Inaccurate Reporting			
4	IT Infrastructure and security	H	M	Department Applications Failure	M	L	System Security Breach (External)	H	L	Hardware Failure	H	L	System Security Vulnerabilities	M	L	Lost or Compromised Data	H	M	Employee Turnover/No Backup	M	L	Employee Harm to Data or Equipment	M	L	IT Services Unavailability			
5	Purchasing	H	L	Fraudulent Purchasing	H	L	Late Delivery of Critical Items	M	L	Incorrect Coding	M	L	Lack of Authorization/ Failure to Follow Purchasing Rules	M	L	Insufficient HUB Purchases	M	L	Wasteful Purchases	M	L	No Delivery Slip	M	L	Loss of Delegated Authority	M	M	Inventory Control
6	Human Resources	M	M	Inadequate staff coverage due to turnover	M	L	Inaccurate Assessment of Employees	M	L	Worker's Comp/ Unemployment Claims	H	L	Non-Compliance with Laws/ Changes in Laws	M	L	Lawsuits	M	M	Poor Morale	M	L	Absenteeism						
7	Complaints & Education	M	M	Inadequate investigation of complaints	M	L	Loss of Agency Credibility	M	L	Inaccurate Information Provided																		

Small Agency Risk Assessment - Fiscal Year 2020
Significant Changes in
Risk Assessment - Credit

NEW Activities, Risks, and/or Controls from Prior Year Submission **List by Consolidated Activity**	Fire alarm system was inspected and tested. Replaced batteries in system.
	Completed SORM Physical risk management audit of the Credit Union Department building. Findings and recommendations were implemented.
REVISIONS or DELETIONS in Activities, Risks, and/or Controls from Prior Year Submission **List by Consolidated Activity**	Conducted an ergonomic assessment for staff and implemented changes that will mitigate fatigue due to long seating periods.
	Posted emergency egress routes in every room and common area.
	Fire alarm system was inspected and tested. Replaced batteries in system.

Small Agency Risk Assessment - Fiscal Year 2020
Audit History - Credit Union Department

Fiscal Year Conducted	Type of Audit/Review	Audited/Reviewed Activity	Entity Conducting Audit/Review
2018	Post Payment Audit	Payroll, Purchasing, Procurement and Travel Expenditures compliance with state laws and regulations	Comptroller of Public Accounts
2019	Risk Management Program Review	• The SORM-200 data for FY18 was reviewed for completeness and accuracy. • The agency's Annual Report, COOP Plan, Emergency Procedures Manual, Safety & Health Manual, and Personnel Manual were reviewed. • The Risk Evaluation and Planning System Questions (REPS) were reviewed. • SORM reviewed and discussed the following workers' compensation insurance data and claims with CUD during the consultation. • SORM conducted an On-Site Consultation (OSC) of CUD, performing a walkthrough of the agency.	State Office of Risk Management
2020	SORM Building Risk Management	Credit Union Department building inspection and walk-through. Findings and recommendations were implemented.	State Office of Risk Management

POLICIES MANUAL

H. Credit Union Commission's Policies Manual, Annual Policy Review.

BACKGROUND: In accordance with policy, the Commission is required to review its policies manual at least once each year. At this time, staff has no recommendation for changes to any of the policies contained in the Manual.

RECOMMENDED MOTION: Unless the Commission members have suggested modifications to the policies, the record will reflect that the Commission has reviewed the manual and no modifications are necessary at this time.

RESOLUTIONS COMMEMORATING CREDIT UNIONS

I. Resolutions Commemorating American Baptist Credit Union, and Brazos Community Credit Union for their Contributions to the Citizens of Texas on the Respective Milestone Anniversary Dates of their Origin.

BACKGROUND: In accordance with Section VII. D of the Commission's Policies Manual, the Commission may adopt resolutions honoring credit unions for reaching certain milestones dates.

RECOMMENDED MOTION: I move that we adopt the Resolutions Commemorating **American Baptist Credit Union, and Brazos Community Credit Union** for their Contributions to the Citizens of Texas on the Respective Milestone Anniversary of their Origin and that a copy of the appropriate resolutions be mailed to the credit unions.

CONGRATULATORY RESOLUTION

Whereas, American Baptist Association Credit Union, Alvin, Texas, was issued Charter #699 and opened for business on March 17, 1970, under the name of American Baptist Association Credit Union; and

Whereas, American Baptist Association Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and

Whereas, American Baptist Association Credit Union holds total assets in excess of $2.1 million as of December 31, 2019, reflecting strong performance and capable management; now therefore,

Be it Resolved, that the Credit Union Commission congratulates **American Baptist Association Credit Union** on its **50** years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and

Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.

READ, ADOPTED, AND APPROVED unanimously by the Credit Union Commission, State of Texas, this 7th day of February, 2020.

_____

Yusuf E. Farran, Chairman

CONGRATULATORY RESOLUTION

Whereas, Brazos Community Credit Union, Alvin, Texas, was issued Charter #705 and opened for business on August 31, 1970, under the name of Amoco Chemical Employees Credit Union; and

Whereas, Brazos Community Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and

Whereas, Brazos Community Credit Union holds total assets in excess of $20.3 million as of September 30, 2019, reflecting strong performance and capable management; now therefore,

Be it Resolved, that the Credit Union Commission congratulates **Brazos Community Credit Union** on its **50** years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and

Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.

READ, ADOPTED, AND APPROVED unanimously by the Credit Union Commission, State of Texas, this 7th day of February, 2020.

_____

Yusuf E. Farran, Chairman

FUTURE COMMISSION MEETING

J. Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for May 8, 2020.

- Discussion of Agenda Format

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION

Affirmative Action/EEO Quarterly Report

1st Quarter – Fiscal Year 2020

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex

Race	Sex		Annual Salary	Tenure	
ASIAN					
	Summary for M (3 detail records)	$	76,692	9.26	Avg
Summary for 'Race' = ASIAN (3 detail records)		**$**	**76,692**	**9.26**	**Avg**
BLACK					
	Summary for F (3 detail records)	$	98,153	10.64	Avg
	Summary for M (2 detail records)	$	72,615	4.59	Avg
Summary for 'Race' = BLACK (5 detail records)		**$**	**87,938**	**8.22**	**Avg**
HISPA					
	Summary for F (6 detail records)	$	59,236	8.80	Avg
	Summary for M (2 detail records)	$	79,132	1.90	Avg
Summary for 'Race' = HISPA (8 detail records)		**$**	**64,210**	**7.07**	**Avg**
MULTI					
	Summary for F (1 detail record)	$	36,050	0.71	Avg
Summary for 'Race' = MULTI (1 detail record)		**$**	**36,050**	**0.71**	**Avg**
WHITE					
	Summary for F (1 detail record)	$	58,632	6.37	Avg
	Summary for M (11 detail records)	$	102,346	10.65	Avg
Summary for 'Race' = WHITE (12 detail records)		**$**	**98,703**	**10.29**	**Avg**
TOTALS					
	29	**$**	**82,894**	**8.61**	**Avg**

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex (FIELD STAFF)

Race	Sex		Annual Salary	Tenure	
ASIAN					
	Summary for M (3 detail records)	$	76,692	9.26	Avg
Summary for 'Race' = ASIAN (3 detail records)		**$**	**76,692**	**9.26**	**Avg**
BLACK					
	Summary for F (3 detail records)	$	98,153	10.64	Avg
	Summary for M (2 detail records)	$	72,615	4.59	Avg
Summary for 'Race' = BLACK (5 detail records)		**$**	**87,938**	**8.22**	**Avg**
HISPA					
	Summary for F (3 detail records)	$	64,534	4.05	Avg
	Summary for M (1 detail record)	$	51,646	0.85	Avg
Summary for 'Race' = HISPA (4 detail records)		**$**	**61,312**	**3.25**	**Avg**
WHITE					
	Summary for M (6 detail records)	$	88,336	13.68	Avg
Summary for 'Race' = WHITE (6 detail records)		**$**	**88,336**	**13.68**	**Avg**
TOTALS					
	18	**$**	**80,279**	**9.11**	**Avg**

TEXAS CREDIT UNION DEPARTMENT

Employee Breakout by Experience Level (FIELD STAFF)

Summary for 'EXPLEVEL' = < 1 YEAR					
	Count	1	$	51,646	Avg
Summary for 'EXPLEVEL' = 2 TO 5 YEARS					
	Count	9	$	64,236	Avg
Summary for 'EXPLEVEL' = 5 TO 10 YEARS					
	Count	3	$	89,508	Avg
Summary for 'EXPLEVEL' = MORE THAN 10 YEARS					
	Count	5	$	109,346	Avg
		18	$	80,279	Avg

TEXAS CREDIT UNION DEPARTMENT

Current Ethnicity and Sex Breakout

Race	F	M	
ASIAN		3	
WHITE	1	11	
MULTI	1		
BLACK	3	2	
HISPA	6	2	
	11	18	29
	37.93%	62.07%	

Credit Union Department

Executive Summary

As of 11/30/19

*Information from call report cycle

ACTIVITY	YTD 2018	YTD 2019	2020 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MOVEMENT PROFILE							
Number of CUs	185	181	180				
Total Assets (Millions)	*41,451	*43,434	43,737*	*	*	*	
APPLICATIONS (Received)							
Charters	0	0	0				0
Foreign Branches	0	1	0				0
Conversions	1	0	0				0
Mergers	5	2	0				0
Bylaws	67	58	2				2
Articles of Incorporation	2	3	0				0
Total	75	64	2				2
EXAMINATION ACTIVITIES							
Regular	74	88	23				23
Joint	77	63	17				17
Remedial	34	31	10				10
Total	185	182	50	0	0	0	50
ENFORCEMENT ACTIONS (In Force)							
Determination Letters	3	1	0				
LUAs	0	0	0				
Cease & Desist Orders	2	2	1				
Dividend Restrictions	0	0	0				
Conservatorships	0	0	1				
Liquidations	1	1	1				
Total	6	4	3	0	0	0	
PERSONNEL STAFFING							
Field Examiners	18	19	18				
Total Personnel	28	29	28				
FINANCIAL OPERATIONS (In Thousands)							
Budgeted Expenditures	4,063	4,262	1,100	0	0	0	1,100
Actual Expenditures	3,874	3,904	949	0	0	0	949
Gifts and Bequests	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Actual Revenue	3,991	4,102	2,333	0	0	0	2,333

Credit Union Department

Application Activities - Detail

ACTIVITY	4th Qtr 2018	4th Qtr 2019	2020 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
CHARTERS							
Pending at Beginning of Period	0	0	0				
Add: New Applications Filed	0	0	0				
Less: Approved	0	0	0				
Denied/Withdrawn	0	0	0				
Pending at End of Period	0	0	0	########	########	########	
FOREIGN BRANCH OFFICES							
Pending at Beginning of Period	0	1	0				
Add: New Applications Filed	0	0	0				
Less: Approved	0	1	0				
Denied/Withdrawn	0	0	0				
Pending at End of Period	0	0	0	########	########	########	
CONVERSIONS							
Pending at Beginning of Period	0	0	0				
Add: Applications Filed	0	0	0				
Less: Approved	0	0	0				
Denied/Withdrawn	0	0	0				
Pending at End of Period	0	0	0	########	########	########	
MERGERS							
Pending at Beginning of Period	3	4	3				
Add: Applications Filed	3	1	0				
Less: Approved	1	2	1				
Denied/Withdrawn	0	0	0				
Pending at End of Period	5	3	2	########	########	########	
BYLAWS							
Pending at Beginning of Period	7	16	4				
Add: Applications Filed	35	8	2				
Less: Approved	20	19	6				
Denied/Withdrawn	1	1	0				
Pending at End of Period	21	4	0	########	########	########	
ARTICLES OF INCORPORATION							
Pending at Beginning of Period	1	0	1				
Add: Applications Filed	0	1	0				
Less: Approved	1	0	1				
Denied/Withdrawn	0	0	0				
Pending at End of Period	0	1	0	########	########	########	

Credit Union Department
Movement Profile - Condition Summary

CAMEL RATING	4th Qtr 2018	4th Qtr 2019	2020 FISCAL YEAR				
			*1st Qtr	*2nd Qtr	*3rd Qtr	*4th Qtr	
1	45	50	50				
2	115	110	106				
3	21	19	21				
4	4	2	2				
5	0	0	0				
Total	185	181	179	#VALUE!	#VALUE!	#VALUE!	

* Information from exam master list

Texas Credit Union Department
Enforcement Actions - Detail

TYPE OF ACTION	In Force 8/31/2018	Issued	Activity Terminated	In Force 8/31/2019	Issued	Activity Terminated	In Force 11/30/2019
Determination Letters	3	0	3	0	0	0	0
LUAs	0	0	0	0	0	0	0
Cease & Desist Orders	2	1	1	2	1	2	1
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	0	0	0	0	1	0	1
Liquidations	1	1	1	1	0	0	1
Total	6	2	5	3	2	2	3

Texas Credit Union Department
Examination Activities
Analysis of Current Year

TYPE OF EXAM	Budgeted Number	Actual Number	% Budget	% of Total	% Mailed Within 21 Days
Regular	20	23	115%	13%	100%
Joint	14	17	121%	9%	100%
Remedial	6	10	167%	6%	100%
Total	40	50	125%	31%	100%

Credit Union Department
Movement Profile - Consumer Complaints

CONSUMER COMPLAINTS	YTD 2018	YTD 2019	2020 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Received	351	363	88				88
Closed	338	376	85				85
Avg. Days to Process	13.75	15.5	17				17
% Resolved in 30 Days	100%	98%	93%				

Texas Credit Union Department
Consumer Complaint - Detail

TYPES OF COMPLAINTS	YTD 2018	YTD 2019	2020 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
LOAN ISSUES							
Collections/Loans	14	14	2				2
Denial	0	0					0
Loan Issues	2	5					0
Credit Report Issues	57	89	12				12
Insurance - CPI, GAAP, Property, etc	7	7					0
ACCOUNT ISSUES							
Discriminiation	0	0					0
Electronic Funds Transfer	12	10	4				4
Holds on Checks	8	10					0
Estate/Probate	3	2					0
Fraud/Unauthorized	28	33	7				7
Fees	51	26	7				7
Billing Disputes	10	13	5				5
Other	75	66	26				26
OTHER PRODUCTS/SERVICES							
Account/Loan Balance	23	39	12				12
Account Closed/Frozen	8	8	3				3
Customer Service	24	38	4				4
Deceptive Advertisment	2	5	2				2
Vehicle Title	6	7					0
Website Issues	2	2	1				1
TOTAL	332	374	85	0	0	0	85

Credit Union Department

Merger/Conversion Finalized

ACTIVITY	YTD 2018	YTD 2019	2020 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MERGERS							
Number:							
State-to-State	1	1					**0**
Federal-to-State	2	4	1				**1**
State-to-Federal	1	2					**0**
Total	**4**	**7**	**1**	**0**	**0**	**0**	**1**
Assets:							
State-to-State	2,863,489	2,863,489					0
Federal-to-State	6,006,873	69,246,226	2,352,989				2,352,989
State-to-Federal	10,871,461	24,000,070					0
Total	**19,741,823**	**96,109,785**	**2,352,989**	**0**	**0**	**0**	**2,352,989**
CONVERSIONS							
Number:							
Federal-to-State	4	0	0	0	0		**0**
State-to-Federal	0	0	0	0	0		**0**
State-to-Mutual Bank	0	0	0	0	0		**0**
Assets:							**0**
Federal-to-State		-					**0**
State-to-Federal							**0**
State-to-Mutual Bank							**0**
Total	**-**	**-**	**0**	**0**	**0**	**0**	**0**

Credit Union Department

Quarter Assessment of HUB Related Activities

November 30, 2019

Q1

PROCUREMENT CATEGORY	GOAL	QTR PERFORMANCE	YTD PERFORMANCE
Heavy Construction	11.2%	*	*
Building Construction	21.1%	*	*
Special Trade Construction	32.9%	0.00%	0.00%
Professional Services	23.7%	0.00%	0.00%
Other Services	26.0%	30.85%	30.85%
Commodities	21.1%	14.19%	14.19%

***This goal is generally not applicable to the Department**

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Total Expenditure During This Quarter							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Building Construction	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Special Trade	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Professional Services	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Other Services	$ -	$ -	$ -	$ -	$ -	$ 18,290.69	$ 8,159.03
Commodities	$ -	$ -	$ -	$ -	$ -	$ 4,940.00	$ 816.84

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized This Quarter							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	0	0	0	0	0	0	0
Building Construction	0	0	0	0	0	0	0
Special Trade	0	0	0	0	0	0	0
Professional Services	0	0	0	0	0	0	0
Other Services	0	0	0	0	0	16	0
Commodities	0	0	0	0	0	6	0

Credit Union Department

Year to Date Assessment of HUB Related Activities

November 30, 2019

YTD

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Total Expenditure YTD							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Building Construction	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Special Trade	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Professional Services	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Other Services	$ -	$ -	$ -	$ -	$ -	$ 18,290.69	$ 8,159.03
Commodities	$ -	$ -	$ -	$ -	$ -	$ 4,940.00	$ 816.84

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized YTD							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	0	0	0	0	0	0	0
Building Construction	0	0	0	0	0	0	0
Special Trade	0	0	0	0	0	0	0
Professional Services	0	0	0	0	0	0	0
Other Services	0	0	0	0	0	16	0
Commodities	0	0	0	0	0	6	0

African American (MBL, FBL)
Asian American (MAS, FAS)
Hispanic American (MHI, FHI)
Native American (VVV, VVY)
Non-Minority Woman (FWO)

YTD Calculations Include:
Q1

Credit Union Department
Web Site Statistics
Report Range:09/01/19 thru 11/30/19

		Number
Total Visits:		
	Number of Visits	5,262
	Visitors	2,943
	Page Views	11,195
	Number of Repeat Visitors	2,578
	Average Pages per Visit	2.13
	Average Visit Duration	0:02:11
	New Visitors	50.97%
Most Requested Pages:	**Home**	4,378
	Texas Rules for Credit Unions	709
	Job Postings	695
	Employment	525
	Department Newsletter	369
Most Downloaded Files:	**Rules for Credit Unions**	386
	Job Position	269
	Press Release 09/27/19	197
	Job Description	87
	Finance Code - Unofficial Compilation	76