



CREDIT UNION COMMISSION MEETING

(via audio/videoconference)

Austin, Texas

March 5, 2021

9:00 a.m.

AGENDA

Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, this meeting of the Texas Credit Union Commission will be held via webinar/telephonic conference call, as authorized under Texas Government Code Section 551.127.

Members of the public will have access and a means to participate in this meeting, by two-way audio or video conference. Members wishing to attend the meeting will find a link to the meeting on the Department's webpage at www.cud.texas.gov on the day of the meeting.

An electronic copy of the agenda is now available at www.cud.texas.gov under Credit Union Commission, Commission Meetings, along with a copy of the meeting materials. A recording of the meeting will be available after March 12, 2021. To obtain a recording, please contact Isabel Velasquez at 512-837-9236.

For public participants, after the meeting convenes, the Chairperson will call roll. Please identify yourself by name and state whether you would like to provide public comment. You may also email isabel.velasquez@cud.texas.gov in advance of the meeting if you would like to provide public comment. When the Board reaches the public comment item, the Chairperson will recognize you by name and give you an opportunity to speak. All public comments will be limited to five minutes.

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

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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, June 4, 2021

Friday, August 27, 2021

Friday, November 5, 2021

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 6, 2020 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 6, 2020 be approved as presented.

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
(Via video/teleconference only)
914 East Anderson Lane, Austin, Texas
November 6, 2020

A. CALL TO ORDER -- Chair Yusuf Farran called the meeting to order at 9:06 a.m. via video/teleconference, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included, Karyn Brownlee, Beckie Stockstill Cobb, Steven “Steve” Gilman, Sherri Merket, David Shurtz, and Kay 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 22, 2020 TRD#2020006137**).

❖ RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES –

Chair Farran inquired if there were any requests or motions to excuse an absence. Mrs. Merket moved to excuse Commission Member Jim Minge from the Commission meeting on November 6, 2020. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

❖ GENERAL PUBLIC COMMENT -- Chair Farran invited public input on matters that were not scheduled items on the agenda for possible future consideration by the Commission. No public comments were received.

B. MINUTES OF PREVIOUS MEETING (August 7, 2020) -- The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet and asked for any proposed edits. Hearing none the Chair asked for

a motion to approve the minutes. Mrs. Brownlee moved for approval of the minutes of August 7, 2020 as presented. Mrs. Bayless seconded the motion, and the commission carried the motion unanimously.

C. DEPARTMENT'S ACTIVITIES RELATED TO COVID-19 --

Commissioner Kolhoff reported that things had started to slow down on the COVID-19 side, and we were seeing progress. Among other states and the state of Texas have started opening; unfortunately, the last three to four weeks we have seen somewhat of a resurgence, particularly in the last week or so. Credit unions have had to close their branches back down again because of potential of real exposure of their branches. The fortunate thing is most of the credit unions were still operating lobby hours on a limited basis and by appointment. Furthermore, the credit union system continues to work very well with what is going on by providing services through their internet, mobile phone applications and drive thru delivery channels. Overall, credit unions are continuing to meet the needs of the membership despite an increase in cases since this meeting packet was put together for today's meeting.

After a brief discussion, no formal action was taken by the Commission.

D. DEPARTMENT'S FY 2020 FINANCIAL PERFORMANCE --

Commissioner Kolhoff reported that at the end of the 4th Quarter FY 2020 total expenditures were \$547,618, which was 12% below our budgeted projections. Almost all budget lines performed below budgeted levels apart from additional maintenance costs for YTD 2020 and additional benefits totaling approximately \$17,746. Mr. Kolhoff explained that relating to travel costs, our staff has been conducting exams remotely which has cut down on travel expenses. However, while most travel is restricted there have been some required travel to certain institutions when necessary to collect information or address regulatory concerns. In those cases, appropriate precautions are taken by staff.

❖ **Commission Member Karyn Brownlee** raised the question of what things had to be done onsite and trusting that appropriate precautions were implemented that could not be done remotely. Mr. Kolhoff responded that a few institutions have had issues requiring our onsite presence to get a clear picture of what was going on including some fraudulent activity that occurred at one institution. We have also encountered institutions that experienced difficulty digitizing their files to be sent through the portal securely.

❖ **Commission Chairman Yusuf Farran** raised the question of us being up to date in conducting examinations. Mr. Kolhoff responded that the examiners are conducting examinations all year long even though we are dealing with this pandemic.

A lengthy discussion of the examination and complaint process followed with Mr. Kolhoff responding to several questions.

❖ **A member of the public, Melodie Durst, Executive Director, Credit Union Coalition of Texas** shared that the Coalition has received very positive feedback from credit unions regarding the examination process and examiners are doing a good job.

After a lengthy discussion, no formal action was taken by the Commission.

E. POLICY CHANGES TO REFLECT CONTINGENCY FUND INCREASE – Commissioner Kolhoff reported that the Commission approved as part of its FY 2021 budget, an increase in several accounts of the Contingency Fund Reserve. The proposed policy changes reflect minor grammatical changes, the deletion of the requirement to acknowledge historic contributions by credit unions found in item VII (d), and the inclusion of those Contingency Fund Reserve changes

into the Credit Union Commission Policy Manual. The funding changes in the policy reflect amounts already approved by the Commission as a strategic initiative funding increase #3 at the August 7, 2020 meeting.

After a short discussion, Mr. Shurtz moved that the Commission approve the Commission Policy Manual to reflect the new funding of additional reserve funds and deletion of the requirement to acknowledge historic credit union achievements found in item VII (d). Mrs. Merket seconded the motion, and the motion was unanimously adopted.

F. CONSIDERATION OF THE REPORT AND RECOMMENDATIONS OF THE COMMISSIONER EVALUATION COMMITTEE RELATED TO THE COMMISSIONER'S FY 2020 PERFORMANCE REVIEW AND FY 2021 REMUNERATION — Mr. Farran 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 2021 remuneration. The Commission entered into executive session at 10:11 a.m. and reconvened in open session at 11:21 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.

Commission Member Merket was excused from the meeting at 11:30 am due to a scheduling conflict.

The Chair asked for a motion regarding the Commissioner's FY 2020 performance evaluation. Mrs. Swan moved to approve the FY 2020 Commissioner

Evaluation as recommended by the Commissioner Evaluation Committee. Mr. Shurtz seconded the motion, and the motion was unanimously adopted.

The Chair opened the discussion regarding the Commissioner's FY 2021 performance evaluation form. A short discussion followed regarding the appropriateness of adding some special projects to the Commissioner Evaluation for FY 2021. It was the consensus of the Commission that it is important for the Department in FY 2021 to hire a General Counsel, find a solution to the leaking roof, and bring the restrooms to ADA compliance. Mr. Gilman moved to approve adding the discussed tasks as special projects for FY 2021 evaluation form and to approve adjusting the weighted percentages on the evaluation form to reflect Commission Assessment to 20%, Performance Objectives to 70%, and Special Projects to 10%. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

The Chair of the Commissioner Evaluation Committee, Mrs. Cobb, made a motion to increase the Commissioner's salary by \$2,500 (to a salary of \$192,500 annually) effective January 1, 2021. The motion was seconded by Mrs. Brownlee and passed on a vote of 6 to 1 with Mr. Farran opposing the motion.

G. STATE CREDIT UNION SYSTEM – Commissioner Kolhoff indicated the information presented in this packet is based on the last financial numbers available and that Mr. Etheridge would proceed with a more detailed report on the state credit union system. Mr. Etheridge reported that many of the credit unions continue to perform well. While some individual credit unions have experienced financial performance deterioration due to the economic downturn associated with the pandemic, the overall performance of the Texas industry has been commendable. The second quarter 2020 earnings performance data for credit unions reflects that satisfactory levels of net income are being achieved to cover operating costs and build net worth levels. However, the biggest challenge for credit unions has been in

controlling asset growth driven primarily by stimulus deposits, to prevent dilution of net worth ratios. The first six months of 2020, the assets of credit unions have grown by 19.95 percent (3 to 4 times the norm), outpacing net worth growth of 5.23 percent. This has resulted in a year-to-date decline in net worth ratios of 6.8 percent. Furthermore, loan delinquencies and charge-offs levels have remained well controlled, as many credit unions have provided loan deferments to their borrowers. Mr. Etheridge expressed the need for the Department to continue work collaboratively with Texas charters to safeguard the financial interests of millions of Texans and work cooperatively with our credit unions in order that they may endure the serious hardships they are and will be facing.

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

H. SUNSET REVIEW – Commissioner Kolhoff reported that the Sunset Advisory Commission staff report was issued August 2020 noting minor issues but recommending continuation of the Department and the Commission as in independent, Self-Directed Semi Independent supervisory agency. The Department agreed to address all the concerns raised by the Sunset staff but did recommend two statutory changes could be address more efficiently through changes within internal management practices instead of statutory changes. The Sunset Advisory Commission Staff report and the Department’s response can be found [\(here\)](#).

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

I. RULEMAKING MATTERS (HOME EQUITY RULES PROPOSAL)

Adoption of Amendments, a New Rule, and a Repeal in 7 TAC, Part 8, Chapter 151, Concerning Home Equity Lending Procedures, and Chapter 153, Concerning Home Equity Lending, Resulting from Rule Review. Commissioner

Kolhoff reported that the Finance Commission and our Commission have completed the rule review of the following chapters of the Texas Administrative Code, Title 7, Part 8, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

After a short discussion, Mr. Gilman moved that the Commission approve the adoption of the amendments, new rule, and repeal in **7 TAC Chapters 151 and 153**. Mr. Shurtz seconded the motion, and motion was unanimously adopted.

J. Future Commission Meetings: Agenda Items, Arrangements, and Dates. Chair Farran reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for March 5, 2021 at 9:00 a.m., in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Farran adjourned the meeting at 12:05 p.m.

Yusuf E. Farran
Chairman

Isabel Velasquez
Recording Secretary

Distribution:

Legislative Reference Library

FOLLOW-UP ACTION REPORT

CREDIT UNION COMMISSION MEETINGS

| MINUTES DATE AND REFERENCE/TOPIC | FOLLOW-UP ACTION REQUIRED | STATUS (As of 01-27-2021) |
|--|---|--|
| <u>November 6, 2020</u> | | |
| Chapter 151, Part 8 The Home Equity Lending Law 151.1 | Published in <i>Texas Register</i> as adopted Interpretation. | Published in <i>Texas Register</i> on 11/20/20 |
| 151.2, 151.3, 151.4 151.5, 151.6, and 151.7 | Published in <i>Texas Register</i> as repealed Interpretations. | Published in <i>Texas Register</i> on 11/20/20 |
| Chapter 152, Part 8 Repair, Renovation, and New Construction on Homestead Property | Published in <i>Texas Register</i> as readopted Interpretations. | Published in <i>Texas Register</i> on 09/04/20 |
| Chapter 153, Part 8 Home Equity Lending 153.1, 153.2, 153.3, 153.4, 153.5, 153.7, 153.9, 153.10, 153.12, 153.13, 153.16, 153.17, 153.18, 153.20, 153.24, 153.25, 153.45, 153.51, 153.82, 153.85, 153.86, 153.88, 153.91, 153.92, 153.93, 153.94, 153.95, and 153.96 | Published in <i>Texas Register</i> as readopted Interpretations. | Published in <i>Texas Register</i> on 11/20/20 |
| 153.8, 153.11, 153.14, 153.15, and 153.22 | Published in <i>Texas Register</i> as adopted Interpretations. | Published in <i>Texas Register</i> on 11/20/20 |
| New Chapter 153.26 | Published in <i>Texas Register</i> as adopted Interpretation. | Published in <i>Texas Register</i> on 11/20/20 |

C

ACTIVITIES RELATED TO COVID-19

C. Department Activities Related to COVID-19.

BACKGROUND: The Department has taken significant actions in response to the COVID-19 outbreak to address the operational and supervisory aspects of their function. Due to the continuance of the health and operational hazards relating to potential COVID-19 exposure the Department continues to follow local health agency standards to mitigate exposure to the virus. While Department staff members have been impacted, the Department was able to identify and eliminate possible exposure from spreading within the Agency.

OPERATIONAL FUNCTIONS: To address the operational impact of the virus the Department restricted access to the office to only that necessary. All employees were provided with sanitary supplies, facemasks and educational resources to understand and remain knowledgeable about what is known of the virus. Office staff were divided into two teams each working independent, 20-hour onsite skeleton crew shifts to limit the potential to spread the virus internally and maintain operations in the event of infection. Office staff also work the remainder of their 20-hour work week offsite with access to the Departmental email, the SharePoint document repository and a Department issued laptops. All examination staff were authorized to work remotely to conduct their examinations on an ongoing basis and work with institutions to utilize the existing information sharing tools developed by the Department to increase remote examination work over the last three years. The Department remains ready to enter a credit union if necessary, to perform its duties, but at this time all work has been effectively conducted offsite.

SUPERVISORY FUNCTIONS: Department staff are conducting regular calls to credit union CEOs and surveying operational, credit, liquidity and sensitivity risks during the pandemic. Further, the Department continues to issue Informational Memorandums and informal emails addressing the pandemic to the industry which can be found [here](#). The Department also issued an [emergency authorization to close branches](#) if necessary. In response to an information request from the Texas House Pensions, Investments and Financial Services subcommittee the Department submitted the attached **Exhibit A**.

RECOMMENDED ACTION: No action is anticipated.

Exhibit A



Credit Union Department

Report on the effects of COVID-19 on industry operations and existing statutory
and regulatory barriers to

the

HOUSE OF REPRESENTATIVES Committee on Pensions, Investments and Financial Services

August 28, 2020

John J. Kolhoff
Commissioner

914 East Anderson Lane
Austin, Texas 78752-1699
(512) 837-9236
FAX (512) 832-0278
E-Mail Address: cudmail@cud.texas.gov
Web Site: www.cud.texas.gov

ABOUT THE DEPARTMENT

The Department's mission is to safeguard the public interest, protect the financial interests of credit union members, and promote public confidence in the credit union industry. Through its regulatory and supervisory functions, the Department ensures credit unions, chartered under state law, operate as sound and responsible institutions that enhance the financial well-being of their members.

The policy making body for the Department is the Credit Union Commission. The Commission is a nine-member board of private citizens appointed by the Governor of Texas and is not a separate state agency. Four of the Commission's members must have had at least five years' active experience as an executive, officer, director, or committee member of a credit union. Five of the members are designated as "public members" and may not be employed by or participate in managing or directing any type of financial institution. Current members of the Commission are:

| | |
|-----------------------------------|--------------------|
| Yusuf E. Farran, Chair | El Paso, Texas |
| Sherri Brannon Merket, Vice Chair | Midland, Texas |
| Elizabeth "Liz" Bayless | Austin, Texas |
| Beckie Stockstill Cobb | Deer Park, Texas |
| Steven "Steve" Gilman | Katy, Texas |
| Jim Minge | Arlington, Texas |
| Karyn C. Brownlee | Coppell, Texas |
| David F. Shurtz | Hudson Oaks, Texas |
| Kay Rankin-Swan | Monahans, Texas |

The safety and soundness of the credit union industry and its compliance with laws, rules, and regulations is our primary objective. The Department promotes safe and prudent credit union practices through examinations, regular communication with credit union officials, and the review of applications submitted by credit unions to initiate and expand their activities. When appropriate, the Department has a range of informal and formal enforcement options available to resolve regulatory concerns identified at a credit union. The Department also helps ensure that credit union members receive fair and timely resolution of their complaints if they are unable to resolve their issues independently.

The Department supervises credit unions by conducting on-site examinations and by performing ongoing off-site monitoring. These activities help monitor the condition of individual credit unions and the overall stability of the Texas credit union system. The frequency of on-site examinations is determined by the credit union's size, complexity, risk profile, and condition. The on-site examinations are conducted at least every 18 months (more frequently if the credit union is experiencing problems).

SDSI Self-Funding Status

The Department was designated "self-directed and semi-independent" during the 81st Legislative Session. As a result of the SDSI status, the Credit Union Commission is responsible for annually setting the spending authority or limits for the Department and is focused on emphasizing transparency and accountability.

All revenues for operations are derived from assessments paid by Texas chartered credit unions. The assessments are placed in a separate account at the Texas Treasury Safekeeping Trust Company. The Department endeavors to match revenues with expenditures to ensure that credit

unions are not charged more than is required to maintain the agency's operations and meet its statutory mandates. The Department's FY 2020 budget is \$4.5 million, with authorized FTEs of 30.

Accredited Credit Union Regulatory Agency

The Department is accredited by the National Association of State Credit Union Supervisors (NASCUS). The NASCUS accreditation program applies national standards of performance to all functional areas of a state credit union regulatory program. Initially accredited in 1996, the Department is re-accredited by NASCUS every five years through onsite review by peer state and federal regulators. Most recently, it received re-accreditation in 2016. Ongoing annual reviews by NASCUS are conducted to monitor maintenance of accreditation standards. Accreditation provides the Department with national recognition among its peers and professional respect from the institutions it regulates and supervises.

ABOUT THE INDUSTRY

The Department's supervisory authority is exercised over 177 credit unions that control approximately \$48.6 billion in financial assets as of June 30, 2020. The agency also oversees branches of out-of-state credit unions operating in the state.

Credit unions are deposit pools formed by groups of affiliated people. These groups of members own and control the credit union. Credit union membership is limited to restrictions outlined within Texas statutes to groups that share the credit union's community of interest, such as having the same employer, belonging to the same social group, or living in the same city. Credit unions encourage thrift among their members and pool member funds to lend at reasonable terms to other members.

Credit unions typically specialize in consumer lending. Since the late 1970s, credit unions have received authority to engage in a wide range of financial services, including mortgage lending, credit card issuance, share draft accounts, and a certain degree of business lending.

Dual Chartering

You may have seen or heard the term "dual chartering system." This refers to the fact that both federal and state governments issue credit union charters for the convenience of their citizens. The National Credit Union Administration (NCUA) charters federal credit unions; the state credit union department charters state credit unions. "federal" or "state" credit union has nothing to do with where a credit union does business; it refers only to the kind of charter the credit union has. The NCUA, unlike other federal charterers of financial institutions, also provides federal deposit insurance.

The chartering agency is a credit union's primary regulator, with front-line duty to protect the public against unsafe and unsound credit union practices. Charterers conduct on-site examinations to assess credit union condition and monitor compliance with credit union laws. They issue regulations, take enforcement actions, and close credit unions if they fail.

All credit unions were organized under state law from 1913 until 1934, when the Farm Credit Administration began to charter federal credit unions. The NCUA, established in 1970, now charters federal credit unions.

Given these differences, the department only supervises Texas chartered credit unions, which as of June 30, 2020 represented the following statistics.

| | |
|-----------------------------|----------------|
| Number of Institutions | 177 |
| Aggregate Assets | \$48.6 Million |
| Loans Outstanding | \$33.4 Million |
| Aggregate Deposits Held | \$42.1 Million |
| Aggregate Net Worth Ratio | 10.36% |
| Aggregate ROAA Ratio | 0.52% |
| Aggregate Delinquency Ratio | 0.70% |

Effects of COVID-19 on Industry or Business Operations

The Texas chartered credit union (TCCU) industry, as the entire nation, has been significantly impacted by the COVID-19 pandemic through the effects on credit union employees, members and operationally as organizations.

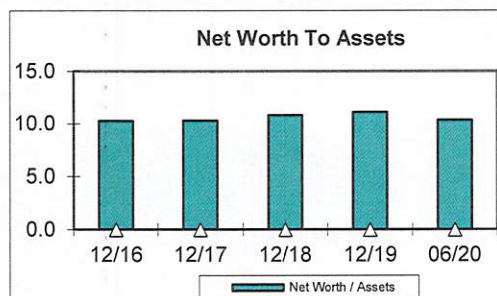
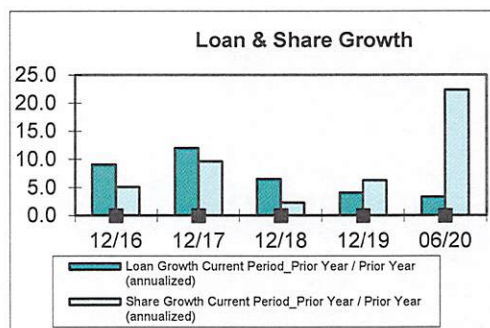
Due to the nature of the pandemic, credit unions shifted operations to safely meet the needs of consumers. Limitations on physical contact have necessitated restricting branch access and, in some cases, full branch closures. TCCUs have continued to provide depositors access to safe financial services through limited branch access, debit cards, ATM networks, drive-thru, internet and mobile applications. With potential exposure of the virus and need for responsiveness, the Department has provided regulatory relief relating to approvals of emergency branch closures and appraisal requirements. Further, the Department has provided significant information directly to credit union chief executives related to financial crimes, cybersecurity concerns, and a host of state and federal regulatory matters with implications to the pandemic.

Lending activities have been significantly impacted by the virus as well as the related overall economic downturn. Limitations on physical access has slowed some lending processes. While credit unions have shifted resources appropriately, certain activities in the home equity/real estate arena require contact through appraisal, title work, document filing, etc. The Department has worked jointly with the Texas Finance Commission agencies to provide guidance across the financial services industries to ensure consistent application to consumers. While these guidelines have been well received, the industry continues efforts to address issues outside of Department jurisdiction relating to home equity loan closures in the pandemic environment and compliance with physical closing provisions of the Texas constitution.

The full credit union economic impact of the pandemic has yet to fully materialize as implications of the CARES Act, other regulatory relief measures, and industry forbearances/deferments during the initial phases of the pandemic have lessened the impact. Charge off and delinquency rates remain steady but are expected to rise unless economic stability improves, or additional relief measures are implemented. Due to the widespread environment of economic uncertainty the industry has also experienced a softening demand for loan products.

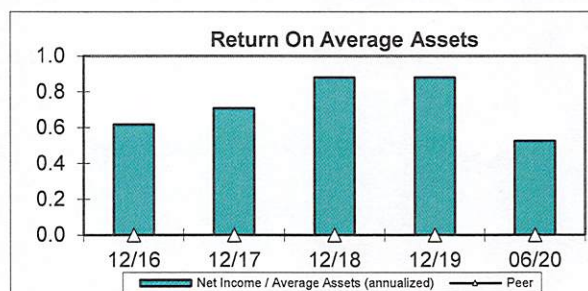
Financially, Texas chartered credit unions (TCCUs) continue to weather the ramifications as management teams appropriately shift resources to address the health implications of operating with limitations to physical interaction and the potential economic impact to membership credit risk.

TCCUs experienced significant (20%) annualized asset growth for the calendar year-to-date ending June 30, 2020 to \$48.6 Billion. This growth was funded by sharp increases in membership deposits. Member savings growth of this type is typical early in economic downturns as part of consumer flight to safety to decrease their own liquidity and credit risk. It appears stimulus funds paid during the 2nd quarter of 2020 also contributed to the rapid deposit growth.



While in aggregate, TCCUs remain well capitalized and with positive earnings, the significant growth of total assets has driven declines in the net worth (NW) and return on average assets (ROAA) ratios.

Despite over 5% growth in net worth dollars, the aggregate NW ratio for TCCUs has declined 75 basis points to 10.36% of total assets during 2020. Aggregate annualized ROAA for TCCUs has also been impacted by the significant increase in total assets falling approximately 36 basis points during 2020, to .52% of total average assets. Additional factors impacting the declines in financial performance trends include significant COVID-19 related pandemic expenses, stressed earnings capacity due to the low interest rate environment and repressed member loan demand due to economic uncertainty. As of June 30, 2020, thirty-nine TCCUs experienced year-to-date operating losses, three broke even and 135 were profitable.



The Department continues to perform its examination function and in March initiated regular informal follow-up contacts to ensure timely updates on the status of each institution chartered by Texas and any potential difficulties the institution is experiencing relative to the pandemic. The Department will continue to utilize its resources to closely monitor the impact of the COVID-19 pandemic and any other factors impacting the credit union industry to meet its mission as defined by the Texas Finance Code and assist, where possible and prudent, the industry to maintain its soundness and viability.

D

DEPARTMENT'S FY 2021 FINANCIAL PERFORMANCE

D. Discussion and Consideration of the Department's FY 2021 Financial Performance.

BACKGROUND: In 2020 the Commission adopted a strategic plan for Fiscal Years 2021-2025. The \$4.3 million FY 2021 Budget approved by the Commission in August 2020 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan.

The following report highlights the Department's FY 2021 financial results for the period ending January 31, 2021.

At the end of the five months ending in January 2021 total expenditures were \$1.464 million or approximately 17% below budgeted projections of \$1.756 million. Almost all lines performed below budgeted levels apart from additional technology upgrade costs for FY 2021.

The remediation of the water intrusion issue on the west side of the building has been addressed on the external wall of the building and final finish work on the interior is scheduled for completion. The full costs associated with this remediation project, expected at approximately \$20,000, are not yet reflected in the financial information.

RECOMMENDED ACTION: No action is anticipated.

Credit Union Department
BY 2021 Budget Analysis
For the Period Ended 1/31/21

| | BY 2021 Budget | BY 2021 YTD Budgeted | BY 2021 YTD Actual | Budget Variance | Percent of YTD Budget |
|---|--------------------|-------------------------|-----------------------|--------------------|--------------------------|
| REVENUES: | | | | | |
| Operating Income | | | | | |
| Operating Fees | \$4,307,682 | \$2,153,841 | \$2,500,995 | \$347,154 | 116% |
| Out-of-State Branch Fees | \$0 | \$0 | \$9,000 | \$9,000 | 100% |
| Examination Fees | \$0 | \$0 | \$0 | \$0 | |
| Application Fees | \$0 | \$0 | \$0 | \$0 | |
| Penalties | \$0 | \$0 | \$0 | \$0 | |
| Other | (\$51,250) | (\$51,250) | (\$51,250) | \$0 | |
| Operating Income Subtotal | \$4,256,432 | \$2,102,591 | \$2,458,745 | \$356,154 | 117% |
| Interest Income (Operating Acct) | \$0 | \$0 | \$292 | \$292 | |
| Interest Income (Contingency Acct) | \$0 | \$0 | \$124 | \$124 | |
| TOTAL REVENUES - FUNDS AVAILABLE TO COVER EXPENDITURES | \$4,256,432 | \$2,102,591 | \$2,459,161 | \$356,570 | 117% |
| EXPENDITURES: | | | | | |
| Personnel Expenses: | | | | | |
| Salaries and Wages | \$2,607,448 | \$1,069,187 | \$1,007,923 | \$61,263 | 94% |
| Employee Benefits | \$856,646 | \$356,936 | \$318,843 | \$38,093 | 89% |
| Total Personnel Expenses | \$3,464,094 | \$1,426,123 | \$1,326,766 | \$99,356 | 93% |
| Travel Expenses: | | | | | |
| In State | | | | | |
| Examinations | | | \$3,712 | | |
| Training/Conferences | | | \$0 | | |
| Meetings | | | \$1,012 | | |
| Public Forums | | | \$0 | | |
| Other | | | \$454 | | |
| Total In-State | \$369,894 | \$154,122 | \$5,178 | \$148,944 | 3% |
| Out-of-State | \$24,000 | \$10,000 | \$200 | \$9,800 | 2% |
| Commission | \$14,500 | \$6,042 | \$1,010 | \$5,031 | 17% |
| Total Travel Expenses | \$408,394 | \$170,164 | \$6,389 | \$163,775 | 4% |
| Other Operating Expenses: | | | | | |
| Communication/Utilities | \$49,471 | \$20,613 | \$19,593 | \$1,020 | 95% |
| Professional Services/Fees | \$151,790 | \$63,246 | \$50,645 | \$12,601 | 80% |
| Supplies/Materials | \$71,070 | \$29,613 | \$41,408 | (\$11,795) | 140% |
| Printing and Reproduction | \$2,204 | \$918 | \$0 | \$918 | 0% |
| Repairs/Maintenance | \$11,865 | \$4,944 | \$2,261 | \$2,682 | 46% |
| Rentals and Leases | \$6,725 | \$2,802 | \$1,821 | \$982 | 65% |
| Other Operating | \$90,819 | \$37,841 | \$15,622 | \$22,219 | 41% |
| Total Other Operating Expenses | \$383,944 | \$159,977 | \$131,349 | \$28,627 | 82% |
| TOTAL EXPENDITURES | \$4,256,432 | \$1,756,263 | \$1,464,504 | \$291,759 | 83% |
| REMAINING FUNDS TO COVER EXPENDITURES (Actuals) | | | \$994,657 | | |

E

**DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS
AND PARAMETERS**

E. Approve the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2022 Budget.

BACKGROUND: Finance Code Section 16.003 gives the Commission the exclusive responsibility for approving the Department's budget each year. Since the budget must be adopted at the June meeting, staff is seeking approval of guidelines for developing the FY 2022 budget to present at the June meeting.

The Department has received an initial Texas Facilities Commission budget to replace the office roof approximating a \$271,000 cost. The Department is working with the Comptroller to establish an appropriate bid package to comply with state rules. It is important to remember that no funds are appropriated for this project in the FY 2021 budget and the currently approved strategic plan formally identifies FY 2023 for this projects funding.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2022 budget.

RECOMMENDED MOTION: I move that the Commission adopt the proposed budget assumptions and parameters for FY2022 as recommended by staff.

BUDGET ASSUMPTIONS FOR BUDGET YEAR 2022

The following broad assumptions will establish the foundation for the development of the Department's Budget Year (BY) 2022 budget and provide a framework to staff and the Commission for setting priorities, determining service levels, and allocating limited financial resources.

1. **Balance Budget** – In accordance with Commission policy, the budget will be balanced using BY 2021 ending reserve balance funds in excess of the aggregate contingency reserves limit.
2. **Contractual Obligations** – The Department intends to meet all contractual obligations. Purchase orders or contracts which were placed and committed prior to the end of Fiscal Year (FY) 2021 for which the requested services performed until after the start of FY 2022 are considered obligated funds. The budget authority for these obligated funds will automatically be carried over to BY 2022 and the BY 2022 budget will be increased by an amount exactly equal to the obligated amount.
3. **Compliance** – The budget shall provide enough funding to continue compliance with all applicable statutes, governmental requirements, administrative rules, and Department policy in regulating and supervising the safety and soundness of credit unions.
4. **Strategic Plan Initiatives** – Consistent with the FY 2021-2025 strategic plan, the budget will provide appropriate funding to implement the delineated initiatives for FY 2022.
5. **Salary and Benefits** – The expenditures for FY 2022 will be based on authorized and existing positions as of August 31, 2021 and include any scheduled salary increases/promotions prescribed in the *Salary Administration Plan for Examination Staff*. Filled positions will be budgeted at the actual salary for the individual in that position and vacant examiner positions will be budgeted at the mid-point of the FEIII salary range for the positions. Vacant office positions will be budgeted at the mid-point of the salary range for the positions. Employee Benefits will be automatically calculated on all salaries with the appropriate benefit rates established for state agencies. The Department will also monitor legislative initiatives which could result in required legislative pay increases for State of Texas employees.
6. **Merit Increases** – To foster, support, and reward outstanding performance and to retain key high performing staff, aggregate merit increase awards for staff are estimated at an amount equivalent to 3.00% of the total salaries for those positions and will be awarded based on the established merit pay tiers. The corresponding increase in Employee Benefits,

resulting from the proposed merit awards, will also be properly reflected in the budget.

7. **Retiree Insurance Cost** – Retiree Insurance Cost are a result of staff retiring from the Department. Changes in retiree insurance cost are anticipated to be allowable budget adjustments.
8. **Inflation Factor** – No inflationary increases are anticipated, except for increases in the cost of utilities and in state staff travel. Increases in utility costs will be based on the prior year ending Consumer Price Index for the U.S. published by the U.S. Bureau of Labor Statistics.
9. **Statewide Indirect Cost** – Statewide indirect cost allocations are a result of a statewide plan established by the Comptroller of Public Accounts. Changes in indirect cost allocations are anticipated to be allowable budget adjustments.
10. **Out-of-State Travel** – Out of state travel related to examinations, conferences, training, or other authorized purposes will not exceed \$10,000. Travel for NASCUS and FBIIC related meetings for the Commissioner will not exceed \$20,000.
11. **Commission Travel** – At the November 2019 commission meeting, it was decided that the number of commission meetings would be increased from three to four per year. The budgeted annual travel costs for these meetings of \$14,500 per year for BY 2021 budget, will remain the same for BY2022.
12. **Electronic Document Management System (EDMS)** – The budget shall provide for the costs associated with the further development and maintenance of our EDMS.
13. **Information Technology** – The budget shall provide enough funding for computer network upgrades and computer equipment replacement in accordance with the Department Technology Plan.
14. **Improvements** – The budget shall provide enough funding for scheduled maintenance and repairs in accordance with the Replacement/Capital Improvement Plan.
15. **NASCUS Dues** – The budget shall provide enough funding to accommodate the projected increase in the professional association's dues.
16. **Accreditation Fees** – The budget shall provide enough funding to accommodate the fees associated with the Department's continued NASCUS accreditation.
17. **Overnight Travel Stipend** – The budget shall provide enough funding to pay examiners an overnight travel stipend in accordance with the qualifying conditions included in the Department's policy. The stipend will not be considered a one-time merit award and may be paid to the eligible examiners regardless of their last merit pay or promotion action.
18. **Examiners' Laptops and Support** – During FY 2018, NCUA leased laptops to the Department examination staff for a period of three years. Upon expiration of the current lease, NCUA will no longer provide

laptops. Thus, Department began replacing laptops for field and office staff with a phased-in approach during FY 2019, 2020 and 2021, prior to the expiration of the lease period with the NCUA. That transition is now complete. Beginning with the BY2022 budget, and annually thereafter, the budget will provide laddered funding for the replacement of Department laptops (office and field staff) every three years. Under this assumption, up to 11 laptops will be replaced each fiscal year. The budget will also include any additional costs associated with procuring all software licensing, security and support for the new machines. The Department will exercise diligence and discretion with this assumption and whenever possible, the life of certain laptops may be extended (i.e. from 3 to 4 years, etc.).

TEXAS FACILITIES COMMISSION
Facilities Design and Construction

PROJECT BUDGET TOOL

Project Name: Credit Union Building Roof ROM

Project No.: NA

Budget: **Source of Funds:**

Original Budget: \$ 271,000.00

Changes: \$ - \$ -

Final Budget: \$ 271,000.00

Adjust Values
AS Needed

*Pro
Forma
%*

| | ORIGINAL BUDGET | % of total | % of constr. | BUDGET CHANGES | FINAL BUDGET | % of total | % of constr. |
|-----------------------------------|------------------------|------------|-----------------|-----------------------|---------------------|------------|-----------------|
| Project Analysis | \$ - | 0.00% | | \$ - | \$ - | 0.00% | |
| Land | \$ - | 0.00% | | \$ - | \$ - | 0.00% | |
| Tech Services and Costs | \$ 57,900.00 | 21.37% | 32.53% | \$ - | \$ 57,900.00 | 21.37% | 32.53% |
| Architect/Engineer | \$ 35,000.00 | 12.92% | 19.66% | \$ - | \$ 35,000.00 | 12.92% | 19.66% |
| Project Manager - In House | \$ 15,900.00 | 5.87% | 8.93% | \$ - | \$ 15,900.00 | 5.87% | 8.93% |
| Assessment | \$ 7,000.00 | 2.58% | 3.93% | \$ - | \$ 7,000.00 | 2.58% | 3.93% |
| Site Improvements | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Building Construction | \$ 178,000.00 | 65.68% | | \$ - | \$ 178,000.00 | 65.68% | |
| Contractor | \$ 178,000.00 | 65.68% | | \$ - | \$ 178,000.00 | 65.68% | |
| Cost of Work | \$ 178,000.00 | 100.00% | | \$ - | \$ 178,000.00 | 100.00% | |
| Pre-Con | \$ - | 0.00% | | \$ - | \$ - | 0.00% | |
| GCs | \$ - | 0.00% | | \$ - | \$ - | 0.00% | |
| CM Fee | \$ - | 0.00% | | \$ - | \$ - | 0.00% | |
| TFC Contingency | \$ - | 0.00% | | \$ - | \$ - | 0.00% | |
| Construction Material Testing | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| HVAC Test Adjust Balance | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| FF&E (incl purchasing) | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Miscellaneous | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Telecommunications | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Legal & Misc. | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Moving Costs | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Interest | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Other Misc | \$ - | 0.00% | 0.00% | \$ - | \$ - | 0.00% | 0.00% |
| Contingency (15%) | \$ 35,100.00 | 12.95% | 19.72% | \$ - | \$ 35,100.00 | 12.95% | 19.72% |
| | \$ 271,000.00 | 100.00% | | \$ - | \$ 271,000.00 | 100.00% | |
| | \$ 271,000.00 | | | \$ - | \$ 271,000.00 | | |
| | \$ - | | | \$ - | \$ - | | |
| | Original Budget | | | Budget Changes | Final Budget | | |

F

POLICIES MANUAL

F. 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.

G

STATE CREDIT UNION SYSTEM

G. Status of the State Credit Union System.

BACKGROUND: The United States and Texas economies continue to experience significant impact due to the COVID-19 pandemic. While current unemployment in the United States and Texas are approximately twice the levels experienced less than a year ago, the trends indicate that both the national and local economies are slowly improving. According to the U.S. Bureau of Labor Statistics, civilian unemployment levels in the United States declined from a high of 14.8 percent in April 2020 to a level of 7.8 percent at month-end September, to 6.7 percent at year-end 2020. At the state level, Texas experienced a similar decline with the unemployment rate declining from a high of 13.5 percent in April 2020 to a September level of 8.3 percent, to 7.2 percent at year-end. Through the same eight-month period, the number of unemployed in the U.S. has declined to 10.7 million, from the April 2020 high of 23.1 million. Even with improvement, the number of unemployed remains nearly double the pre-pandemic level of 5.7 million. Further economic improvement will hinge significantly on the effectiveness of COVID vaccines and their sustained impact on infection trends.

Overall, Texas credit unions have performed well during the pandemic and remain generally safe and sound. While a few have experienced some financial performance deterioration, most do not evidence a material decline in their financial condition/strength. Fourth quarter net income trends indicate most Texas credit unions generated adequate earnings to cover operating costs and maintain capital strength despite asset growth exceeding net worth growth due to the impact of an influx of deposits. Texas credit unions encountered rapid asset growth in 2020 driven, in part, by stimulus deposits and flight to safety. Reduced earnings performance continues to be driven primarily by lower loan demand and investment yields present in the current economy and the impact by the influx of deposits and their conversion to earning investments.

The total assets of Texas chartered credit unions significantly increased 14.7 percent (3 to 4 times the norm) for the year, outpacing net worth growth of 7.2 percent and resulting in a 73-basis point decline in net worth ratios. Asset quality trends remained favorable as loan delinquencies and charge-off levels-maintained stability and borrowers whose loans were deferred have resumed normal repayment.

In summary, Texas charters have weathered the COVID storm relatively well. However, it remains imperative for the Department to continue to collaborate with Texas charters to safeguard the financial interests of millions of Texans and to work cooperatively with our credit unions in order that they may endure the serious hardships they continue to face.

While the impact is not recognized in the December 2020 financials presented here, Texas credit unions, like most residents, saw significant impact to operations as a result of the mid-February winter storm causing safety concerns, loss of power, loss of water and in some cases damage to physical locations. Fortunately, while many institutions were forced to close impacted branches during the storm contingency plans were implemented to continue to meet the needs of consumers and restoration efforts have been instituted.

INDUSTRY STATUS: At **December 31, 2020**, there were **176** state-chartered credit unions in Texas, down three charters from the previous twelve months. Assets supervised totaled **\$50.7 billion**, an increase of **\$6.5 billion** since **December 31, 2019**, for an annual growth rate of **14.7 percent**. The average net worth ratio is **10.38 percent**, down 73 basis points from **11.11 percent level** at **December 31, 2019**.

Loans for Texas chartered credit unions totaled **\$34.57 billion** as of **December 31, 2020**. This is an increase of **\$1.69 billion** since **December 31, 2019**, for an annual growth rate of **5.1 percent**.

Shares for Texas chartered credit unions totaled **\$44.13 billion** as of **December 31, 2020**. This is an increase of **\$6.24 billion**, or **16.5 percent** since **December 31, 2019**.

Texas chartered credit unions reported an average loan delinquency ratio remained stable at **0.75 percent** as of **December 31, 2020**, compared to a ratio of **0.71 percent** as of **December 31, 2019**.

At **December 31, 2020**, **24** state-chartered credit unions reported year to date net operating losses of **\$6.49 million**; while the remaining **152** credit unions reported aggregate net income of **\$339.19 million**. A breakdown of credit unions with positive earnings performance, by asset category, is as follows:

| Assets Size | # of CUs | # Profitable | % Profitable (12-31-2020) | % Profitable (6 mos. ago) |
|--------------------------|------------|--------------|------------------------------|------------------------------|
| \$1 Billion and Over | 13 | 12 | 92% | 92% |
| \$500 to \$999.9 Million | 14 | 12 | 86% | 64% |
| \$250 to \$499.9 Million | 16 | 15 | 94% | 79% |
| \$100 to \$249.9 Million | 26 | 24 | 92% | 92% |
| \$50 to \$99.9 Million | 23 | 19 | 83% | 82% |
| \$10 to \$49.9 Million | 49 | 46 | 94% | 76% |
| Under \$10 Million | 35 | 24 | 69% | 55% |
| Totals | 176 | 152 | 86% | 76% |

PROBLEM INSTITUTIONS: As of **December 31, 2020**, there were **19** credit unions assigned a CAMELS rating of 3 or higher, compared to **23** credit unions at **December 31, 2019**. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site or remote contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

ENFORCEMENT ISSUES: As of **December 31, 2020**, the Department had the following administrative sanctions outstanding:

| | |
|-----------------------|----------|
| Dividend Restrictions | 0 |
| LUAs | 0 |
| Determination Letters | 2 |
| Conservatorships | 0 |
| Cease and Desist | 2 |

Chartering Activity

| | |
|---------------|----------|
| New Charters* | 0 |
|---------------|----------|

*Since last commission meeting

RECOMMENDED ACTION: No formal action is anticipated.

H

SUNSET REVIEW

H. Sunset Review Status Update.

BACKGROUND: The Department submitted our Sunset review self-evaluation on August 29, 2019 prior to the deadline of September 3. A copy of the Sunset Self-Evaluation Report can be found on the Department's and the Sunset Commission's website.

On April 13, 2020 the Sunset Commission staff formally presented to the Department the Sunset review process. On the same day, the Department provided an orientation presentation to the Sunset Commission staff and Sunset Commission Member staff who wished to attend. Both agencies agreed to conduct the sunset review remotely, to mitigate COVID-19 related risks and all information and/or meetings are being conducted digitally.

Data requests from the Sunset Commission staff began the week of April 20th and interviews of Department personnel began April 23rd and the last meeting was conducted on June 25th. An exit meeting with Sunset staff was tentatively scheduled for July 31st. As of the writing of this update that meeting has not been conducted.

The [Sunset Advisory Commission Staff Report](#) was issued August of 2020 noting minor issues but recommending continuation of the Department and the Commission as an independent, SDSI supervisory agency.

The Department responded to the Report, a copy of which can be found [here](#). The Department agreed to address all the concerns addressed by the Sunset staff but did recommend two recommendations for statutory changes to be left to the Department to address as statutory language was not necessary.

The Commissioner, Chair and Vice-Chair attended the public Sunset Advisory Commission hearing on September 23, 2020 a recording of which can be found [here](#) at approximately 3 hours and 10 minutes into the video.

At a December 7, 2020 meeting the Sunset Commission adopted all recommendations with no changes from those made within the initial report. Commissioner Kolhoff was available online to answer any further questions that may have arisen; however no questions were submitted by the Commission or its members. The report can be found [here](#) and a copy of

the video can be found [here](#) at approximately 4 hrs and 16 minutes into the video.

With approval by the Sunset Commission the issue now goes to the legislature for deliberation during its legislative cycle.

RECOMMENDED ACTION: No formal action is anticipated.

I

EQUAL EMPLOYMENT AND WORKFORCE DIVERSITY PLAN

I. Adoption of the Department's Equal Employment and Workforce Diversity Plan.

BACKGROUND: Finance Code Section 15.313 requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The Commission originally approved the plan on October 10, 1997 and last approved the plan in November 2019. The policy statement must be approved annually. Accordingly, the policy is presented for the Commission's consideration and approval.

RECOMMENDED ACTION: The Department recommends that the Commission approve the Plan as presented.

RECOMMENDED MOTION: I move that the Commission adopt the Department's Equal Employment and Workforce Diversity Plan as recommended by staff.



**STATE OF TEXAS
CREDIT UNION DEPARTMENT**

**EQUAL EMPLOYMENT AND
WORKFORCE DIVERSITY PLAN**

Approved by Commission on November 3, 2017

Readopted by Commission on October 15, 2018

Approved by Commission on November 1, 2019

Readopted by Commission on March 5, 2021

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PREFACE

This Equal Employment and Workforce Diversity Plan has been developed to formalize the Credit Union Commission's and the Credit Union Department's commitment to equal employment opportunity. The plan is designed to assure that the Department's personnel policies and practices promote equal employment opportunities and diversity in the workplace.

The Department recognizes that the full and equal participation of minorities, women, and disabled persons in all employment opportunities is a necessary component of any effective equal employment and diversity program. To achieve the goals in practical and meaningful terms, the Department has established objectives and timetables, and has assigned specific responsibilities to Commission members and Department staff.

The Department's Equal Employment and Workforce Diversity Plan is intended to conform in good faith with Title VII of the Civil Rights Act of 1964, codified as amended in scattered sections of 2 U.S.C., 28 U.S.C., and 42 U.S.C. the Civil Rights Act of 1991, codified as amended in scattered sections of 42 U.S.C. (Supp. III 1992), the Equal Pay Act of 1963, 29 U.S.C. Chapter 8 § 206(d), Title VII of the Civil Rights Act of the Rehabilitation Act of 1973, codified as amended in scattered sections of the 29 U.S.C and 31-41c U.S.C., the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2013), the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-12213 (2013), and the Texas Labor Code, as well as the guidelines adopted by the Equal Employment Opportunity Commission on October 17, 1989 and Presidential Executive Order 11246.

FOREWORD

The Department's Equal Employment and Workforce Diversity Plan has been developed in accordance with the principles set forth in the Equal Employment Opportunity Coordinating Council's Affirmative Action Policy Statement. These principles outline the intent and goals of the Department's philosophy:

Equal Opportunity is the law of the land. In the public sector of our society, this means that all persons, regardless of race, color, religion, sex, national origin, age or disability, shall have equal access to positions in public service limited only by ability to do the job.

...vigorous enforcement of the laws against discrimination is essential. But equally, and perhaps even more important, are affirmative, voluntary efforts to assure that positions in the public service are genuinely and equally accessible to qualified persons, without regard to their sex, racial or ethnic characteristics. Without such efforts, Equal Employment Opportunity is no more than a wish...

CREDIT UNION DEPARTMENT EQUAL EMPLOYMENT AND WORKFORCE DIVERSITY PLAN

Policy Statement

It shall be the public policy of the Credit Union Department not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, gender identity, sexual orientation, pregnancy, status as a parent, age, disability(physical or mental) status, family medical history or genetic information, political affiliation, military service or other non-merit factors . The Department shall take all necessary affirmative steps to ensure the employment and promotion of otherwise qualified minorities, women, and disabled persons who may be underrepresented in the Department's workforce.

The Department is committed to the principles of equal employment opportunity law and the spirit of workplace diversity. This plan has been prepared to ensure that the Department's equal employment and diversity policies shall be properly implemented and to ensure that no artificial barriers shall be intentionally or otherwise created to deny applicants for employment or employees of the Department equal employment opportunities. The plan is available in the Department's office for review by employees and applicants for employment. The plan is available to the general public on request.

The Department is fully committed to protecting the rights of all current and prospective employees by ensuring that these individuals are being properly treated and provided with employment and advancement opportunities based solely on each individual's qualifications and performance, without regard to his or her race, color, religion, national origin, sex, age or disability. These rights are promulgated in the statutes listed in the preface.

Supervisors are required to ensure that all employees and prospective employees are afforded equal employment opportunities. Also, through the Department's recruiting process, supervisors must strive to attain a workforce profile that is in parity with Texas' statewide labor force availability by race/ethnicity and sex.

Advancement within the Department's organizational structure will be attained by meritorious performance; however, occupational parity based upon Texas' statewide labor force availability will be given consideration during the selection process.

The supervisors of the Credit Union Department shall not discriminate regarding employment opportunities. They must work together and communicate freely with each other to ensure discrimination is not fostered within the Department.

Responsibilities

The Department's Equal Employment and Workforce Diversity Plan has the support of the Commission members, Commissioner, and other management or supervisory personnel. Specific responsibilities have been assigned and delegated to the Commission and management personnel to ensure that the necessary authority and power is available to implement the provisions of the plan.

The Commission is responsible for establishing policies and monitoring the implementation of the plan through periodic reports submitted by the Commissioner. The Commission, through Department staff, shall review the plan annually for purposes of revision or modification. The staff shall review the workforce analysis and personnel policies, procedures, and practices and shall include recruitment, selection, promotions, job descriptions, classifications, compensation, discipline, or other terms and conditions affecting the equal employment opportunities of applicants for employment or employees. Any changes to the plan resulting from the annual review will be submitted to the Commission for approval.

The Deputy Commissioner shall be designated as the representative of the Department with the authority for execution of the plan. It shall be the responsibility of the Deputy Commissioner to ensure that compliance with the Commission's policies is implemented in an efficient and effective manner.

Goals

- I. To insure objectivity, consistency, uniformity and job relatedness through design and implementation of appropriate personnel policies, procedures and practices which affect the equal employment opportunities of the Department's employees and applicants for employment.
- II. To insure a diverse workforce through the establishment of a monitoring and reporting system.

Actions to Achieve Goals

- I. Policy Dissemination
 - A. The Department shall use the communication network of the Texas Workforce Commission to provide notice of the Department's equal employment and diversity policy. In notifications posted for vacant positions, including posting on the Department's website, the Department shall include information that it is an equal employment opportunity employer.
 - B. As part of new employee in-processing, each new employee shall receive a copy of the Department's Equal Employment and Workforce Diversity Plan and its Equal Employment Policy.

II. Recruitment

- A. To the extent possible, the Department shall utilize a wide range of recruiting sources to secure the maximum number of qualified minorities, female and disabled applicants for available positions within all classifications. Such sources shall include, as appropriate, statewide minority, female and disability associated organizations, educational institutions, newspapers, and the Texas Workforce Commission. The Department shall continue to expand and update its list of such recruiting sources including appropriate contact persons.
- B. Notices of vacant positions shall be posted in accordance with the regular ten (10) working day posting rule. Where vacancies occur in classifications that have been identified as being underutilized, the Department shall place emphasis on recruiting from minority, female, and disabled applicant sources, by distributing position notices to all appropriate recruitment sources identified in II.A.
- C. An Applicant Flow Record shall be maintained to determine the mix of candidates applying for vacant positions according to race, national origin, sex, and disability. This information shall be incorporated into the Agency Application Log.

III. Selection Procedures

The U. S. Equal Employment Opportunity Commission, the U. S. Civil Service Commission, the Department of Labor and the Department of Justice have issued Uniform Guidelines on Employee Selection Procedures. These guidelines address all phases of an employer's selection process and provide suggested requirements that, if adhered to, will greatly reduce an employer's susceptibility to charges of employment discrimination that involve the selection process.

- A. Position audits shall be conducted on a continuing basis (within resources available) to ensure that current position descriptions accurately reflect the actual duties, tasks, and responsibilities required to successfully perform the job. These audits shall also be used to determine the appropriateness of the minimum qualifications for the positions and to ensure that only valid, job-related qualifications are required.
- B. All testing, and screening procedures shall be reviewed on a continuing basis (within resources available) to ensure their job-relatedness and validity. Information acquired from the position audits shall be used to construct valid, job-related tests and screening procedures.
- C. All employment interviews shall be reviewed for job relatedness. Non-job-related questions and those items that may tend to screen out an ethnic or racial group shall be eliminated. Technical assistance in the construction of interview questions and interviewing procedures shall be given to hiring authorities.

- D. All test scores and interview results shall be maintained for each classification in accordance with the State's record retention schedule. This information is to assess the presence of artificial barriers to equal employment opportunity.

IV. Upward Mobility

- A. Employees shall be encouraged to participate in training or educational opportunities that enhance their skills.
- B. In-service training programs shall be designed and implemented to increase promotion opportunities for employees. On-the-job training and/or cross-training programs shall be developed to expose employees to a broad range of job duties and experiences.

Discipline Procedures

The Department shall institute a progressive discipline system that is linked to specific policies and procedures with which personnel are expected to comply. Such a progressive discipline system will be designed in steps of severity ranging from written warnings to termination. This disciplinary system shall be designed and applied to ensure uniformity and consistency with Department policies prohibiting discrimination.

Appeal and Grievance Procedures

The Department shall provide appeal and grievance procedures designed to resolve complaints of employment discrimination alleged by employees. These procedures shall provide aggrieved employees the opportunity to discuss their problems at several levels.

These procedures shall help protect both the employee and the employer by providing both parties with the opportunity to have their position reviewed and considered by an impartial authority. These procedures shall provide safeguards against any and all occurrences of discrimination or any other preferential treatment that may adversely affect employees of the Department.

Monitoring Achievement

The Deputy Commissioner shall be responsible for administering and monitoring the implementation of the Department's Equal Employment and Workforce Diversity Plan and for identifying any revisions necessary to assure effective application. The Deputy Commissioner shall review such reports as include the following Annual EEO/Diversity Progress Report:

- A. Workforce Analysis by Race, National Origin, Sex, and EEO Category
- B. Personnel Transactions

The Commissioner shall submit to the Commission, at each regular Commission meeting, a status report which shall include a record of the following personnel transactions: 1) salary report, listed by race, national origin, sex, disability, and experience, 2) employees promoted, listed by race, national origin, sex, disability, and experience; and 5) employees terminated and resigned, listed by race, national origin, sex, and disability.

- C. Applicant Flow

The Applicant Flow Report shall include a breakdown of all applicants by race, national origin, sex, disability, and position vacancy. The report, which is part of the Agency Application Log, shall also indicate whether or not a job offer was made, and the position of the person(s) who made the employment decision.

- D. Appeal and Grievance Status

This report shall be submitted to the Commission. It will provide an itemized statistical summary of the number, status, and issues raised by employee grievances and discrimination complaints. No report is necessary if there have been no grievances or discrimination complaints.

Time Frame For Implementation

The Department shall implement and review the action program previously identified annually.

J

INTERNAL RISK ASSESSMENT REPORT

J. Department's Annual Risk Assessment Report for FY 2021 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 2021 and authorize its submission to the State Auditor's Office.

Small Agency Risk Assessment - Fiscal Year 2021
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 awareness 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 asset 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 2021
Consolidated Activities - Credit Union Department

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

Small Agency Risk Assessment - Fiscal Year 2021
Risk Assessment Table - Pre-Controls - Credit Union Department

[illegible]

Small Agency Risk Assessment - Fiscal Year 2021
Risk Management Table - Credit Union Department
Consolidated Activity

| <div> <div>RISKS →</div> <div>CONTROL STEPS ↓</div> </div> | 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 | |
| | | | | | | | | | |

Risk Assessment Table - Post-Controls - Credit Union Department

55

Small Agency Risk Assessment - Fiscal Year 2021
Significant Changes in
Risk Assessment - Credit

| | |
|--|---|
| NEW Activities, Risks, and/or Controls from Prior Year Submission List by Consolidated Activity | Annual Fire alarm system inspection was completed. |
| | Completed SORM Physical risk management audit of the Credit Union Department building. Findings and recommendations were implemented. |
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| REVISIONS or DELETIONS in Activities, Risks, and/or Controls from Prior Year Submission List by Consolidated Activity | FY-2020 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. |
| | |
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Small Agency Risk Assessment - Fiscal Year 2021
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 | <ul style="list-style-type: none"> • 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 |
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K

RULES COMMITTEE

The Rules Committee is a standing committee of the Commission. It has been charged with the managing the review and development of Commission rules and, as appropriate, propose any legislative changes that may be necessary to preserve the attractiveness of a Texas charter.

COMMITTEE MEMBERS

- ❖ Steve Gilman, Chair
- ❖ Karyn Brownlee, Vice Chair
- ❖ David Shurtz
- ❖ Kay Rankin-Swan
- ❖ Yusuf Farran, Ex-Officio

The Rules Committee met on March 4, 2021, in a virtual public meeting to discuss a number of items. The Committee will report on its activities for consideration and possible vote by the Commission.



CREDIT UNION COMMISSION

Rules Committee Meeting

(via audio/videoconference)

Austin, Texas

Thursday, March 4, 2021

1:00 p.m.

AGENDA

Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, this meeting of the Texas Credit Union Commission will be held via telephone/videoconference call, as authorized under Texas Government Code Sections 551.125/551.127.

Members of the public will have access and a means to participate in this meeting, by two-way audio or video conference. Members wishing to attend the meeting will find a link to the meeting on the Department's webpage at www.cud.texas.gov on the day of the meeting.

An electronic copy of the agenda is now available at www.cud.texas.gov under Credit Union Commission, Commission Meetings, along with a copy of the meeting materials. A recording of the meeting will be available after March 12, 2021. To obtain a recording, please contact Isabel Velasquez at 512-837-9236.

For public participants, after the meeting convenes, the Chairperson will call roll. Please identify yourself by name and state whether you would like to provide public comment. You may also email isabel.velasquez@cud.texas.gov in advance of the meeting if you would like to provide public comment. When the Board reaches the public comment item, the Chairperson will recognize you by name and give you an opportunity to speak. All public comments will be limited to five minutes.

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

TAB

PAGE

- A. Call to Order (1:00 p.m.) – Committee Chair Steve Gilman
 - a. Ascertain Quorum
 - b. Appoint Recording Secretary
 - c. Invitation for Public Input Regarding Rulemaking for Future Consideration
- B. Receive and Approve Minutes of the Rules Committee Meeting of July 12, 2018

TAB

PAGE

C. Rulemaking Matters

- (a) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter A (General Provisions), Sections 97.101, 97.102, 97.103, 97.105 and 97.107, and Re-adoption of Rules
- (b) Adoption of the Rule Review and Re-adoption of 7 TAC, Part 6, Chapter 97, Subchapter B (Fees), Sections 97.113, 97.114, 97.115 and 97.116, and Re-adoption of Rules
- (c) Adoption of the Rule Review and Re-adoption of 7 TAC, Part 6, Chapter 97, Subchapter C (Department Operations), Sections 97.200, 97.205, 97.206 and 97.207, and Re-adoption of Rules
- (d) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter D (Gifts and Bequests), Section 97.300, and Re-adoption of Rules
- (e) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter E (Advisory Committees), Section 97.401, and Re-adoption of Rules
- (f) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter F (Rulemaking), Sections 97.500, 97.501, and Re-adoption of Rules
- (g) Proposed New Rule 7 TAC, Part 6, Chapter 91, Subchapter H Section 91.809 (Purchase of Assets and Assumption of Liabilities)

Adjournment

Note: This is a meeting of the Rules Committee of the Credit Union Commission. Because a quorum of the Credit Union Commission may attend this meeting of the Rules Committee, it is being posted, simultaneously, as a meeting of the entire Commission. The committee may meet in closed session on any agenda item if authorized by the Texas 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 may 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, Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

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.

RULEMAKING MATTERS

Seven 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 the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter A (General Provisions), Sections 97.101, 97.102, 97.103, 97.105 and 97.107, and Readoption of Rules;
- (b) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter B (Fees), Sections 97.113, 97.114, 97.115 and 97.116, and Readoption of Rules;
- (c) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter C (Department Operations), Sections 97.200, 97.205, 97.206 and 97.207, and Readoption of Rules;
- (d) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter D (Gifts and Bequests), Section 97.300, and Readoption of Rules;
- (e) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter E (Advisory Committees), Section 97.401, and Readoption of Rules;
- (f) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter F (Rulemaking), Sections 97.500, 97.501, and Readoption of Rules;
- (g) Proposed New Rule 7 TAC, Part 6, Chapter 91, Subchapter H Section 91.809 (Purchase of Assets and Assumption of Liabilities).

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

MANDATORY RULE REVIEW

K. (a) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter A (General Provisions), Sections 97.101, 97.102, 97.103, 97.105 and 97.107, 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 February 2020 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 97, Subchapter A (General Provisions) 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 December 25, 2020 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 Committee recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

| | |
|---------------|--|
| TITLE 7. | BANKING AND SECURITIES |
| Part 6. | Credit Union Department |
| Chapter 97. | Commission Policies and Administrative Rules |
| Subchapter A. | General Provisions |

The Credit Union Commission (Commission) has completed its review of Chapter 97, Subchapter A, concerning General Provisions consisting of §§97.101, 97.102, 97.103, 97.105 and 97.107 concerning Meeting, Delegation of Duties, Recusal or Disqualification of Commission Members, Frequency of Examination and Related Entities respectively.

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 97, Subchapter A, was published in the December 25, 2020, issue of the *Texas Register* (45 TexReg 9599). 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 97, Subchapter A, §§97.101, 97.102, 97.103, 97.105 and 97.107 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.

CHAPTER 97

Subchapter A. General Provisions

§97.101. Meetings.

The time and place of regular and special meetings of the Commission and its committees shall be determined by the applicable chair and posted in accordance with the Open Meetings Act (Government Code, Chapter 551). The minutes of each meeting shall be in writing, shall be posted on the Department's website, and shall be available to any person to examine during the Department's regular office hours.

§97.102. Delegation of Duties.

The Commissioner is authorized to complete all filings necessary to facilitate the rule making powers of the Commission. The Commissioner may draft and sign final adoption orders and other such instruments where delegation is not restricted by statute or rule. Notwithstanding other provisions of this rule, this authority is conveyed only to promote administrative efficiency and to expedite properly approved decisions of the Commission.

§97.103. Recusal or Disqualification of Commission Members.

- (a) A commission member may not vote on or otherwise participate in the deliberation or decision of a matter pending before the commission:
 - (1) in which the commission member has a personal or private interest; or
 - (2) which directly affects the credit union of which the commission member is an officer, director, or member.
- (b) The term "personal or private interest" shall be given the meaning as prescribed in Texas Government Code, Section 572.058, and includes a direct personal or financial interest in a credit union or other matter which is the subject of commission action.
- (c) A commission member who is disqualified under subsection (a) of this section shall publicly disclose the fact to the commission in a meeting called and held in compliance with the Open Meetings Act, Texas Government Code, Chapter 551. The disclosure shall be entered in the minutes of the meeting.
- (d) A commission member who is recused or disqualified will be counted in determining a quorum.

§97.105. Frequency of Examination.

The department shall perform an examination of each credit union authorized to do business under the Act at least once during each 12-month period. Annual examination intervals may be extended by the Department to a maximum 18 months, subject to safety and soundness considerations. Intervals between examinations shall not exceed 18 months, unless a longer interval is authorized in writing by the commission. In lieu of conducting an examination required by this rule, the

commissioner in the exercise of discretion may accept examinations or reports from other credit union supervisory agencies or insuring organizations.

§97.107. Related Entities.

(a) **Definition.** For the purposes of this section, a related entity is defined as:

1. a credit union service organization in which a credit union has a material interest by contracting with, lending to or investing in the organization;
2. a subsidiary or affiliate of a credit union service organization that is wholly owned or controlled by a credit union;
3. an organization engaged primarily in the business of managing a credit union; and
4. third-party contractors providing electronic data processing, electronic fund transfers, or other member services to or on behalf of a credit union.

(b) **General Supervision.** A credit union should perform a thorough analytical assessment to identify, measure, monitor, and establish controls to manage the risks associated with related entities and avoid excessive risk-taking that may threaten the safety and soundness of a credit union. The department may review the risks associated with any related entity and its activities together with other credit union risks using its supervision-by-risk framework. The department shall assess the effectiveness of a credit union's oversight program of related entities, including its strategic planning, third-party selection process, and ongoing monitoring.

(c) **Examination.** A credit union's use of related entities to achieve its strategic goals does not diminish the responsibility of the department to ensure that the activity is conducted in a safe and sound manner and in compliance with applicable law. Although in most situations, these activities should be conducted in the same manner that would be expected if the credit union were conducting the activities directly, the department shall consider the following factors in determining whether to examine exam related entities:

1. the high risk or unusual nature of the activities conducted by the related entity for the credit union;
2. the significance of the activities conducted by the related entity for the credit union to the credit union's operations and income; and
3. the extent to which the credit union has sufficient systems, controls, and personnel to adequately monitor, measure, and control risks arising from activities conducted by the related entity. The department may examine a related entity, as the commissioner deems necessary to ensure that a credit union is not assuming excessive risk.

(d) **Examination Fee.** The related entity shall pay a supplemental examination fee as prescribed in §97.113(e) of this title (relating to Supplemental examination fees). A credit union may elect to pay the fee on behalf of the related entity. The supplemental examination fee for a related entity may be waived or reduced if the commissioner determines it is appropriate.

MANDATORY RULE REVIEW

K. (b) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter B (Fees), Sections 97.113, 97.114, 97.115 and 97.116, 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 February 2020 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 97, Subchapter B (Fees) 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 December 25, 2020 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 Committee recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

| | |
|---------------|--|
| TITLE 7. | BANKING AND SECURITIES |
| Part 6. | Credit Union Department |
| Chapter 97. | Commission Policies and Administrative Rules |
| Subchapter B. | Fees |

The Credit Union Commission (Commission) has completed its review of Chapter 97, Subchapter B, concerning Fees consisting of §§97.113, 97.114, 97.115, and 97.116 concerning Fees and Charges, Charges for Public Records, Reimbursement of Legal Expenses and Recovery of Costs for Extraordinary Services Not Related to an Examination, respectively.

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 97, Subchapter B, was published in the December 25, 2020, issue of the *Texas Register* (45 TexReg 9599). 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 97, Subchapter B, §§97.113, 97.114, 97.115, and 97.116 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.

Subchapter B. Fees

§97.113. Fees and Charges.

(a) Remittance of fees.

(1) Each credit union authorized to do business under the Act shall remit to the department an annual operating fee. The fee shall be paid in semi-annual installments, billed effective September 1 and March 1 of each year. The final installment may be adjusted as provided by subsection (d) of this section. Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(2) Credit unions that exit the Texas credit union system on or before August 31 or February 28 of a given year, will not be subject to the semi-annual assessment for the period beginning September 1 or March 1, respectively. Only those credit unions leaving the state credit union system prior to the close of business on those dates avoid paying the semi-annual assessment for the period beginning September 1 or March 1, as applicable.

(b) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date. The commissioner is authorized to increase the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.

For Credit Unions with Total Assets Of:

The Operating Fee is:

| | |
|------------------------------|---|
| Less than \$200,000 | \$200 |
| \$200,000 but less than \$1M | \$200 plus .001625 of excess over \$200,000 |
| \$1M but less than \$10M | \$1,500 plus .00034 of excess over \$1M |
| \$10M but less than \$25M | \$4,560 plus .00014 of excess over \$10M |
| \$25M but less than \$50M | \$6,660 plus .00017 of excess over \$25M |
| \$50M but less than \$100M | \$10,910 plus .00019 of excess over \$50M |
| \$100M but less than \$500M | \$20,410 plus .000080 of excess over \$100M |

| | |
|---------------------------------|--|
| \$500M but less than \$1,000M | \$52,410 plus .000072 of excess over \$500M |
| \$1,000M but less than \$2,000M | \$88,410 plus .000069 of excess over \$1,000M |
| \$2,000M and over | \$157,410 plus .000062 of excess over \$2,000M |

(c) Waiver of operating fees. The commissioner is authorized to waive the operating fee for an individual credit union when good cause exists. The commissioner shall document the reason(s) for each waiver of operating fees and report such waiver to the commission at its next meeting.

(d) Adjustment of an installment. The commissioner in the exercise of discretion may, after review and consideration of actual revenues to date and projected revenues for the remainder of the fiscal year, lower the amount of the final installment due from credit unions.

(e) Supplemental examination fees.

(1) If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union is subject to a supplemental charge to cover the cost of time and expenses incurred in the examination.

(2) The credit union shall pay a supplemental fee of \$50 for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The department shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.

(f) Foreign credit union branches. Credit unions operating branch offices in Texas as authorized by §91.210 of this title (relating to Foreign Credit Unions) shall pay an annual operating fee of \$500 per branch office.

(g) Credit union conversion fee. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in subsection (b) of this section shall serve as the basis for calculating the operating fee. All provisions set forth in subsection (b) of this section shall apply to converting credit unions with the following exceptions:

(1) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.

(2) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seven-twelfths of the amount of the operating fee calculated using December 31 base date.

(3) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(h) Mergers/Consolidations. In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before August 31, the surviving credit union's asset base, for purposes of calculating the operating fee

prescribed in subsection (b) of this section, will be increased by the amount of the merging credit union's total assets as of the June 30 base date.

(i) Special assessment. The commission may approve a special assessment to cover material expenditures, such as major facility repairs and improvements and other extraordinary expenses.

(j) Foreign credit union fee for field of membership expansion. A foreign credit union applying to expand its field of membership in Texas shall pay a fee of \$200. This fee shall be paid at the time of filing to cover the cost of processing the application. In addition, the applicant shall pay any cost incurred by the department in connection with a hearing conducted at the request of the applicant.

(k) Foreign credit union examination fees.

(1) If the commissioner schedules an examination of a foreign credit union, the credit union is subject to supplemental charges to cover the cost of time and expenses incurred in the examination.

(2) The foreign credit union shall pay a fee of \$50 for each hour of time expended by each examiner on the examination. The commissioner may waive the examination fee or reduce the fee as he deems appropriate.

(3) The foreign credit union shall also reimburse the department for actual travel expenses incurred in connection with the examination, including mileage, public transportation, food, and lodging in addition to the fee set forth in paragraph (2) of this subsection. The commissioner may waive this charge at his discretion.

(l) Contract Services. In addition, the commissioner may charge, or otherwise cause to be paid by, a credit union, a foreign credit union or related entities the actual cost incurred by the department for an examination or a review of all or part of the operations or activities of a credit union, a foreign credit union or related entity that is performed under a personal services contract entered into between the department and third parties.

Source: The provisions of this §97.113 adopted to be effective November 13, 2000, 25 TexReg 11279; amended to be effective December 9, 2001, 26 TexReg 9777; readopted to be effective February 14, 2005, 30 TexReg 1091; reviewed and amended to be effective July 12, 2009, 34 TexReg 4514; reviewed and readopted to be effective February 15, 2013, 38 TexReg 1378; reviewed and readopted to be effective March 10, 2017, 42 TexReg 1603.

§97.114. Charges for Public Records.

(a) Reproduction Charges. Copies of documents not excepted from disclosure by the Texas Public Information Act (Government Code, Chapter 552) may be obtained upon written request to the department at rates established by the Office of the Attorney General in 1 TAC Sections §§70.1-70.12 (relating to Cost of Copies of Public Information) or other applicable law.

(b) Request for Information. The following guidelines apply to requests for records under the Public Information Act (Government Code, Chapter 552).

(1) Request must be in writing and reasonably identify the records requested.

(2) Records access will be by appointment only.

(3) Records access is available only during the regular business hours of the department.

(4) Generally, unless confidential information is involved, review may be by physical access or by duplication, at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will be provided only the option of receiving copies by duplication.

(5) When the safety of any public record is at issue, physical access may be denied, and the records will be provided by duplication as previously described.

(6) Confidential files will not be made available for inspection or for duplication unless required by a court order or Attorney General decision.

(c) Waiver of Fees or Charges. The commissioner may waive or reduce an established charge when, in his or her discretion, a waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public. The fee may also be waived if the cost of processing the collection of a charge will exceed the amount of the charge.

Source: The provisions of this §97.114 adopted to be effective September 1, 1994, 19 TexReg 6557; amended to be effective December 9, 2001, 26 TexReg 9778; readopted to be effective February 14, 2005, 30 TexReg 1091; reviewed and amended to be effective July 12, 2009, 34 TexReg 4515; reviewed and readopted to be effective February 15, 2013, 38 TexReg 1378; reviewed and readopted to be effective March 10, 2017, 42 TexReg 1603.

§97.115. Reimbursement of Legal Expenses.

(a) The commissioner may seek reimbursement of expenses from an individual credit union for legal fees incurred solely and necessarily because the credit union acted in an unreasonable or egregious manner or acted outside the course and scope of what is permitted by statute or regulation. To ensure that the rights and interest of all parties are protected, this section shall not apply to any adjudicative proceedings in which the legal rights, duties, or privileges of the credit union are being determined by the Department after an opportunity for hearing. This section also does not apply to court proceedings where the individual credit union's legal rights, duties, or privileges are being determined as against the Department.

(b) The credit union has thirty days from the date it receives the assessment to pay in full or to appeal in writing to the Commission.

(c) If a credit union files a written notice of appeal, the Commission shall hear the appeal at its next regularly scheduled meeting. In making its decision, the Commission shall consider whether the credit union acted reasonably under the circumstances or acted within its legal rights.

(d) When possible, the Department will notify a credit union before the Department requests legal assistance which may be charged to a credit union under this section.

Source: The provisions of this §97.115 adopted to be effective November 7, 2010, 29 TexReg 9722; reviewed and readopted to be effective February 15, 2013, 38 TexReg 1378; reviewed and readopted to be effective March 10, 2017, 42 TexReg 1603.

§97.116. Recovery of Costs for Extraordinary Services Not Related to an Examination.

(a) The commissioner may seek reimbursement from an individual credit union for non examination-related expenses incurred solely and necessarily because the credit union acted in an unreasonable or egregious manner, or acted outside the course and scope of what is permitted by statute or regulation. Expenses can include personnel costs, transportation costs, meals, lodging, and other incidental expenses. If the commissioner determines that recovery of costs is appropriate, the Department shall provide advance notice to the credit union of its intention to recover the expenses.

(b) In seeking reimbursement, the commissioner shall consider the amount of the costs involved, the nature of the credit union's conduct, the service provided, the financial impact on the credit union, and the impact of the activity on other Department services. The commissioner may reduce the charges and bill the credit union less than the full amount of the costs.

(c) The credit union has thirty days from the date it receives the assessment to pay in full or to appeal in writing to the Commission.

(d) If a credit union files a written notice of appeal, the Commission shall hear the appeal at its next regularly scheduled meeting. In making its decision, the Commission shall consider whether the credit union acted reasonably under the circumstances or acted within its legal rights.

Source: The provisions of this §97.116 adopted to be effective November 7, 2010, 35 TexReg 9723; readopted to be effective February 15, 2013, 38 TexReg 1378; reviewed and readopted to be effective March 10, 2017, 42 TexReg 1603.

MANDATORY RULE REVIEW

K. (c) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter C (Department Operations), Sections 97.200, 97.205, 97.206 and 97.207, 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 February 2020 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 97, Subchapter C (Department Operations) 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 December 25, 2020 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 Committee recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

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| TITLE 7. | BANKING AND SECURITIES |
| Part 6. | Credit Union Department |
| Chapter 97. | Commission Policies and Administrative Rules |
| Subchapter C. | Department Operations |

The Credit Union Commission (Commission) has completed its review of Chapter 97, Subchapter C, concerning Department Operations consisting of §§97.200, 97.205, 97.206, and 97.207 concerning Employee Training Program, Use of Historically Underutilized Business, Posting of Certain Contracts: Enhanced Contracts and Performance Monitoring and Contracts for Professional or Personal Service, respectively.

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 97, Subchapter C, was published in the December 25, 2020, issue of the *Texas Register* (45 TexReg 9599). 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 97, Subchapter B, §§97.200, 97.205, 97.206, and 97.207 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.

Subchapter C. Department Operations

§97.200. Employee Training Program.

(a) Components of program. The employee training program for the department consists of one or more of the following components:

(1) Agency-sponsored training to include in-house training sessions and on-the-job training;

(2) Formal training program conducted through the National Credit Union Administration as administrator of the National Credit Union Share Insurance Fund.

(3) Seminars and conferences; and

(4) Formal course of study at an accredited institution of higher education.

(b) In order for the cost of training and the time related to that training to be reimbursed by the department, the employee must demonstrate that the course has direct applicability to the employee's job with the department. Attendance at an approved training session described in subsection (a)(1)-(3) will be considered part of the employee's normal work duties and will not require the employee to use accrued leave to attend.

(c) Requests to attend an external training program, seminar or conference pursuant to this section must be approved by the commissioner. Approval of a request is contingent upon availability of funds. If limited funds are available, and more than one employee wishes to participate, a decision regarding who will attend will be based upon the extent of their previous use of funds, the training's merit and its value to the department's operations.

(d) Continuing education courses. Continuing education courses required by licensing or certifying bodies for employees to maintain a professional license or designation will only be reimbursed if such courses relate directly to the employee's job duties with the department and there are funds available.

(e) Tuition reimbursement. The Commissioner must authorize in writing the reimbursement of tuition in accordance with this subsection.

(1) The department may reimburse full-time employees for part or all of tuition and required fees for formal courses of study described in subsection (a)(4) provided the eligibility criteria set forth below are met.

(A) An employee must have completed 24 consecutive months of full-time employment with the department prior to requesting approval to receive tuition reimbursement. However, the 24-month requirement may be waived if the commissioner finds that the employee needs a particular course to fulfill his or her work duties.

(B) An employee must be performing consistently above that normally expected or required and must have achieved an overall performance rating of at least 3.50 on the employee's most recent performance evaluation.

(C) An employee must not have been subject to formal disciplinary action for at least twelve months prior to requesting approval. As used in this section, "disciplinary action" includes a formal written reprimand, suspension without pay, or salary reduction for disciplinary reasons.

(D) The course work must be related to a current or prospective duty assignment within the department.

(E) An employee, before the course begins, must agree in writing to the repayment requirement stated in this subsection.

(F) At the time of the request for approval to receive tuition reimbursement, comparable training must not be scheduled to be offered in-house or through the National Credit Union Administration during the period of time covered by the tuition reimbursement.

(G) The employee's participation must not adversely affect workload or performance.

(H) The employee must complete the course within the semester for which tuition reimbursement was requested.

(I) The employee must receive a passing grade in the course. A passing grade is a grade which will entitle the employee to receive credit for the course from the educational institution offering the course.

(2) Reimbursable costs. Criteria addressing the extent to which cost of tuition may be reimbursed are as follows:

(A) The maximum amount an employee may be reimbursed for an approved tuition reimbursement request is \$250 per semester, not to exceed \$500 per fiscal year. The maximum amount of reimbursement may be increased up to \$400 per semester for good cause shown upon approval by the commissioner.

(B) Reimbursable costs include tuition, related fees, and required textbooks and workbooks. Employees will not be reimbursed for auditing a course.

(C) Costs described in subparagraph (B) of this paragraph will be paid to the employee at the completion of the course upon the employee submitting proof that the course was completed and a passing grade was received.

(3) Repayment. Should an employee separate from department service within 12 months of completion of the course, the employee must reimburse the department for all reimbursable costs expended by the department for that course in accordance with section 656.103 of the Texas Government Code (relating to Restrictions on Certain Training Costs). The commission may adopt an order waiving this requirement upon finding that such action is in the best interest of the department or is warranted because of an extreme personal hardship suffered by the employee.

(4) Prohibition on use of state resources. Employees may not use department equipment, such as computers, calculators or typewriters to complete course work.

§97.205. Use of Historically Underutilized Businesses.

Pursuant to Chapter 2161 of the Government Code, the Department hereby incorporates by reference the rules of the Comptroller of Public Accounts, 34 TAC §§20.11-20.28 (relating to Historically Underutilized Business Program), or any successor rules, regarding historically underutilized businesses. The Department shall comply, to the extent applicable, with the requirements of these rules when purchasing goods and services that are paid for with State appropriated money.

§97.206. Posting Of Certain Contracts: Enhanced Contracts And Performance Monitoring.

(a) Pursuant to section 2261.253 of the Texas Government Code, the Department will implement the following procedures for contracts for the purchase of goods or services from private vendors:

(1) The Department will list information pertaining to its contract with private vendors on its website. The information will include:

(A) The name of the vendor with whom the contract is made;

(B) A description of the competitive bidding process for the contract, or, if the contract did not involve competitive bidding, a citation and explanation of the legal authority supporting exemption from the competitive bidding process;

(C) A link to a copy of the request for proposal for the contract, if applicable until the contract expires or is completed; and

(D) A link to a copy of the contract with the vendor until the contract expires or is completed.

(2) Enhanced contract or performance monitoring procedure until the contract expires or is completed.

(A) For each contract whose value is greater than \$25,000, the Commissioner and the Department Procurement Director will evaluate whether enhanced contract or performance monitoring is appropriate. Criteria that may be considered include:

(i) Total cost of the contract.

(ii) Risk of loss to the Department under the contract.

(iii) Department resources available for enhanced contract or performance monitoring.

(B) After evaluation of the contract, the Commissioner will immediately report to the Commission Members:

(i) The basis for determination as to whether enhanced contract or performance monitoring is appropriate;

(ii) Include any serious issues or risks identified with the contract, if applicable; and

(iii) If enhanced contract or performance monitoring is appropriate, the Department's plan for carrying out the enhanced contract or performance monitoring.

(C) Commission members may agree to convene a special commission meeting for the purposes of discussion or deciding upon matters related to enhanced contract or performance monitoring of Department contracts. This meeting would be conducted in conformity with the Texas Open Meetings Act.

(b) This rule applies only to contracts for which the request for bids or proposals is made public on or after September 1, 2015; or, if the contract is exempt from competitive bidding, where the contract is entered into on or after September 1, 2015. This rule does not apply to memorandums of understanding, interagency contracts, interlocal agreements or contracts that do not involve a cost to the Department.

§97.207. Contracts for Professional or Personal Service.

(a) In connection with the authority granted to the commissioner to negotiate, contract or enter into an agreement for professional or personal services under §15.414, Texas Finance Code, the Department hereby incorporates by reference the procurement rules of the Comptroller of Public

Accounts, 34 TAC Chapter 20 (relating to Texas Procurement and Support Services), or any successor rules, regarding soliciting and awarding contracts. The Department shall comply, to the extent applicable, with the requirements of these rules when contracting for professional or personal services that are paid for with State appropriated money or paid by credit unions pursuant to 7 TAC §97.113(l) of this title (relating to Fees and Charges).

(b) Any professional or personal service contracts between the Department and entities that receive funds from the State of Texas shall contain the following language regarding the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds: "Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirements to cooperate is included in any subcontract it awards."

(c) Any professional or personal service contracts between the Department and entities that receive funds from the State of Texas shall contain the following language regarding dispute resolution: "The parties shall attempt to resolve any dispute arising under this contract by using the Department's dispute resolution process." The Department hereby incorporates by reference as its dispute resolution process the rules found in 1 TAC Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes), or any successor rules.

MANDATORY RULE REVIEW

K. (d) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter D (Gifts and Bequests), Section 97.300, 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 February 2020 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 97, Subchapter D (Gifts and Bequests) 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 December 25, 2020 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 Committee recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

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| TITLE 7. | BANKING AND SECURITIES |
| Part 6. | Credit Union Department |
| Chapter 97. | Commission Policies and Administrative Rules |
| Subchapter D. | Gifts and Bequests |

The Credit Union Commission (Commission) has completed its review of Chapter 97, Subchapter D, concerning Gifts and Bequests consisting of §97.300 concerning Gifts of Money or Property.

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 97, Subchapter D, was published in the December 25, 2020, issue of the *Texas Register* (45 TexReg 9599). 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 97, Subchapter D, §97.300 in its 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.

Subchapter D. Gifts and Bequests

§97.300. Gifts of Money or Property.

- (a) The department may accept money or property by gift, bequest, devise, or otherwise (“Donation”), only from an organization described in Section 501(c)(3), Internal Revenue Code of 1986, for the purposes of funding or performing any authorized activity (“Donor”).
- (b) All Donations must be accepted in an open meeting by a majority of the commission members present and reported in the minutes of the meeting setting forth the name of the Donor and the purpose of the Donation. Before accepting a Donation, the commission may require the Donor to provide information that the commission deems reasonable and necessary to ensure itself that the Donation is not being conveyed to directly or indirectly influence an official act of the department or the commission.
- (c) The department may not solicit money or property from any person or organization to settle an administrative action or to keep the department from taking formal enforcement action.

MANDATORY RULE REVIEW

K. (e) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter E (Advisory Committees), Section 97.401, 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 February 2020 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 97, Subchapter E (Advisory Committees) 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 December 25, 2020 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 Committee recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

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| TITLE 7. | BANKING AND SECURITIES |
| Part 6. | Credit Union Department |
| Chapter 97. | Commission Policies and Administrative Rules |
| Subchapter E. | Advisory Committees |

The Credit Union Commission (Commission) has completed its review of Chapter 97, Subchapter E, concerning Advisory Committees consisting of §97.401 concerning General Requirements.

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 97, Subchapter E, was published in the December 25, 2020, issue of the *Texas Register* (45 TexReg 9599). 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 97, Subchapter E, §97.401 in its 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.

Subchapter E. Advisory Committees

§97.401. General Requirements.

- (a) **Definition.** For purposes of this rule, the term “advisory committee” means a committee, council, board, task force, or other entity with multiple members established to provide advice and counsel to the commission.
- (b) **Creation.** The commission may establish advisory committees to advise the commission on issues within the jurisdiction of the department.
- (c) **Function.** Unless otherwise provided by law, an advisory committee’s responsibility is limited to those matters about which advice or counsel is sought. An advisory committee will have no authority to make rules or establish department policy.
- (d) **Expiration of advisory committee.** Unless expressly provided in this subchapter or other law, an advisory committee will expire on the fourth anniversary of the date of its creation. The date of creation shall be the effective date of the rule establishing the advisory committee.
- (e) **Membership and Quorum.** The chairman may appoint a maximum of 24 individuals to serve on an advisory committee. A majority of those individuals shall constitute a quorum. Unless otherwise provided by specific statute, the appointments shall be balanced to ensure representation of credit unions regulated by the department and consumers of services provided by those credit unions. Each advisory committee shall include at least one department employee as an ex officio member. This employee shall not be considered a committee member for purposes of establishing the maximum number of members or for purposes of determining a quorum.
- (f) **Term of members.** Unless expressly provided in this subchapter or other law, each member of an agency advisory committee will serve a term of four years. The terms may be staggered. Members' terms will expire at the end of four years or upon the termination of the advisory committee, whichever is earlier. Members may be reappointed. Members serve at the will of the chairman and may be removed at any time by the chairman.
- (g) **Presiding officer.** The presiding officer of each advisory committee shall be selected by the members of the advisory committee from its membership. The chairman may make a recommendation to the advisory committee regarding the presiding officer.
- (h) **Meetings.** Meetings shall be subject to the requirements of Chapter 551 of the Government Code. Each committee shall meet at least annually, but may meet as often as necessary. The department ex officio member of each advisory committee shall work with the presiding officer to schedule advisory committee meetings and provide adequate notice to department staff and to other members.
- (i) **Reports.** On or before October 1 of each year, each advisory committee shall submit a report to the commission. Upon receipt of the report, the commission shall evaluate the advisory committee's work, usefulness, and costs related to the committee's existence, including the cost of department staff time spent in support of the committee's activities. Each report shall include the following:
 - (1) a summary or minutes of meetings conducted during the previous fiscal year (September 1-August 31);
 - (2) a summary of recommendations from the advisory committee; and
 - (3) other information determined by the advisory committee or the chairman to be appropriate and useful.
- (j) **Expenses.** Members of each advisory committee will serve without compensation or reimbursement for travel or other out-of-pocket expenses.

(k) Rules. For each advisory committee appointed, the commission shall adopt rules that address the purpose of the advisory committee and membership qualifications, including experience requirements, geographic representation, and training requirements. Such rules may also address the terms of service, operating procedures, and other standards to ensure the effectiveness of an advisory committee appointed under this subchapter.

MANDATORY RULE REVIEW

K. (f) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter F (Rulemaking), Sections 97.500, 97.501, 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 February 2020 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 97, Subchapter F (Rulemaking) 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 December 25, 2020 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 Committee recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

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| TITLE 7. | BANKING AND SECURITIES |
| Part 6. | Credit Union Department |
| Chapter 97. | Commission Policies and Administrative Rules |
| Subchapter F. | Rulemaking |

The Credit Union Commission (Commission) has completed its review of Chapter 97, Subchapter F, concerning Rulemaking consisting of §§97.500 and 97.501 concerning Petitions to Initiate Rulemaking Proceedings and Hearing on Proposed Rules, respectively.

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 97, Subchapter F, was published in the December 25, 2020, issue of the *Texas Register* (45 TexReg 9599). 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 97, Subchapter F, §§97.500 and 97.501 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.

Subchapter F. Rulemaking

§97.500. Petitions to Initiate Rulemaking Proceedings.

(a) Petitions to initiate rulemaking proceeding pursuant to Government Code, §2001.021, must be submitted to the Department in writing. A petition must include:

(1) a brief explanation of the proposed rule;

(2) the full text of the proposed rule, and, if the petition is to amend an existing rule, the text of the rule that clearly identifies any words to be added or deleted from the existing text by underlining new language and striking through language to be deleted; and

(3) a concise explanation of the legal authority to adopt the proposed rule, including a specific reference to the particular statute or other authority that authorizes it.

(b) When the Department receives a rulemaking petition, the Department shall review it for compliance with the requirements of subsection (a) of this section. If the petition is determined to comply, the Department shall notify the applicant that the petition has been accepted for filing and will be processed in accordance with Government Code, §2001.021(c). If it is determined the petition does not comply with subsection (a), the Department shall notify the applicant in writing of all deficiencies found and give the petitioner an opportunity to cure them by filing an amended petition. If no amended petition curing the deficiencies is filed with the Department by 5:00 p.m. on the 15th calendar day following the date that the Department mailed a notice of deficiencies to the petitioner, the petition shall be deemed denied for the reasons stated in the deficiency notice without the necessity of further action.

(c) If the petition is accepted for filing, within 60 days of the date that a petition is accepted for filing, the Department must either deny the petition for reasons stated in writing or initiate a rulemaking proceeding.

§97.501. Hearing on Proposed Rules.

(a) The Department shall grant an opportunity for a public hearing before adoption of any substantive rule as required by Government Code, §2001.029(b), or other applicable statute.

(b) The hearing may be held by the commissioner or by any other person designated by the commissioner. In the exercise of discretion, the commissioner may impose reasonable time limits on presentation of evidence and argument, determine the order of the presentations, and conduct the hearing in a manner suitable to the particular proceeding. Public hearings on proposed rules are neither contested cases nor full legal adversary proceedings. Ex parte prohibitions do not apply.

PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES

K. (g) Proposed New Rule 7 TAC, Part 6, Chapter 91, Subchapter H Section 91.809 (Purchase of Assets and Assumption of Liabilities).

BACKGROUND: The proposed new rule will provide the Department approval authority and federal credit union parity to state-chartered institutions exercising authority available to FCUs under NCUA R&R §741.8. This authority allows a credit union, with approval from the Commissioner, to initiate a program of purchasing loans or assuming an assignment of deposits, shares, or liabilities from another credit union, another other financial-type institution or any successor in interest to one of those entities.

RECOMMENDED ACTION: The Committee recommends that the Commission approve for publication and comment the proposed new Rule 7 TAC Section 91.809.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

| | |
|--------------|---|
| TITLE 7. | BANKING AND SECURITIES |
| Part 6. | Credit Union Department |
| Chapter 91. | Chartering, Operations, Mergers, Liquidations |
| Subchapter H | Investments |

The Credit Union Commission (the Commission) proposes new §91.809 concerning purchase of assets and assumption of liabilities. The proposed new rule will formally recognize authority available to state chartered credit unions because of the availability of those powers to federal credit unions, as granted through parity found under Texas Finance Code, Title 2, §123.003(a).

The proposed new rule will outline the authority of credit unions to initiate programs of purchasing loans or assuming an assignment of deposits, shares, or liabilities from any credit union, another financial-type institution, or any successor in interest to such an entity. The rule further outlines the requirement to seek Commissioner approval on certain transactions of this type and clarifies the approval application process.

In general, new Section §91.809 results from the recognition of the disparity between the authority granted to state-chartered credit unions under current Department rules and the authority granted to federally chartered credit unions, as largely described in the regulations adopted by the National Credit Union Administration (NCUA) in 12 C.F.R. Part 741. The Commission considered the factors outlined in Texas Finance Code §15.402(b-1), including the specific need to preserve and promote competitive parity of credit unions with regard to other depository institutions consistent with safety and soundness implications to credit unions, and the authority granted to federal credit unions under NCUA regulations 12 C.F.R. §741.8, regarding purchase of assets and assumption of liabilities.

Overall, the proposed new rule will serve as a guide to state charters in utilizing this authority and in seeking Commissioner approval for conducting the purchase of assets and assumption of liabilities. The purpose for and description of each new subsection is provided in the following paragraphs.

Subsection (a) provides the general authority to initiate, with Commissioner approval, programs of purchasing loans or assuming assignment of deposits, shares, or liabilities from any credit union, any other financial type institution, or any successor in interests of those entities.

Subsection (b) outlines limited circumstances when Commissioner approval of such activities is not necessary including when such purchases are used to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market; assumptions of liabilities through perfection of a security interest in connection with an extension of credit to a member; purchases or assumptions from any other deposit insured credit union except in circumstances of a merger; or purchases of loan participations authorized under 7 TAC §91.805.

Subsection (c) outlines requirements of the application-for-approval process, including appropriate due diligence by the credit union, proposed policies under which the program would

operate, demonstrated internal expertise to manage such a program, and evidence of requested approval by NCUA under NCUA regulations 12 C.F.R. §741.8.

Subsection (d) references the federal requirements to seek NCUA approval of such a program if the institution seeking authority is federally insured.

Subsection (e) outlines the Department's responsibility to process such an application as soon as possible while recognizing that credit unions requesting such authority should submit an application no later than 60 days prior to the planned implementation of such a program.

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 will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule because the rules concern activities solely of private entities.

PUBLIC BENEFIT/COST NOTE. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendments are in effect, the public benefits anticipated as a result of enforcing the rule will be greater clarity as to what is expected of a credit union that elects to initiate such a program. There is no economic cost anticipated to the credit union system or to individuals required to comply with the rule as proposed. The application processes the proposed rule calls for is not unlike the processes credit unions already follow to carry out certain other programs. The process does not require the hiring of additional staff, purchase of equipment, or payment of a additional fees. Further, the choice to engage in the types of transactions the proposed rule covers rests solely with each credit union, and it is only those credit unions that choose to engage in this new authorized activity that must complete the application process.

ECONOMIC IMPACT ON CERTAIN BUSINESSES, COMMUNITIES, AND LOCAL ECONOMY AND EMPLOYMENT. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of adopting the proposed rule for the same reasons as mentioned above in the public benefit/cost note. There also will be no impact on local employment or local economy for each year of the first five years the proposed amendments are in effect as the proposed rule relates solely to investment authority of state-chartered credit unions. Therefore, no economic impact statement, local employment impact statement, or 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 the department is a self-directed semi-independent agency and is exempt from that statute, but also because, as described above in the public benefit and cost note, the proposed rule does not impose a cost on regulated persons under Government Code §2001.024, including another state agency, a special district, or a local government.

GOVERNMENT GROWTH IMPACT STATEMENT. 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;
- increase fees paid to the department;
- expand existing regulations;
- increase or decrease the number of individuals subject to the rule's applicability;
- positively or adversely affect this state's economy.

The first year it is in effect, the rule will create a new regulation that authorizes a credit union to purchase assets and to assume the liabilities of another financial-type institution. This authority will continue into future years unless it is repealed.

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, this proposed 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.

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@hud.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*.

The amendments are proposed under Texas Finance Code, §15.402, which authorizes the Commission to adopt reasonable rules for administering Title 2, Chapter 15 and Title 3, Subchapter D of the Texas Finance Code; and under Texas Finance Code §123.003, which enlarges the powers of state chartered credit unions to achieve parity of authority with federally chartered credit unions, and §124.351, which sets out permitted investments.

The specific section affected by the proposed amended rule is Texas Finance Code, §124.351.

§91.809. Purchase of Assets and Assumption of Liabilities.

(a) With approval of the Commissioner, a credit union may initiate a program of purchasing loans or assuming an assignment of deposits, shares, or liabilities from:

- (1) Any credit union
- (2) Any other financial-type institution (including depository institutions, mortgage banks, consumer finance companies, insurance companies, loan brokers, and other loan sellers or liability traders); or
- (3) Any successor in interest to any institution identified in paragraph (a)(1) or (a)(2) of this section.

(b) Commissioner approval is not required for:

(1) Purchases of student loans or real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market under NCUA regulations 12 C.F.R. §701.23(b)(1)(iii) or (iv), or purchases of member loans under 7 TAC §91.711;

(2) Assumption of deposits, shares or liabilities as rollovers or transfers of member retirement accounts or in which an insured credit union perfects a security interest in connection with an extension of credit to any member.

(3) Purchases of assets, including loans, or assumptions of deposits, shares, or liabilities from any deposit insured credit union, except a purchase or assumption as a part of a merger under 7 TAC §91.1003; or

(4) Purchases of loan participations as defined in and meeting the requirements of §91.805 of this chapter.

(c) A credit union seeking approval under subsection (a) of this section must submit a letter application to the commissioner stating the nature of the transaction and describing the proposed program. The application must include:

- (1) Copies of relevant transaction documents;
- (2) The credit union board's resolution approving the credit union to submit the application and engage in the proposed activity;
- (3) Evidence that the credit union board has reviewed and approved the credit union's due diligence efforts;
- (4) Proposed policies under which the program will operate, and which must comply with the requirements outlined in 7 TAC §§91.802(b), 91.803 and 91.808;
- (5) Demonstrated internal expertise to understand and mitigate the risks associated with the activity proposed;
- (6) Evidence of requested approval by NCUA under NCUA regulations 12 C.F.R. §741.8, if federally insured, or bond covenants from American Share Insurance if necessary;
- (7) Any other information relevant to the transaction and the program; and
- (8) Information requested by the Commissioner or the Department.

(d) A federally insured credit union purchasing assets or assuming liabilities of another entity must also comply with applicable requirements contained within the NCUA regulations 12 C.F.R. Part 741.

(e) The Commissioner approve or deny the application as soon as possible, depending on the complexity of the proposed activities. A credit union should submit a complete application no later than 60 days prior to the planned closing date of any program-related transaction(s).

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of September 29, 2020

Title 12 → Chapter VII → Subchapter A → Part 741 → Subpart A → §741.8

Title 12: Banks and Banking

PART 741—REQUIREMENTS FOR INSURANCE

Subpart A—Regulations That Apply to Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That Are Not Codified Elsewhere in NCUA's Regulations

§741.8 Purchase of assets and assumption of liabilities.

(a) Any credit union insured by the National Credit Union Share Insurance Fund (NCUSIF) must receive approval from the NCUA before purchasing loans or assuming an assignment of deposits, shares, or liabilities from:

(1) Any credit union that is not insured by the NCUSIF;

(2) Any other financial-type institution (including depository institutions, mortgage banks, consumer finance companies, insurance companies, loan brokers, and other loan sellers or liability traders); or

(3) Any successor in interest to any institution identified in paragraph (a)(1) or (a)(2) of this section.

(b) Approval is not required for:

(1) Purchases of student loans or real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market under §701.23(b)(1)(iii) or (iv) of this chapter or comparable state law for state-chartered credit unions, or purchases of member loans under §701.23(b)(1)(i) of this chapter or comparable state law for state-chartered credit unions;

(2) Assumption of deposits, shares or liabilities as rollovers or transfers of member retirement accounts or in which a federally insured credit union perfects a security interest in connection with an extension of credit to any member.

(3) Purchases of assets, including loans, or assumptions of deposits, shares, or liabilities by any credit union insured by the NCUSIF from another credit union insured by the NCUSIF, except a purchase or assumption as a part of a merger under part 708b; or

(4) Purchases of loan participations as defined in and meeting the requirements of §701.22 of this chapter.

(c) A credit union seeking approval under paragraph (a) of this section must submit a request for approval to the appropriate regional director. The request must state the nature of the transaction and include copies of all relevant transaction documents. The regional director will approve or disapprove the request as soon as possible depending on the complexity of the proposed transaction. Credit unions should submit a request for approval in sufficient time to close the transaction.

[70 FR 75725, Dec. 21, 2005, as amended at 75 FR 34622, June 18, 2010; 78 FR 32545, May 31, 2013; 78 FR 37958, June 25, 2013; 84 FR 1608, Feb. 5, 2019]

Need assistance?

L

FUTURE COMMISSION MEETING

L. Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for June 4, 2021.

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION



Examiner Turnover by Period

Thursday, January 28, 2021

10:15:32 AM

01/01/2020

TO

12/31/2020

| Reason for Leaving | Count |
|--------------------|-------|
| 1 | 1 |
| 10 | 3 |
| 6 | 1 |
| 9 | 1 |
| | 6 |

Reason Code Definitions

1 - New position with higher pay

2 - Too much travel

3 - Combination of 1 and 2

4 - Perceived lack of opportunity

5 - Relocation

6 - Family situation

7 - Difficulty of position

8 - Other

9 - No reason given

10-Retirement

If multiple reasons use this format:

ex. reasons 1 and 7

"1, 7"

TEXAS CREDIT UNION DEPARTMENT

Current Ethnicity and Sex Breakout

| Race | F | M |
|-------|--------|--------|
| WHITE | | 10 |
| ASIAN | | 3 |
| NHOPI | 1 | |
| MULTI | 1 | |
| HISPA | 5 | 1 |
| BLACK | 5 | 2 |
| | 12 | 16 |
| | 42.86% | 57.14% |

28

TEXAS CREDIT UNION DEPARTMENT

Employee Breakout by Experience Level (FIELD STAFF)

Summary for 'EXPLEVEL' = < 1 YEAR

| | | | | |
|-------|---|----|--------|-----|
| Count | 4 | \$ | 49,878 | Avg |
|-------|---|----|--------|-----|

Summary for 'EXPLEVEL' = 2 TO 5 YEARS

| | | | | |
|-------|---|----|--------|-----|
| Count | 3 | \$ | 65,412 | Avg |
|-------|---|----|--------|-----|

Summary for 'EXPLEVEL' = 5 TO 10 YEARS

| | | | | |
|-------|---|----|--------|-----|
| Count | 7 | \$ | 81,816 | Avg |
|-------|---|----|--------|-----|

Summary for 'EXPLEVEL' = MORE THAN 10 YEARS

| | | | | |
|-------|---|----|---------|-----|
| Count | 4 | \$ | 109,998 | Avg |
|-------|---|----|---------|-----|

| | | | |
|----|----|--------|-----|
| 18 | \$ | 78,247 | 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) | \$ 79,692 | 10.29 | Avg |
| | Summary for 'Race' = ASIAN (3 detail records) | \$ 79,692 | 10.29 | Avg |
| BLACK | | | | |
| | Summary for F (5 detail records) | \$ 86,530 | 7.04 | Avg |
| | Summary for M (2 detail records) | \$ 74,796 | 5.61 | Avg |
| | Summary for 'Race' = BLACK (7 detail records) | \$ 83,177 | 6.64 | Avg |
| HISPA | | | | |
| | Summary for F (2 detail records) | \$ 68,736 | 4.96 | Avg |
| | Summary for 'Race' = HISPA (2 detail records) | \$ 68,736 | 4.96 | Avg |
| WHITE | | | | |
| | Summary for M (6 detail records) | \$ 74,944 | 9.65 | Avg |
| | Summary for 'Race' = WHITE (6 detail records) | \$ 74,944 | 9.65 | Avg |
| TOTALS | | | | |
| | 18 | \$ 78,247 | 8.06 | Avg |

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex (ADMIN)

| Race | Sex | Annual Salary | Tenure | |
|---------------|---|---------------|--------|-----|
| HISPA | | | | |
| | Summary for F (3 detail records) | \$ 55,896 | 14.57 | Avg |
| | Summary for M (1 detail record) | \$ 108,756 | 3.97 | Avg |
| | Summary for 'Race' = HISPA (4 detail records) | \$ 69,111 | 11.92 | Avg |
| MULTI | | | | |
| | Summary for F (1 detail record) | \$ 42,708 | 1.73 | Avg |
| | Summary for 'Race' = MULTI (1 detail record) | \$ 42,708 | 1.73 | Avg |
| NHOPI | | | | |
| | Summary for F (1 detail record) | \$ 37,080 | 0.87 | Avg |
| | Summary for 'Race' = NHOPI (1 detail record) | \$ 37,080 | 0.87 | Avg |
| WHITE | | | | |
| | Summary for M (4 detail records) | \$ 124,664 | 7.35 | Avg |
| | Summary for 'Race' = WHITE (4 detail records) | \$ 124,664 | 7.35 | Avg |
| TOTALS | | | | |
| | 10 | \$ 85,489 | 7.97 | Avg |

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex

| Race | Sex | Annual Salary | Tenure | |
|---------------|--|---------------|--------|-----|
| ASIAN | | | | |
| | Summary for M (3 detail records) | \$ 79,692 | 10.29 | Avg |
| | Summary for 'Race' = ASIAN (3 detail records) | \$ 79,692 | 10.29 | Avg |
| BLACK | | | | |
| | Summary for F (5 detail records) | \$ 86,530 | 7.04 | Avg |
| | Summary for M (2 detail records) | \$ 74,796 | 5.61 | Avg |
| | Summary for 'Race' = BLACK (7 detail records) | \$ 83,177 | 6.64 | Avg |
| HISPA | | | | |
| | Summary for F (5 detail records) | \$ 61,032 | 10.73 | Avg |
| | Summary for M (1 detail record) | \$ 108,756 | 3.97 | Avg |
| | Summary for 'Race' = HISPA (6 detail records) | \$ 68,986 | 9.60 | Avg |
| MULTI | | | | |
| | Summary for F (1 detail record) | \$ 42,708 | 1.73 | Avg |
| | Summary for 'Race' = MULTI (1 detail record) | \$ 42,708 | 1.73 | Avg |
| NHOPI | | | | |
| | Summary for F (1 detail record) | \$ 37,080 | 0.87 | Avg |
| | Summary for 'Race' = NHOPI (1 detail record) | \$ 37,080 | 0.87 | Avg |
| WHITE | | | | |
| | Summary for M (10 detail records) | \$ 94,832 | 8.73 | Avg |
| | Summary for 'Race' = WHITE (10 detail records) | \$ 94,832 | 8.73 | Avg |
| TOTALS | | | | |
| | 28 | \$ 80,834 | 8.03 | Avg |

Survey Results Examinations January 2021 thru February 2021

Reflects summary responses from 16 surveys received or 38 % of the 42 surveys mailed

| Questions | Strongly Agree | Somewhat Agree | Neutral | Somewhat Disagree | Strongly Disagree | No Response |
|--|----------------|----------------|---------|-------------------|-------------------|-------------|
| Q 1. The lead-time was sufficient to gather the information requested prior to the on-site examination. | 11 | 4 | 1 | | | |
| Q 2. The pre-examination requests were reasonable in scope. | 12 | 3 | 1 | | | |
| Q 3. Materials requested in the pre-examination were used during the examination. | 11 | 2 | 3 | | | |
| Q 4. The pre-examination request made the examination run more efficiently. | 15 | 1 | | | | |
| Q 5. The examiners were knowledgeable about your credit union. | 11 | 5 | | | | |
| Q 6. The examiners demonstrated a thorough understanding of safety and soundness issues. | 12 | 4 | | | | |
| Q 7. The examiners were responsive to your questions and concerns. | 12 | 4 | | | | |
| Q 8. The examiners communicated effectively with the credit union throughout the examination. | 14 | 2 | | | | |
| Q 9. The examiners treated you professionally. | 16 | | | | | |
| Q 10. The examiners explained the CAMEL Ratings in sufficient detail. | 14 | 2 | | | | |
| Q 11. All major findings of the examination were discussed with you prior to the examiners leaving your credit union. | 15 | | | | | 1 |
| Q 12. Management was given the opportunity to react to the examination findings. | 14 | 1 | | | | 1 |
| Q 13. The examination was completed within a reasonable timeframe. | 13 | 2 | | | | 1 |
| Q 14. The report accurately reflected the examination findings as conveyed to you during the examination. | 15 | | | | | 1 |
| Q 15. The report was easy to understand. | 14 | 1 | | | | 1 |
| Q 16. The report accurately portrayed your credit union's practices and condition. | 14 | 1 | | | | 1 |
| Q 17. The transmittal letter and other written communications concerning the examination report was clear and concise. | 15 | | | | | 1 |
| Q 18. The report contained useful recommendations for improving safety and soundness practices. | 12 | 1 | 2 | | | 1 |

Examinations (Continued)

| Questions | Strongly Agree | Somewhat Agree | Neutral | Somewhat Disagree | Strongly Disagree | No Response |
|--|----------------|----------------|---------|-------------------|-------------------|-------------|
| Q 19. The examination findings will assist you in enhancing your safety and soundness practices. | 14 | 1 | | | | 1 |
| Q 20. The examination was conducted in a fair and objective manner. | 13 | 2 | | | | 1 |

Applications

Reflects summary responses from 8 surveys received or 29 % of the 28 surveys mailed

| Questions | Strongly Agree | Somewhat Agree | Neutral | Somewhat Disagree | Strongly Disagree | No Response |
|--|----------------|----------------|---------|-------------------|-------------------|-------------|
| Q 1. Department staff provided timely and accurate feedback/answers. | 7 | 1 | | | | |
| Q 2. Department staff communicated with me in a courteous and professional manner. | 8 | | | | | |
| Q 3. The application process was efficient. | 7 | 1 | | | | |
| Q 4. The Department's requests for information were reasonable. | 7 | 1 | | | | |
| Q 5. The Department's website was helpful in completing my application. | 6 | 1 | 1 | | | |

Complaints

Reflects summary responses from 16 surveys received or 23 % of the 69 surveys mailed

| Questions | Strongly Agree | Somewhat Agree | Neutral | Somewhat Disagree | Strongly Disagree | No Response |
|--|----------------|----------------|---------|-------------------|-------------------|-------------|
| Q 1. It was relatively easy to file a complaint with the Department. | 7 | 5 | 2 | 1 | 1 | |
| Q 2. Department staff communicated with me in a courteous and professional manner. | 8 | 3 | 2 | 1 | 2 | |
| Q 3. I believe Department staff understood the basis of my complaint. | 5 | 4 | 3 | 1 | 3 | |

Complaints (Continued)

| Questions | Strongly Agree | Somewhat Agree | Neutral | Somewhat Disagree | Strongly Disagree | No Response |
|---|----------------|----------------|---------|-------------------|-------------------|-------------|
| Q 4. The response provided by the Department addressed the important aspects of my complaint. | 3 | 2 | 1 | 3 | 6 | 1 |
| Q 5. The explanation given was fair considering applicable laws. | 3 | 3 | 2 | 8 | | |
| Q 6. The Department website was helpful in the complaint process. | 6 | 5 | 2 | 1 | 2 | |

Credit Union Department

Executive Summary

As of 11/30/20

*Information from call report cycle

| ACTIVITY | YTD 2019 | YTD 2020 | 2021 FISCAL YEAR | | | | |
|-------------------------------------|-------------|-------------|------------------|---------|---------|---------|-------|
| | | | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | YTD |
| MOVEMENT PROFILE | | | | | | | |
| Number of CUs | 181 | 177 | 176 | | | | |
| Total Assets (Millions) | *43,4341 | *48,620 | *49,462 | | | | |
| APPLICATIONS (Received) | | | | | | | |
| Charters | 0 | 0 | 0 | | | | 0 |
| Foreign Branches | 1 | 1 | 0 | | | | 0 |
| Conversions | 0 | 0 | 0 | | | | 0 |
| Mergers | 2 | 6 | 1 | | | | 1 |
| Bylaws | 58 | 77 | 28 | | | | 28 |
| Articles of Incorporation | 3 | 6 | 0 | | | | 0 |
| Total | 64 | 90 | 29 | | | | 29 |
| EXAMINATION ACTIVITIES | | | | | | | |
| Regular | 88 | 113 | 26 | | | | 26 |
| Joint | 63 | 49 | 13 | | | | 13 |
| Remedial | 31 | 30 | 10 | | | | 10 |
| Total | 182 | 192 | 49 | 0 | 0 | 0 | 49 |
| ENFORCEMENT ACTIONS (In Force) | | | | | | | |
| Determination Letters | 1 | 2 | 2 | | | | |
| LUAs | 0 | 0 | 0 | | | | |
| Cease & Desist Orders | 2 | 1 | 2 | | | | |
| Dividend Restrictions | 0 | 0 | 0 | | | | |
| Conservatorships | 0 | 0 | 0 | | | | |
| Liquidations | 1 | 1 | 1 | | | | |
| Total | 4 | 4 | 5 | 0 | 0 | 0 | |
| PERSONNEL STAFFING | | | | | | | |
| Field Examiners | 19 | 18 | 17 | | | | |
| Total Personnel | 29 | 29 | 27 | | | | |
| FINANCIAL OPERATIONS (In Thousands) | | | | | | | |
| Budgeted Expenditures | 4,262 | 4,446 | 1,054 | | | | 1,054 |
| Actual Expenditures | 3,904 | 3,898 | 961 | | | | 961 |
| Gifts and Bequests | n/a | n/a | n/a | n/a | n/a | n/a | n/a |
| Actual Revenue | 4,102 | 4,363 | 2,459 | | | | 2,459 |

Credit Union Department
Application Activities - Detail

| ACTIVITY | 4th Qtr 2019 | 4th Qtr 2020 | 2021 FISCAL YEAR | | | | |
|--------------------------------|-----------------|-----------------|------------------|---------|---------|---------|--|
| | | | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | |
| CHARTERS | | | | | | | |
| Pending at Beginning of Period | 0 | 0 | 0 | 0 | 0 | 0 | |
| Add: New Applications Filed | 0 | 0 | 0 | 0 | 0 | 0 | |
| Less: Approved | 0 | 0 | 0 | 0 | 0 | 0 | |
| Denied/Withdrawn | 0 | 0 | 0 | 0 | 0 | 0 | |
| Pending at End of Period | 0 | 0 | 0 | 0 | 0 | 0 | |
| FOREIGN BRANCH OFFICES | | | | | | | |
| Pending at Beginning of Period | 1 | 0 | 1 | 0 | 0 | 0 | |
| Add: New Applications Filed | 0 | 1 | 0 | 0 | 0 | 0 | |
| Less: Approved | 1 | 0 | 1 | 0 | 0 | 0 | |
| Denied/Withdrawn | 0 | 0 | 0 | 0 | 0 | 0 | |
| Pending at End of Period | 0 | 1 | 0 | 0 | 0 | 0 | |
| CONVERSIONS | | | | | | | |
| Pending at Beginning of Period | 0 | 0 | 0 | 0 | 0 | 0 | |
| Add: Applications Filed | 0 | 0 | 0 | 0 | 0 | 0 | |
| Less: Approved | 0 | 0 | 0 | 0 | 0 | 0 | |
| Denied/Withdrawn | 0 | 0 | 0 | 0 | 0 | 0 | |
| Pending at End of Period | 0 | 0 | 0 | 0 | 0 | 0 | |
| MERGERS | | | | | | | |
| Pending at Beginning of Period | 4 | 5 | 2 | 0 | 0 | 0 | |
| Add: Applications Filed | 1 | 1 | 0 | 0 | 0 | 0 | |
| Less: Approved | 2 | 0 | 0 | 0 | 0 | 0 | |
| Denied/Withdrawn | 0 | 4 | 0 | 0 | 0 | 0 | |
| Pending at End of Period | 3 | 2 | 2 | 0 | 0 | 0 | |
| BYLAWS | | | | | | | |
| Pending at Beginning of Period | 16 | 0 | 7 | 0 | 0 | 0 | |
| Add: Applications Filed | 8 | 28 | 28 | 0 | 0 | 0 | |
| Less: Approved | 19 | 21 | 27 | 0 | 0 | 0 | |
| Denied/Withdrawn | 1 | 0 | 0 | 0 | 0 | 0 | |
| Pending at End of Period | 4 | 7 | 8 | 0 | 0 | 0 | |
| ARTICLES OF INCORPORATION | | | | | | | |
| Pending at Beginning of Period | 0 | 0 | 1 | 0 | 0 | 0 | |
| Add: Applications Filed | 1 | 1 | 0 | 0 | 0 | 0 | |
| Less: Approved | 0 | 0 | 1 | 0 | 0 | 0 | |
| Denied/Withdrawn | 0 | 0 | 0 | 0 | 0 | 0 | |
| Pending at End of Period | 1 | 1 | 0 | 0 | 0 | 0 | |

Credit Union Department
Movement Profile - Condition Summary

| CAMEL RATING | 4th Qtr 2019 | 4th Qtr 2020 | 2021 FISCAL YEAR | | | | |
|-----------------|-----------------|-----------------|------------------|----------|----------|----------|--|
| | | | *1st Qtr | *2nd Qtr | *3rd Qtr | *4th Qtr | |
| 1 | 50 | 55 | 55 | | | | |
| 2 | 110 | 101 | 103 | | | | |
| 3 | 19 | 18 | 15 | | | | |
| 4 | 2 | 3 | 3 | | | | |
| 5 | 0 | 0 | 0 | | | | |
| Total | 181 | 177 | 176 | 0 | 0 | 0 | |

* Information from exam master list

Texas Credit Union Department
Enforcement Actions - Detail

| TYPE OF ACTION | In Force 8/31/2019 | Issued | Activity Terminated | In Force 8/31/2020 | Issued | Activity Terminated | In Force 11/30/2020 |
|-----------------------|-----------------------|--------|------------------------|-----------------------|--------|------------------------|------------------------|
| Determination Letters | 0 | 2 | 0 | 2 | 0 | 0 | 2 |
| LUAs | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Cease & Desist Orders | 2 | 1 | 2 | 1 | 1 | 0 | 2 |
| Dividend Restrictions | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Conservatorships | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| Liquidations | 1 | 1 | 0 | 1 | 0 | 0 | 1 |
| Total | 3 | 4 | 3 | 4 | 1 | 0 | 5 |

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 | 26 | 130% | 15% | 100% |
| Joint | 14 | 13 | 93% | 7% | 100% |
| Remedial | 7 | 10 | 143% | 6% | 100% |
| Total | 41 | 49 | 120% | 30% | 100% |

Credit Union Department
Movement Profile - Consumer Complaints

| CONSUMER COMPLAINTS | YTD 2019 | YTD 2020 | 2021 FISCAL YEAR | | | | |
|-----------------------|----------|----------|------------------|---------|---------|---------|------|
| | | | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | YTD |
| Received | 363 | 350 | 67 | | | | 67 |
| Closed | 376 | 344 | 69 | | | | 69 |
| Avg. Days to Process | 15.5 | 16.75 | 21 | 0 | 0 | 0 | 5.25 |
| % Resolved in 30 Days | 100% | 97% | 100% | | | | 100% |

Texas Credit Union Department
Consumer Complaint - Detail

| TYPES OF COMPLAINTS | YTD 2019 | YTD 2020 | 2021 FISCAL YEAR | | | | |
|--------------------------------------|----------|----------|------------------|---------|---------|---------|-----|
| | | | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | YTD |
| LOAN ISSUES | | | | | | | |
| Collections/Loans | 14 | 15 | 1 | | | | 1 |
| Denial | 0 | 0 | | | | | 0 |
| Loan Issues | 5 | 11 | | | | | 0 |
| Credit Report Issues | 89 | 46 | 6 | | | | 6 |
| Insurance - CPI, GAAP, Property, etc | 7 | 1 | | | | | 0 |
| | | | | | | | |
| ACCOUNT ISSUES | | | | | | | |
| Discrimination | 0 | 2 | 1 | | | | 1 |
| Electronic Funds Transfer | 10 | 21 | 5 | | | | 5 |
| Holds on Checks | 10 | 12 | 4 | | | | 4 |
| Estate/Probate | 2 | 0 | | | | | 0 |
| Fraud/Unauthorized | 33 | 38 | 18 | | | | 18 |
| Fees | 26 | 25 | 5 | | | | 5 |
| Billing Disputes | 13 | 15 | 9 | | | | 9 |
| Other | 66 | 57 | 8 | | | | 8 |
| OTHER PRODUCTS/SERVICES | | | | | | | |
| Account/Loan Balance | 39 | 32 | 2 | | | | 2 |
| Account Closed/Frozen | 8 | 11 | 3 | | | | 3 |
| Customer Service | 38 | 40 | 5 | | | | 5 |
| Deceptive Advertisment | 5 | 4 | | | | | 0 |
| Vehicle Title | 7 | 5 | 2 | | | | 2 |
| Website Issues | 2 | 9 | | | | | 0 |
| TOTAL | 374 | 344 | 69 | 0 | 0 | 0 | 69 |

Credit Union Department
Merger/Conversion Finalized

| ACTIVITY | YTD 2019 | YTD 2020 | 2021 FISCAL YEAR | | | | |
|----------------------|-------------|-------------|------------------|---------|---------|---------|-----|
| | | | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | YTD |
| MERGERS | | | | | | | |
| Number: | | | | | | | |
| State-to-State | 1 | 1 | | | | | 0 |
| Federal-to-State | 2 | 4 | | | | | 0 |
| State-to-Federal | 1 | 2 | | | | | 0 |
| Total | 4 | 7 | 0 | 0 | 0 | 0 | 0 |
| Assets: | | | | | | | |
| State-to-State | 2,863,489 | 18,596,591 | | | | | 0 |
| Federal-to-State | 69,246,226 | 2,352,989 | | | | | 0 |
| State-to-Federal | 24,000,070 | - | | | | | 0 |
| Total | 96,109,785 | 20,949,580 | 0 | 0 | 0 | 0 | 0 |
| CONVERSIONS | | | | | | | |
| Number: | | | | | | | |
| Federal-to-State | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| State-to-Federal | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| State-to-Mutual Bank | 0 | 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
Web Site Statistics
Report Range: 09/01/2020 thru 11/30/2020**

| | | Number |
|-------------------------------|--------------------------------------|---------------|
| Total Visits: | | |
| | Number of Visits | 4,738 |
| | Visitors | 3,068 |
| | Page Views | 9,964 |
| | Number of Repeat Visitors | 1,967 |
| | Average Pages per Visit | 2.1 |
| | Average Visit Duration | 0:02:03 |
| | New Visitors | 58.46% |
| Most Requested Pages: | | |
| | Home | 3,191.000 |
| | Texas Rules for Credit Unions | 799 |
| | Job Postings | 689 |
| | Department Newsletter | 402 |
| | Employment | 400 |
| Most Downloaded Files: | | |
| | Rules for Credit Unions | 425 |
| | Job Position | 401 |
| | Job Description | 141 |
| | September 2020 Newsletter | 96 |
| | Complaint Form | 92 |

469 CONSOLIDATED REPORT FOR
CREDIT UNION DEPARTMENT

05-Nov-2020

| PROCUREMENT CATEGORY | TOTAL EXPENDITURES | TOTAL \$/% SPENT WITH NON HUBS | TOTAL \$/% SPENT WITH HUBS | ANNUAL PROCUREMENT GOAL % |
|----------------------|--------------------|-----------------------------------|-------------------------------|------------------------------|
| HEAVY CONSTRUCTION | \$00 | \$00 / 0.00% | \$00 / 0.00% | 11.20% |
| BUILDING | \$00 | \$00 / 0.00% | \$00 / 0.00% | 21.10% |
| SPECIAL TRADE | \$00 | \$00 / 0.00% | \$00 / 0.00% | 32.90% |
| PROFESSIONAL | \$00 | \$00 / 0.00% | \$00 / 0.00% | 23.70% |
| OTHER SERVICES | \$73,860 | \$40,182 / 54.40% | \$33,677 / 45.60% | 26.00% |
| COMMODITY PURCHASING | \$49,589 | \$12,137 / 24.48% | \$37,452 / 75.52% | 21.10% |
| | <u>\$123,449</u> | <u>\$52,320 / 42.38%</u> | <u>\$71,129 / 57.62%</u> | |

CONSOLIDATED REPORT FOR
THE STATE OF TEXAS

| | | | | |
|----------------------|-------------------------|----------------------------------|---------------------------------|--------|
| HEAVY CONSTRUCTION | \$8,387,877,123 | \$8,226,011,313 / 98.07% | \$445,096,593 / 5.31% | 11.20% |
| BUILDING | \$2,134,748,131 | \$2,033,030,309 / 95.24% | \$408,586,692 / 19.14% | 21.10% |
| SPECIAL TRADE | \$931,750,334 | \$796,989,962 / 85.54% | \$198,816,776 / 21.34% | 32.90% |
| PROFESSIONAL | \$1,348,986,108 | \$1,153,900,010 / 85.54% | \$398,169,678 / 29.52% | 23.70% |
| OTHER SERVICES | \$5,647,165,037 | \$5,025,057,707 / 88.98% | \$782,883,456 / 13.86% | 26.00% |
| COMMODITY PURCHASING | \$6,590,294,890 | \$5,908,424,766 / 89.65% | \$707,403,161 / 10.73% | 21.10% |
| | <u>\$25,040,821,627</u> | <u>\$23,143,414,069 / 92.42%</u> | <u>\$2,940,956,359 / 11.74%</u> | |

469 ** ANALYSIS OF AWARDS FOR
CREDIT UNION DEPARTMENT

| CERTIFIED HUB GROUP FOR HUB CREDIT | TOTAL # AND % OF HUB VIDS RECEIVING AWARDS | TOTAL DOLLAR AMOUNT AND % AWARDED TO HUBS |
|---------------------------------------|---|--|
| ASIAN PACIFIC | 1 / 12.50% | \$4,223 / 5.94% |
| BLACK | 1 / 12.50% | \$1,971 / 2.77% |
| HISPANIC | 0 / 0.00% | \$00 / 0.00% |
| NATIVE AMERICAN | 1 / 12.50% | \$1,895 / 2.66% |
| SERVICE-DISABLED VETERAN | 0 / 0.00% | \$00 / 0.00% |
| WOMAN | 5 / 62.50% | \$63,040 / 88.63% |
| TOTAL | <u>8 / 100.00%</u> | <u>\$71,129 / 100.00%</u> |

** ANALYSIS OF AWARDS FOR
THE STATE OF TEXAS

| CERTIFIED HUB GROUP | # OF VIDS ELIGIBLE FOR HUB CREDIT, % | # OF MALES, % | # OF FEMALES, % | TOTAL # AND % OF HUB VIDS RECEIVING AWARDS | TOTAL DOLLAR AMOUNT AND % AWARDED TO HUBS |
|--------------------------|---|-----------------------|-----------------------|---|--|
| ASIAN PACIFIC | 1314 / 8.18% | 870 / 12.39% | 444 / 4.91% | 283 / 7.06% | \$377,129,124 / 12.82% |
| BLACK | 3924 / 24.42% | 2246 / 31.99% | 1678 / 18.55% | 503 / 12.55% | \$310,928,472 / 10.57% |
| HISPANIC | 5010 / 31.18% | 3482 / 49.59% | 1528 / 16.89% | 1262 / 31.48% | \$985,030,943 / 33.49% |
| NATIVE AMERICAN | 271 / 1.69% | 192 / 2.73% | 79 / 0.87% | 76 / 1.90% | \$55,530,761 / 1.89% |
| SERVICE-DISABLED VETERAN | 231 / 1.44% | 231 / 3.29% | 0 / 0.00% | 45 / 1.12% | \$19,027,054 / 0.65% |
| WOMEN | 5317 / 33.09% | 0 / 0.00% | 5317 / 58.78% | 1840 / 45.90% | \$1,193,310,002 / 40.58% |
| TOTAL | <u>16067 / 100.00%</u> | <u>7021 / 100.00%</u> | <u>9046 / 100.00%</u> | <u>4009 / 100.00%</u> | <u>\$2,940,956,359 / 100.00%</u> |

** THE ANALYSIS IS BASED ON THE TOTAL # OF VENDOR ID NUMBERS THAT WERE ELIGIBLE TO RECEIVE HUB CREDIT.
TOTAL # OF CERTIFIED HUBS FOR THE PERIOD OF FY2020 IS 16034.

SUCH AS, 1314 (8.18%) OF VID NUMBERS ELIGIBLE TO RECEIVE HUB CREDIT WERE ASIAN PACIFIC OWNED BUSINESSES, 870 (12.39%) WERE ASIAN PACIFIC MALE OWNED BUSINESSES AND 444 (4.91%) WERE ASIAN PACIFIC FEMALE OWNED BUSINESSES. 283 (7.06%) AWARDS WERE MADE TO ASIAN PACIFIC OWNED BUSINESSES, TOTALING \$377,129,124.00 (12.82%) OF THE TOTAL DOLLARS AWARDED TO HUBS.

Annual EEO/Diversity Progress Report
Fiscal Year 2020

A. EEO/DIVERSITY PROGRESS REPORT

| Position: | Position Description: |
|--|---|
| Posting #: <u>20-01</u> | Filled (Y/N): <u>Y</u> Date Filled: <u>11/15/2019</u> |
| Person(s) making employment decision: <u>Cook</u> | |
| Reason for selection of the final candidate: <u>Most Qualified Candidate</u> | |
| | |
| Posting #: <u>20/02</u> | Filled (Y/N): <u>N</u> Date Filled: _____ |
| Person(s) making employment decision: _____ | |
| Reason for selection of the final candidate: _____ | |
| | |
| Posting #: <u>20-03</u> | Filled (Y/N): <u>Y</u> Date Filled: <u>5/26/2020</u> |
| Person(s) making employment decision: _____ | |
| Reason for selection of the final candidate: <u>Most Qualified Candidate</u> | |
| | |
| Posting #: <u>20-04</u> | Filled (Y/N): <u>N</u> Date Filled: _____ |
| Person(s) making employment decision: _____ | |
| Reason for selection of the final candidate: _____ | |
| | |
| Posting #: <u>20-05</u> | Filled (Y/N): <u>N</u> Date Filled: _____ |
| Person(s) making employment decision: _____ | |
| Reason for selection of the final candidate: _____ | |
| | |
| Posting #: <u>20-06</u> | Filled (Y/N): <u>Y</u> Date Filled: <u>3/12/2020</u> |
| Person(s) making employment decision: <u>Etheridge</u> | |
| Reason for selection of the final candidate: <u>Most Qualified Candidate</u> | |
| | |
| Posting #: <u>20-07</u> | Filled (Y/N): <u>N</u> Date Filled: _____ |
| Person(s) making employment decision: _____ | |
| Reason for selection of the final candidate: _____ | |
| | |
| Posting #: <u>20-08</u> | Filled (Y/N): <u>Y</u> Date Filled: <u>7/24/2020</u> |
| Person(s) making employment decision: <u>Etheridge</u> | |
| Reason for selection of the final candidate: <u>Most Qualified Candidate</u> | |
| | |
| Posting #: <u>20-09</u> | Filled (Y/N): <u>Y</u> Date Filled: <u>11/6/2020</u> |
| Person(s) making employment decision: <u>Williams</u> | |

| | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Reason for selection of the final candidate: <u>Most Qualified Candidate</u> | | | | | | | | | | | | | | |
| Posting #: <u>20-10</u> Filled (Y/N): <u>N</u> Date Filled: _____ Person(s) making employment decision: _____ Reason for selection of the final candidate: _____ | | | | | | | | | | | | | | |

| Race Sex | White | | | Black ^[1] | | | Hispanic ^[2] | | | Asian ^[3] | | | Indian ^[4] | | | Other | | | Not Given | | |
|-----------------------|-------|----|----|----------------------|----|----|-------------------------|---|----|----------------------|---|----|-----------------------|---|----|-------|---|----|-----------|---|----|
| | M | F | NG | M | F | NG | M | F | NG | M | F | NG | M | F | NG | M | F | NG | M | F | NG |
| Applications Received | 19 | 12 | | 13 | 19 | | 2 | | | 1 | 3 | | | | | 2 | 3 | | 3 | 8 | 5 |
| Interviewed | 5 | 1 | | | 3 | | 1 | | | | | | | | | | | | | 1 | 1 |
| Offers | 1 | | | | 2 | | | | | | | | | | | | | | | 1 | |
| Accept | 1 | | | | 2 | | | | | | | | | | | | | | | 1 | |
| Decline | | | | | | | | | | | | | | | | | | | | | |

E. APPEAL AND GRIEVANCE STATUS

Number of grievances received:

[1] Black or African American

[2] Hispanic or Latino

[3] Asian, Native Hawaiian or Other Pacific Islander

[4] American Indian / Alaskan