CREDIT UNION COMMISSION MEETING

Credit Union Department Building
914 East Anderson Lane (via teleconference only)
Austin, Texas

May 8, 2020
9:00 a.m.

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, the May 8, 2020 9:00 A.M. meeting of the Texas Credit Union Department will be held by telephonic conference call, as authorized under Texas Government Code section 551.125.

Members of the public will have access and a means to participate in this meeting, by two-way audio or video conference. Members must register to obtain specific dial in instructions at https://zoom.us/meeting/register/tJAscOippjkuHNNa_Zlg73l8L3wvfaFN3rXt. 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 May 8th, 2020. To obtain a recording, please contact Isabel Velasquez at 512-837-9236.

For public participants, after the meeting convenes the Chairperson will do a roll call. 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.

AGENDA

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, August 7, 2020

Friday, November 6, 2020

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

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

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the February 7, 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 February 7, 2020 be approved as presented.

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
February 7, 2020

I. **CALL TO ORDER** -- Chair Yusuf Farran called the meeting to order at 9:01 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included, Liz Bayless, Karyn Brownlee, Steven "Steve" Gilman, Sherri Merket, Jim Minge, 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 **(January 24, 2020, TRD#20290000542).** Chairman Farran recognized and welcomed Steven Ogle, Assistant Director of Reviews & General Counsel and Merrell Foote, Senior Policy Analyst from the Texas Sunset Advisory Commission.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** — Chair Farran inquired if there were any requests or motions to excuse an absence. Mr. Minge moved to excuse Commission Member Beckie Cobb from the Commission meeting on February 7, 2020. Mrs. Merket 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.

II. MINUTES OF PREVIOUS MEETING (November 1, 2019) -- 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. Mr. Gilman moved for approval of the minutes of November 1, 2019 as presented. Mr. Shurtz seconded the motion, and the commission carried the motion unanimously.

III. DEPARTMENT'S FY 2020 FINANCIAL PERFORMANCE -- Commissioner Kolhoff indicated that at the end of the 1st quarter of FY 2020, total expenditures remains below budget totaling $150,503 with approximately $1,466,751 available to cover the 2nd quarter of FY 2020 expenses projected. The Commission approved appropriated funds of $1,273,594 for the same timeframe. He reiterated that most bills are not paid until 30 days after the due date so some of the operating cost being reflected are only for a five-month period.

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

IV. STATUS OF THE STATE CREDIT UNION SYSTEM – Commissioner Kolhoff indicated there were a couple of errors on the second page of this report under Enforcement Issues - Determination Letters to "1" instead of "0". Also noted an error in the desginated year of 2018 should instead be 2019. Furthermore, Mr. Kolhoff reported that Texas credit unions are performing well and continue to realize positive loan growth, good asset quality trends, high earnings performance, and strengthening net worth positions.

V. SUNSET REVIEW STATUS UPDATE – Commissioner Kolhoff briefly highlighted that the Sunset team should be scheduling a meeting sometime in

April for an introductory session. After the introductory meeting is complete, an exam will be conducted of our institutions and our agency on how we fulfill our role and whether we are meeting the needs of the State of Texas in our current form. After the exam is completed the Sunset staff will submit their recommendations to the Sunset Commission.

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

VI. RULEMAKING MATTERS

(a) Adoption of Amendments to 7 TAC Section 91.2000 Concerning Purpose and Scope. Commissioner Kolhoff indicated that at its November meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.2000. The amended rule corrects reference to the Texas Tax Code relevant to the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act.

After a short discussion, Mrs. Bayless moved that the Commission adopt the amendments to 7 TAC Section 91.2000 concerning purpose and scope. Mr. Shurtz seconded the motion and the commission carried the motion unanimously.

(b) Adoption of Amendments to 7 TAC Section 95.200 Concerning Liquidating Agent; Notice of Taking Possession; Appointment of Liquidating Agent; Subordination Rights. Commissioner Kolhoff noted that its November meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 95.200. The amended rule would allow the Department to name a liquidating agent other than a deposit insurer as authorized under the Texas Finance Code.

After a brief discussion, Mr. Gilman moved that the Commission adopt the amendments to **7 TAC Section 95.200** concerning liquidating agent; notice of taking possession; appointment of liquidating agent; subordination rights. Mrs. Brownlee seconded the motion, and the Commission carried the motion unanimously.

(c) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter O (Relating to Trust Powers). Commissioner Kolhoff reported that this review is part of our normal review plan required by Texas Government Code Section 2001.039. At its July 8, 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed 7 TAC, Part 6, Chapter 91, Subchapter O (Trust Powers) and believe certain revisions are appropriate and necessary and amendments to the noted chapters are being separately presented for proposal.

After a short discussion, Mrs. Merket moved that the Commission find that the reasons for adopting **7 TAC, Part 6, Chapter 91, Subchapter O** continue to exist and that the Commission readopt these rules. Mr. Minge seconded the motion and the Commission carried the motion unanimously.

(d) Proposed Amendments to 7 TAC Section 91.6001 Concerning Fiduciary Duties. Commissioner Kolhoff indicated that the purpose of the proposed amendments corrects minor grammar changes.

After a brief discussion, Mrs. Brownlee moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.6001** concerning fiduciary duties. Mrs. Bayless seconded the motion and the motion was unanimously adopted.

(e) Proposed Amendments to 7 TAC Section 91.6003 Concerning Notice Requirements. Commissioner Kolhoff noted that the proposed amendment represents minor grammar changes and rescinds an originally established notification phase-in of fiduciary activity prior to October 1, 2003 that is no longer necessary.

After a short discussion, Mr. Gilman moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.6003** concerning notice requirements. Mr. Minge seconded the motion, and the Commission carried the motion unanimously.

(f) Proposed Amendments to 7 TAC Section 91.6004 Concerning Exercise of Fiduciary Powers. Commissioner Kolhoff reported that the proposed amendment represents a change in terminology to using a credit union's "net worth position", instead of the current term of "capital", as a factor the Commissioner considers in determining if a credit union's notice of its intent to exercise fiduciary powers is complete and accepted for filing.

After a brief discussion, Mr. Minge moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.6004** concerning exercise of fiduciary powers. Mr. Gilman seconded the motion, and the commission carried the motion unanimously.

(g) Proposed Amendments to 7 TAC Section 91.6006 Concerning Policies and Procedures. Commissioner Kolhoff noted that the proposed amendments include minor grammar changes and require certain policies, when appropriate, based on types of trust activity.

After a short discussion, Mr. Shurtz moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.6006** concerning policies and procedures. Mr. Gilman seconded the motion, and the Commission carried the motion unanimously.

(h) Proposed Amendments to 7 TAC Section 91.6010 Concerning Custody of Fiduciary Assets. Commissioner Kolhoff indicated that the proposed amendments include a minor grammar change.

After a brief discussion, Mrs. Bayless moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.6010** concerning custody of fiduciary assets. Mrs. Merket seconded the motion, and the Commission carried the motion unanimously.

(i) Proposed Amendments to 7 TAC Section 91.6014 Concerning Errors and Omissions Insurance. Commissioner Kolhoff reported that the proposed amendments maintain the original $500,000 bond coverage minimum requirement while requiring annual analysis of the appropriateness of the bond coverage relative to the trust activities undertaken.

After a short discussion, Mr. Gilman moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.6014** concerning errors and omissions insurance. Mrs. Swan seconded the motion, and the Commission carried the motion unanimously.

(j) Proposed Amendments to 7 TAC Section 91.1003 Concerning Mergers/Consolidations. Commissioner Kolhoff noted that the proposed amendments would reference the Hart-Scott Rodino Act (HSRA) requirements of proposed mergers instead of repeating specific thresholds within the HSRA that

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

After a brief discussion, Mr. Minge moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.1003** concerning mergers/consolidations. Mr. Shurtz seconded the motion, and the Commission carried the motion unanimously.

(k) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter C (Relating to Members). Commissioner Kolhoff indicated that this part of our normal review required by Texas Government Code Section 2001.039. At its July 8, 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed 7 TAC, Part 6, Chapter 91, Subchapter C (Members) and is recommending that no changes be made.

After a short discussion, Mrs. Merket moved that the Commission find that the reasons for adopting **7 TAC, Part 6, Chapter 91, Subchapter C** continue to exist and that the commission readopt these rules. Mr. Gilman seconded the motion and the Commission carried the motion unanimously.

(l) Approve the Department's 2021-2024 Rule Review Plan as Required by Section 2001.039, Government Code. Commissioner Kolhoff reported that each state agency is required to develop a four-year plan under which the agency will review all its existing rules to comply with the provisions of the Texas Government Code Section 2001.039.

After a brief discussion, Mrs. Brownlee moved that the Commission approve the four-year plan as presented. Mr. Gilman seconded the motion and the Commission carried the motion unanimously.

VII. Approve and Authorize the Submission of the Department's Annual Risk Assessment Report for FY 2020 as Required by Section 2102.004 Government Code. Commissioner Kolhoff noted that Texas Government Code Section 2102.013 requires certain state agencies to conduct a formal internal risk assessment each year and submit the assessment to the State Auditor's Office. He indicated that staff had completed the internal risk review for 2020 and had prepared a written assessment of the risks along with the controls the Department has in place to mitigate those risks.

After a short discussion, Mr. Gilman moved that the Commission approve the Department's Internal Risk Assessment Report for 2020 and authorize its submission to the State Auditor's Office. Mrs. Merket seconded the motion and the motion was unanimously adopted.

VIII. Approve Commission's Policies Manual, Annual Policy Review. Commissioner Kolhoff indicated that in accordance with policy, the Commission is required to review its policies manual at least once each year. He noted that at this time, staff had no recommendation for changes to any of the policies contained in the manual. 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.

IX. Adopt Resolutions Commemorating American Baptist Association Credit Union and Brazos Community Credit Union for their Contributions to

the Citizens of Texas on the Respective Milestone Anniversary Dates of their Origin. Commissioner Kolhoff noted that in accordance with provisions of the Commission's Policies Manual, the Commission may adopt resolutions honoring credit unions reaching certain milestones. In accordance with the criteria detailed in the policy, staff was presenting two resolutions for the Commission's consideration.

After a brief discussion, Mrs. Merket moved that the Commission adopt the Resolutions commemorating **American Baptist Association Credit Union and Brazos Community Credit Union** for their contributions to the citizens of Texas on the respective anniversary of their origin and that a copy of the appropriate resolutions be mailed to the individual credit unions. Mr. Minge seconded the motion and the motion was unanimously adopted.

X. Future Commission Meetings: Agenda Items, Arrangement, and Dates. Chair Farran reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for May 8, 2020 at 9:00 a.m., in Austin.

Commissioner Kolhoff pointed the Commission to the new agenda format and welcomed any input. It was the consensus of the Commission that the new format was easier to follow and understand.

Commissioner Kolhoff brought up the topic of the Commission members interested in attending a luncheon together with the examination staff and Department staff where no business is planned but, on a day, that the Commission would meet at a separate business meeting. He further indicated that were significant challenges finding a place that would accommodate such meetings with recording equipment necessary for an earlier regular Commission meeting without being cost prohibitive.

- **Melodie Durst, Executive Director with the Credit Union Coalition,** questioned the source of funding of such an expenditure. She also questioned whether the Department could, or should, expend Department resources for such an event.

After a lengthy discussion, it was the consensus of the Commission to move the August 7th Commission meeting to July 30th due to schedule conflicts. Furthermore, Assistant Attorney General Melissa Juarez was tasked to research if there were legal concerns with the Commission members attending a luncheon together where no business is planned but on a day the Commission would separately meet for business, and whether the Department may pay for staff lunches as part of a group luncheon?

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Farran adjourned the meeting at 10:20 a.m.

DRAFT

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 04-20-2020)
February 7, 2020		
7 TAC, Part 6, Chapter 91, Subchapter O – Relating to Trust Powers 91.6001, 91.6002, 91.6003, 91.6004, 91.6005, 91.6006, 91.6007, 91.6008, 91.6009, 91.6010, 91.6011, 91.6012, 91.6013, 91.6014, and 91.6015	Published in *Texas Register* as readopted rules.	Published in *Texas Register* on 02/21/20
7 TAC, Part 6, Chapter 91, Subchapter C – Relating to Members	Published in *Texas Register* as readopted rules.	Published in Texas Register on 02/21/20
7 TAC Section 91.6001 Fiduciary Duties	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 02/21/20
7 TAC Section 91.6003 Notice Requirements	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 02/21/20
7 TAC Section 91.6004 Exercise of Fiduciary Powers	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 02/21/20
7 TAC Section 91.6006 Policies and Procedures	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 02/21/20
7 TAC Section 91.6010 Custody of Fiduciary Assets	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 02/21/20
7 TAC Section 91.6014 Errors and Omissions Insurance	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 02/21/20
7 TAC Section 91.1003 Mergers/Consolidations	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 02/21/20

C

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.

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 and educational resources to understand 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 laptop. 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 necessarily needs to be ready to enter a credit union if necessary to perform its duties, but at this time all work has been effectively conducted offsite with well over 30 reports or internal memorandum successfully completed as of April 21, 2020.

SUPERVISORY FUNCTIONS: Department staff are conducting weekly calls to credit union CEOs and surveying operational, credit, liquidity and sensitivity risks during the pandemic. Further, the Department has issued 5 Informational Memorandums addressing the pandemic to the industry which can be found **here**. The Department also issued an **emergency authorization to close branches** if necessary.

Finally, the Commissioner sent Eleven emails to industry CEOs providing:

- Department Emergency contact information and encouraging contact on issues.
- Notices of Department Guidance.
- Notices of national teleconferences on SBA PPP program implementation and other loan modification resources.
- Weekly updates on Departmental status and sharing of issues noted across the industry.

- Sharing of FBI Fraud situational awareness information and CISA cybersecurity considerations.

RECOMMENDED ACTION: No action is anticipated.

D

DEPARTMENT'S FY 2020 BUDGET AND FINANCIAL PERFORMANCE

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

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

The following report highlights the Department's financial results for the period ending March 31, 2020.

At the end of 2nd quarter FY 2020 total expenditures were $229,353 or 10.4% below budgeted projections. All payments have been received for the second billing of operating fees, which was discounted $215,092 in aggregate from the original approved budget. Almost all budget lines performed below budgeted levels apart from additional maintenance costs for 2020 YTD.

RECOMMENDED ACTION: No action is anticipated.

Credit Union Department
BY 2020 Budget Analysis
For the Period Ended 2/29/20

	BY 2020 Budget	BY 2020 YTD Budgeted	BY 2020 YTD Actual	Budget Variance	Percent of YTD Budget
REVENUES:					
Operating Income					
Operating Fees	$4,445,694	$2,222,847	$2,312,660	$89,813	104%
Out-of-State Branch Fees	$0	$0	$9,500	$9,500	100%
Examination Fees	$0	$0	$0	$0	
Application Fees	$0	$0	$400	$400	
Penalties	$0	$0	$100	$100	
Other	$0	$0	$16,830	$16,830	
Operating Income Subtotal	**$4,445,694**	**$2,222,847**	**$2,339,490**	**$116,643**	105%
Interest Income (Operating Acct)	$0	$0	$10,400	$10,400	
Refund	$0	$0	($215)	($215)	
TOTAL REVENUES	**$4,445,694**	**$2,222,847**	**$2,349,675**	**$126,828**	**106%**
Total unexpended funds from FY19			$86,570	$86,570	
TOTAL FUNDS AVAILABLE TO COVER EXPENDITURES	**$4,445,694**	**$2,222,847**	**$2,436,245**	**$213,398**	**110%**
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	$2,631,146	$1,289,073	$1,253,596	$35,477	97%
Employee Benefits	$847,688	$423,844	$395,794	$28,050	93%
Total Personnel Expenses	**$3,478,834**	**$1,712,917**	**$1,649,390**	**$63,527**	**96%**
Travel Expenses:					
In State					
Examinations			$195,853		
Training/Conferences			$7,485		
Meetings			$491		
Public Forums			$0		
Other			$222		
Total In-State	$451,972	$225,986	$204,051	$21,935	90%
Out-of-State	$30,000	$15,000	$4,179	$10,821	28%
Commission	$11,000	$5,500	$4,683	$817	85%
Total Travel Expenses	**$492,972**	**$246,486**	**$212,914**	**$33,572**	**86%**
Other Operating Expenses:					
Communication/Utilities	$48,800	$24,400	$23,459	$941	96%
Professional Services/Fees	$250,040	$125,020	$34,044	$90,976	27%
Supplies/Materials	$73,270	$36,635	$19,351	$17,284	53%
Printing and Reproduction	$2,755	$1,378	$0	$1,378	0%
Repairs/Maintenance	$4,140	$2,070	$2,970	($900)	143%
Rentals and Leases	$7,250	$3,625	$1,523	$2,103	42%
Other Operating	$87,634	$43,817	$23,345	$20,472	53%
Total Other Operating Expenses	**$473,889**	**$236,945**	**$104,691**	**$132,253**	44%
TOTAL EXPENDITURES	**$4,445,695**	**$2,196,348**	**$1,966,994**	**$229,353**	**90%**
REMAINING FUNDS TO COVER EXPENDITURES			**$255,853**		

E

STRATEGIC PLAN

E. Approve and Authorize the Submission of the Department's Strategic Plan for Fiscal Years 2021-2025.

BACKGROUND: Section 2056.002 of the Government Code requires state agencies to make a strategic plan for its operations. Each even-numbered year, the Department must issue a plan covering five fiscal years beginning with the next odd-numbered fiscal year.

The proposed FY 2021-2025 Strategic Plan summarizes our analysis of the internal and external environment impacting credit unions and the Department and provides goals and objectives for the next five years. The Strategic Plan is centered on the agency's mission to "supervise, regulate and examine Texas credit unions to safeguard the public interest, protect the financial interests of credit union members and promote public confidence in the credit union industry."

The Strategic Plan highlights the agency's four strategic goal and supporting strategic objectives which reflect the outcome or greater impact of the broader strategic goals.

The four strategic goals for 2021-2025 are to:

1. Ensure a safe and sound state credit union system in Texas;
2. Provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services;
3. Safeguard the interest of credit union members; and
4. Develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of the Department's statutory mission.

The FY 2021 Annual Operating Plan & Budget will provide specific resources to implement the strategic objectives and initiatives outlined in the proposed Strategic Plan. (The Annual Operating Plan & Budget will be considered at the Commission's July meeting.)

CONCEPTUAL FRAMEWORK: The Legislative Budget Board (LBB) and the Governor's Office determine the elements required to be included in each agency's strategic plan. As presented, the Strategic Plan is the final draft, unless the LBB and the Office of the Governor amend previously issued instructions.

RECOMMENDED ACTION: The Department requests that the Commission approve the draft of the FY 2021-2025 Strategic Plan and authorize its submission in the form and at the time prescribed.

RECOMMENDED MOTION: I move that the Commission approve the draft of the Strategic Plan for the Department for the fiscal years 2021-2025 and authorize its submission in the format dictated by the Governor and the LBB.

AGENCY STRATEGIC PLAN

FISCAL YEARS 2021 TO 2025

BY THE

CREDIT UNION DEPARTMENT
STATE OF TEXAS

CREDIT UNION COMMISSION OF TEXAS

Commission Member	Dates of Term	Hometown
Yusuf E. Farran	July 16, 2015 to February 15, 2021	El Paso, Texas
Elizabeth L. "Liz" Bayless	April 25, 2018 to February 15, 2019	Austin, Texas
Karyn C. Brownlee	August 8, 2019 to February 15, 2023	Coppell, Texas
Beckie Stockstill Cobb	July 16, 2015 to February 15, 2021	Deer Park, Texas
Steven "Steve" Gilman	July 16, 2015 to February 15, 2021	Katy, Texas
Sherri Brannon Merket	April 13, 2011 to February 15, 2023	Midland, Texas
James L. "Jim" Minge	May 21, 2017 to February 15, 2023	Arlington, Texas
David F. Shurtz	August 8, 2019 to February 15, 2025	Hudson Oaks, Texas
Kay Swan	August 8, 2019 to February 15, 2025	Monahans, Texas

DATE OF SUBMISSION, JUNE 1, 2020

SIGNED:_____
John J. Kolhoff, Commissioner

APPROVED:_____
Yusuf E. Farran, Commission Chair

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PART 1. STRATEGIC PLAN

AGENCY MISSION

The mission of the Credit Union Department is to safeguard the public interest, protect the financial interests of credit union members, and promote public confidence in the credit union industry in accordance with TEX. FIN. CODE §15.102.

AGENCY PHILOSOPHY

The Credit Union Department will serve the public, credit unions and their members, exercising the highest standards of regulatory oversight, emphasizing professionalism and personal ethics. The Department will guide credit unions toward continuous improvement in financial strength and effectiveness in the provision of financial services to their members. Supervision and examination will be fairly and consistently administered as appropriate to ensure fiscal integrity of the industry. Preservation of public confidence in credit unions and the protection of members' interests, and shares and deposits of credit unions will remain a principal focal point of the agency. This will be accomplished through effective regulation and open communication with credit unions and the general public.

AGENCY OVERVIEW

The Credit Union Department ("Department"), under the oversight of the Credit Union Commission ("Commission"), is charged with assuring the safety and soundness of state-chartered credit unions in Texas. The agency also oversees branches of out-of-state credit unions operating in the state.

PART 1. STRATEGIC PLAN

AGENCY GOALS AND ACTION PLAN

AGENCY OPERATIONAL GOAL AND ACTION PLAN
Goal 1. To ensure a safe and sound credit union industry.
SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL 1. Ensure the Department anticipates, understands, addresses, and communicates risk to credit unions. 2. Ensure the Department cooperates with other regulatory authorities on common interests. 3. Develop and deploy supervisory methods and analytical tools appropriately pacing industry and economic changes in the financial services industry.
DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE 1. Accountable to tax and fee payers of Texas. • Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department's revenue is derived from state-chartered credit unions operating fees and assessments. • Being a prudent steward of its financial resources. • Providing transparency through its reporting. • Establishing the appropriate regulatory framework. • Complying with the examination requirements of 7 TEXAS ADMIN. CODE (TAC) Section 97.105. 2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions. • Ensuring risk-based supervision is properly implemented and focused on material risks to the industry and individual credit unions. • Identifying emerging risk areas related to industry and individual credit unions. • Working effectively with the NCUA, private share insurance providers, and other state regulators to identify and address risks and emerging issues. • Resolving problem credit unions in a timely fashion, effectively, and when possible, without loss to the share insurance provider. 3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve. • Resolving problem credit unions in a timely fashion, effectively, and when possible, without loss to the share insurance provider. • Ensuring risk-based supervision is properly implemented and focused on material risks to the industry and individual credit unions. • Identifying emerging risk areas related to industry and individual credit unions. • Taking prompt and effective enforcement actions when warranted. 4. Providing excellent customer service. • Implementing and developing new coordination and collaboration agreements with the NCUA, private share insurance providers, and other applicable state regulators regarding supervisory activities performed in credit unions and information exchange. • Working effectively with the NCUA, private share insurance providers, and other state regulators to identify and address risks and emerging issues. 5. Transparent such that agency actions can be understood by any Texan. • Complying with the examination requirements of 7 TAC Section 97.105.

- Implementing and developing new coordination and collaboration agreements with the NCUA, private share insurance providers, and other applicable state regulators regarding supervisory activities performed in credit unions and information exchange.
- Adhering to performance measures.

DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM

1. The Department fosters safe and sound credit union practices through regular risk-focused examinations, publication of guidances and policies, ongoing communications with credit union officials, and the review of applications submitted by credit unions to expand activities. When appropriate, the Department has a range of informal and formal enforcement options available to resolve safety and soundness problems identified at these institutions. The Department also devotes resources to administering off-site monitoring programs and to enhance its ability to timely identify emerging safety and soundness issues and trends.
2. Should a situation arise where a noncompliant business is discovered, the Department has statutory authority to take enforcement action against the entity. Disputes are investigated by staff and every attempt is made to bring about a fair resolution. State leadership and other interested parties are routinely provided information about credit unions, and the associated laws, rules, policies, and practices of the Department.
3. This strategic plan reaffirms the Department's mission to ensure that credit unions operate in a safe and sound manner, provide fair access to credit union services, treat members fairly, and comply with applicable laws and rules. The plan presents a vision in which the Department is a preeminent agency that adds value through proactive and risk-based supervision, is sought after as a source of knowledge and expertise and promotes a vibrant and diverse credit union system that benefits the Texas economy. To succeed in that mission and achieve that vision, the Department commits itself to the core values of integrity, expertise, collaboration, and independence—values that always have been the bedrock of the Department's culture.
4. The Department works closely with federal and other state regulators to provide credit unions seamless supervision, minimal disruption and costs, and effective use of resources. The Department continues its collaboration with the National Credit Union Administration (NCUA) started in 2003. The program results in more efficient and less burdensome examinations for credit unions. Furthermore, effective January 1, 2019, the Department was one of six state credit union regulators to begin participating in an alternating examination pilot (AEP) program with the NCUA. A select group of seventeen Texas state-chartered credit unions were selected to participate in the pilot which will last for approximately three years. The AEP is similar to the existing joint examination program with the exception that the two agencies will alternate responsibilities for issuing the joint examination report over two complete examination cycles.

AGENCY OPERATIONAL GOAL AND ACTION PLAN

Goal 2. To provide a flexible regulatory framework that enables credit unions to provide a full array of competitive financial services.

SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL

1. Ensure each Commission rule is current, clearly written, and necessary for an effective supervisory process.
2. Support credit union efforts to remain competitive and viable, consistent with safety and soundness implications.

DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE

1. Accountable to tax and fee payers of Texas.
   - Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department's revenue is derived from state-chartered credit unions operating fees and assessments.
   - Being a prudent steward of its financial resources.
   - Providing transparency through its reporting.
   - Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current marketplace conditions.
   - Implementing rulemaking through successful collaboration and consultation with interested parties.
   - Communicating attributes of the state charter within and outside the Department.
   - Implementing and maintaining processes for prompt screening of applications.
2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions.
   - Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current conditions.
   - Developing and modernizing attributes of the credit union charter and the role and status of the industry.
   - Enhancing communication with the NCUA and other state regulators to facilitate better coordination on issues affecting credit unions.
   - Implementing and maintaining processes for prompt screening of applications.
   - Enhancing existing technology solutions that support effective application operations.
3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.
   - Meet or exceed performance measures.
   - Conducting the mandatory rule review in accordance with Commission's approved plan.
   - Implementing and maintaining processes for prompt screening of applications.
   - Establishing policies and procedures that provide clear and comprehensive guidance.
   - Enhancing existing technology solutions that support effective application operations.
4. Providing excellent customer service.
   - Accessible staff who are a resource for consumers and the regulated industry.
   - Supporting the continued recognition of the attributes of the state credit union charter through appropriate opinions and rules.
   - Investigate and resolve customer complaints in a timely manner.
   - Establishing policies and procedures that provide clear and comprehensive guidance.
   - Enhancing existing technology solutions that support effective application operations.
   - Providing useful information for consumers and the regulated industry on the Department's website.
5. Transparent such that agency actions can be understood by any Texan.
   - Adhering to performance measures.
   - Implementing rulemaking through successful collaboration and consultation with interested parties.
   - Communicating attributes of the state charter within and outside the Department.
   - Establishing policies and procedures that provide clear and comprehensive guidance.

DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM

1. The Department places a high priority on its responsiveness to inquiries, requests, and complaints from citizens, members, credit unions, public officials, and other state and federal governmental entities. Pursuant to statute, the Department accepts complaints against credit unions and reviews them for potential violations of applicable laws or rules. When the Department receives complaints, credit unions are contacted and given an opportunity to respond to a member's concern or inquiry. Member complaints have increased over the last five years and the Department expects this trend to continue. In fiscal year 2013, the Department resolved 223 complaints, rising to 230 in 2014, 253 in 2015, 265 in 2016, 280 in 2017, 338 in 2018 and 376 in 2019. Through its response to these complaints and inquiries, the Department attempts to help members better understand their rights and responsibilities under applicable laws and regulations. The Department monitors the level of satisfaction with its responses to member complaints and inquiries.
2. The Department works closely with federal and other state regulators to provide credit unions seamless supervision, minimal disruption and costs, and effective use of resources. The Department continues its collaboration with the National Credit Union Administration started in 2003. The joint program results in more efficient and less burdensome examinations for credit unions.
3. The Department cooperates with the Financial Crimes Enforcement Network ("FinCEN") and numerous other federal agencies to monitor compliance with the BSA/AML and USA Patriot Act and other laws governing credit unions. The rise in popularity of virtual or digital currencies has the attention of federal and state regulators for many reasons including money-laundering concerns. FinCEN has issued guidance which labels certain digital currency entities as money transmitters and requires them to implement AML programs.

AGENCY OPERATIONAL GOAL AND ACTION PLAN

Goal 3. To safeguard the interest of credit union members.

SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL

1. Ensure consumer complaints are processed in a timely fashion and investigated appropriately.
2. Encourage credit union involvement in providing financial services in underserved communities.

DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE

1. Accountable to tax and fee payers of Texas.
   - Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department's revenue is derived from state-chartered credit unions operating fees and assessments.
   - Being a prudent steward of its financial resources.
   - Providing transparency through its reporting.
   - Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current conditions.
   - Reinforcing the importance of fair and honest treatment of credit union members through appropriate supervisory and enforcement action.
   - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.

2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions.
   - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.
3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.
   - Strengthening role in addressing member privacy, information security, and identity theft.
   - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.
4. Providing excellent customer service.
   - Strengthening role in addressing member privacy, information security, and identity theft.
   - Supporting the efforts of credit unions to expand their fields of membership to include underserved and low-income communities.
5. Transparent such that agency actions can be understood by any Texan.
   - Reinforcing the importance of fair and honest treatment of credit union members through appropriate supervisory and enforcement action.

DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM

1. Through its response to the complaints and inquiries, the Department attempts to help members better understand their rights and responsibilities under applicable laws and regulations. The Department monitors the level of satisfaction with its responses to member complaints and inquiries.
2. The National Association of State Credit Union Supervisors ("NASCUS") has established accreditation standards for credit union supervision and regulation. Patterned after university accreditation, the accreditation process requires a comprehensive review of all factors needed to have a fully functional regulatory agency. The Department has been continuously accredited by NASCUS since 1996. Every year, the accreditation committee of NASCUS requires updated information to maintain accredited status; a full-scale re-accreditation occurs on-site every five years, which for the Department will occur in 2021. Accreditation provides the Department with national recognition among its peers and professional respect from the institutions it regulates.

AGENCY OPERATIONAL GOAL AND ACTION PLAN

Goal 4. To develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of the Department's statutory mission.

SPECIFIC ACTION ITEMS TO ACHIEVE YOUR GOAL

1. Ensure the Department maintains a competent, highly motivated, and diverse workforce in a fair and inclusive work environment.
2. Ensure he Department is an efficient, effective, and ethical organization.
3. Ensure the Department's resource decisions and operations reflect sound financial, security, and risk management principles.

DESCRIBE HOW YOUR GOAL OR ACTION ITEMS SUPPORTS EACH STATEWIDE OBJECTIVE

1. Accountable to tax and fee payers of Texas.
   - Ensuring no state funds are spent on Department operations; as a self-directed, semi-independent agency, the Department's revenue is derived from state-chartered credit unions operating fees and assessments.
   - Being a prudent steward of its financial resources.

- Providing transparency through its reporting.
- Drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current marketplace conditions.
- Maintaining a comprehensive Equal Employment and Workforce Diversity Plan.
- Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
- Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
- Achieving reliable, accurate and timely financial resources management information.

2. Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions.
   - Executing an aggressive recruiting and comprehensive training strategy for new entry-level examiners.
   - Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staffing to achieve the ideal level of 160 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.
   - Creating a leadership development program to support and enhance management succession.
   - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
   - Ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives.
   - Ensure that ongoing training for examiners keeps pace with industry needs in areas such as information technology, member business loans, asset-liability management, compliance, etc.
   - Achieving reliable, accurate and timely financial resources management information.
   - Implementing security controls to mitigate risk and to protect confidential information.
   - Improving contingency planning for business continuity, including information technology recovery, compliance with Homeland Security requirements, and crisis management strategies.
3. Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve.
   - Executing an aggressive recruiting and comprehensive training strategy for new entry-level examiners.
   - Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staffing to achieve the ideal level of 160 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.
   - Creating a leadership development program to support and enhance management succession.
   - Maintaining a comprehensive Equal Employment and Workforce Diversity Plan.
   - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
   - Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
   - Ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives.
   - Ensure that ongoing training for examiners keeps pace with industry needs in areas such as information technology, member business loans, asset-liability management, compliance, etc.
   - Leveraging technology, with a focus on information management initiatives, such as records and knowledge management.
   - Implementing security controls to mitigate risk and to protect confidential information.

- Improving contingency planning for business continuity, including information technology recovery, compliance with Homeland Security requirements, and crisis management strategies.
- Achieving reliable, accurate and timely financial resources management information.

4. Providing excellent customer service.
   - Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staffing to achieve the ideal level of 160 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.
   - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
   - Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
   - Ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives.
   - Ensure that ongoing training for examiners keeps pace with industry needs in areas such as information technology, member business loans, asset-liability management, compliance, etc.
   - Achieving reliable, accurate and timely financial resources management information.
5. Transparent such that agency actions can be understood by any Texan.
   - Developing proactive initiatives focused on the retention of employees, including addressing pay differentials for examiners to bring base pay more in line with the examiner pay at other regulatory agencies, maintaining staffing to achieve the ideal level of 160 exam days annually for each examiner, mentoring, employee feedback, incentives, and recognition programs.
   - Maintaining a comprehensive Equal Employment and Workforce Diversity Plan.
   - Ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework.
   - Ensuring compliance with the rules, policies and procedures for ethical conduct by its employees.
   - Achieving reliable, accurate and timely financial resources management information.

DESCRIBE ANY OTHER CONSIDERATIONS RELEVANT TO YOUR GOAL OR ACTION ITEM

- The Commission sets the spending limits of the Department. As a SDSI agency, the Department continues to be self-funding and no General Revenue Funds are used to support its operation.
- Financial crimes consist of several broad categories such as fraud, money laundering, and corruption with many subcategories such as terrorist financing, identity theft, kickbacks, and bribery. The United States government has powerful tools to pursue financial criminals and the framework to force credit unions into compliance with a wide range of laws, such as the Bank Secrecy Act/Anti-Money Laundering and USA Patriot Acts. Financial crimes are a threat for credit unions and the Department alike. Having a knowledgeable and trained staff that understands the risks and how they can be managed is essential.
- No single factor is more critical to the Department's ability to accomplish its mission and to its success than its staff. Acquiring, developing, and retaining a competent workforce continues to be one of the Department's top priorities and is one of its four strategic goals. At the same time, and similar to the rest of state government, significant internal and external factors affect the Department's current and future workforce, challenging the Department's ability to ensure that the its staff is well trained, skilled, and capable of meeting the needs of the rapidly changing and growing complex industry.
- The Department operates and maintains its only office in Austin. Agency examiners work from their residences, located primarily in the Dallas/Fort Worth and Houston metropolitan areas. Because credit unions are located throughout the state, examiners are required to travel extensively in examining credit unions with overnight travel of approximately 40 to 55 percent. Given the amount

of travel required, stationing field staff in these two metropolitan areas helps to minimize travel-related costs. The Department is solely responsible for the upkeep and maintenance of the Credit Union Department Building. Each year during the budgeting process, the Commission reviews and approves any necessary maintenance, major repairs, and long-term improvements.

REDUNDANCIES AND IMPEDIMENTS

The agency does not have any services, state statutes, and state rules or regulations applicable to the agency that may result in barriers to the economic prosperity of Texans or make the agency less effective and efficient in achieving its core mission and merit additional executive and legislative review nor does the agency have any state services, state laws, and state regulations administered by the agency that are redundant, distract from the core mission of the agency, and/or produce workload costs for agency staff or regulated entities that may exceed the initial time, cost, or effort assumptions that existed when the law or regulation was implemented.

The statutes pertaining to the operation of the Department and the regulation and supervision of Texas state-chartered credit unions are considered comprehensive and current, and correctly delineate the Department's responsibilities and authorities. One impediment to the Texas state charter has been identified and detailed below. The Commission has the means by which to propose necessary statutory changes to the Legislature. TEX. FIN. CODE §§15.103 and 15.405, require the Department to periodically study the credit union statutes of the state and report its legislative recommendations to the Legislature for consideration. Notwithstanding these requirements, the Department continually reviews State of Texas statutes pertaining to credit union operations. The Commissioner, with the approval of the Commission, reports the recommendations of the Department as necessary to the Legislature for its consideration (TEX. FIN. CODE §15.405).

REDUNDANCIES AND IMPEDIMENTS (REPEAT SECTION AS NECESSARY FOR EACH IDENTIFIED REDUNDANCY AND IMPEDIMENT)

SERVICE, STATUTE, RULE, OR REGULATION (PROVIDE SPECIFIC CITATION IF	TFC Section 123.003
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN INEFFICIENT OR INEFFECTIVE AGENCY OPERATIONS	The Act provides parity for Texas state-chartered credit unions with foreign and non-domesticated federal credit unions who operate a branch in Texas. However, parity is not provided to Texas state-chartered credit unions when a foreign state-chartered credit union is operating in Texas without a physical presence (i.e. through electronic delivery channels only). This puts Texas chartered credit unions at a competitive disadvantage to foreign state charters.
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	The Department recommends the removal of the language in TFC Section 123.003, which requires that a competing foreign credit union must have a branch in Texas, to be considered a competitor. Some institutions choose to provide services through electronic delivery channels without "brick and mortar" assets held in the state.

PART 1. STRATEGIC PLAN

DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH RECOMMENDED CHANGE	The benefit is that Texas chartered credit unions would meet the public policy requirements of ensuring Texas credit unions are able to maintain competitiveness with foreign state-chartered credit unions and ensure low-cost, safe financial services are available to Texas residents.

NATURAL DISASTER-RELATED REDUNDANCIES AND IMPEDIMENTS (IF APPLICABLE)

SERVICE, STATUTE, RULE, OR REGULATION (PROVIDE SPECIFIC CITATION IF	NONE
DESCRIBE WHY THE SERVICE, STATUTE, RULE, OR REGULATION IS RESULTING IN INEFFICIENT OR INEFFECTIVE AGENCY	N/A
PROVIDE AGENCY RECOMMENDATION FOR MODIFICATION OR ELIMINATION	N/A
DESCRIBE THE ESTIMATED COST SAVINGS OR OTHER BENEFIT ASSOCIATED WITH	N/A

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE A: BUDGET STRUCTURE

AGENCY BUDGET STRUCTURE ELEMENTS (GOALS, STRATEGIES, MEASURES AND MEASURE DEFINITIONS) FOR THE 2021–22 BIENNIUM

AGENCY NAME: Credit Union Department

ELEMENT Identify the current Goal, Strategy, Measure or Measure Definition.	REQUESTED CHANGE	JUSTIFI-CATION FOR REQUESTED CHANGE	LBB OR OOG APPR'D	LBB / OOG COM-MENT	STATUS
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Outcome Measure: Percentage of Credit Unions Receiving Regular Examination Annually	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Outcome Measure: Percentage of Credit Unions with Composite CAMELS Ratings of 1 or 2	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Outcome Measure: Percentage of Assets Held in Credit Unions with Composite CAMELS Ratings of 1 or 2	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Output Measure: Number of Regular Examinations Performed	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Explanatory Measure: Number of State-Chartered Credit Unions	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Outcome Measure: Percentage of Complete Applications Approved or Denied Within 60 Days	None	None	NA		NA

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE A: BUDGET STRUCTURE

AGENCY BUDGET STRUCTURE ELEMENTS (GOALS, STRATEGIES, MEASURES AND MEASURE DEFINITIONS) FOR THE 2021-22 BIENNIUM

Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Efficiency Measure: Department E-Time Ratio	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Examine Credit Union Operations* Outcome Measure: Assets Examined per Examiner Day	None	None	NA		NA
Goal 1: A Safe and Sound Credit Union Industry *Strategy: Ensure Efficiency of Examination Method* Efficiency Measure: Average Cost per Examination	None	None	NA		NA
Goal 2: A Flexible Regulatory Framework *Strategy: Process, Investigate and Evaluate Applications* Output Measure: Number of Applications Processed	None	None	NA		NA
Goal 2: A Flexible Regulatory Framework *Strategy: Provide Oversight of Department Operations* Outcome Measure: Percentage of Rule Changes provided to Credit Unions Within 60 Days After Adoption	None	None	NA		NA
Goal 2: A Flexible Regulatory Framework *Strategy: Communicate with the Industry* Explanatory Measure: Number of Public Forums in Which the Department Participated.	None	None	NA		NA
Goal 3: Protect Credit Union Member Interests *Strategy: Examine Credit Union Operations* Explanatory Measure: Percentage of Credit Unions Providing Services to Low Income or Underserved Populations	None	None	NA		NA
Goal 3: Protect Credit Union Member Interests *Strategy: Investigate and Process Consumer Complaints* Efficiency Measure: Percentage of Complaints Investigated and Responded to Within 30 Days of Receipt	None	None	NA		NA

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE A: BUDGET STRUCTURE

AGENCY BUDGET STRUCTURE ELEMENTS
(GOALS, STRATEGIES, MEASURES AND MEASURE DEFINITIONS)
FOR THE 2021-22 BIENNIUM

Goal 4: Develop and Maintain Professional Staff *Strategy: Maintaining High Quality Staff* Explanatory Measure: Turnover Ratio	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff *Strategy: Maintaining High Quality Staff* Efficiency Measure: Average Regulated Assets per Examiner (billion)	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff *Strategy: Maintaining High Quality Staff* Explanatory Measure: Number of Days of Employee Training	None	None	NA		NA
Goal 4: Develop and Maintain Professional Staff *Strategy: Maintaining High Quality Staff* Explanatory Measure: Staffing Levels	None	None	NA		NA

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE B. PERFORMANCE MEASURES

Outcome Measure: Percentage of Credit Unions Receiving Regular Examination Annually

Definition
The number of credit unions examined within an examination cycle of no more than 18 months during the fiscal year, expressed as a ratio of the total number of state-chartered credit unions for same period.

Purpose/Importance
This measure monitors the Department's performance in meeting the Commission's mandate and 7 TEX. ADMIN. CODE §97.105.

Source/Collection of Data
Supporting information regarding each examination is tracked in the Department's internal database.

Method of Calculation
Divide the number of credit unions examined during the reporting period by the total number of credit unions for the same period.

Data Limitations
None

Calculation Type
Noncumulative

New Measure
No

Target Attainment:
75.0% annual

Outcome Measure: Percentage of Credit Unions with Composite CAMELS Ratings of 1 or 2

Definition
The number of credit unions with composite CAMELS rating of 1 or 2 during the applicable period based upon a rating system, expressed as a percentage of the total number of credit unions regulated for the same period.

Purpose/Importance
Measures the financial health of the Texas state-chartered credit unions. Ties directly to a statewide regulatory benchmark.

Source/Collection of Data
Supporting information regarding each examination is tracked in the Department's internal database.

Method of Calculation
Divide the number of credit unions assigned a composite CAMELS rating of 1 or 2 by the total number of credit unions for the same reporting period.

Data Limitations
Limited control over events that could lead a credit union to receiving a lower CAMELS rating.

Calculation Type
Noncumulative

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE B. PERFORMANCE MEASURES

New Measure
No

Target Attainment:
Informational

Outcome Measure: Percentage of Assets Held in Credit Unions with Composite CAMELS Ratings of 1 or 2

Definition
The consolidated total assets of credit unions with composite CAMELS rating of 1 or 2 as reported in the designated quarterly call report based upon a rating system, expressed as a percentage of the consolidated total assets of all credit unions regulated for the same period.

Purpose/Importance
This informational measure indicates the financial health of the Texas chartered credit union industry. Ties directly to a statewide regulatory benchmark.

Source/Collection of Data
Quarterly financial and statistical Call Report data filed with the Department by each credit union.

Method of Calculation
Divide the consolidated total assets of credit unions assigned a composite CAMELS rating of 1 or 2 by the consolidated total assets of all credit unions for the same reporting period.

Data Limitations
Limited control over events that could lead a credit union to receiving a lower CAMELS rating.

Calculation Type
Noncumulative

New Measure
No

Target Attainment:
Informational

Output Measure: Number of Regular Examinations Performed

Definition
The number of regular examinations the Department performs during the reporting period.

Purpose/Importance
The measure indicates whether the Department is meeting the frequency of examination requirements of 7 TEX. ADMIN. CODE §97.105.

Source/Collection of Data
Supporting information regarding each examination is tracked in the Department's internal database.

Method of Calculation
Count the regular, full-scope or limited-scope examinations, in which the report of examination was received for processing during the period being measured.

Data Limitations
High turnover of trained examiners has a negative impact.

Calculation Type
Cumulative

New Measure
No

Target Attainment:
Informational

Explanatory Measure: Number of State-Chartered Credit Unions

Definition
The number of active Texas state-chartered credit unions under the Department's jurisdiction during the reporting period, less the number of credit unions in the process of being liquidated.

Purpose/Importance
This explanatory measure is an indicator of the extent of the Department's responsibility over the safe and sound regulation of state-chartered credit unions.

Source/Collection of Data
The Department maintains a database which tracks all active, liquidating, and cancelled state credit union charters.

Method of Calculation
Count the total number of active state-chartered credit unions under the supervision of the Department from the database, less any being liquidated.

Data Limitations
No control over number of new charter requests, mergers, or conversions.

Calculation Type
Noncumulative

New Measure
No

Target Attainment:
Informational

Outcome Measure: Percentage of Complete Applications Approved/Denied within 60 days

Definition
The number of complete applications approved or denied not later than the 60th day after the date notice of the applications are published, or after the date the applications are received if notice is not required to be published, expressed as a percentage of all applications approved or denied for the same period. Applications include applications for mergers, for charter conversions (federal to state, state to federal, state credit union to mutual savings associations, and mutual savings associations to state credit unions), for insurance conversions, and for amendments to bylaws and articles of incorporation. If an application is protested, it is not considered complete until responses from all parties have been received.

Purpose/Importance
Finance Code §122.005 requires the Commissioner to approve or disapprove applications not later than the 60th day after the date notice of the application is published, or after the date the application is

received if the notice is not required to be published.

Source/Collection of Data
Supporting information regarding each application is tracked in the Department's internal database.

Method of Calculation
Divide the number of complete applications approved or denied not later than the 60th day after the date notice of the application is published, or after the date the application is received if the notice is not required to be published, whichever is later, by the total number of applications approved or denied during the same reporting period.

Data Limitations
Protests

Calculation Type
Noncumulative

New Measure
No

Target Attainment:
100%

Efficiency Measure: Department E-Time Ratio

Definition
The E-Time Ratio is the percentage of all Field Examiners (excluding the Field Supervisors) paid time that is actively spent performing examinations.

Purpose/Importance
This measure assesses efficient usage of Field Examiners' time for the entire Department. The measure also allows the Department to assess efficiency of Field Examiners on an individual basis and by assigned zone (i.e. A, B, etc.).

Source/Collection of Data
Tracked from a monthly report generated in the CAPPs time management system. That report identifies the aggregate exam hours for each examiner for the month. This data is input into a monthly e-time spreadsheet, which automatically computes the E-Time Ratio for each Field Examiner, each zone and for all Department Field Examiners. The E-Time Ratio for all field examiners is the performance measurement in the above definition.

Method of Calculation
The E-Time Ratio is computed by taking the Aggregate Exam Hours for a specific period (i.e. monthly, annually, etc.), divided by the Total Hours Available for Examinations for all Field Examiners (excluding Field Supervisors) for the same period.

The Aggregate Exam Hours include all time charged for all regular examination work both on-site and off-site, remedial examination work both on-site and off-site, and all remote examination work. It also includes on-the-job training hours for new Examiners (Assistant Examiners) who have not yet completed six full months (excludes partial months) of examination training. The Total Hours Available for Examinations is the Days Available for Examinations multiplied by the total number of Field Examiners, multiplied by the work hours (8) in a day. The Days Available for Examinations equals the

total number of weekdays (M-F) for the period (i.e. monthly, annually, etc.) being measured, less the number of state and federal holidays which occur on a weekday during the same period.

Data Limitations
None

Calculation Type
Cumulative

New Measure
Yes

Target Attainment:
65%

Outcome Measure: Assets Examined per Examiner Day

Definition
Total assets examined by the Department over the reporting period, divided by the total regular examination days related to those specific examinations.

Purpose/Importance
To assist in review of the efficiency of the Department's examinations, and to benchmark against other regulators.

Source/Collection of Data
Financial information is obtained during each regular examination and is uploaded into the Department's database.

Method of Calculation
To calculate the assets examined per examiner day, run the Regular Exams Received Report for the appropriate fiscal quarter. Divide the sum of the total assets examined by the total examination days, under the header "curr" (Total exam days for the most recent examination).

Data Limitations
Increase in asset size of credit unions due to mergers, consolidations, etc.;

Calculation Type
Noncumulative

New Measure
Yes

Target Attainment:
$13.3 Million

Efficiency Measure: Average Cost per Credit Union Examination

Definition
Total direct field examination costs expressed as a ratio of the number of total regular and remedial examinations performed over the reporting period.

Purpose/Importance
To assist in review of the efficiency of the Department's examinations, and to benchmark against other regulators.

Source/Collection of Data
Examiners prepare detailed time and expense reports about their duties. Monthly, this information is transferred into the Department's database.

Method of Calculation
The total direct field examination expenses for the fiscal quarter, divided by the number of regular and remedial examinations performed. These expenses are salaries, benefits, travel, cell phone and supply related costs. Supplies include the cost of printer ink cartridges and an additional $5 per month per examiner for other miscellaneous items.

Data Limitations
No control over legislative increases in allowable travel costs

Calculation Type
Noncumulative

New Measure
Yes

Target Attainment:
Informational

Output Measure: Number of Applications Processed

Definition
The number of complete applications approved or denied during the reporting period. Applications include applications for mergers, for charter conversions (federal to state, state to federal, state credit union to mutual savings associations, and mutual savings associations to state credit unions), for insurance conversions, and for amendments to bylaws and articles of incorporation.

Purpose/Importance
This measure is used as the denominator to calculate the outcome measure percentage of complete applications approved or denied within 60 days.

Source/Collection of Data
Supporting information regarding each application is tracked in the Department's internal database.

Method of Calculation
Total the number of applications processed for the reporting period.

Data Limitations
No control over the number of applications received

Calculation Type
Cumulative

New Measure
No

Target Attainment:
Informational

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE B. PERFORMANCE MEASURES

Outcome Measure: Percentage of Rule Changes Provided to Credit Unions Within 60 Days After Adoption

Definition
The number of new, amended, and readopted rules that are mailed out within 60 days of their final adoption by the Commission.

Purpose/Importance
The measure indicates how quickly credit unions are informed of changes affecting their operations or Department operations.

Source/Collection of Data
The date a new, amended, or readopted rule is adopted, as well as the date the letter of transmittal for the Texas Laws and Regulations for Credit Unions are sent out to credit unions, is entered into a database and tracked accordingly.

Method of Calculation
Divide the number of rule changes provided to credit unions within 60 days of the effective date of their adoption by the number of rule changes adopted during the same reporting period.

Data Limitations
None

Calculation Type
Noncumulative

New Measure
No

Target Attainment:
100%

Explanatory Measure: Number of Public Forums in Which the Department Participated

Definition
The number of public forums attended by the senior Department management.

Purpose/Importance
This measure is one of the tools used to track the Department's interaction with credit unions and the general public in order to disseminate information about the credit union industry and the mission of the Department.

Source/Collection of Data
Senior management employees are asked each month to itemize which, if any, of the following they have attended: Credit Union League chapter meetings, meeting with credit union officials for non-examination related purposes, participating in public forums, speaking at credit union functions such as annual meetings, serving as facilitators or instructors at seminars or specialized conferences, or attending conferences with other regulators. The information is entered into the database.

Method of Calculation
Count the number of public forums attended by the senor Department management. Database query is run for the reporting period and the number is given in the report. No calculation is necessary.

Data Limitations
Travel budget limitations could restrict attendance

Calculation Type
Cumulative

New Measure
Yes

Target Attainment:
Informational

Explanatory Measure: Percentage of Credit Unions Providing Services to Low Income or Underserved Populations

Definition
Number of credit unions with federal low-income designations as a percentage of the number of state-chartered credit unions for the same reporting period.

Purpose/Importance
This measure indicates the number of credit unions that primarily serve Texas citizens that are close to the national poverty level, as well as citizens that live in areas with limited access to financial institutions.

Source/Collection of Data
Low-income approval letters from the National Credit Union Administration are retained in a file. The Department also maintains an excel spreadsheet of the credit unions that have received a federal low-income designation.

Method of Calculation
Divide the number of state-chartered credit unions that are approved by the National Credit Union Administration for a low-income designation pursuant to Part 705.3(a) of the National Credit Union Administration's Rules and Regulation by the total number of state-chartered credit unions for the same reporting period.

Data Limitations
No control over how many credit unions will apply for designation.

Calculation Type
Noncumulative

New Measure
No

Target Attainment:
Informational

Efficiency Measure: Percentage of Complaints Investigated and Responded to Within 30 Days of Receipt

Definition
The number of written complaints from credit union members or members of the public, relating to actions or inactions of a state-chartered credit union, which are investigated and responded to in writing within 30 days of receipt of the complaint, expressed as a percentage of all complaints responded to for the applicable time period.

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE B. PERFORMANCE MEASURES

Purpose/Importance
This measure provides an indication of the responsiveness of the Department in handling consumer complaints.

Source/Collection of Data
When the Department receives a written complaint, the following information is entered into a database: the date the complaint is received, name of the complainant, the name of the credit union, and the nature of the complaint. When resolved, the date closed and the cost of handling the complaint is entered into the database. The elapse time is then generated by the program.

Method of Calculation
Divide the number of written consumer complaints received and responded to within 30 days of their receipt by the number of consumer complaints responded to during the applicable period. A complaint is considered received once the complainant has provided sufficient information regarding the nature of the complaint for the Department to begin an investigation. The investigation includes obtaining a response from the subject credit union. A complaint is considered closed when the Department has sent a response to the complainant.

Data Limitations
No control over a credit union's response time

Calculation Type
Noncumulative

New Measure
Yes

Target Attainment:
95%

Explanatory Measure: Turnover Ratio

Definition
The number of staff resignations (excluding retirements) as a percentage of the number of staff positions.

Purpose/Importance
Because turnover results in a less experienced staff, this measure is one indicator of the Department's ability to meet its goals.

Source/Collection of Data
New hires, resignations, and the reasons given for resignations are tracked in a spreadsheet by the Staff Services Officer.

Method of Calculation
Divide the number of staff resignations (excluding retirements) received during a reporting period by the total number of staff FTEs for the same period.

Data Limitations
No control over staff turnover

Calculation Type
Non-cumulative

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULE B. PERFORMANCE MEASURES

New Measure
Yes

Target Attainment:
<15%

Efficiency Measure: Average Regulated Assets (in billions) per Examiner

Definition
The total amount of credit union assets regulated per examiner.

Purpose/Importance
This measure is an indicator of the workload placed on the agency's examination staff.

Source/Collection of Data
Each credit union files a quarterly financial performance report (FPR), which contains various financial reporting schedules and includes the credit union's total assets. The Department pulls an aggregate FPR for the reporting period which includes the total assets for all state-chartered credit unions.

The number of examiners on staff is maintained on the Uniform Statewide Payroll System (USPS) system. Report 21 can be used to verify staff paid each month for the reporting period and to determine the number of examiners.

Method of Calculation
Divide the total assets of state-chartered credit unions by the average number of examiners on staff during the reporting period. Average number of examiners is the cumulative number of examiners on staff (excluding Field Supervisors) at the end of each month, divided by the number of months in the reporting period.

Data Limitations
No control industry asset growth

Calculation Type
Noncumulative

New Measure
Yes

Target Attainment:
Informational

Explanatory Measure: Number of Days of Employee Training

Definition
Number of days of formal training attended by staff members.

Purpose/Importance
This measure is an indicator of the Commission's willingness to invest in its most valuable resources.

Source/Collection of Data
This measure tracks the amount of time spent attending training or educational courses related to job performance or enhancing job skills.

Method of Calculation
The Executive Assistant III compiles this data from training spreadsheets provided by the Field

Supervisors, as well as monthly emails from office staff confirming training attended for the prior month. Once all data is received, the EAIII compiles the data into one monthly report and calculates the total number of work days of training for the reporting period.

Data Limitations
None

Calculation Type
Cumulative

New Measure
Yes

Target Attainment:
Informational

Explanatory Measure: Staffing Levels

Definition
Number of actual Full Time Equivalents (FTEs) divided by the number of authorized FTEs.

Purpose/Importance
To ensure the Department is adequately staffed to provide the necessary regulatory oversight of Texas state-chartered credit unions.

Source/Collection of Data
A roster of all actual FTEs is maintained by the Staff Services Officer. Authorized FTEs are detailed in the Department's Annual Operating Plan and Budget approved by the commission each year.

Method of Calculation
The number of actual FTEs at month-end is divided by number of authorized FTE's for the applicable fiscal year.

Data Limitations
No control over staff turnover

Calculation Type
Noncumulative

New Measure
Yes

Target Attainment:
Higher than target

HUB 7.07 REPORT CREDIT UNION DEPARTMENT 469
INTERNAL ASSESSMENT ON UTILIZATION OF HUBS
POLICY COMPLIANCE REPORT

Demonstrating Compliance with HUB Purchasing Requirements

The Department consistently contacts Historically Underutilized Businesses ("HUBs") for bids on spot purchases and small dollar amount procurements. Due to budget constraints, products and services are obtained from the lowest bidder. In addition to its HUB policy, the Department has a HUB Diversity Plan to ensure that our HUB purchases represent as many different minority and women-owned businesses as possible.

Although the Department has limited opportunities to award contracts, it makes every effort to foster meaningful and substantive inclusion of HUBS in the Department's procurement processes. In addition, the Department makes every effort to ensure that it makes its purchases from a diverse group within the HUBs.

The Department has adopted a policy to achieve the proportional HUB expenditure targets established by the Texas Comptroller of Public Accounts and monitors its progress toward achieving these goals. The Department reviews this policy annually and the Department has a designated HUB coordinator, its Staff Services Officer.

The Department's Agency Strategic Plan for 2019-2023 states the Department's policy is to achieve the proportional HUB expenditure targets established by the Texas Comptroller of Public Accounts. **During fiscal year 2018 and fiscal year 2019, the Department has exceeded its HUB targets in the various categories.**

The total amount of expenditures with HUBs for fiscal year 2019 was $58,187 and the total amount of non-HUB expenditures was $61,200. In fiscal year 2018, the total amount of expenditures for HUBs was $74,952 and the total amount of non-HUB expenditures was $111,678.

Attached is a copy of the Department's HUB Consolidated Agency Report for fiscal year 2018 and fiscal year 2019. **Both reports show that the Department exceeded its HUB goals.**

The Department only purchases from two procurement categories: other services and commodity purchasing. During fiscal year 2018, the Department's HUB purchases for other services were 49.0 percent, which was over the stated goal of 26.0 percent and the Department's HUB commodity purchases were 58.7 percent, which was over the stated goal of 21.1 percent. During fiscal year 2019, the Department's HUB purchases for other services were 41.2 percent, over the stated goal of 26.0 percent and the Department's HUB commodity purchases were 80.2 percent, over the stated goal of 21.1 percent.

HUB PARTICIPATION

	FY18	FY19
Total Agency Expenditure	**$186,631**	**$119,387**
Total Dollar Amount Spent with HUBs	**$74,952**	**$58,187**
Percent of Total Expenditure Spent with HUBs	**40.16%**	**48.74%**
Women	**$68,756**	**$55,109**
Black	**$1,518**	**$987**
Hispanic	**$394**	**$70**
Asian-Pacific	**$4,283**	**$1,123**
Native-American	**$0**	**$895**

Plans to Maintain Compliance

The Department is strongly committed to using HUBs for purchases in future years to maintain its excellent compliance record. The Department will continue to include HUB policies, goals, and programs in its strategic plan. The Department will continue to contact HUBS for bids on spot purchases and small dollar amount procurements. The Department will continue to make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases in accordance with 34 TAC §20.13. The Department will continue to meet state reporting requirements and optional reporting requirements for self-directed and semi-independent agencies, such as this reporting requirement. The Department annually updates its HUB policy and will continue to maintain its HUB Diversity Plan to ensure that our HUB purchases represent as many different minority and women-owned businesses as possible.

Although the Department has limited opportunities to award contracts, the Department will continue to make every effort to foster meaningful and substantive inclusion of HUBS in the Department's procurement processes.

SCHEDULE D: STATEWIDE CAPITAL PLANNING

NOT APPLICABLE

SCHEDULE E: HEALTH AND HUMAN SERVICES STRATEGIC PLANNING

NOT APPLICABLE

Credit Union Department
Fiscal Year 2021-2022 Workforce Plan

I. Agency Overview

The Department was established as a separate agency in 1969 to supervise and regulate state-chartered unions. This is accomplished through annual examinations of each credit union to ensure enforcement of laws, rules, bylaws, and sound business practices, imposing appropriate administrative sanctions, diligent monitoring between examinations, and aggressive remedial efforts when needed.

The administrative office of the agency is domiciled in Austin, but field examiners are based in Dallas/Fort Worth and Houston. The largest percentage of employees are directly associated with the examination process including field examiners, a Director of Examination Support Activities, an executive assistant and the Deputy Commissioner. The remaining positions include the Commissioner, Director of Information Technology, Network Specialist and supporting staff in Austin (See Appendix B: CUD Organizational Chart).

The Department currently is authorized for 30.0 full time equivalents (FTEs) and will consider expanding the workforce as the complexity and assets of regulated credit unions increases. Operating fees paid by the credit unions cover all agency expenses, including payments to other state agencies, such as the Office of Attorney General, for services performed.

A. Agency Mission

The mission of the Credit Union Department is to safeguard the public interest, protect the interests of credit union members and promote public confidence in credit unions industry in accordance with TEX. FIN. CODE §15.102.

PART 2. SUPPLEMENTAL ELEMENTS

SCHEDULES F. AGENCY WORKFORCE PLAN AND THE TEXAS WORKFORCE SYSTEM STRATEGIC PLAN

B. Strategic Goals and Objectives

The Texas Credit Union Department has three main goals

Goal A	EFFECTIVE SUPERVISION AND REGULATION
Objective	To effectively supervise and regulate state-chartered credit unions through enforcement of safety and soundness standards and compliance with the Texas Finance Code, and in a manner that balances the interest of the membership and the need for public confidence in the credit union system.
Strategies	• Examine all credit unions within 18 months of the previous examination • Take appropriate enforcement action in problem credit unions • Perform remedial examinations when necessary • Respond promptly to member complaints • Respond promptly to requests for interpretations or opinions • Process applications in a timely manner

Goal B	ENSURE SAFETY AND SOUNDNESS
Objective	Through interaction with the Credit Union Commission and the Legislature, recommend statutory and rule changes to ensure that credit unions operate in a safe and sound manner in a competitive and ever-changing financial services industry.
Strategies	• Promulgate new and amended rules • Recommend statutory changes to the Legislature • Provide oversight of departmental operations

Goal C	PROCUREMENT USING HISTORICALLY UNDERUTILIZED BUSINESSES
Objective	To establish and carry out policies governing purchasing and public works contracting which foster meaningful and substantive inclusion of historically underutilized businesses.
Strategies	• Contact HUB contractors for bid proposals • Purchase from state contracted HUB providers

C. Anticipated Changes in Strategies

The agency does not anticipate major changes to its business or workforce strategies. Offsetting the decline in the number of state-chartered credit unions is the increase in total assets of credit unions. The current growth in assets of state-chartered credit unions has come primarily from expansion of field of membership and services offered by existing credit unions, and federal credit unions converting to a state charter.

Using a risk-focused examination process, examiners give additional attention to the areas of operation that have been identified in a risk assessment. Because of the disparity in the size and complexity of credit unions, examiners remain generalists in terms of their expertise. However, each examiner is assigned a particular

discipline (lending, investments, internal controls, information technology, etc.) of the examination process during their first year of employment. Subsequently, they are provided with more specific training in their discipline. The area of discipline for each examiner is assigned based on each examiner's preference and the availability of a discipline.

Due to the increased use of information technology in credit union operations and the critical need for adequate back up and security for these systems, the scope of the reviews for the information technology portion of examinations continues to expand. Many credit unions are now performing third-party information technology audits which the examiners review, and/or are hiring qualified third parties to perform specific information technology functions.

Beginning in 2018, the NCUA began using the Automated Cybersecurity Examination Tool (ACET) to conduct cybersecurity assessments of all federally insured credit unions. The ACET is based on the Federal Financial Institutions Examination Council's (FFIEC) Cybersecurity Assessment Tool. These reviews are being conducted to assess a credit union's cybersecurity preparedness. Initially, the tool was used on credit unions with over $1 billion in assets. In 2019, the tool was used for credit unions with over $250 million in assets and in 2020, the asset size was adjusted downward to include all federally insured credit unions with assets over $100 million in assets. In some instances where NCUA staff has been unavailable, Department staff has performed these reviews. Moving forward, it is anticipated that the Department's role in performing these reviews will increase.

II. Current Workforce Profile

A. Critical Workforce Skills

The agency has a core group of qualified employees at the present time. The examiners, which represent most of the Department's employees, must have major course work in accounting, finance, economics, business administration or a job-related field with a minimum of six hours, nine preferred, in accounting (including basic and intermediate accounting). Other skills that are important to the agency's ability to perform our business function include:

- Financial statement analysis
- Investment analysis
- Proficient oral and written communication
- Investigative
- Loan analysis
- Internal control analysis
- Information technology analysis

The support staff must also possess skills that are critical to the operation of the agency. These skills include:

- Database development and maintenance
- Customer service
- Document processing
- Accounting/Payroll

B. Workforce Demographics

The following charts profile the agency's workforce as of August 31, 2019. The agency is authorized 30.0 FTEs. The CUD workforce is comprised of 65.5 percent males and 34.5 percent females. Just over two-thirds, or 69 percent, of the employees are over the age of 40. The average tenure of an agency employee is 11.6 years; the

average tenure of the nineteen field examiners is 9.6 years. Only one examiner has been with the Department less than two years; while seven examiners have been with the agency less than five years.

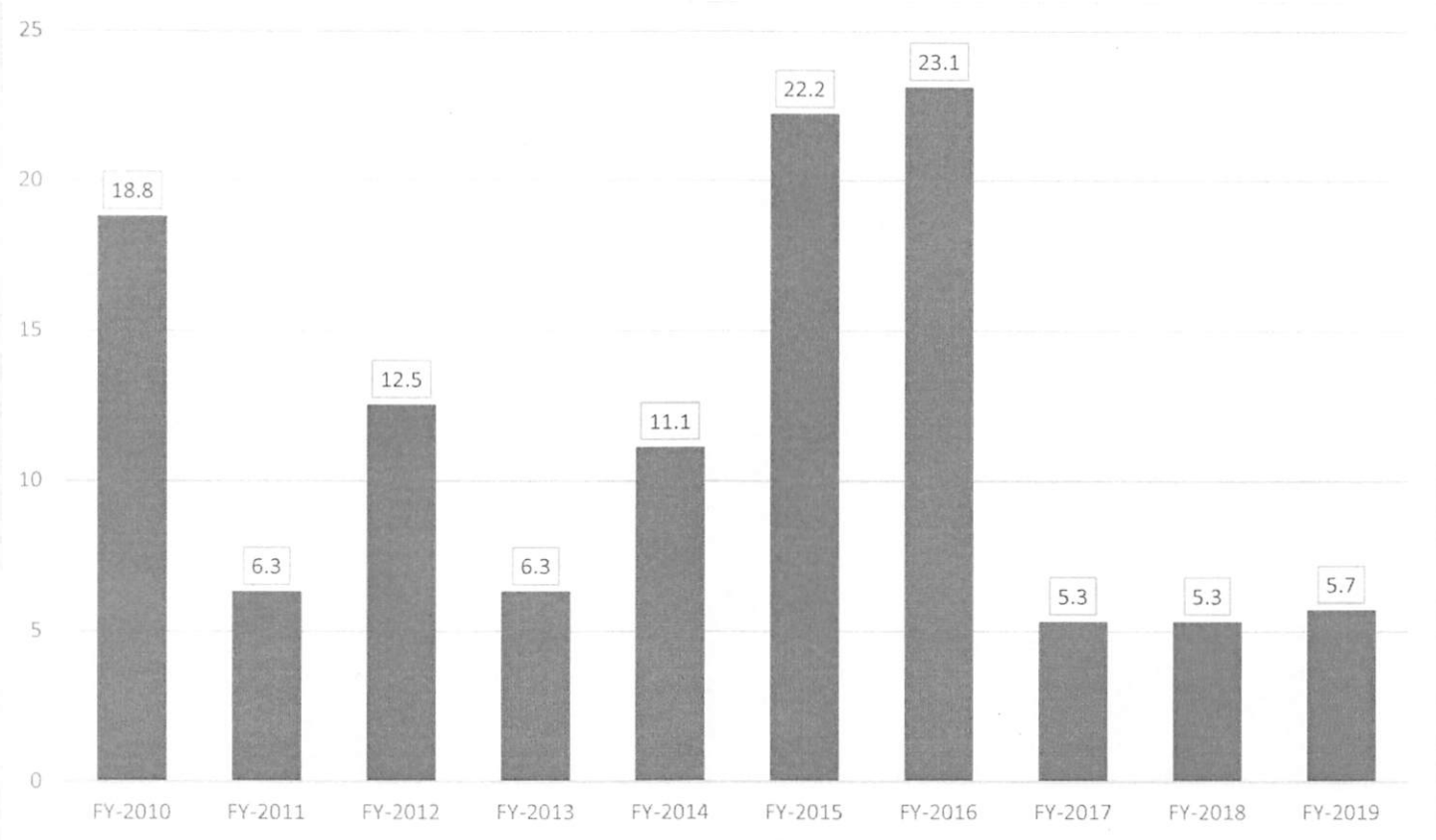
The ethnic breakdown of the workforce is 45 percent Anglo, 17 percent African American, 24 percent Hispanic and 14 percent Other. The 2010 Census showed a Texas population that was 45.3 percent Anglo, 11.8 percent African American, 37.6 percent Hispanic, and 4.6 percent Other. Most census projections predict a rising Hispanic population in the state of Texas over the next 40 years.

C. Employee Turnover

Employee turnover is experienced by every business entity or governmental agency. It is costly to continually train new employees, diminishes efficiency of the staff, and adversely affects employee morale. Historically, the Credit Union Department has experienced high examiner turnover rates, attributable to non-competitive salaries, extensive travel requirements, and the nature of the work as a regulatory agency. Management and support staff positions remained constant during the same period. Examiners with experience in excess of 2-3 years become attractive to credit unions due to their wide diversity of experiences, and familiarity with credit union laws and regulations. Experienced examiners were also attracted to the National Credit Union Administration (NCUA), the federal regulator, by higher salaries, less travel, and, in some cases, a recruitment bonus.

During the ten-year period from FY 2010 to FY 2019, six examiners (average tenure of 65 months) were hired by credit unions and two examiners (average tenure of 33 months) were hired by NCUA. Another thirteen examiners left employment with an average tenure of 55 months. One of the thirteen examiners was a Field Supervisor who retired after approximately 26 years with the Department. Excluding that individual, the average tenure of the other twelve examiners who left employment was 34 months.

Examiner Turnover for 10 Years



D. Retirement Eligibility

The agency was created in 1969, but through the years, very few employees have remained with the agency until retirement. Based on available information, only eleven employees have retired from the agency. Three retired in the early 1970s soon after the agency became independent from the Banking Department; four employees retired between 1996-2002, one medically. At the end of FY 2003, two employees retired, prompted by the retirement incentive package authorized by the 78th Legislature. Since the beginning of FY 2015, five employees have retired; two in FY2016, one in FY2017, one in FY2018 and one more in FY2019. As of the beginning of FY2020, three employees are currently eligible for retirement, four more employees are eligible within the next 2 years, four more within 5 years and an additional three employees are eligible within 8 years. With approximately 23 percent of staff being eligible to retire within 2 years, approximately 37 percent within 5 years, and 47 percent eligible within 8 years, proper succession planning will be critical to ensure the identification and development of potential successors for key positions. The ability to staff the office positions over the next 5 years could be a critical challenge, with eight of the eleven (73%) office staff members eligible for retirement during that time. Of those eight; one is currently eligible to retire; three are eligible within 2 years; and the remaining four are eligible within 5 years.

E. Other Considerations

While there is now an improved beginning salary for examiners, retention of experienced examiners will still be a problem as financial institutions and federal agencies continue to pay higher salaries and require less travel. Agency wide, the turnover rate is expected to stay between 5 to 15 percent annually. The Department continues to assess pay levels, other benefits and work condition enhancements to improve examiner retention.

III. Future Workforce Profile

A. Critical Functions

- Risk based examination program
- Electronic delivery of examinations
- Offsite monitoring
- E-commerce security

B. Expected Workforce Changes

- Increased use of technology to revise and streamline work processes

C. Anticipated Increase/Decrease in Number of Employees Needed to Do the Work

- The FTE count is anticipated to increase by up to one over the next two years to ensure continuity of service and address the increasing complexity of credit union examinations.

D. Future Skills Needed

To effectively perform and process examinations, the agency relies upon a competent and knowledgeable staff. The skills mentioned previously under *Critical Workforce Skills* should be constant for the future; no immediate new skill requirements are anticipated at this time. As employees gain more tenure and experience, their skills should become more refined; employees whose skills do not significantly improve or expand may not be retained.

IV. Gap Analysis

A. Anticipated Surplus or Shortage of Workers or Skills

After analyzing the workforce information, the Credit Union Department believes that there is only one main gap between the agency's workforce supply and demand that needs to be addressed.

1. Attracting and retaining the right employees for the job

- Competing for business majors with at least 6 hours of accounting
- Younger employees are not staying with the agency
- Assuring experienced, well-performing employees of regular salary increases and competitive salaries

V. Strategy Development

Gap	Attracting and Retaining the Right Employees
Goal	Become an employer of choice and offer career opportunities
Rationale	There is a competitive job market for qualified individuals with the skills required to perform the duties of an examiner. The agency will continue to reward exceptional performance within statutory limitations, provide staff development through training opportunities, and provide career opportunities, and support innovation and excellence.
Action Steps	• Continue regular pay increases for high performance • Consistently survey the market for similar positions to ensure the salaries being offered to our staff are competitive. • Allow employees who are seeking new challenges to work on special projects, or assign development projects

Gap	Train and Mentor Employees
Goal	Develop staff where they can progress to key positions, as those key opportunities become available.
Rationale	There is a high concentration of existing Department employees in key positions who are either eligible for retirement, or will become so, during the next 5 years. The agency must identify high potential staff and provide them with the tools and training necessary to fill key positions which are vacated due to retirement. Those identified as high potential employees must be placed on a fast track approach for development and know that they have strong career prospects with the Department. The agency will continue to reward exceptional performance within statutory limitations, provide staff development through training opportunities, and provide career opportunities, and support innovation and excellence.
Action Steps	• Continue regular pay increases for high performance. • Allow employees who are seeking new challenges to work on special projects or assign development projects. • Identify above average performers and put them on a fast track approach for their career path. • Implement a training approach for high potential staff which focuses on accelerating their development and advancement with the agency.

Except for increasing the scope of the information technology examination, the Credit Union Department is not anticipating significant changes in the examination process during the next 2-3 years. [RE1]However, the agency has only 30.0 authorized FTEs and possible retirements could adversely affect the organization in the near future. Within the next 2 years a total of seven (7) employees, or approximately 23 percent of all Department staff, will be eligible for retirement. Proper succession planning will be critical to ensure the identification of staff for key positions if significant turnover occurs due to retirements, whenever that may be. The Department will need to

devote adequate resources to mentoring and supporting less tenured examiners to ensure they gain the skills and experience to carry out the responsibilities which are needed to progress rapidly with the Department.

Credit Union Department

CUSTOMER SERVICE REPORT

May 2020

The Credit Department is dedicated to fulfilling its commitment to customer service as outlined in the agency's *Compact with Texans*. In doing so, credit unions supervised and regulated by the Department, as well as consumers that have registered complaints about those credit unions, are given the opportunity to provide opinions regarding the level of customer service provided by the agency.

In accordance with TEX. GOV'T CODE CH. 2114, the Department provides a variety of methods for customers to supply feedback about the agency's operations and services. Methods used for the solicitation of feedback include internet-based surveys, outreach meetings, and a convenient link on our public website for customers to discuss issues related to their interaction with the agency.

Inventory of Customers by Strategy	
Strategy	Customer
Safe and Sound Credit Union Industry	Texas-chartered credit union and foreign credit unions with offices in Texas
Safeguard the Interest of Credit Union Members	Customers (Members) of Texas-chartered credit unions (represented by written complaints received)

External Customer Descriptions

Credit Union Industry

A safe and sound credit union industry helps ensure economic growth and stability, while assuring a safe place for depositors, available credit opportunities, and competitive financial services. As a result, the primary beneficiary or customer of the Department's safety and soundness supervision of credit unions are the citizens of Texas – credit union members, borrowers, and creditors. Other direct beneficiaries of the Department's examination and supervision are the National Credit Union Administration (NCUA) and the institutions under regulation. The Department must meet the highest expectations and supervisory standards in order to maintain the state's role in enhancing the dual credit union system.

Quality examination and supervision provides credit union boards and management with an independent look at their performance in complying with applicable laws and operating a safe and sound credit union. Burdensome or arbitrary requests for information, improper use of authority, or inconsistently applied statutes, rules, and procedures can inconvenience, disrupt, and even damage credit unions. To monitor the agency's performance as a regulator, the Department surveys credit unions under its jurisdiction. Ultimately, a credit union's members and creditors benefit from examinations and supervision.

Credit Union Members

The primary customers served in this regard are consumers doing business with credit unions such as depositors and borrowers. The Department focuses its surveys on credit union members who have recently gone through the complaint process.

Description of Information Gathering Techniques/Methods

The Department assesses its customer service through communications with its constituents. The Department utilized an electronic survey to reach out to each of its customers.

Annual Questionnaire

Credit unions are sent an invitation by email to participate in an online survey. Responses are anonymous unless the respondent provides contact information. Completed surveys are tabulated automatically by the Department's survey service provider and results are posted on the agency's public website. The methodology of data collection does not follow random sampling guidelines, rather it allows 100% of the credit unions the opportunity to provide feedback. In the most recent annual survey, credit unions were asked to complete the annual survey between February 13, 2020 and March 31, 2020. The agency also emailed reminder notices at various times during the data collection period asking credit unions to participate if they had not already done so.

Examination Survey

The Department solicits input regarding the supervision provided by the agency through a separate post examination survey. The goal of this survey is to help target areas for improvement, as well as to identify what parts of the existing examination process are working well. Between September 2018 and May 2019, an invitation by email to participate in an online survey was sent to each credit union 45 days after completion of an examination. The survey covers areas such as the examination process, examination reports, and the examination correspondence.

Application Survey

The Department solicits input regarding its application process through a separate post application survey. The goal of this survey is to help target areas for improvement, as well as to identify what parts of the existing process are working well. Between September 2018 and May 2019, an invitation by email to participate in an online survey was sent to each credit union that submitted an application 30 days after a final decision was rendered on the application. The survey allows credit unions to provide feedback and rate the performance of the agency in processing the application.

Survey of Member Complainants

Since 2014, complainants of credit unions have been surveyed. The methodology of data collection does not follow random sampling guidelines; it allows 100% of the complainants over a certain period of time the opportunity to respond. No deadline for a response is given and the responses are anonymous. Between September 2018 and May 2019, and fifteen days after a written consumer

complaint was closed, an invitation by email to participate in an online survey is sent to each complainant. The survey allows complainants to provide feedback and rate the performance of the agency in reviewing their complaint.

Results and Summary Analysis of Surveys

It is important to know that when reviewing the following data, low response rates may generally yield results that reflect the feelings of those with the most positive or negative impressions of, or experiences with, the agency and consequently may skew the analysis of the findings. The results show a general satisfaction by a majority of respondents with the Department's services as a whole across the various surveys.

Annual Questionnaire

The Department received 83 responses from 179 credit unions for a response rate of 46 percent. An overwhelming majority of the respondents were "very satisfied" or "satisfied" that the Department is conducting its affairs in a satisfactory manner. The questionnaire affirms the agency's dedication to offer exceptional service to credit unions as accessibility, responsiveness, and quality of services were all highly rated.

Strategic Goal: To ensure a safe and sound credit union industry
Strategic Objective: The department anticipates, understands, addresses, and communicates risk to credit unions.
Measure: Outcome

Q 1. How satisfied are you with the agency's facilities, including your ability to access the agency, the office location, signs, and cleanliness?		
Very Unsatisfied	2	2%
Unsatisfied	0	0%
Neutral	1	1%
Satisfied	11	13%
Very Satisfied	32	39%
Not Applicable	37	45%
Total	**83**	**100%**

Q 2. How satisfied are you with agency staff, including employee courtesy, friendliness, and knowledgeability, and whether staff members adequately identify themselves to customers by name, including the use of the name plates or tags for accountability?		
Very Unsatisfied	2	2%
Unsatisfied	0	0%
Neutral	2	2%
Satisfied	13	16%
Very Satisfied	58	70%
Not Applicable	8	10%
Total	**83**	**100%**

Q 3. How satisfied are you with agency communications, including toll-free telephone access, the average time you spend on hold, call transfers, access to a live person, letters, electronic mail, and any applicable text messaging or mobile applications?		
Very Unsatisfied	1	1%
Unsatisfied	0	0%
Neutral	2	2%
Satisfied	16	19%
Very Satisfied	61	74%
Not Applicable	3	4%
Total	83	100%

Q 4. How satisfied are you with the agency's internet site, including the ease of use of the site, mobile access to the site, information on the location of the site and the agency, and information accessible through the site such as a listing of services and programs and whom to contact for further information or to complain?		
Very Unsatisfied	1	1%
Unsatisfied	1	1%
Neutral	4	5%
Satisfied	34	41%
Very Satisfied	42	51%
Not Applicable	1	1%
Total	83	100%

Strategic Goal: To ensure a safe and sound credit union industry
Strategic Objective: The department anticipates, understands, addresses, and communicates risk to credit unions.
Measure: Explanatory

Q 5. How satisfied are you with the agency's complaint handling process, including whether it is easy to file a complaint and whether responses are timely?		
Very Unsatisfied	0	0%
Unsatisfied	2	2%
Neutral	6	7%
Satisfied	14	17%
Very Satisfied	39	47%
Not Applicable	22	27%
Total	83	100%

Q 6. How satisfied are you with the agency's ability to timely serve you, including the amount of time you wait for service in person?		
Very Unsatisfied	0	0%
Unsatisfied	0	0%
Neutral	1	1%
Satisfied	18	22%
Very Satisfied	48	58%
Not Applicable	15	18%
Skipped Question	1	1%
Total	83	100%

Q 7. How satisfied are you with any agency brochures or other printed information, including the accuracy of that information?		
Very Unsatisfied	0	0%
Unsatisfied	0	0%
Neutral	4	5%
Satisfied	19	23%
Very Satisfied	46	56%
Not Applicable	13	15%
Skipped Question	1	1%
Total	83	100%

Q 8. Please rate your overall satisfaction with the agency		
Very Unsatisfied	0	0%
Unsatisfied	0	0%
Neutral	2	2%
Satisfied	21	26%
Very Satisfied	59	71%
Skipped Question	1	1%
Total	83	100%

Examination Survey

Forty-five days after the completion of an examination of each credit union, a separate invitation to participate in the examination survey is transmitted to the credit union. For the period from September 2018 through May 2019, 97 invitations were sent, and 30 responses were received for a 31 percent response ratio. The responses complimented the examining staff's professionalism and noted that the report of examination was easy to understand with strongly agreed or somewhat agreed responses of 90 percent.

Strategic Goal: To ensure a safe and sound credit union industry
Strategic Objective: The department anticipates, understands, addresses, and communicates risk to credit unions.
Measure: Outcome and Efficiency

Examinations		
Q1. The lead-time was sufficient to gather the information requested prior to the on-site examination		
Strongly Agree	25	83%
Somewhat Agree	5	17%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 2. The pre-examination requests were reasonable in scope		
Strongly Agree	26	87%
Somewhat Agree	3	10%
Neither Agree or Disagree	1	3%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 3. Materials requested in the pre-examination were used during the examination		
Strongly Agree	22	74%
Somewhat Agree	7	23%
Neither Agree or Disagree	1	3%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 4. The pre-examination request made the examination run more efficiently		
Strongly Agree	23	77%
Somewhat Agree	2	6%
Neither Agree or Disagree	5	17%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 5. The examiners were knowledgeable about your credit union		
Strongly Agree	23	77%
Somewhat Agree	7	23%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 6. The examiners demonstrated a thorough understanding of safety and soundness issues		
Strongly Agree	22	74%
Somewhat Agree	7	23%
Neither Agree or Disagree	1	3%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 7. The examiners were responsive to your questions and concerns		
Strongly Agree	23	77%
Somewhat Agree	7	23%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 8. The examiners communicated effectively with the credit union throughout the examination		
Strongly Agree	24	80%
Somewhat Agree	6	20%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 9. The examiners treated you professionally		
Strongly Agree	27	90%
Somewhat Agree	3	10%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 10. The examiners explained the CAMEL ratings in sufficient detail		
Strongly Agree	25	83%
Somewhat Agree	4	14%
Neither Agree or Disagree	1	3%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 11. All major findings of the examination were discussed with you prior to the examiners leaving your credit union		
Strongly Agree	28	94%
Somewhat Agree	0	0%
Neither Agree or Disagree	1	3%
Somewhat Disagree	1	3%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 12. Management was given the opportunity to react to the examination findings		
Strongly Agree	27	90%
Somewhat Agree	2	7%
Neither Agree or Disagree	0	0%
Somewhat Disagree	1	3%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 13. The examination was completed within a reasonable timeframe		
Strongly Agree	26	87%
Somewhat Agree	0	0%
Neither Agree or Disagree	4	13%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 14. The report accurately reflected the examination findings as conveyed to you during the examination		
Strongly Agree	27	90%
Somewhat Agree	1	3%
Neither Agree or Disagree	2	7%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 15. The report was easy to understand		
Strongly Agree	27	90%
Somewhat Agree	0	0%
Neither Agree or Disagree	1	3%
Somewhat Disagree	2	7%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 16. The report accurately portrayed your credit union's practices and condition		
Strongly Agree	24	80%
Somewhat Agree	1	3%
Neither Agree or Disagree	5	17%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 17. The transmittal letter and other written communications concerning the examination report was clear and concise		
Strongly Agree	24	80%
Somewhat Agree	6	20%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 18. The report contained useful recommendations for improving safety and soundness practices		
Strongly Agree	19	63%
Somewhat Agree	4	13%
Neither Agree or Disagree	7	24%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 19. The examination findings will assist you in enhancing your safety and soundness practices		
Strongly Agree	18	60%
Somewhat Agree	6	20%
Neither Agree or Disagree	6	20%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Q 20. The examination was conducted in a fair and objective manner		
Strongly Agree	26	87%
Somewhat Agree	3	10%
Neither Agree or Disagree	1	3%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	30	100%

Application Survey

Thirty days after a final decision is rendered on a credit union's application, a separate invitation to participate in the application survey is transmitted to the credit union. For the period from September 2018 through May 2019, 37 invitations were sent, and 15 responses were received for a 41 percent response ratio. The responses complimented the Department's application process, with efficiency satisfaction responses of 100 percent.

Strategic Goal: To provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services.
Strategic Objective: Credit union application procedures are efficient and consistent with safety and soundness.
Measure: Outcome

Applications		
Q 1. Department staff provided timely and accurate feedback/answers		
Strongly Agree	12	80%
Somewhat Agree	3	20%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	15	100%

Q 2. Department staff communicated with me in a courteous and professional manner		
Strongly Agree	11	73%
Somewhat Agree	4	27%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	15	100%

Q 3. The application process was efficient		
Strongly Agree	12	80%
Somewhat Agree	3	20%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	15	100%

Q 4. The Department's requests for information were reasonable		
Strongly Agree	11	73%
Somewhat Agree	4	27%
Neither Agree or Disagree	0	0%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	15	100%

Q 5. The Department's website was helpful in completing my application		
Strongly Agree	9	60%
Somewhat Agree	5	33%
Neither Agree or Disagree	1	7%
Somewhat Disagree	0	0%
Strongly Disagree	0	0%
Skipped Question	0	0%
Total	15	100%

Member Complainants

A total of 226 invitations to participate in the survey were transmitted to complainants who filed a complaint against a credit union between September 2018 and May 2019. A total of 27 responses were received for a 12 percent response rate.

Approximately 78 percent of complainants found it relatively easy to file a complaint with the agency. Overall, 48 percent of respondents were satisfied the Department understood the basis of their complaint, while 29 percent were dissatisfied. However, only 23 percent felt our response addressed the important aspects of their complaint.

Strategic Goal: To safeguard the interest of credit union members
Strategic Objective: All credit union members have reasonable access to credit union services and are treated fairly and lawfully.
Measure: Explanatory, Efficiency and Outcome

Complaints		
Q 1. It was relatively easy to file a complaint with the Department		
Strongly Agree	18	67%
Somewhat Agree	3	11%
Neither Agree or Disagree	3	11%
Somewhat Disagree	0	0%
Strongly Disagree	1	4%
Skipped Question	2	7%
Total	27	100%

Q 2. Department staff communicated with me in a courteous and professional manner		
Strongly Agree	14	52%
Somewhat Agree	3	11%
Neither Agree or Disagree	2	7%
Somewhat Disagree	4	15%
Strongly Disagree	4	15%
Skipped Question	0	0%
Total	27	100%

Q 3. I believe department staff understood the basis of my complaint		
Strongly Agree	10	37%
Somewhat Agree	3	11%
Neither Agree or Disagree	1	4%
Somewhat Disagree	5	19%
Strongly Disagree	6	22%
Skipped Question	2	7%
Total	27	100%

Q 4. The response provided by the department addressed the important aspects of my complaint		
Strongly Agree	5	19%
Somewhat Agree	1	4%
Neither Agree or Disagree	3	11%
Somewhat Disagree	8	29%
Strongly Disagree	10	37%
Skipped Question	0	0%
Total	27	100%

Q 5. The explanation given was fair considering applicable laws		
Strongly Agree	5	19%
Somewhat Agree	4	15%
Neither Agree or Disagree	2	7%
Somewhat Disagree	5	19%
Strongly Disagree	11	40%
Skipped Question	0	0%
Total	27	100%

Q 6. The Department website was helpful in the complaint process		
Strongly Agree	8	29%
Somewhat Agree	4	15%
Neither Agree or Disagree	10	37%
Somewhat Disagree	2	7%
Strongly Disagree	3	11%
Skipped Question	0	0%
Total	27	100%

Customer Service Representative

The Department's Compact with Texans is posted on the agency's public website (www.cud.texas.gov). The appointed customer service representative is Commissioner John J. Kolhoff.

Credit Union Department
914 East Anderson Lane
Austin, Texas 78752-1699
(512) 837-9236

CUDMail@cud.texas.gov

F

DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS AND PARAMETERS

F. Approve the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2021 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 July meeting, staff is seeking approval of guidelines for developing the FY 2021 budget to present at the July meeting.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2021 budget.

RECOMMENDED MOTION: I move that the Commission adopt the proposed budget assumptions and parameters for FY2021 as recommended by staff.

BUDGET ASSUMPTIONS FOR BUDGET YEAR 2021

The following broad assumptions will establish the foundation for the development of the Department's Budget Year (BY) 2021 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 2020 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) 2020 for which the requested services performed until after the start of FY 2021 are considered obligated funds. The budget authority for these obligated funds will automatically be carried over to BY 2021 and the BY 2021 budget will be increased by an amount exactly equal to the obligated amount.
3. **Compliance** – The budget shall provide sufficient 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 2021.
5. **Salary and Benefits** – The expenditures for FY 2021 will be based on authorized and existing positions as of August 31, 2020 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 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 3.0% 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.
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 travel costs for these meetings is being increased from $11,000 to $14,500 per year, beginning with the BY 2021 budget.
12. **Database Platform** – The budget may include funding determined necessary for additional hardware, software and maintenance costs associated with the ongoing usage of the Department's new database platform which is replacing our prior Sage/Act! Database.
13. **Electronic Document Management System (EDMS)** – The budget shall provide for the costs associated with the further development and maintenance of our EDMS.
14. **Information Technology** – The budget shall provide sufficient funding for computer network upgrades and computer equipment replacement in accordance with the Information Resources Strategic Plan.
15. **Improvements** – The budget shall provide sufficient funding for scheduled maintenance and repairs in accordance with the Replacement/Capital Improvement Plan.
16. **NASCUS Dues** – The budget shall provide sufficient funding to accommodate the projected increase in the professional association's dues.
17. **Accreditation Fees** – The budget shall provide sufficient funding to accommodate the fees associated with the Department's continued NASCUS accreditation.
18. **Overnight Travel Stipend** – The budget shall provide sufficient 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.
19. **Examiners' Laptops and Support** – During FY 2018, NCUA leased laptops to the Department for a period of three years. In contrast to prior laptop leases where NCUA provided full hardware and software support,

they are now providing only limited software support and no hardware support for the leased laptops. Furthermore, NCUA has indicated they will no longer provide laptops to state agencies after the expiration of the current three-year lease. The Department intends to replace all laptops for field staff with a phased-in approach during FY 2020 and FY 2021, prior to the expiration of the lease period with the NCUA. The BY 2021 budget shall provide funding for the second and final phase of laptop replacements (nine to ten laptops) and any additional costs associated with procuring all software licensing, security and support for the new machines.

G

G. Status of the State Credit Union System.

BACKGROUND: As of December 31, 2019 Texas, state-chartered credit unions remained sound overall with few institutions facing modest to minor regulatory concerns. Overall, chartered credit unions are well capitalized and continue to maintain strong earnings performance. Delinquencies for the industry continued to show declines in the third quarter 2019 to very modest levels, with charge-offs numbers indicating stable levels over the last several years.

Since year-end 2019, the operating environment for the credit unions we regulate and the world in general has changed drastically due to the COVID-19 pandemic, coupled with a worldwide surplus of oil. The outbreak is causing widespread concern and economic hardship for consumers, businesses and communities across the globe. While the ultimate outcome of the pandemic and oil surplus to Texas credit unions and industries is unknown, it is anticipated the impact could be significant. More than ever, it is imperative that credit union management teams and the Department work collaboratively and cooperatively to brace for and react accordingly to various adversities that could result from the rapid deterioration of economic conditions throughout the state.

As always, the Department is acting proactively and diligently to safeguard the public and financial interest of our approximately 4 million Texas chartered credit unions members. Our Commissioner has issued multiple informational memorandums and guidance documents to our industry pertaining to the pandemic. Furthermore, field examiners have been reaching out to credit unions each week since the latter portion of March 2020, inquiring as to the issues/concerns they are encountering and their immediate needs to operate effectively and safely.

Overall, Texas credit unions have come together to quickly and successfully address the needs of their members, by continuing to provide strong financial services through controlled lobby services, drive-thru services and digital banking. Further, many are providing loan assistance programs consistent with Department and federal regulatory guidance, to accommodate the immediate needs of members whose livelihoods and income streams have been impaired. These programs include Texas chartered credit unions efforts toward small business owners of Texas and their employees. In conjunction with the first phase of the Paycheck

Protection Program (PPP) approved and, subsequently initiated by Congress on April 3rd, a commendable number of Texas credit unions participated in the program. The initial results of our surveys covering approximately ½ of our institutions (through April 17th) reflect the following:

- 10 credit unions that were existing Small Business Administration (SBA) lenders;
- 6 credit unions who applied to become SBA lenders to participate in the program;
- Approximately 1500 PPP applications received by Texas chartered credit unions;
- Approximately $60.4 million in PPP loan applications;
- Over $34 million in PPP loans approved; over $26 million in applications in process when program funds ran out;
- Approximately $24 million in PPP loans funded from institutions in six cities (Fort Worth, Arlington, Odessa, Austin, Corpus Christi, Dallas);
- 107 PPP loan referrals from a Texas credit union to a third party, resulting in 43 approved loans for $1.1 million;

INDUSTRY STATUS: At **December 31, 2019**, there were **179** state-chartered credit unions in Texas down four charters from the proceeding **December 31, 2018**. Assets in these credit unions totaled **$44.2 billion**, an increase of **$2.3 billion** since **December 31, 2018**, for an annualized growth rate of **5.2%**. The aggregate net worth ratio rose to **11.11%**, a 29-basis point increase from the **December 31, 2018** level of **10.82%**. **One $3 million-dollar** institution merged into another Texas charter in **December 2019**.

Loans for Texas chartered credit unions totaled **$32.9 billion** as of **December 31, 2019**. This is an increase of **$1.3 billion** since **December 31, 2018** for an annualized growth rate of **4%**.

Shares for Texas chartered credit unions totaled **$37.9 billion** as of **December 31, 2019**. This is an increase of **$2.3 billion**, or **6.5%** since **December 31, 2018**.

Texas chartered credit unions aggregate loan delinquency ratio was **0.71%** as of **December 31, 2019**, compared to a ratio of **0.75%** as of **December 31, 2018**.

At **December 31, 2019, 19** state-chartered credit unions reported year to date net operating losses. These institutions represent **10.6%** of Texas state charters aggregating **$336 million** in assets with an average size of **$17.7 million**; however, they represent less than **1%** of total assets under supervision. Non-profitable credit unions, in aggregate, lost approximately **$1.1 million** year-to-date 2019. **One hundred sixty** profitable institutions equating to **89.4%** of Texas state charters were profitable for the year. Profitable institutions represent **$43.8 billion** in total assets with an average size of **$274 million** and earned approximately **$380.8 million** year to date **2019** in aggregate.

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

ENFORCEMENT ISSUES: As of **December 31, 2019**, the Department had the following administrative sanctions outstanding:

LUAs	0
Determination Letters	0
Conservatorships	1
Cease and Desist	2

Chartering Activity

New Charter	0

RECOMMENDED ACTION: No formal action is anticipated.

H

H. Sunset Review Status Update.

BACKGROUND: The Department submitted our Sunset review self-evaluation on August 29, prior to the deadline of September 3. A copy of the Sunset Self-Evaluation Report can be found on the Department's 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, 2020 and interviews of Department personal began April 23rd. Interviews with the Department are expected to be completed on or around May 1st, 2020.

RECOMMENDED ACTION: No formal action is anticipated.

I

RULEMAKING MATTERS

Ten 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) Proposed amendments to 7 TAC Section 91.708 concerning Real Estate Appraisals or Evaluations
(b) Adoption of proposed amendments to 7 TAC Section 91.6001 concerning Fiduciary Duties;
(c) Adoption of proposed amendments to 7 TAC Section 91.6003 concerning Notice Requirements;
(d) Adoption of proposed amendments to 7 TAC Section 91.6004 concerning Exercise of Fiduciary Powers;
(e) Adoption of proposed amendments to 7 TAC Section 91.6006 concerning Policies and Procedures;
(f) Adoption of proposed amendments to 7 TAC Section 91.6010 concerning Custody of Fiduciary Assets;
(g) Adoption of proposed amendments to 7 TAC Section 91.6014 concerning Errors and Omissions Insurance;
(h) Adoption of proposed amendments to 7 TAC Section 91.1003 concerning Merger/Consolidations;
(i) Adoption of Completed Rule Review of 7 TAC, Part 6, Chapter 91 Subchapter P (Other Forms of Equity Capital), and re-adoption of rules; and
(j) Adoption of Completed the Rule Review of 7 TAC, Part 6, Chapter 91 Subchapter Q (Access to Confidential Information), and re-adoption of rules.

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

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.

REAL ESTATE APPRAISALS OR EVALUATIONS

I. (a) Proposed Amendments to 7 TAC Section 91.708 Concerning Real Estate Appraisals or Evaluations.

BACKGROUND: The proposed amendments reflect amendments made to the National Credit Union Administrations Rules and Regulations Part 722 (12 CFR Part 722) to align with requirements of other depository financial services providers. The amended language increases the threshold at which licensed appraisals are required when underwriting consumer real estate loans. The proposed language requires consumer real estate loans at or exceeding $400,000 to have an appraisal conducted by a state licensed appraiser, an increase from the current $250,000 limit. The proposed amendment is necessary to maintain competitiveness with the federal credit union charter, and update credit union rules to the same standard applied to federal and state banking industries.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.708.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.708.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter G.	Lending Powers
Rule §91.708	Real Estate Appraisals or Evaluations

The Credit Union Commission (the Commission) proposes amendments to §91.708, relating to a credit union's utilization of appraisals on consumer real estate loans. The Commission proposes these amendments as a result of its regular rule review under Texas Government Code §2001.039 and Texas Finance Code §15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

The proposed amendments to §91.708 reflect amendments made to the National Credit Union Administrations Rules and Regulations Part 722 (12 CFR Part 722) to align with requirements of other depository financial services providers. The amended language increases the threshold at which licensed appraisals are required when underwriting consumer real estate loans. The proposed language requires consumer real estate loans at or exceeding $400,000 to have an appraisal conducted by a state licensed appraiser, an increase from the current $250,000 limit. The proposed amendment is necessary to maintain competitiveness with the federal credit union charter, and update credit union rules to the same standard applied to federal and state banking industries.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect,

there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

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

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

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

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

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

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

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15, and Title 3, Subtitle D specifically §§123.201 and 124.001.

<rule>

§91.708. Real Estate Appraisals or Evaluations.

(a) Policies and Procedures. A credit union's board of directors is responsible for reviewing and adopting policies and procedures that establish and maintain an effective, independent real

estate appraisal and evaluation program. A credit union's selection criteria for individuals who may perform appraisals or evaluations must provide for the independence of the individual performing the evaluation. That is, the individual has neither a direct nor indirect interest, financial or otherwise, in the property or transaction. The individual selected must also be competent to perform the assignment based upon the individual's qualifications, experience, and educational background. An individual may be an employee of a credit union if the individual qualifies under the conditions and requirements contained in Part 722 of the National Credit Union Administration Rules and Regulations.

(b) Loans Over **$400,000 [$250,000]**. For real estate loans in which the amount of the loan or extension of credit exceeds **$400,000 [$250,000]**, the credit union shall obtain a professional appraisal report by a state certified or licensed appraiser. The appraisal report shall be in writing and conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation, in Washington, D.C.

(c) Loans **$400,000 [$250,000]** or Less. For a real estate loans with an amount of the loan or extension of credit of **$400,000 [$250,000]** or less, the services of a state certified or licensed appraiser is not necessary; however, the credit union must obtain an appropriate evaluation of real property collateral that is supported by a written estimate of market value either performed by a qualified individual who has demonstrated competency in performing evaluations or from tax appraisal data of a governmental entity.

(d) Right to Require an Appraisal. The commissioner may require an appraisal under this section, at the expense of the credit union, when the commissioner has reasonable cause to believe the value of the collateral is overstated.

(e) Existing Loans. In the case of renewal of a loan where there has been no obvious and material change in market conditions or physical aspects of the property that threatens the adequacy of the credit union's real estate collateral protection after the transaction, even with the advancement of additional funds, a written certification of current value by the original appraiser or an acceptable substitute shall satisfy this section.

(f) Other Appraisal Requirements. A credit union shall also comply with applicable real estate appraisal requirements contained within Part 722 of the National Credit Union Administration Rules and Regulations.

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FIDUCIARY DUTIES

I. (b) Adoption of Amendments to 7 TAC Section 91.6001 Concerning Fiduciary Duties.

BACKGROUND: At its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6001. No comments were received on the proposed amendments to the rule.

The amended rule represents only minor grammatical changes and do not change the meaning of the rule.

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

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.6001 without changes to the proposed text as published in the *Texas Register*.

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

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter O, Section 91.6001, concerning fiduciary duties, without changes to the proposed text as published in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1088). The amendments will not be republished.

The amended rule represents only minor grammatical changes that do not change the meaning of the rule.

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

The amended rule is adopted pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

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

<rule>

Subchapter O. Trust Powers

§91.6001. Fiduciary Duties.

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

NOTICE REQUIREMENTS

I. (c) Adoption of Amendments to 7 TAC Section 91.6003 Concerning Notice Requirements.

BACKGROUND: At its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6003. No comments were received on the proposed amendments to the rule.

The amended rule consists of grammatical changes, clarifies that a credit union must identify the address where it proposes to conduct fiduciary duties, and removes language that established a phased-in notification requirement for fiduciary activity prior to October 1, 2003, as the phase-in provision no longer is needed. The changes do not change the meaning of the rule.

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

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.6003 without changes to the proposed text as published in the *Texas Register*.

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

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter O, Section 91.6003, concerning notice requirements, without changes to the proposed text as published in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1089). The amendments will not be republished.

The amended rule consists of grammatical changes, clarifies that a credit union must identify the address where it proposes to conduct fiduciary duties, and removes language that established a phased-in notification requirement for fiduciary activity prior to October 1, 2003, as the phase-in provision no longer is needed. The changes do not change the meaning of the rule.

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

The amended rule is adopted pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

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

<rule>

§91.6003. Notice Requirements.

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

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

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

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

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

(5) The physical address of each location where the credit union will conduct fiduciary activities.

EXERCISE OF FIDUCIARY POWERS

I. (d) Adoption of Amendments to 7 TAC Section 91.6004 Concerning Exercise of Fiduciary Powers.

BACKGROUND: At its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6004. No comments were received on the proposed amendments to the rule.

The amended rule represents a change in terminology to using a credit union's "net worth position," instead of the current term "capital," as a factor the commissioner considers in determining if a credit union's notice of its intent to exercise fiduciary powers is complete and accepted for filing.

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

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.6004 without changes to the proposed text as published in the *Texas Register*.

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

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter O, Section 91.6004, concerning exercise of fiduciary powers, without changes to the proposed text as published in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1090). The amendments will not be republished.

The amended rule represents a change in terminology to using a credit union's "net worth position," instead of the current term "capital," as a factor the commissioner considers in determining if a credit union's notice of its intent to exercise fiduciary powers is complete and accepted for filing.

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

The amended rule is adopted pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

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

<rule>

§91.6004. Exercise of Fiduciary Powers.

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

(1) The credit union's financial condition.
(2) The adequacy of the credit union's net worth position.
(3) The credit union's overall performance.
(4) The fiduciary powers the credit union proposes to exercise.
(5) The availability and expertise of legal counsel.
(6) The experience and expertise of proposed trust management personnel.
(7) The needs of the members to be served.
(8) Any other facts or circumstances that the Department considers appropriate.

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

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

POLICIES AND PROCEDURES

I. (e) Adoption of Amendments to 7 TAC Section 91.6006 Concerning Policies and Procedures.

BACKGROUND: At its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6006. No comments were received on the proposed amendments to the rule.

The amended rule includes minor grammatical changes and requires a credit union to adopt appropriate certain policies and procedures, when it exercises trust powers, based on the type of trust activity conducted.

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

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.6006 without changes to the proposed text as published in the *Texas Register*.

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

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter O, Section 91.6006, concerning policies and procedures, without changes to the proposed text as published in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1091). The amendments will not be republished.

The amended rule includes minor grammatical changes and requires a credit union to adopt appropriate certain policies and procedures, when it exercises trust powers, based on the type of trust activity conducted.

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

The Commission adopts the amended rule pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

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

<rule>

§91.6006. Policies and Procedures.

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

(1) Brokerage placement practices;

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

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

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

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

CUSTODY OF FIDUCIARY ASSETS

I. (f) Adoption of Amendments to 7 TAC Section 91.6010 Concerning Custody of Fiduciary Assets.

BACKGROUND: At its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6010. No comments were received on the proposed amendments to the rule.

The adopted rule amendments include only minor grammatical changes that do not change the meaning of the rule.

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

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.6010 without changes to the proposed text as published in the *Texas Register*.

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

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter O, Section 91.6010, concerning custody of fiduciary assets, without changes to the proposed text as published in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1093). The amendments will not be republished.

The adopted rule amendments include only minor grammatical changes that do not change the meaning of the rule.

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

The Commission adopts the amended rule pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

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

<rule>

§91.6010. Custody of Fiduciary Assets.

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

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

ERRORS AND OMISSIONS INSURANCE

I. (g) Adoption of Amendments to 7 TAC Section 91.6014 Concerning Errors and Omissions Insurance.

BACKGROUND: At its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6014. No comments were received on the proposed amendments to the rule.

The amended rule requires insurance reviews annually with supporting documentation to ensure coverage appropriateness while maintaining a minimum $500,000 coverage floor.

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

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.6014 without changes to the proposed text as published in the *Texas Register*.

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

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter O, Section 91.6014, concerning errors and omissions insurance, without changes to the proposed text as published in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1094). The amendments will not be republished.

The amended rule requires insurance reviews annually with supporting documentation to ensure coverage appropriateness while maintaining a minimum $500,000 coverage floor.

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

The Commission adopts the amended rule pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

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

<rule>

§91.6014. Errors and Omissions Insurance.

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

MERGER/CONSOLIDATIONS

I. (h) Adoption of Amendments to 7 TAC Section 91.1003 Concerning Merger/Consolidations.

BACKGROUND: At its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.1003. No comments were received on the proposed amendments to the rule.

The amended rule refers institutions directly to the federal Hart-Scott Rodino Act and its specific requirements instead of duplicating all, or part of the federal provisions, within the state rule.

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

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.1003 without changes to the proposed text as published in the *Texas Register*.

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

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter J, Section 91.1003, concerning mergers/consolidations, without changes to the proposed text as published in the February 21, 2020 issue of the *Texas Register* (45 TexReg 1086). The amendments will not be republished.

The amended rule refers institutions directly to the federal Hart-Scott Rodino Act and its specific requirements instead of duplicating all, or part of the federal provisions, within the state rule.

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

The Commission adopts the amended rule pursuant to Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

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

<rule>

§91.1003. Mergers/Consolidations.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
(1) Acquirer credit union - The credit union that will continue in operation after the merger/consolidation.
(2) Acquiree credit union - The credit union that will cease to exist as an operating credit union at the time of the merger/consolidation.
(3) Merger inducement – A promise by a credit union to pay to the members of another credit union a sum of money or other material benefit upon the successful completion of a merger of the two credit unions.
(4) Substantial – An amount that is large in size, value, or importance. For purposes of this section, an amount is substantial if it exceeds $1,000.00 in total.
(b) Two or more credit unions organized under the laws of this state, another state, or the United States, may merge/consolidate, in whole or in part, with each other, or into a newly incorporated credit union to the extent permitted by applicable law, subject to the requirements of this rule. A credit union may not offer a merger inducement to another credit union's members as a means of promoting a merger of the two credit unions.
(c) Notice of Intent to Merge/Consolidate. The credit unions shall notify the commissioner in writing of their intent to merge/consolidate within ten days after the credit unions' boards of directors formally agree in principle to merge/consolidate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) a statement as to whether the transaction is subject to the Hart-Scott Rodino Act premerger notification filing requirements; and

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

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

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

(f) Commissioner Action on the Application.

(1) The commissioner may grant preliminary approval of an application for merger/consolidation conditioned upon specific requirements being met, but final approval shall

not be granted unless such conditions have been met within the time specified in the preliminary approval.

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

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

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

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

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

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

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

(3) For applications to merge/consolidate in which the products and services of the acquirer credit union after merger/consolidation are proposed to be substantially the same as those of the acquiree and acquirer credit unions, the commissioner will presume that the merger/consolidation will not significantly change or affect the availability and adequacy of financial services in the local community.

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

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

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

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

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

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

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

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

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

(h) Completion of Merger/Consolidation.

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

(2) Upon receipt of the commissioner's written authorization, the records of the credit unions shall be combined as of the effective date of the merger/consolidation. The board of the directors

of the acquirer credit union shall certify the completion of the merger/consolidation to the commissioner within 30 days after the effective date of the merger/consolidation.

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

MANDATORY RULE REVIEW

I. (i) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter P (Other Forms of Equity Capital), Section 91.7000, and Readoption of Rule.

BACKGROUND: Section 2001.039, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 91, Subchapter P (Other Forms of Equity Capital) 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 March 13, 2020 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rule continues to exist.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the rule review as the reasons for this rule continues to exist.

RECOMMENDED MOTION: I move that the Commission find that the reasons for adopting **7 TAC, Part 6, Section 91.7000** continues to exist and that that the Commission readopt this rule.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter P	Other Forms of Equity Capital

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter P (relating to Certificates of Indebtedness), of the Texas Administrative Code, Title 7, Part 6, consisting of §91.7000.

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

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter P, was published in the March 13, 2020, issue of the *Texas Register* (45 TexReg 1869). The Department received no comments on the notice of intention to review.

After reviewing these rules, the Commission finds that the reasons for initially adopting these rules continue to exist, and readopts Chapter 91, Subchapter P, §91.7000 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 P. Other Forms of Equity Capital

§91.7000. Certificates of Indebtedness.

(a) General. No credit union may issue certificates of indebtedness pursuant to this section or amend the terms of such certificates unless it has obtained a written letter from the commissioner stating that the commissioner does not object ("non-objection letter"). All requirements of the provisions of this section must be met before a non-objection letter will be issued.

(b) Form of application; supporting information. Applications must be in the form prescribed by the commissioner and shall include all information and exhibits required by the application instructions.

(c) Requirements as to certificates. Certificates of Indebtedness issued pursuant to this section shall meet all of the following requirements:

(1) Form of certificate. Each certificate evidencing subordinated debt issued by a credit union pursuant to this section shall:

(A) Bear on its face, in bold-face type, the following legends:

(i) "This certificate is not a share account or deposit and it is not insured by the United States or any other insuring organization or fund"; and

(ii) "This certificate is not eligible for purchase by any credit union or a credit union service organization thereof without the prior written approval of the Credit Union Commissioner of the State of Texas."

(B) Clearly state that the certificate –

(i) Is subordinated to all other claims of the credit union's creditors;

(ii) Is totally unsecured; and

(iii) May not be used as collateral for any loan by the issuing credit union.

(C) Shall include within its terms the right of the issuing credit union to prepay the obligation, which shall, at a minimum, include the right to prepay any amount without premium or penalty any time during the fifteen months prior to the maturity date;

(D) Shall contain the following statement:

"Notwithstanding anything to the contrary in this certificate (or in any related documents); (i) if the NCUA or other insuring organization shall be appointed liquidating agent for the issuer of this certificate ("the issuer') and in its capacity as such shall cause the issuer to merge with or into another credit union, or in such capacity shall sell or otherwise convey part or all of the assets of the issuer to another credit union or shall arrange for the assumption of less than all of the liabilities of the issuer by one or more credit unions, the NCUA or other insuring organization shall have no obligation, either in its capacity as liquidating agent or in its corporate capacity, to contract for or to otherwise arrange for the assumption of the obligations represented by this certificate in whole or in part by any credit union or credit unions which results from any such merger or which has purchased or otherwise acquired from the NCUA or other insuring organization as liquidating agent for the issuer, any of the assets of the issuer, or which, pursuant to any arrangement with the NCUA or insuring organization, has assumed less than all of the liabilities of the issuer. To the extent that obligations represented by this certificate have not been assumed in full by a credit union with or into which the issuer may have been merged, as described in this paragraph (A), and/or by one or more credit unions which have succeeded to all or a portion of the assets of the issuer, or which have assumed a portion but not all of the liabilities of the issuer as a result of one or more transactions entered into by the NCUA or other insuring organization as liquidating agent for the issuer, then the holder of this certificate shall be entitled to payments on this obligation in accordance with the procedures and priorities set forth in

any applicable law. (ii) In the event that the obligation represented by this certificate is assumed in full by another credit union, which shall succeed by merger or otherwise to substantially all of the assets and the business of the issuer, or which shall by arrangement with the NCUA or insuring organization assume all or a portion of the liabilities of the issuer, and payment or provision for shall have been made in respect of all matured installments of interests upon the certificates together with all matured installments of principal on such certificates which shall have become due otherwise than by acceleration, than any default caused by the appointment of a liquidating agent for the issuer shall be deemed to have been cured, and any declaration consequent upon such default declaring the principal and interest on the certificate to be immediately due and payable shall be deemed to have been rescinded. (iii) This certificate is not eligible to be purchased or held by any credit union or credit union service organization thereof. The issuer of this certificate may not recognize on its transfer books any transfer made to a credit union or any credit union service organization thereof and will not be obligated to make any payments of principal or interest on this certificate if the owner of this certificate is a credit union or any credit union service organization thereof."

(2) Limitations as to term and prepayment.

(A) No certificate of indebtedness issued by a credit union pursuant to this section shall have an original period to maturity of less than seven years. During the first six years that such a certificate is outstanding, the total of all required sinking fund payments, other required prepayments, and required reserve allocations with respect to the portion of such six years as have elapsed shall at no time exceed the original principal amount or original redemption price, thereof multiplied by a fraction, the numerator of which is the number of years that have elapsed since the issuance of the certificate and the denominator of which is the number of years covered by the original period to maturity.

(B) No voluntary prepayment of principal shall be made and no payment of principal shall be accelerated without the approval of the commissioner if the credit union's net worth ratio is below 6% or, if after giving effect to such payment, the credit union's net worth ratio would fall below 6%.

(d) Offering circular. The credit union shall submit the proposed offering circular to the Department. The offering circular must state the following in bold print:

"These certificates have not been approved by the Texas Credit Union Department nor has the Texas Credit Union Department approved this offering circular."

(e) Supervisory objection. Generally, the commissioner will not issue a non-objection letter where:

(1) The proposed issue fails to transfer risk away from the National Credit Union Share Insurance Fund or other insuring organization and onto the certificate holders.

(2) Information submitted in connection with the application or otherwise available to the Department indicates that the credit union will not be able to service the proposed debt. Evaluation of the issuer's ability to service debt should be prospective, based upon the issuer's business plan.

(3) The ratio of subordinated debt included as equity capital to the credit union's net worth requirements exceeds one-third, after giving effect to the proposed issue.

(4) The proposed deployment of the proceeds of the proposed issue is contrary to the credit union's business plan, is unrealistic in its assumptions, or is inconsistent with the principles of safety and soundness.

(5) The credit union has failed to comply with the terms and conditions imposed upon previous subordinated debt issuances, or has failed to comply with any outstanding enforcement action, written agreement or any other significant supervisory requirement.

(f) Additional requirements. The commissioner may impose on the credit union such requirements or conditions with regard to certificates or the offering or issuance thereof as the commissioner may deem necessary or desirable for the protection of purchasers, the credit union, the National Credit Union Share Insurance Fund, or other insuring organization, as the case may be.

(g) Limitation on offering period. Following the date of the issuance of a non-objection letter, the credit union shall have an offering period of not more than one year in which to complete the sale of the certificates of indebtedness issued pursuant to this section. The commissioner may in his discretion extend such offering period if a written request showing good cause for such extension is filed with the Department not later than 30 days before the expiration of such offering period or any previous extension thereof.

(h) Policies and Procedures. Before any offers or sales of the certificates are made on the premises of the credit union or its credit union service organization, the credit union shall submit to the Department a set of policies and procedures for such sale of certificates that is satisfactory to the Department.

(i) Records. A credit union shall establish and maintain certificate of indebtedness documentation practices and records that demonstrate the credit union appropriately administers and monitors certificate of indebtedness-related activities. The credit union's records should adequately evidence ownership, balances, and all transactions involving each certificate. The credit union may maintain records on certificate of indebtedness activities in any format that is consistent with standard business practices.

(j) Disclosures.

(1) In connection with the purchase of a certificate of indebtedness by a person from the issuing credit union or its credit union service organization, the credit union and/or the credit union service organization must disclose to the person that:

(A) The certificate of indebtedness is not a share or deposit;

(B) The certificate of indebtedness is not insured by the National Credit Union Share Insurance Fund or any other insuring organization;

(C) There is investment risk associated with the certificate of indebtedness, including the possible loss of value; and

(D) The credit union may not condition an extension of credit on a person's purchase of a certificate of indebtedness.

(2) The disclosures required by paragraph (1) above must be provided orally and in writing before the completion of the sale of a certificate of indebtedness. If the sale of a certificate of indebtedness is conducted by telephone, the credit union may provide the written disclosure required by paragraph (1) by mail within three business days beginning the first business day after the sale, solicitation, or offer.

(3) A credit union may provide the written disclosures required by paragraph (1) through electronic media instead of on paper, if the person affirmatively consents to receiving the disclosures electronically and if the disclosures are provided in a format that the person may retain or obtain later, for example, by printing or storing electronically (such as by downloading).

(4) The disclosures provided shall be conspicuous and designed to call attention to the nature and significance of the information provided.

(k) Sales Activities. A credit union must, to the extent practicable:

(1) Keep the area where the credit union conducts transactions involving certificate of indebtedness physically segregated from areas where shares and deposits are routinely accepted from members;

(2) Identify the area where certificate of indebtedness activities occur; and

(3) Clearly delineate and distinguish those areas from the areas where the credit union's share- and deposit-taking activities occur.

(l) Referrals. Any person who accepts deposits from members in an area where such transactions are routinely conducted in a credit union may refer a member who seeks to purchase a certificate of indebtedness to a qualified person who sells that product only if the person making the referral receives no additional compensation for making the referral.

(m) Reports. Within 30 days after completion of the sale of the subordinated debt issued pursuant to this section, the credit union shall transmit a written report to the Department stating the number of purchases, the total dollar amount of certificates sold, and the amount of net proceeds received by the credit union. The credit union's report shall clearly state the amount of subordinated debt, net of all expenses that the credit union intends to have counted as equity capital. In addition, the credit union, shall submit to the Department, certification of compliance with all applicable laws and regulations in connection with the offering, issuance, and sale of the certificates.

(n) Equity capital. When a certificate of indebtedness has a remaining maturity of 5 years, the amount of the certificates that may be considered equity capital shall be reduced by a minimum of 20% of the original amount of the certificate per year. The equity capital shall be reduced by a constant monthly amortization to ensure the recognition of subordinated debt is fully amortized when the certificate matures or is prepaid.

(o) Prohibited practices.

(1) A credit union may not engage in any practice or use any advertisement at any office of, or on behalf of, a credit union that could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to:

(A) the fact that a certificate of indebtedness a credit union sells or offers for sale is not insured by the National Credit Union Share Insurance Fund or other insuring organization;

(B) the fact that there is an investment risk, including the potential that principal may be lost and that the certificate may decline in value; or

(C) the fact that the approval of an extension of credit to a person by the credit union or credit union service organization may not be conditioned on the purchase of a certificate of indebtedness from the credit union or credit union service organization.

(2) No credit union shall directly or indirectly:

(A) employ any device, scheme or artifice to defraud,

(B) make any untrue statement of a material fact or omit to state a material fact necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, or

(C) engage in any act, practice, or course of business which operates as a fraud or deceit upon any person, in connection with the purchase or sale of any certificate of indebtedness.

MANDATORY RULE REVIEW

I. (j) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter Q (Access to Confidential Information), Section 91.8000, and Readoption of Rule.

BACKGROUND: Section 2001.039, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 91, Subchapter Q (Access to Confidential Information) 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 March 13, 2020 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rule continues to exist.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the rule review as the reasons for this rule continues to exist.

RECOMMENDED MOTION: I move that the Commission find that the reasons for adopting **7 TAC, Part 6, Section 91.8000** continues to exist and that that the Commission readopt this rule.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter Q.	Access to Confidential Information

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter Q (relating to Discovery of Confidential Information), of the Texas Administrative Code, Title 7, Part 6, consisting of §91.8000.

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

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter Q, was published in the March 13, 2020, issue of the *Texas Register* (45 TexReg 1869). The Department received no comments on the notice of intention to review.

After reviewing these rules, the Commission finds that the reasons for initially adopting these rules continue to exist, and readopts Chapter 91, Subchapter Q, §91.8000 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 Q. Access to Confidential Information

§91.8000. Discovery of Confidential Information.

(a) Policy. The legislature has determined that certain information is confidential and, with limited exceptions, should not be disclosed. See Texas Finance Code, §126.002. Non-disclosure under this section protects the stability of credit unions by preventing disclosures that could adversely impact the institutions. Inappropriate disclosures can result in substantial harm to credit unions and to those persons and entities (including other financial institutions) that have relationships with them. For example, the department may criticize a credit union in an examination report for a financial weakness that does not currently threaten the solvency of the credit union. If improperly disclosed, the criticism can lead to adverse impacts such as the possibility of a "run," short-term liquidity problems, or volatility in costs of funds, which in turn can exacerbate the problem and cause the failure of the credit union. These failures lead to reduced access to credit and greater risk to depositors. Further, since specific loans may be criticized in an examination report, confidentiality of the information protects the financial privacy of borrowers. Finally, protecting confidential information from disclosure facilitates the free exchange of information between the credit union and the regulator, encourages candor, and promotes regulatory responsiveness and effectiveness. Information that does not fall within the meaning of confidential information as defined in this section may be confidential under other definitions and controlled by other laws, and is not subject to this section.

(b) Disclosure prohibited. Pursuant to Finance Code §126.002, the department has an absolute privilege against disclosure of its confidential information. Discovery of confidential information from a person subject to §126.002 must comply with subsection (c) of this section. Only a person to whom confidential information has been released pursuant to §126.002 or this rule may disclose that information to another, and only in accordance with that section and this rule.

(c) Discovery of confidential information. A credit union, governmental agency, credit union service organization, service provider, or insuring organization that receives a subpoena or other form of discovery for the release of information that is confidential under §126.002 of the Act shall promptly:

(1) notify the department of the request;

(2) provide the department with a copy of the discovery documentation and, if requested by the department, a copy of the requested information; and

(3) move for a protective order, or its equivalent under applicable rules of procedure. In addition, prior to the release of confidential information, such credit union, governmental agency, credit union service organization, service provider, or insuring organization must obtain a ruling on its motion in accordance with this section. Confidential information may be released only pursuant to a protective order, or its equivalent, in a form consistent with that set out in this section and only if a court with jurisdiction has found that:

(A) the party seeking the information has a substantial need for the information;

(B) the information is directly relevant to the legal dispute in issue; and

(C) the party seeking the information is unable without undue hardship to obtain its substantial equivalent by other means.

(d) Discretionary filings by department. On receipt of notice under subsection (c) of this section, the department may take action as may be appropriate to protect confidential information.

The department has standing to intervene in a suit or administrative hearing for the purpose of filing a motion for protective order and in camera inspection in accordance with this section.

(e) Motion for protective order, or equivalent, and in camera inspection. The movant shall ask the court to enter an order in accordance with this section regarding the release of confidential information. If necessary to resolve a dispute regarding the confidential status or direct relevance of any information sought to be released, the party seeking the order shall move for an in camera inspection of the pertinent information. Until subject to a protective order, or its equivalent, confidential information may not be released, and, if necessary, the party seeking an order shall request the court officer to deny discovery of such confidential information.

(f) Protective order or equivalent. An order obtained pursuant to the terms of this section must:

(1) specifically bind each party to the litigation, including one who becomes a party to the suit after the order is entered, each attorney of record, and each person who becomes privy to the confidential information as a result of its disclosure under the terms of the order;

(2) describe in general terms the confidential information to be produced;

(3) state substantially the following in the body of the order:

(A) absent court order to the contrary, only the court reporter and attorneys of record in the cause may copy confidential information produced under the order in whole or part;

(B) the attorneys of record are custodians responsible for all originals and copies of confidential information produced under the order and must insure that disclosure is limited to those persons specified in the order;

(C) confidential information subject to the order and all information derived there from may be used only for the purposes of the trial, appeal, or other proceedings in the case in which it is produced;

(D) confidential information to be filed or included in a filing in the case must be filed with the clerk separately in a sealed envelope bearing suitable identification, and is available only to the court and to those persons authorized by the order to receive confidential information, and all originals and copies made of such documents and records must be kept under seal and disclosed only in accordance with the term of the protective order;

(E) confidential information produced under the order may be disclosed only to the following persons and only after counsel has explained the terms of the order to the person who will receive the information and provided that person with a copy of the order;

(i) to a party and to an officer, employee, or representative of a party, to a party's attorneys (including other members and associates of the respective law firms and contract attorneys in connection with work on the case) and, to the extent an attorney of record in good faith determines disclosure is necessary or appropriate for the conduct of the litigation, legal assistants, office clerks and secretaries working under the attorney's supervision;

(ii) to a witness or potential witness in the case;

(iii) to an outside expert retained for consultation or for testimony, provided the expert agrees to be bound by the terms of the order and the party employing the expert agrees to be responsible for the compliance by its expert with this confidentiality obligation; and

(iv) to the court or to an appellate officer or body with jurisdiction of an appeal in the case;

(F) at the request of the department or a party, only the court, the parties and their attorneys, and other persons the court reasonably determines should be present may attend the live testimony of a witness or discussions or oral arguments before the court that may include confidential information or relate to such confidential information. The parties shall request the

court to instruct all persons present at such testimony, discussions, or arguments that release of confidential information is strictly forbidden;

(G) a transcript, including a deposition transcript, that may include confidential information subject to non-disclosure is subject to the order. The party requesting the testimony of a current or former department officer, employee, or agent shall, at its expense, furnish the department a copy of the transcript of the testimony once it has been transcribed.

(H) Upon ultimate conclusion of the case by final judgment and the expiration of time to appeal, or by settlement or otherwise, counsel for each party shall return all copies of every document subject to the order for which the counsel is custodian to the party that produced the confidential information; and

(I) Production of documents subject to the order does not waive a claim of privilege or right to withhold the documents from a person not subject to the order.

(4) Paragraph (3)(A), (B) and (E) - (H) of this subsection are subject to modification by the court for good cause before the conclusion of the proceeding, after giving the department notice and an opportunity to appear.

J

FUTURE COMMISSION MEETING

J. Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for August 7, 2020.

Adjournment