CREDIT UNION COMMISSION MEETING

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

August 7, 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, this meeting of the Texas Credit Union Department will be held by video-conference call, as authorized under Texas Government Code Section 551.127.

Members of the public will have access and a means to participate in this meeting, by two-way audio or video conference via through phone or internet access. Members may participate via phone using 1-936-213-5778 (Toll) Conference ID: 892 610 531#. Members wishing to utilize internet based options to attend the meeting will find a link to the meeting on the Department's webpage at www.cud.texas.gov on the day of the meeting. An electronic copy of the agenda is now available at www.cud.texas.gov under Credit Union Commission, Commission Meetings, along with a copy of the meeting materials. A recording of the meeting will be available after August 7, 2020. To obtain a recording, please contact Isabel Velasquez at 512-837-9236.

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

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.

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

- *Yusuf E. Farran, Chair*
- *Elizabeth L. "Liz" Bayless (Excused Absence)*
- *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*

B

CREDIT UNION COMMISSION MEETING MINUTES

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

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
(Via video/teleconference only)
914 East Anderson Lane, Austin, Texas
May 8, 2020

A. CALL TO ORDER -- Chair Yusuf Farran called the meeting to order at 9:05 a.m. via video/teleconference, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included, Liz Bayless, Karyn Brownlee, Beckie Stockstill Cobb, Steven "Steve" Gilman, Sherri Merket, Jim Minge, David Shurtz and Kay Swan. Assistant Attorney General Melissa Juarez was in attendance to serve as legal counsel by phone but experienced connectivity issues. 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 **(May 8, 2020, TRD#2020002196)**.

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

B. MINUTES OF PREVIOUS MEETING (February 7, 2020) -- The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet and asked for any proposed edits. Hearing none the Chair asked for a motion to approve the minutes. Mr. Gilman moved for approval of the minutes of February 7, 2020 as presented. Mrs. Cobb seconded the motion, and the commission carried the motion unanimously.

C. DEPARTMENT'S ACTIVITIES RELATED TO COVID-19 -- Commissioner Kolhoff reported that the Department has taken significant actions in

response to the COVID-19 outbreak. The office staff has split their time in the office now in order to ensure operations are continuing, but trying to mitigate as much as we can, operational risk of both teams getting infected by sharing the office 20 hours and spending 20 hours offsite. Our examiners continue to conduct exams and are doing everything they can at this point remotely. Furthermore, examiners are conducting weekly calls to credit union CEOs and surveying operational, credit, liquidity and sensitivity risks during the pandemic. Mr. Kolhoff noted that the industry has done a great job. They continue to meet the needs of the industry. Furthermore, Mr. Kolhoff explained that the Department had been working on expanding the use of offsite time in the examination program and reacting to the COVID-19 pandemic has moved us further along the learning curve.

- **Commission Member Jim Minge, President/CEO of Texas Trust Credit Union** expressed his appreciation and the credit union movement for all the help and assistance Commissioner Kolhoff has provided throughout this pandemic.

- **Commission Member Steve Gilman, CEO of Houston Texas Fire Fighters Federal Credit Union** expressed his appreciation to the Commissioner for keeping the Commission informed about activities that are being taken and communicating such to all credit unions.

- **Commission Member David F. Shurtz, Chief Risk Officer/General Counsel of EECU** added by thanking Commissioner Kolhoff for allowing credit unions adjust their annual meetings to virtual with an easy to follow bylaw amendment which obviously impacts our credit union and the members on the annual meeting side.
- **Commission Chairman Yusuf Farran** acknowledged that Commissioner Kolhoff has done a great job and is very happy to have him on board by taking care of the Commission and keeping us informed and showing true leadership.

❖ **Melodie Durst, Executive Director, Credit Union Coalition of Texas** expressed her appreciation on behalf of the coalition members for the extensive communication and open-door policy that Commissioner Kolhoff and staff have extended. Furthermore, Mrs. Durst reported that the feedback from our credit unions has been on point and timely and very much appreciated.

❖ **Caroline Willard, Executive Director, Cornerstone Credit Union League** expressed her gratitude on behalf of the Cornerstone Credit Union League and members to Commissioner Kolhoff for being extremely responsive and communicative which has helped quite a bit during this crisis.

Commissioner Kolhoff thanked the Department staff and recognized both the coalition and the league for all their hard work in these trying times.

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

D. DEPARTMENT'S FY 2020 FINANCIAL PERFORMANCE – Commissioner Kolhoff reported that at the end of the 2nd Quarter FY 2020 total expenditures were $229,353, which was 10% below our 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.

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

E. DEPARTMENT'S STRATEGIC PLAN FOR FISCAL YEARS 2021-2025 – Commissioner Kolhoff reported that there are no significant changes to the previous plan. Mr. Kolhoff highlighted the agency's four strategic goals and

supporting strategic objectives which reflects the outcome or greater impact of the broader strategic goals:

(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.

After a short discussion, Mr. Shurtz moved that the Commission approve and authorize the submission of the Department's Strategic Plan for FY 2021-2025. Mr. Minge seconded the motion, and the motion was unanimously adopted.

F. DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS AND PARAMETERS FY 2021 BUDGET – Commissioner Kolhoff reported that according to the 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.

After a short discussion, Mrs. Merket moved that the Commission adopt the budget assumptions and parameters for FY 2021 as recommended by staff. Mr. Gilman seconded the motion, and the motion was unanimously adopted.

G. STATE CREDIT UNION SYSTEM – Commissioner Kolhoff indicated that the numbers presented in this packet are from the last financial numbers that are available. We are currently waiting for the March 31st numbers due to the call report deadline being extended. Mr. Kolhoff reported that credit unions remained sound

overall with few institutions facing modest to minor regulatory concerns. Overall, 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.

❖ **Commission Member David F. Shurtz, Chief Risk Officer/General Counsel of EECU** shared with the commission who are public members and who do not necessarily see the inner workings of a credit union on a daily basis, the credit unions have stepped up to help the members at this time in need from loan modifications to deferrals to waiving certain fees to forbearances. We should be very proud of our credit unions on what they have been able to do.

❖ **Commission Member Beckie Stockstill-Cobb** expressed her sincere thank you to the credit unions across the State of Texas.

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

H. SUNSET REVIEW – Commission Kolhoff reported that on April 13th the Sunset Commission staff formally presented to the Department a presentation of the Sunset review process. On the same day, the Department provided an orientation presentation to the Sunset Commission staff and Sunset Commission Member staff who wished to attend. Both agencies agreed to conduct the sunset review remotely, to mitigate COVID-19 related risks and all information and/or meetings are being conducted digitally. Data requests from the Sunset Commission staff began the week of April 20th and interviews of the Department personnel began April 23rd. Interviews with the Department are expected to be completed on or around May 1st.

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

I. RULEMAKING MATTERS

(a) Amendments to 7 TAC Section 91.708 Concerning Real Estate Appraisals or Evaluations. Commissioner Kolhoff indicated that the proposed amendments reflect the National Credit Union Administration 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. This 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. Furthermore, 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.

After a brief discussion, Mrs. Brownlee moved that the Commission approve for publication and comment in the *Texas Register* the proposed amendments to **7 TAC Section 91.708.** Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

(b) Adoption of Amendments to 7 TAC Section 91.6001 Concerning Fiduciary Duties. Commissioner Kolhoff reported that its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6001. The amended rule represents only minor grammatical changes and do not change the meaning of the rule. No comments were received on the proposed amendments to the rule.

After a short discussion, Mrs. Merket moved that the Commission adopt the proposed amendments to **7 TAC Section 91.6001** without changes to the proposed

text as published in the *Texas Register*. Mrs. Cobb seconded the motion, and motion was unanimously adopted.

(c) Adoption of Amendments to 7 TAC Section 91.6003 Concerning Notice Requirements. Commissioner Kolhoff noted that at its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6003. 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 amendments do not change the meaning of the rule. No comments were received on the proposed amendments to the rule.

After a brief discussion, Mrs. Bayless moved that the Commission adopt the proposed amendments to **7 TAC Section 91.6003** without changes to the proposed text as published in the *Texas Register*. Mr. Minge seconded the motion, and motion was unanimously adopted.

(d) Adoption of Amendments to 7 TAC Section 91.6004 Concerning Exercise of Fiduciary Powers. Commissioner Kolhoff pointed out that at its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6004. 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. No comments were received on the proposed amendments to the rule.

After a short discussion, Mr. Gilman moved that the Commission adopt the proposed amendments to **7 TAC Section 91.6004** without changes to the proposed text as published in the *Texas Register*. Mrs. Merket seconded the motion, and motion was unanimously adopted.

(e) Adoption of Amendments to 7 TAC Section 91.6006 Concerning Policies and Procedures. Commissioner Kolhoff stated that at its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6006. 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.

After a brief discussion, Mr. Shurtz moved that the Commission adopt the proposed amendments to **7 TAC Section 91.6006** without changes to the proposed text as published in the *Texas Register*. Mrs. Merket seconded the motion, and motion was unanimously adopted.

(f) Adoption of Amendments to 7 TAC Section 91.6010 Concerning Custody of Fiduciary Assets. Commissioner Kolhoff reported that at its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6010. The amended rule includes only minor grammatical changes that do not change the meaning of the rule. No comments were received on the proposed amendments to the rule.

After a short discussion, Mrs. Brownlee moved that the Commission adopt the proposed amendments to **7 TAC Section 91.6010** without changes to the proposed text as published in the *Texas Register*. Mrs. Bayless seconded the motion, and motion was unanimously adopted.

(g) Adoption of Amendments to 7 TAC Section 91.6014 Concerning Errors and Omissions Insurance. Commissioner Kolhoff related that at its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.6014. The amended rule requires insurance reviews annually with supporting documentation to ensure coverage appropriateness while maintaining a minimum $500,000 coverage floor. No comments were received on he proposed amendments to the rule.

After a short discussion, Mr. Gilman moved that the Commission adopt the proposed amendments to **7 TAC Section 91.6014** without changes to the proposed text as published in the *Texas Register*. Mrs. Swan seconded the motion, and motion was unanimously adopted.

(h) Adoption of Amendments to 7 TAC Section 91.1003 Concerning Merger/Consolidations. Commissioner Kolhoff conveyed that at its February meeting the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.1003. 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. No comments were received on the proposed amendments to the rule.

After a brief discussion, Mr. Minge moved that the Commission adopt the proposed amendments to **7 TAC Section 91.1003** without changes to the proposed text as published in the *Texas Register*. Mrs. Cobb seconded the motion, and motion was unanimously adopted.

(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. Commissioner Kolhoff reported that 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. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review of 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. No comments were received regarding the review.

After a short discussion, Mrs. Merket moved that the Commission find that the reasons for adopting **7 TAC, Part 6, Section 91.7000** continues to exist and that the Commission redopt this rule. Mr. Shurtz seconded the motion, and the motion was unanimously adopted.

(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. Commissioner Kolhoff indicated that 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. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review of 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. No comments were received regarding the review.

After a brief discussion, Mrs. Brownlee moved that the Commission find that the reasons for adopting **7 TAC, Part 6, Section 91.8000** continues to exist and that the Commission redopt this rule. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

J. 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 August 7, 2020 at 9:00 a.m., in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Farran adjourned the meeting at 10:30 a.m.

Yusuf E. Farran Chairman	Isabel Velasquez Recording Secretary

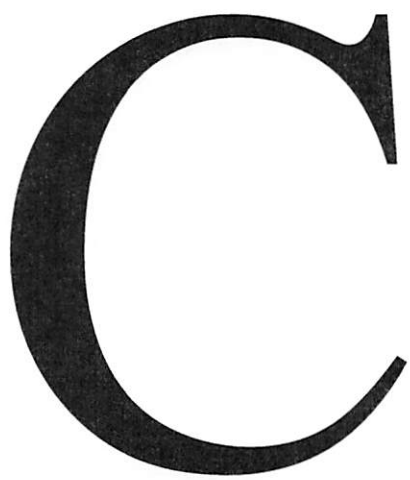
Distribution:

Legislative Reference Library

DRAFT

FOLLOW-UP ACTION REPORT
CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 07-16-2020)
May 8, 2020		
7 TAC Section 91.708 Real Estate Appraisals or Evaluations	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 05/22/20
7 TAC Section 91.6001 Fiduciary Duties	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 05/22/20
7 TAC Section 91.6003 Notice Requirements	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 05/22/20
7 TAC Section 91.6004 Exercise of Fiduciary Powers	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 05/22/20
7 TAC Section 91.6006 Policies and Procedures	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 05/22/20
7 TAC Section 91.6010 Custody of Fiduciary Assets	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 05/22/20
7 TAC Section 91.6014 Errors and Omissions Insurance	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 05/22/20
7 TAC Section 91.1003 Merger/Consolidations	Published in *Texas Register* as adopted rule.	Published in *Texas Register* on 05/22/20
7 TAC, Part 6, Chapter 91 Subchapter P – Other Forms of Equity Capital (91.7000)	Published in *Texas Register* as readopted rule.	Published in *Texas Register* on 05/22/20
7 TAC, Part 6, Chapter 91 Subchapter Q – Access to Confidential Information (91.8000)	Published in *Texas Register* as readopted rule.	Published in *Texas Register* on 05/22/20



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

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

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 May 31, 2020.

At the end of 3rd quarter FY 2020 total expenditures were $409,702 or 12% below budgeted projections. Almost all budget lines performed below budgeted levels apart from additional maintenance costs for 2020 YTD.

As of May 31st, $1.56 million in operating funds are available to cover the projected $1.19 million in projected costs to complete the 2020 FY.

RECOMMENDED ACTION: No action is anticipated.

Credit Union Department
BY 2020 Budget Analysis
For the Period Ended 5/31/20

	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	$4,445,694	$4,334,297	($111,397)	97%
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**	**$4,445,694**	**$4,361,127**	**($84,567)**	98%
Interest Income (Operating Acct)	$0	$0	$10,842	$10,842	
Refund	$0	$0	$0	$0	
TOTAL REVENUES	**$4,445,694**	**$4,445,694**	**$4,371,969**	**($73,725)**	**98%**
Total unexpended funds from FY19			$86,570	$86,570	
TOTAL FUNDS AVAILABLE TO COVER EXPENDITURES	**$4,445,694**	**$4,445,694**	**$4,458,539**	**$12,845**	**100%**
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	$2,631,146	$1,933,610	$1,858,769	$74,840	96%
Employee Benefits	$847,688	$635,766	$591,813	$43,953	93%
Total Personnel Expenses	**$3,478,834**	**$2,569,376**	**$2,450,582**	**$118,793**	**95%**
Travel Expenses:					
In State					
Examinations			$226,844		
Training/Conferences			$8,222		
Meetings			$3,724		
Public Forums			$0		
Other			$222		
Total In-State	$451,972	$338,979	$239,011	$99,968	71%
Out-of-State	$30,000	$22,500	$6,573	$15,927	29%
Commission	$11,000	$8,250	$4,347	$3,903	53%
Total Travel Expenses	**$492,972**	**$369,729**	**$249,930**	**$119,799**	**68%**
Other Operating Expenses:					
Communication/Utilities	$48,800	$36,600	$31,817	$4,783	87%
Professional Services/Fees	$250,040	$187,530	$49,725	$137,805	27%
Supplies/Materials	$73,270	$54,953	$21,429	$33,523	39%
Printing and Reproduction	$2,755	$2,066	$0	$2,066	0%
Repairs/Maintenance	$4,140	$3,105	$5,605	($2,500)	181%
Rentals and Leases	$7,250	$5,438	$1,917	$3,521	35%
Other Operating	$87,634	$65,726	$73,813	($8,088)	112%
Total Other Operating Expenses	**$473,889**	**$355,417**	**$184,307**	**$171,110**	52%
TOTAL EXPENDITURES	**$4,445,695**	**$3,294,521**	**$2,884,819**	**$409,702**	**88%**
REMAINING FUNDS TO COVER EXPENDITURES			**$1,560,875**		

E

E. Department's Technology Investments

BACKGROUND: The Department has initiated several technology investments and related to Covid-19 related operational changes, cyber security and network maintenance. These initiatives are funded by a combination of FY 2020 and requested FY 2021 budget dollars. FY 2021 related budget requests are included in the Capital Improvement Plan (priority item #3) and represent $7,200 in costs.

FY 2020 funds of 38,616.67 have been allocated toward these projects. However, $10,910 of estimated costs toward the projects may not be invoiced prior to the 2020 FYE. In the event these costs are incurred in FY 2021 the Department seeks approval from the Commission to reserve the FY 2020 funds for that purpose.

A summary of the projects can be found in the appendix of this agenda item.

RECOMMENDED ACTION: Approval of $10,910 reserve of FY2020 excess funds to complete installation of all projects in the event hardware does not arrive prior to September 1, 2020.

RECOMMENDED MOTION: I move that the Commission a technology reserve of $10,910 from the FY 2020 budget to finalize technology related projects initiated in the FY 2020.

Department Technology Investments
Appendix A

Item Number	Qty	Cost	Expense Object Description	Notes
1	4	$7,575.00	Windows 10 Laptop	Laptops to replace office desktops (COVID-19 related).
2	4	$1,300.00	Laptop imaging/configuration/deployment	Contract to image new laptops.
3	1	$13,550.00	Cisco Catalyst WS-C3850-48U - 48 Port Switch and secondary power supply	Initiated to increase network connectivity capacity.
4	1	$2,000.00	Cisco switch installation	Labor cost to install and configure switch.
5	1	$2,525.67	Dell PowerEdge 440	Host Server replacement.
6	1	$3,000.00	Server installations and configuration	Labor related to server installation.
7	1	$4,610.00	Cyber Dell Enterprise server 1Gb 1U	Firewall hardware upgrade. (see capital improvements requests)
8	1	$7,200.00	Bandura Cyber - Intelligent Network Firewall – Network Threat protection	The 3-Year Bandura Cyber solution quoted is for $7,200.00 per year - this will be an on-going cost
9	1	$4,056.00	SMART-UPS On-Line SRT 3000	Need to add power supply/ backup capacity to network rack
	Total	**$45,816.67**		
		$27,706.67	FY 2020 Purchase orders issued	
FY 2020 FUNDS		$10,910.00	Awaiting delivery for install (FY 2020 funds reserve request)	$38,616.67
FY 2021 FUNDS		$7,200.00	Priority #3 FY 2021	$7,200.00

F

PROPOSED ONE TIME EMPLOYEE
PANDEMIC WORK FROM HOME
COST STIPEND

F. Proposed One Time Employee Pandemic Work from Home Cost Stipend.

BACKGROUND: Employees have been working remotely since March 23rd to ensure the health of Department staff, the communities with which we operate and the industry we oversee.

Staff commitment and flexibility have helped to ensure the mission of the Credit Union Department despite the tumultuous situation the nation finds itself. The Department has saved significant funds related to travel and other costs associated with employees working in the office.

Commissioner Kolhoff proposes a one-time stipend to employees based on the percentage of time working from home during the pandemic. A stipend of $1,000/$500 for employees assigned to work 100%/50% at their home will assist to defray the employee costs associated with working remotely from their domicile.

Commissioner Kolhoff and Deputy Commissioner Etheridge would not receive the stipend. Estimated costs associated with the stipend approximate $22,000 and would be fully funded by the overnight travel stipend budget.

RECOMMENDED ACTION: The Department requests formal approval to utilize funds associated with the overnight travel stipend to defray employee costs associated with their working from home during the pandemic.

RECOMMENDED MOTION: I move that the Commission approve to utilize unspent funds from the approved FY 2020 overnight travel stipend budget to fund a proposed one-time stipend to help defray costs to employees related to their working remotely from their domicile during the pandemic.

DEPARTMENT'S OPERATING PLAN AND BUDGET FOR FY 2021

G. Approve the Department's Operating Plan and Budget for Fiscal Year 2021.

BACKGROUND: Consistent with the Budget Assumptions approved by the Commission, the following pages detail a proposed budget for FY 2021 of $4,307,682 which represents a 3.1% decrease from the FY 2020 budget. The proposed budget includes strategic initiative funding for the costs related to a performance-based merit increase program ($79,365); and additional funding of the Departments emergency reserves ($51,250). The budget also includes $192,749 in operating cost savings as part of a Governor Abbott initiative to respond to the economic impact of the COVID-19 pandemic. The Replacement/Capital improvement plan includes additional funding for cyber related infrastructure costs of ($7,200) and $13,000 for technology support improvements.

RECOMMENDED ACTION: The Department recommends that the Commission approve the proposed FY 2021 Operating Plan and Budget.

RECOMMENDED MOTION: I move that the Commission approve the proposed FY 2021 Operating Plan and Budget, with a total budget of $4,307,682 and 30 FTEs.

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.

SUMMARY OF PROPOSED FY 2021 BUDGET

Budget Needed to Continue Existing Services	$4,349,616
Strategic Initiatives:	
Priority #1 – Governor's Req./Reduce Costs ($192,749)	
Priority #2 – Merit Increase Funding Pool $ 79,365	
Priority #4 – Increase Contingency Reserves $ 51,250	
Total Strategic Initiatives	($ 62,134)
Replacement/Capital Improvement Plan:	
Priority #3 – Network Firewall (Cyber-Intelligent) $7,200	
Priority #5 – Increase costs - Vintage support $13,000	
Total Replacement Capital Improvements	$20,200
Grand Total Agency Requested Budget FY21	**$4,307,682**
Grand Total Agency Budget FY20	**$4,445,694**
$ Decrease versus FY20 budget	**($ 138,012)**
% Decrease below FY20 budget	**3.10%**
Full-Time-Equivalent Positions	30.0

BUDGET NEEDED TO CONTINUE EXISTING SERVICES

FY 2021 Base Budget Reconciliation			
Object of Expenses	**FY 2020 Budget**	**Adjustment**	**Base FY 2021**
Salaries and Wages	2,631,146	<22,456>[1]	2,608,690
Payroll Related Costs	847,687	16,136[2]	863,823
Travel	492,972	13,895[1a]	506,867
Professional Services/Fees	250,040	<106,250>[2a]	143,790
Supplies/Materials	73,270	<2,200>[3]	71,070
Communication/Utilities	48,800	671[4]	49,471
Repairs/Maintenance	4,140	525[5]	4,665
Rentals and Leases	7,250	<525>[5]	6,725
Printing and Reproduction	2,755	0	2,755
Other/State of Texas Services	87,634	4,126[6]	91,760
Grand Total	**$4,445,694**	**<$96,078>**	**$4,349,616**

[1]Reduced FY21 baseline salary and wages costs by $34,456 based on $5k increase in Commissioner salary (approved Nov. 19); $14,074 reduction in baseline salaries for staff based on current salary levels; $14k in increased cost for lump sum vacation; $13,208 savings due to discontinuance of intern position in fy20; $5,120 reduction in longevity pay; $7k reduction in baseline travel stipend costs and $2,054 reduction in benefit replacement costs.

[2]Increase in Payroll Related Costs of $16,136 primarily attributed to anticipated increase of $13,750 for retirees group insurance due to announced retirement of Field Supervisor and Director of Examination Support Activities and increase in payroll taxes of $4,620 due to lump sum annual leave payment of $42k.

[1a]Travel increase of $13,895 based on 2.3% increase ($10,395) for in-state travel based on baseline budget assumptions and $3,500 increase in commission member travel costs from transitioning from 3 meetings to 4 meetings per year beginning in calendar year 2020.

[2a]Reduction due to removal of one-time costs of $100k (FY120) tied to one-time Sunset Review costs, a $1,250 reallocation of legal fees from #7258 to #7961 ($500), #7210 ($400) and #7211 ($350), and $5k cost savings in secured portal storage costs.

[3]Baseline reduced by $2,200 (#7977) due to one less examiner laptop being purchased in fiscal year 2021.

[4]Increased by $171, based on CPI index add-on for Electric and Water utility bills and $500 increase to COBJ #7961 reallocated from COBJ #7258.

[5] Increased repairs and maintenance baseline by $525based on anticipated costs for COBJ #7266. Funds reallocated from COBJ #7415 under Rentals and Leases category.

[6] Increased baseline by $4,126 due to $6,100 increase in NASCUS annual membership dues (#7201), $400 increase in #7210 (reallocated from #7258 under Professional Services/Fees), $350 increase in #7211 reallocated from #7258, and $2,724 reduction SWCAP costs (#7953) based on average SWCAP costs for FY19 and FY20.

OVERVIEW OF AGENCY REQUESTED FY2021 BUDGET

Proposed Budget with Strategic Initiatives			
Object of Expenses	**Base Budget**	**Strategic Initiatives**	**Budget Request**
Salaries and Wages	$2,608,690	<1,242>	$2,607,448
Payroll Related Costs	863,823	<7,178>	856,645
Travel	506,867	<98,473>	408,394
Professional Services/Fees	143,790	8,000	151,790
Supplies /Materials	71,070		71,070
Communication/Utilities	49,471		49,471
Repairs/Maintenance	4,665	7,200	11,865
Rentals and Leases	6,725		6,725
Printing and Reproduction	2,755	<551>	2,204
Other/State of Texas Services	91,760	<940>	90,820
Contingency Reserves	0	51,250	51,250
Grand Total	**$4,349,616**	**<$41,934>**	**$4,307,682**

Percentage Decrease below FY 2020 Budget	3.10%

Potential Revenues and Proposed Expenditures[3]	
Potential Revenues	$4,785,923[3]
Proposed Expenditures	$4,307,682
Est. Discount in FY2021 Operating Fees/Revenue (Rule 97.113(d)	$478,241
Est. % Discount in Operating Fees/Revenue	10.0%

[3]Using assets as of March 31, 2020. Actual fees/revenues will be based on assets as of June 30, 2020.

Note: As required by Commission policy, staff has reviewed all fees established by Rule 97.113 and recommends that the Commission make no changes to the fee structure. The fees are currently at a level that ensures the recovery of the full cost of operating the Department.

REVENUE HISTORY

Fiscal Year 2018	
Total Fees Prescribed by Rule 97.113(b)	$4,371,851
$ Discount Permitted by Rule 97.113(d)	<$ 417,695 >
% Discount	9.6%
Actual Assessment Collected	$3,954,156

Fiscal Year 2019	
Total Fees Prescribed by Rule 97.113(b)	$4,494,724
$ Discount Permitted by Rule 97.113(d)	<$ 448,299 >
% Discount	10.0%
Actual Assessment Collected	$4,046,425

Fiscal Year 2020	
Total Fees Prescribed by Rule 97.113(b)	$4,625,330
$ Discount Permitted by Rule 97.113(d)	<$ 291,033>
% Discount	6.3%
Actual Assessment Collected	$4,334,297

PERFORMANCE/KEY MEASURES

Measure	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020 YTD - 4/20
Number of Credit Unions	184	187	185	181	179
Credit Union Total Assets (billions)	$35.9	$39.6	$41.5	$43.4	$44.2
Percent Increase in Credit Union Total Assets	6.2%	10.3%	4.8%	4.6%	1.8%
Average Regulated Assets per Examiner (billions)	1.80	2.08	$2.30	$2.71	$2.81
Number of Examinations	166	170	151	151	101
Percent of Credit Unions Examined	90%	91%	82%	83%	56%
Percent of Credit Union Assets Examined (based on assets at last regular exam)	94%	89%	90%	92%	51%
Number of Remedial Contacts	37	28	34	31	25
Percent of Credit Unions Rated 1 or 2 (CAMELS)	86%	89%	87%	87%	87%
Percent of Assets in 1 or 2 Rated Credit Unions (CAMELS)	93%	93%	97%	97%	96%
Percent of Well-Capitalized Credit Unions	98%	98%	97%	100%	100%
Number of Credit Unions Rated 3, 4, or 5 (CAMELS)	25	21	24	23	23
Annual Examiner Turnover	23.1%	5.3%	5.3%	5.6%	5.6%
Average Tenure of Departing Examiners (Months)	37	14	33	51	53
Number of Examiners Hired	7	1	0	1	0
Annual Staff Turnover	18.3%	10.5%	3.5%	10.8%	3.5%
Number of Formal Training Days	311	386	314	292	127
Number of Applications Processed	57	62	62	73	55
Number of Request – Interpretation/Opinion	2	3	0	0	2
Number of Public Information Requests	25	12	19	22	19
Number of Written Credit Union Complaints Processed	265	280	338	376	210
Department Costs/$100k Assets	$10.26	$10.33	$9.33	$8.99	TBD

STRATEGIC INITIATIVE FUNDING REQUEST #1

Initiative Name: **Reduce Revenues/Operating Costs**
Priority: **1**

Reduce Operating Costs	
Categories	**Proposed Cost Changes**
Salaries and Wages	<$68,216>
Payroll Related Costs	<$19,569>
Travel	<$98,473>
Professional Services/Fees	<$5,000>
All Other*/State of Texas Services	<$1,491>
Total Reductions	**<$192,749>**

**Includes Supplies/Maintenance, Communications/Utilities, Repairs/Maintenance, Rentals/Leases, Printing, Other Miscellaneous Operating Costs, etc.*

Description/Justification: This initiative is necessary in order to ensure prudent fiscal management practices as a result of the COVID-19. The pandemic has caused uncertainties of which we will not know the true ramifications for months. To prepare for this anticipated economic shock the Governor's Office has requested that Texas agencies take action to ensure the state can continue providing essential government services to Texans.

Cost saving strategies that we will pursue include foregoing any capital expenditures that can be deferred, any avoidable travel expenditures, any administrative expenses that are not mission critical, and keeping unfilled any open positions that are not essential to the COVID-19 response. Further, the Governor's Office requested each state agency submit a plan identifying savings that will reduce their necessary appropriated revenues by five percent. Although, as an SDSI agency, we are not under appropriations, we fully understand the importance of prudent fiscal management during these troubling times. This strategic initiative will contribute to a reduction in our total operating expenses by $138,012 (3.10 percent), when compared to the previous fiscal year budget. Further, the proposed fiscal year 2021 budget results in a $478,241 (10.3 percent) operating fee discount to Texas state-chartered credit unions, based on the revenue schedule prescribed by TEX. ADMIN. CODE §97.113(b).

Some of the more significant cost reduction measures resulting from the Governor's Office request, include the following:

- Not filling an Examiner III position until FY2022 - $63,616 savings
- Payroll cost savings related to non-filled position - $19,569 savings
- Reduced travel stipend costs due to reduced travel - $4,600 savings
- Reduced in-state and out-of-state travel costs of 20% - $98,473 savings
- Reduction in Professional Services/Fees* - $5,000 savings

External/Internal Factors:

Internal: Savings achieved in the Department's budget will help to provide for a smoother path toward recovery for the credit unions we regulate. We will continue to do our part to provide necessary regulatory oversight services to Texas state-chartered credit unions, ensure the safety and soundness of those institutions and protect the deposits and financial well-being of millions of Texans. Should significant examiner turnover occur during fiscal year 2021, it could hinder our ability to provide timely oversight to the credit unions we regulate.

External: The full extent of the economic damage caused by the pandemic to the Texas economy is not yet known, but it is expected to be significant. To prepare for this anticipated economic shock, it is imperative that state agencies take action today to ensure the state can continue to offer the essential government services that Texans expect. As always, prudent fiscal management is a necessity.

STRATEGIC INITIATIVE FUNDING REQUEST #2

Initiative Name: **Merit Increase Funding Pool**
Priority: **2**

MERIT INCREASE FUNDING POOL	
Objects of Expense	**Estimated Costs**
Salary & Wages	$66,974
Payroll Related Costs	$12,391
Total	**$79,365**

Description/Justification: Merit pay has traditionally been one of the most effective tools to motivate and retain qualified staff. Recognizing and rewarding high performance is a key priority for driving excellence at the Department. A monetary reward is the strongest incentive for staff who exhibit greater enthusiasm, commitment and developmental skills than the other staff members around them. When budgeted, all classified staff members participate in the Department's merit pay program. The last merit increases for the staff was budgeted for September 1, 2019.

The Department is proposing to establish a pool to fund merit and promotion increases for staff. The aggregate amount of the pool will be equivalent to 3.0 percent of the total salaries for the applicable staff positions. All awards made from the pool will be based on performance.

Funding of this item is necessary for the Department to maintain examiner resources to ensure supervision to meet regulatory responsibilities, achieve performance measures, and preserve a safe and sound Texas credit union system. As credit unions continue to grow in sophistication and complexity, the ability to retain highly skilled and qualified examiners is an essential component in meeting these objectives. It is imperative that the Department keep examiner salaries at competitive levels to maximize retention of strong staff members.

In absence of a merit-based pay program, there is the risk of discouragement for the highest performing staff. The most talented staff is aware of their strengths and like to accept the challenges of performance linked pay. If all staff is awarded a uniform pay without regard to individual merit or

contribution, there is a risk of the best performing staff becoming disenchanted and leaving the Department.

External/Internal Factors:

Internal: Merit pay is an approach to compensation that rewards the higher performing employees with additional pay or incentive pay. Merit pay will help the Department differentiate between the performance of high performing and low performing employees and reward the higher performance accordingly. As a result, it is believed that merit pay is the best opportunity to ensure that your outstanding performers remain with the Department and continue to make their significant contributions.

External: The Commission approved a 3.0 percent merit increase to the existing FY20 salary pool at its March 2020 commission meeting. Since then the Governor's Office has requested that all state agencies under appropriations reduce operating costs by 5 percent or greater to reduce revenues (by 5 percent) for the FY20-21 biennium. As a Self-Directed, Semi-Independent agency, the Department is not under appropriations and our budget is approved annually by the Credit Union Commission. The proposed FY21 budget, inclusive of this strategic initiative, reflects a $138,012, or 3.10 percent, reduction in budgeted FY20 operating costs, compared to budgeted costs for the prior fiscal year.

STRATEGIC INITIATIVE FUNDING REQUEST #3

Initiative Name: **Increase Reserve Fund**
Priority: **3**

Increase Reserve Policy Sub Accounts	
Objects of Expense	**Estimated Costs**
FY 2021 Targeted Reserve Allocation	$51,250
FY 2022 Targeted Reserve Allocation	$51,250
FY 2023 Targeted Reserve Allocation	$51,250
FY 2024 Targeted Reserve Allocation	$51,250
Total	**$205,000**

Description/Justification: Section XX of the Texas Credit Union Commission Policy Manual determines the purpose, amount, and restrictions on reserves of the Department. The object of the policy is to ensure adequate funding for the needs and obligations of the agency including:

- Sustaining the agency through an unexpected financial crisis.
- Financing contingencies or emergencies as defined by the Commission.
- Purchasing equipment and repairing and maintaining facilities to assist staff in meeting the mission of the agency.
- Covering extraordinary liability claims and deductible levels specified in the agency's insurance policies.
- Funding required lump sum payments of accrued vacation and sick leave

Currently the Department maintains contingency funding reserves within six sub-accounts as outlined in Appendix A. The total of all sub accounts currently equals $845,000. Any use of the reserve within any sub account necessitates Commission approval.

The minimum floor for several sub accounts do not appear sufficient to cover costs associated with such emergencies.

Department staff recommend an increase in total reserves by $205,000 over four sub account categories as outlined in Appendix A and justified for each adjustment is provided in the following paragraphs.

To phase in the increased reserves the Department requests a line item funding request for each of the next four budget years of $51,250.

The Credit Union Commissioners should note that adequate reserve funding is a factor in the NASCUS accreditation which includes a standard of reserves at 25% of the total annual operating budget. Based on the recommended FY2021 budget request that reserve would approximate $1,060,000.

Building/Equipment

The sub account currently equals the $70,000 floor, which is less than the 2.5% of the current budget comparable within the policy. The Department believes these allocated reserves are primarily sound, particularly if the additional insurance reserves are set aside as recommended below. However, the current reserve originally did not consider examiner laptops which were previously leased from the NCUA. Because of the transition to Department owned laptops the Department believes an additional provision of $10,000 to mitigate the risk of the additional 20 laptops owned would be appropriate. Therefore, the Department recommends increasing the policy floor to $80,000.

Operations

The operations reserve currently allocates at the $235,000 floor prescribed by policy. The policy prescribes a comparison of the floor to one month of operating expenditures. The Department believes the floor should be reset to account for the increase in one-month expenditures since the inception of the reserve. The Department currently budgets average expenditures for FY 2020 at approximately $371,000. To ensure appropriate availability in the event of an emergency, the Department believes the operations reserve should be increased $165,000 to a policy floor of $400,000.

Audit

The audit reserve is set at $30,000. The Department believes the cost of an audit today would likely approximate $50,000. The Department believes the audit reserve should be increased $20,000 to a policy floor of $50,000.

Insurance

The insurance reserve includes $10,000 to cover the deductible for covered events. The Department currently has deductibles of $10,000 for both the property/equipment for most events, and a $10,000 policy deductible covering public official liability. Due to the possibility of more than one event and the different types of claims that could be made, the Department believes an additional $10,000 should be allocated in the reserve to fully protect the Department and mitigate potential impact to the industry's operating fee in any particular year. Therefore, the Department recommends the policy floor be increased to $20,000.

APPENDIX A

Contingency Sub Account	Current Balance	Projected Need	Additional Funding
Building/Equipment	$70,000	$80,000	$10,000
Operations	$235,000	$400,000	$165,000
Lump Sum Leave	$200,000	$200,000	$0
Audit	$30,000	$50,000	$20,000
Enforcement	$300,000	$300,000	$0
Insurance	$10,000	$20,000	$10,000
Total Contingency	**$845,000**	**$1,050,000**	**$205,000**

REPLACEMENT/CAPTIAL IMPROVEMENT PLAN FY 2021-2023

FY2021

Proposed Maintenance Projects:	**Estimated Cost**
None	$0

Proposed Capital Improvements:

Priority #3: Cyber-Intelligent Network Firewall	$7,200
Priority #5: Cost Increase - Vintage Services	$13,000

Priority #3:
The funding of this capital improvement is necessary to strengthen the Department's network protection and reduce manual staff workload. The Threat Intelligence Firewall platform aggregates and integrates threat intelligence information available to proactively block identified high risk traffic in real time.

The system consists of two components including a cloud-based Actionable Threat Intelligence (ATI) Engine and the Threat Intelligence Firewall running on a Dell blade rack-mounted server.

1. The Actionable Threat Intelligence (ATI) Engine is the software annual subscription. If approved, the amount requested would be an on-going annual cost of $7,200.00

Related Operating and Maintenance Costs (if any):

There is an initial cost for the purchase of a blade server, there are no related operating and maintenance costs associated with the server as it will be maintained by the vendor/solution vendor.

On-going costs related to the *Cyber-Intelligent Network Firewall* may require periodic increases with Office 365/SharePoint storage costs, and the depreciation of any hardware and software.

Priority #5:

Proposed Maintenance Projects:	**Estimated Cost**
Vintage IT Services *Server and Desktop maintenance and support*	*$13,000*

Proposed Capital Improvements:

None	$0

The funding of this maintenance project is necessary to maintain the Department's server, network and desktop support with the current vendor, Vintage IT Services, and support the IT staff workload.

The current services agreement was signed in FY'2014. The increase in pricing mainly reflect additional services that come with the new agreement.

The contract for the services agreement is increasing to $44,254.00 per year. That reflects an increase of $13,000 per year. We increased the number of supported desktops/users from 11 to 30.[1] This was a direct result of the Department taking responsibility for supporting the Field Examiner's laptops. At the time we increased the number of supported laptops in July 2019, Vintage did not increase their price.

In addition to the current services, the new program will have some advantages that we do not have today and will help the IT staff manage the Department's IT assets and network as Vintage will grant access to additional services:

1. A dedicated Network Administrator to work directly with the Department's IT staff;
2. Provide Monthly onsite network audits and documentation;
3. Dedicated virtual CIO to work with the Department's IT Director to conduct quarterly reviews of services;
4. A Customer Relationship to address the Department's IT infrastructure needs for improvements.

Related Operating and Maintenance Costs (if any):

[1] The per user pricing is $115.00 per month plus $120 per month for data storage and backups. The agreement will be based on thirty (30) users.

FY2022

Proposed Maintenance Projects: **Estimated Cost**

None

Proposed Capital Improvements:

Remodel Restrooms for ADA Compliance and Energy Efficiency $203,500

The building's restroom partitions need to be replaced to be compliant with Title III of the American with Disabilities Act ("ADA") and due to corrosion. The current restroom partitions are not large enough for an individual with a disability to maneuver. Other ADA improvements to the building's restrooms include: insulating lavatory pipes under sinks to prevent burns, installing a raised lavatory seat, installing a full-length bathroom mirror, and repositioning paper towel dispensers and fixtures. Additionally, the sink fixtures should be replaced with modern, energy-efficient models, the lavatories should be replaced with low-flow toilets, and corroded water supply hoses should be replaced to prevent potential water leaks.

Related new operating and maintenance costs (if any):

The installation of the new ADA required restroom improvements will not result in any new material operating or maintenance costs, other than depreciation of the capital improvement. The installation of more energy-efficient fixtures will reduce operating and maintenance costs.

FY2023

Proposed Maintenance Projects: **Estimated Cost**

None

Proposed Capital Improvements:

Replace the Roof $251,500

The Department's roofing is a low slope with built-up roof. It is deteriorated and should be scheduled for replacement. The Department's current roof is out of its workmanship warranty making continued maintenance expensive and inefficient. The Texas Facilities Commission provided us the following roof options.

System	Bldg. Ht.	Slope	Unit Cost	Sq. Feet	Construction Cost	Escalation to 2018	Soft Cost/ Contingency	Total
Mod. Bitumen (Hot Asphalt/Heat Welded)	1 – 2 Story	Low ¼"/Ft.	$30	4,200	$126,000	$139,700	$111,800	$251,500
Single Ply TPO	1 – 2 Story	Low ¼"/Ft.	$30	4,200	$126,000	$139,700	$111,800	$251,500
Single Ply PVC	1 – 2 Story	Low ¼"/Ft.	$30	4,200	$126,000	$139,700	$111,800	$251,500
Arch. Metal *	1 – 2 Story	Pitched 4:12 Min.	$25-$30	4,200	$105,000 to $126,000	$139,700	$111,800	$251,500

* Not a recommended solution by TFC's roofing consultant.

Related new operating and maintenance costs (if any):

The installation of new roof will not result in any new material operating or maintenance costs other than depreciation of the capital improvement.

Credit Union Department
State of Texas

FY 2021 Annual Operating Plan & Budget

Approved by the Credit Union Commission
August 7, 2020

INTRODUCTION

In accordance with Chapter 16 of the Finance Code, the Department has crafted the following *FY 2021 Annual Operating Plan and Budget.* This document aligns the goals and measures developed for the Department's *Strategic Plan for Fiscal Years 2021-2025* with the Department's proposed budget. It aims to improve the links between the Department's resource needs, effectiveness, and outcomes.

THE DEPARTMENT TODAY

The Department is a self-directed and semi-independent agency that is responsible for ensuring a safe and sound credit union system for all Texans. This is accomplished through the effective chartering, regulation, and supervision of Texas-chartered credit unions. The operations of the Department are funded primarily by semiannual assessments levied on credit unions. The Department receives no state monies from the General Revenue Fund.

As of December 31, 2019, the Department was responsible for regulating and supervising 179 credit unions. Based on the year-end call reports, Texas-chartered credit unions held $44.2 billion in assets or approximately 40 percent of total aggregate credit union assets in Texas.

GOALS AND OUTCOMES

The Credit Union Commission has established four strategic goals to guide the operations of the Department and to contribute to the achievement of its mission and performance goals. The Commission's goals are:

1. to ensure a safe and sound state credit union industry;
2. to provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services;
3. to safeguard the interest of credit union members; and
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.

The Department works to meet these goals by, among other things, detecting violations and potential problems or issues in the Texas credit union system and ensuring that the violations are addressed; crafting rules that strengthen corporate governance and operations; ensuring credit union members are treated fairly; and making sure that the Department's human capital strategies, information technology initiatives, and resources are appropriately aligned to achieve the Department's mission, goals, and outcomes.

Like other regulatory agencies, the Department has found it challenging to develop measures that accurately depict the outcomes of the agency's activities. In many instances, the effects of the agency's efforts can only be indirectly assessed. The Department intends to continue refining its work in this area as it gains more experience in integrating its budget and performance functions. As part of this effort, the Department will continue to assess alternatives for measuring outcomes that help the public gauge the Department's progress in achieving its mission, as well as assisting staff in meeting their objectives.

Strategic Goal 1: To Ensure a Safe and Sound Credit Union Industry

Strategic Objective 1.1: The Department anticipates, understands, addresses, and communicates risk to credit unions. The Department seeks to fulfill this objective by:

1. establishing the appropriate regulatory framework;
2. being a prudent steward of Department resources;
3. ensuring risk-based supervision is properly implemented and focused on material risks to the industry and individual credit unions;
4. identifying emerging risk areas related to industry and individual credit unions;
5. complying with the examination requirements of 7 TAC Section 97.105;
6. resolving problem credit unions in a timely fashion, effectively, and when possible, without loss to the share insurance provider; and
7. taking prompt and effective enforcement actions when warranted.

Strategic Objective 1.2: The Department cooperates with other regulatory authorities on common interests. The Department seeks to fulfill this objective by:

1. working effectively with the NCUA, private share insurance providers, and other state regulators to identify and address risks and emerging issues; and
2. implementing and developing new coordination and collaboration agreements with NCUA, private share insurance providers, and other applicable state regulators regarding supervisory activities performed in credit unions and information exchange.

Strategic Objective 1.3: Supervisory methods and analytical tools keep pace with industry changes and appropriately support the broader mission of the Department. The Department seeks to fulfill this objective by:

1. utilizing analytical tools and reports to effectively use the data collected from credit unions to foster informed decision making for supervisory operations and policy;
2. deploying supervisory technology solutions to enhance data quality and provide user-friendly examiner access to key credit union and industry information; and
3. Providing transparency through the Department's reporting.

Key Performance Measures

- Percentage of credit unions receiving regular examination annually
  - Target for FY 2021: 75%
- Percentage of applications approved or denied within 60 days
  - Target for FY 2021: 100%
- Number of state-chartered credit unions
- Number of regular examinations performed
- Percentage of credit unions with composite CAMEL ratings of 1 or 2
  - Target for FY 2021: 85%
- Percentage of assets held in credit unions with CAMEL ratings of 1 or 2
  - Target for FY 2021: 95%

Internal Measures

- Number of follow-up contacts made
- Number of enforcement actions issued
- Percentage of credit unions that are "Well Capitalized" as defined by federal statute
  - Target for FY 2021: 95%
- Percentage of reports mailed to credit unions within 25 days
  - Target for FY 2021: 98%
- Percentage of total available work time utilized to conduct both regular and remedial examination work
  - Target for FY 2021: 65%
- Average Cost per Credit Union Examination
- Assets Examined per Examiner Day
  - Target for FY 2021: $13.3 million*
- Average time to complete analysis of quarterly financial data
  - Target for FY 2021: within 30 days after the submittal deadline for the most recent 5300 Call Report

*Target same as FY20. Will be amended for FY21, based upon 95% of actual level realized for entire FY20.

Strategic Goal 2: To Provide a Flexible Legal and Regulatory Framework that Enables Credit Unions to Provide a Competitive Array of Financial Services

Strategic Objective 2.1: Each Commission rule is current, clearly written, and necessary for an effective supervisory process. The Department seeks to fulfill this objective by:

1. drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current conditions;
2. conducting the mandatory rule review in accordance with Commission's approved plan; and

3. implementing rulemaking through successful collaboration and consultation with interested parties.

Strategic Objective 2.2: The Department supports credit union efforts to remain competitive, consistent with safety and soundness. The Department seeks to fulfill this objective by:

1. supporting the continued recognition of the attributes of the state credit union charter through appropriate opinions and rules;
2. developing and modernizing attributes of the credit union charter and the role and status of the industry;
3. enhancing communication with NCUA and other state regulators to facilitate better coordination on issues affecting credit unions; and
4. communicating attributes of the state charter within and outside the Department.

Strategic Objective 2.3: Application procedures are efficient and consistent with safety and soundness. The Department seeks to fulfill this objective by:

1. providing a standardized application package;
2. establishing policies and procedures that provide clear and comprehensive guidance;
3. implementing and maintaining processes for prompt screening of applications; and
4. enhancing existing technology solutions that support effective application operations.

Key Performance Measures

- Percentage of rule changes provided to credit unions within 60 days after adoption
  - Target FY 2021: 100%

Internal Measures

- Number of new rules adopted
- Number of rules amended
- Number of rules re-adopted without change
- Number of applications processed
- Number of requests for interpretations/opinions of Act and Rules
- Number of contested cases referred to SOAH
- Number of Public Information Act requests processed
- Number of public forums in which Department participates
- Total Assets in state-chartered credit unions
- Percentage increase in total aggregate credit union assets
- Percentage of interpretations/opinions issued within 30 days

- Target FY 2021: 100%

Strategic Goal 3: Safeguard the Interest of Credit Union Members

Strategic Objective 3.1: All credit union members have reasonable access to credit union services and are treated fairly and lawfully. The Department seeks to fulfill this objective by:

1. reinforcing the importance of fair and honest treatment of credit union members through appropriate supervisory and enforcement action;
2. expanding the agency's role in resolving and/or mediating member complaints handled by the Department;
3. strengthening role in addressing member privacy, information security, and identity theft; and
4. enhancing the Department's consumer compliance examination program.

Strategic Objective 3.2: Credit unions are involved in providing financial services in underserved communities within this State. The Department seeks to fulfill this objective by:

1. supporting the efforts of credit unions to expand their fields of membership to included underserved and low income communities;
2. facilitating the process for credit unions to obtain a low-income designation from NCUA; and
3. participating in financial literacy efforts by the industry and other agencies.

Key Performance Measure

- Percentage of credit unions providing services to low income or underserved populations

Internal Measures

- Number of complaints processed
- Percentage of complaints responded to within 30 days
  - Target FY 2021: 95%

Strategic Goal 4: Develop a Professional and Motivated Staff that Provides Quality Service and Supports Achievement of the Department's Statutory Mission.

Strategic Objective 4.1: The Department maintains a competent, highly motivated, and diverse workforce in a fair and inclusive work environment. The Department seeks to fulfill this objective by:

1. maintaining a comprehensive Equal Employment and Workforce Diversity Plan;
2. executing an aggressive recruiting and comprehensive training strategy for new entry-level examiners;
3. developing proactive initiatives focused on the retention of employees, including mentoring, employee feedback, incentives, and recognition programs;
4. creating a leadership development program to support and enhance management succession; and
5. implementing an external hiring strategy to augment specialized skills to enhance the Department's supervision of complex credit unions.

Strategic Objective 4.2: The Department is an efficient, effective, and ethical organization. The Department seeks to fulfill this objective by:

1. ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework;
2. ensuring compliance with the rules, policies and procedures for ethical conduct by its employees;
3. ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives; and
4. leveraging technology, with particular focus on information management initiatives, such as records and knowledge management.

Internal Measures

- Percentage of exam related travel cost reduced by remote work
  - Target FY 2021: 20%

Strategic Objective 4.3: The Department's resource decisions and operations reflect sound financial, security, and risk management principles. The Department seeks to fulfill this objective by:

1. implementing security controls to mitigate risk and to protect confidential information;
2. improving contingency planning for business continuity, including information technology recovery, compliance with Homeland Security requirements, and crisis management strategies; and
3. achieving reliable, accurate and timely financial resources management information.

Internal Measures

- Annual examiner turnover rate
  - Target FY 2021: 16%

- Average regulated assets per examiner (billions)
  - Target FY 2021: $2.6 billion*
- Number of days of formal training attended by staff
- Number of purchases made from HUB vendors
- Percentage of purchases made from HUB vendors
  - Target FY 2021: Professional Services - 23.7%; Other Services - 26.0%; and Commodities - 21.1%
- Percentage of credit unions indicating quality service annually
  - Target FY 2021: 90%
- Staffing level
  - Target FY 2021: 95%
- Number of jobs fairs attended
  - Target FY 2021: 2
- Turnover ratio (excluding retirements)
  - Target FY 2021: Less than 15%
- Accreditation by NASCUS Maintained in Good Standing
  - Target FY 2021: Yes
- Total Department costs relative to every $100,000 in assets regulated
  - Target FY 2021: $8.99**

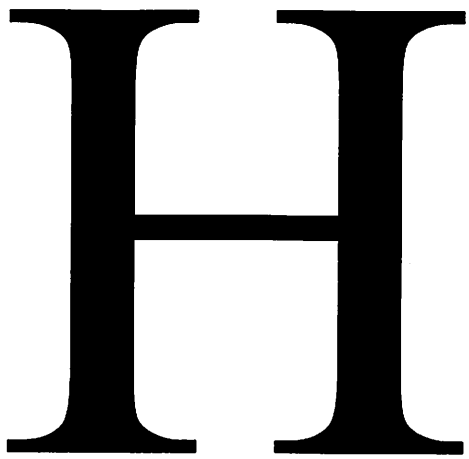
*Based on regulated assets as of April 30, 2020, divided by 17 examiners (fully staffed).
**Target same as FY20. Will be amended for FY21, based upon 105% of actual level realized for entire FY20.

DEPARTMENT BUDGET – FY 2021		
REVENUE:		
Operating Fees		$4,307,682[1]
Examination Fees		
Application Fees		
Penalties		
Refund/Reimbursement of Expenditures		
Other		
TOTAL REVENUE		$4,307,682
EXPENDITURES:		
Personnel Expenses		
Salaries and Wages	$2,607,448	
Payroll Related Costs	856,645	
Total Personnel Expenses		$3,464,093
Travel Expenses		
In State	$369,894	
Out-of-State	24,000	
Commission	14,500	
Total Travel Expenses		$408,394
Other Operating Expenses		
Professional Services/Fees	$151,790	
Materials and Supplies	71,070	
Communications/Utilities	49,471	
Repairs/Maintenance	11,865	
Rentals and Leases	6,725	
Printing and Reproduction	2,204	
Other Expenditures	90,820	
Contingency Reserve Funding FY21	51,250	
Total Other Operating Expenses		$435,195
TOTAL EXPENDITURES		$4,307,682
CONTINGENCY RESERVE AFTER FY21 FUNDING		$896,250
FULL-TIME-EQUIVALENT POSITIONS (FTEs)		30.0

[1] Budgeted operating fees will be set to cover the actual budget approved by the Commission. Any funds in excess of the prescribed Contingency Fund Reserve aggregate limit as of August 31, 2020, will also be used to reduce the operating fees for Texas credit unions during the fiscal year.

	CUMULATIVE RESOURCES					
Budget Year	2015	2016	2017	2018	2019	2020
Authorized FTE	27.5	28.5	29.5	29.5	29.5	30.0
Actual FTE	25.0	28.0	29	28.5	29.0	29.0*
Budgeted Dollars	$3,503,250	$3,700,917	$3,935,394	$4,063,453	$4,260,909	$4,445,694
Actual Dollars Spent	$3,066,134	$3,466,068	$3,850,838	$3,874,028	$3,903,856	TBD

**As of February 28, 2020.*



H. Status of the State Credit Union System.

BACKGROUND: While the Texas and United States economies had experienced exceptional growth and performance during the longest U.S. economic expansion on record, it now appears that the United States and local governments are facing an unprecedented recessionary period, the full extent of which is unknown at present time. As of June 2020, the Texas and United States unemployment rates were hovering in the 13 percent and 11 percent ranges, respectively; a significant rise from the 3 to 3.5 percent range which was realized during 2019.

The operating environment for Texas credit unions has begun to show some deterioration with the economic slowdown attributed to COVID-19 restrictions (stay at home orders, etc.) initiated in March 2020. First quarter 2020 earnings performance data for Texas credit unions reflects a downturn when compared to the same period in 2019. Due to the rapid rise in unemployment which will hinder consumers' abilities to service their debts, it is anticipated that all financial institutions (including Texas credit unions) across the country will begin to encounter earnings performances issues, as well as significant increases in loan delinquencies and losses during the latter part of 2020. It will be imperative for the Department to continue to work collaboratively with Texas charters to safeguard the financial interests of millions of Texans and work cooperatively with our credit unions in order that they may endure the serious hardships they are, and will be, facing.

INDUSTRY STATUS: At **March 31, 2020**, there were **179** state-chartered credit unions in Texas, down by two charters during the previous twelve months. Assets in these credit unions totaled **$45.7 billion**, which is an increase of **$2.46 billion** since **March 31, 2019**, for an annualized growth rate of **5.68 percent**. The average net worth ratio is **10.86 percent**, up 17 basis points from the **10.69 percent level** at **March 31, 2019**.

Loans for Texas chartered credit unions totaled **$32.89 billion** as of **March 31, 2020**. This is an increase of **$1.15 billion** since **March 31, 2019** for an annualized growth rate of **3.64 percent**.

Shares for Texas chartered credit unions totaled **$39.2 billion** as of **March 31, 2020**. This is an increase of **$2.1 billion**, or **5.6 percent** since **March 31, 2019**.

Texas chartered credit unions average loan delinquency ratio remained well controlled at **0.60 percent** as of **March 31, 2020**, compared to a ratio of **0.56 percent** as of **March 31, 2019**.

At **March 31, 2020**, **41** state-chartered credit unions (13 more than the same period from a year ago) reported year to date net operating losses of **$11.41 million**; while the remaining **139** credit unions reported aggregate net income of **$64.80 million**. A breakdown of credit unions with positive earnings performance, by asset category, is as follows:

Assets Size	# of CUs	# Profitable	% Profitable (3-31-2020)	% Profitable (12 mos. ago)
$1 Billion and Over	13	12	92%	91%
$500 to $999.9 Million	14	11	79%	93%
$250 to $499.9 Million	14	12	86%	100%
$100 to $249.9 Million	23	20	87%	96%
$50 to $99.9 Million	24	20	83%	96%
$10 to $49.9 Million	55	43	78%	81%
Under $10 Million	36	20	56%	66%
Totals	**179**	**138**	**77%**	**85%**

PROBLEM INSTITUTIONS: As of **March 31, 2020**, there were **22** credit unions assigned a CAMEL rating of 3 or higher, compared to **23** credit unions at **March 31, 2019**. 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 **March 31, 2020**, the Department had the following administrative sanctions outstanding:

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

Chartering Activity

New Charters* **0**

***Since last commission meeting**

RECOMMENDED ACTION: No formal action is anticipated.

I

SUNSET REVIEW

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

RECOMMENDED ACTION: No formal action is anticipated.

J

COMMISSIONER EVALUATION PROCESS

The Commissioner Evaluation Committee is a standing committee of the Commission. The activities and recommendations are as follows:

a. Adoption of the Commissioner's FY 2021 Performance Objectives and Goals; and

b. Review of the Commissioner Success Plan.

Performance Review
Texas Credit Union Commissioner
Instructions

The Commissioner review is a management-by-objectives program. The overall objective of this program is to align organizational goals and objectives with performance review and compensation.

Part I - Board Assessment

The Commission's Assessment is designed primarily to provide feedback to the Commissioner from each Commission member about his/her perception of the Commissioner's effectiveness.

Part I is totally subjective. As such, the weight assigned to this part of the review **should not exceed** 25% of the total review.

Each Commission member is asked to complete the Assessment Form annually and return it to the Chairman of the evaluation committee approximately one month prior to the scheduled review with the Commissioner. Data from each Commission member is compiled onto one form and shared with the Commissioner during the review.

Part II - Performance Objectives

The performance objectives section is a critical part of the Commissioner's performance review. Performance objectives are developed from the Department's strategic business plan and the plan year budget. These objectives are measurable/observable indicators that bridge the philosophy of the Texas Credit Union Department with measurable results.

Goals set for the objectives should be achievable. The best way to set goals is to look at absolute and relative measures. An absolute measure would be one in which the goal is established based on the Department's actual results. For example, if the goal is to have all state chartered credit unions examined within 18 months of the effective date of the last exam, and the result of that goal is usually 95%, a relative goal would be to have 100% of all credit unions examined within an 18 month period.

Part II is objective, in that achievement of results is verifiable, preferably measurable. This section of the review should be assigned the most weight.

Part III – Special Projects

The Special Projects section incorporates key, non-measurable strategies from the Department's strategic plan and annual operating plan & budget. Major projects and plans would be indicative of special project goals.

Individual Commission members are to evaluate results for each of the key strategies and submit their evaluations to the Chairman of the evaluation committee. **The Commissioner will provide Commission members with periodic updates regarding progress on each of the strategies throughout the plan**

year, as well as written documentation on the final results shortly after the conclusion of the plan year. Each Commission member's evaluation is compiled onto one form and incorporated into the overall review.

The sum of the weights assigned to Parts I, II, and III should equal 1.00.

Monitoring Results

We encourage everyone to track and review results throughout the year. Often during the course of a year, changes in the environment that are outside the control of the Commissioner may make it necessary to modify a goal. By reviewing the goals and progress toward meeting them on a quarterly basis, you can identify these situations and take action to modify them before the end of the plan period.

Final Review

The Chairman of the evaluation committee or his/her designate is responsible for distributing, collecting and compiling Assessment Forms (Parts I & III) from each Commission member. Normally, this process will begin approximately two months prior to the scheduled review date.

The Commissioner is responsible for reporting results from the Performance Objectives section of the plan. Since many of the results will be dependent on final financial reports, results should be provided to the Board within 15 days after the end of the plan period. The completed review will be given to the Commissioner during a formal performance review process when all data is known and calculated. The Chairman of the evaluation committee (and/or one of his/her designates) will meet with the Commissioner to give the formal review.

Time Table

The performance review should cover a Fiscal Year (September 1 through August 31). Each Commission member will receive electronic copies of both the Evaluation Form and a memorandum from the Commissioner outlining the Department's plan period accomplishments by September 15th.

It is important to create performance objectives for the new plan period before the end of the current plan. It is recommended that the performance objectives and goals for the next plan period be established in the last quarter of the current plan period.

Commissioner Compensation

The Commission has undertaken a market-based compensation strategy for the position of commissioner with an end objective of hiring and retaining a highly qualified commissioner to effectively and professionally discharge the duties of the agency.

The position of commissioner is the only position at the agency that is exempt from the State's Position Classification Plan. As the executive officer of the agency, the guidelines for the position's salary range are detailed in the Schedule of Exempt Positions, Article IX, Section 3.04,

General Appropriations Act (85th Legislature). The exact salary group for the position and the compensation paid to the incumbent is determined by the Commission after review of performance and salary comparisons through reports such as the State Auditor's Office August 2014 Report on Executive Compensation at State Agencies (Report No. 14-705) and comparable salary information of selected positions at state and federal regulatory agencies with similar responsibilities.

CREDIT UNION DEPARTMENT
COMMISSIONER EVALUATION FORM
FY ____

Name:_____

Date Employed _____ **Date of Last Evaluation** _____

I. 20__ Commission Assessment

Average results from the Commission Assessment Tally Sheet (Part I Attached) are:

_____ X __25%__ = _____
Average Points (Part I Average) Weight Part I Score

II. 20__ Performance Objectives

Average results from the Texas Credit Union Department Performance Grid (Part II Attached) are:

_____ X __75%__ = _____
Average Points (Part II Average) Weight Part II Score

III. 20__ Special Projects

Average results from the Texas Credit Union Department Performance Grid (Part III Attached) are:

_____ X __0%__ = _____
Average Points (Part III Average) Weight Part III Score

IV. Final Evaluation Score: _____
Final Evaluation Score

*** The total of the weights must equal 100%**

BASE PAY ADJUSTMENT

A base pay adjustment earned for a performance level achieved is strictly at the discretion of the Commission.

Current Base Pay: $_____
Pay Adjustment: _____% $_____
New Base Pay: $_____
Effective Date: _____

Additional Comments: _____

Commissioner Comments: _____

_____ _____

Commissioner Signature & Date **Evaluation Chair Signature & Date**

Part I
Credit Union Department
Commission Member Assessment Form

Commission Member: _____

Below are comments attributed to the Credit Union Commissioner. Please indicate your agreement or disagreement with the statement as follows:

Strongly Disagree		Agree		Strongly Agree
|1----------	2----------	3----------	4----------	5|

1. The Commissioner is effective at identifying strategic long-term needs of the Department and developing and implementing plans that result in achievement of these needs. Able to execute independent action and starts working without supervision.

Rating: _____

Comments:

2. I am satisfied with the level, quality and timeliness of information and communications provided to me by the Commissioner. This includes issues that may arise between Commission meetings of which the Commission should be aware.

Rating: _____

Comments:

3. The level to which the Commissioner directs or influences the operations, activities and performance of all subordinates. Demonstrates an atmosphere of teamwork and ability to motivate others to accomplish their goals. Ensures that the most efficient use is being made of all resources, including staff.

Rating: _____

Comments:

4. The Commissioner provides adequate focus on maintaining effective relationships with the governor's office, legislators and Credit Union leaders to ensure the continued safety and soundness of the credit union industry. Works well with NCUA to coordinate efforts for compliance and NASCUS for continued accreditation.

Rating: _____

Comments:

5. The Commissioner has the technical knowledge necessary to complete the job. Has the capability to hire the necessary personnel to move the department forward to save time and money, while still ensuring the safety of the information that is necessary to examiners to complete their assignments.

Rating: _____

Comments:

6. The Commissioner maintains a professional image at all times while representing the Department. The necessary leadership skills are present to command attention and respect, while displaying confidence in their ability.

Rating:_____

Comments:

Other Comments on the Commissioner's performance this past period:

SUM OF RATINGS: _____

AVERAGE POINTS: _____

II. PERFORMANCE OBJECTIVES

For each performance category, assign a rating from 1 to 5 based on the performance rating definitions described at the bottom of the form. Next, multiply the rating assigned by the weight shown and enter the result in the "weight x rating" box (i.e. 25% x 5 = 1.25).

PERFORMANCE OBJECTIVES	ACHIEVEMENT	WEIGHT	RATING	WEIGHT x RATING
1. Production		25%		
2. Administration		25%		
3. Budgetary		15%		
4. Legislative		25%		
5. Industry		10%		
Total Score				

PERFORMANCE RATINGS: The annual review will be classified in one of the following areas.

1. **UNSATISFACTORY:** Employee is not performing the minimum requirements of the responsibility area in a satisfactory manner. Performance meets few or none of the key goals/standards. Improved performance is required for continuation in the position.
2. **BELOW REQUIREMENTS:** Employee is not consistently performing all the requirements of the responsibility area. Performance is below expectations showing consistent weakness. Improved performance is necessary. Requires more than expected supervision.
3. **MEETS REQUIREMENTS:** Employee is performing all requirements of the responsibility area. Performance is standard, although some requirements are performed above expectations and occasionally below. Performance meets most key goals/standards. Fully competent performer.
4. **EXCEEDS REQUIREMENTS:** Employee is performing most requirements of the responsibility area consistently above expectations and significantly exceeds some requirements. Requires less supervision than expected.
5. **SIGNIFICANTLY EXCEEDS REQUIREMENTS:** Employee is consistently performing all requirements of the responsibility area significantly above expectations. There are no weaknesses on key goals/standards. Makes significant contributions well beyond job demands.

Part II. Performance Objectives

1. **Production**
   - Intervals between the effective dates of CU examinations shall not exceed 18 months.
   - E-Time ratio shall not be less than 65% of available work time.
   - 98% of reports of examination should be mailed within 21 days of last date on site.
   - 100% applications submitted will be approved/denied not later than the 60th day after the date notice is published in the *Texas Register*.
   - 95% of complaints will be responded to within 30 days.
   - 100% of rule changes will be provided to credit unions within 60 days of adoption.
   - Meet or exceed 90% of the Operating Plan's production targets within +/- 5% of the projected target.
2. **Administration**
   - Attain and maintain at least 95% staffing level with continued emphasis on employee retention and training.
   - Participate in no less than 2 job fair events within the plan period.
   - Post job vacancies within 7 days of notice of upcoming vacancy.
   - Non-retirement turnover not to exceed 15% for plan period.
   - Continue in the implementation and assimilation technology changes to increase efficiency.
   - Conduct an annual examiner conference to ensure examiners receive adequate training to perform their duties.
3. **Budgetary**
   - Ensure agency expenditures are necessary, prudent, and within budgetary constraints.
   - Present quarterly financial statements to Commission and post on agency website
   - Ensure compliance with all regulatory requirements for a SDSI agency
   - Ensure revenues collected are adequate to cover expenditures and provide a cash reserve that complies with Commission policies.
4. **Legislative**
   - Submit SDSI biennial and annual report filings in a timely manner.
   - Prepare materials for the Legislature as requested or required.
   - Respond timely to new legislative issues or requests for information or testimony.
   - Remain active and involved at the national level on supervisory issues affecting credit unions.
   - Attend at least one conference or training meeting during the plan period.
   - Monitor and modify Texas Administrative Code rules as necessary.
5. **Industry**
   - Continue to develop effective communication with credit unions and interested department stakeholders.
   - Maintain an ongoing awareness of credit union risk profiles and the condition of the economy.
   - Maintain continued accreditation from the National Association of State Credit Union Supervisors
   - Publish a monthly newsletter for the industry
   - Issue Interpretations and opinions within 30 days of request
   - Share monthly accomplishment report with Commission Members
   - Share periodic report as needed with Commission Members

Part III
Special Projects/ Other Non-Quantifiable Objectives

Commission Member:_____

Objectives	Weight	(1) Low Achievement	(2)	(3) Medium Achievement	(4)	(5) High Achievement
		( )	( )	( )	( )	( )

COMMISSIONER'S PERFORMANCE REVIEW

The Commission's Policies Manual calls for an annual performance review of the Commissioner by an evaluation committee. The review is to be completed during the last Commission meeting of the calendar year. (The FY 2020 evaluation form was approved by the Commission during its August 7, 2020 meeting.)

Each Commission member will be required to complete an evaluation form. After the completed forms have been submitted, the Commissioner Evaluation Committee will review the appraisals, gather any other necessary information, and prepare a proposed evaluation. The proposed evaluation will be reviewed in Executive Session and may be edited or revised by the Commission prior to presenting it to the Commissioner. The final evaluation will be presented to the Commissioner.

The performance evaluation of the Commissioner is intended to accomplish the following:

- Clarify the Commissioner's leadership and management role as viewed by the Commission.
- Maintain a harmonious working relationship between the Commission and the Commissioner.
- Assure the Commission that the Department is being effectively administered by the Commissioner.

PROPOSED PROCEDURES

1. Each Commission member will receive electronic copies of both the Evaluation Form and a memorandum from the Commissioner outlining the Department's FY 2020 accomplishments by **September 14, 2020.**
2. Each Commission member will be asked to provide the Chair of the Commissioner Evaluation Committee with a copy of their completed evaluation form by **October 12, 2020**.
3. The Commissioner Evaluation Committee will meet on **November 5, 2020** to gather any pertinent information and prepare a proposed evaluation.
4. During the Executive Session of the Commission meeting on **November 6, 2020,** the Commission will have the opportunity to review, comment on and/or revise the proposed evaluation.

CREDIT UNION DEPARTMENT, STATE OF TEXAS
COMMISSIONER SUCCESSION PLAN

Purpose. The purpose of this succession plan ("the Plan") is to have a process for choosing a Commissioner in the event of a planned or unplanned departure of the incumbent.

Definitions.

A *planned departure* is a voluntary retirement or resignation, or a resignation requested by the Commission with an effective date of thirty days or more.

An *unplanned departure* is one that results by reason of death, an immediate termination of an incumbent Commissioner by the Commission, or the inability of the Commissioner to discharge the duties of the office. An unplanned departure may also be deemed to occur in the event of the Commissioner's resignation or retirement with an effective date of less than 30 days.

Inability of the Commissioner to discharge the duties of the office can be signified upon either:

1. A written declaration of the Commissioner that he or she is unable to discharge the duties and responsibilities of the office of Commissioner; or

2. Receipt by the Commission of information, which leads the Commission to conclude, in its sole judgment, that the Commissioner is unable to discharge the duties and responsibilities of the office of Commissioner.

Implementation. When this Plan becomes operative, the Commissioner Evaluation Committee ("the Committee") shall immediately assume responsibility for the succession process. The Committee will also serve as the Commission's search committee for purposes of carrying out the Plan. As soon as possible, the Chair of the Committee shall call for a meeting of the Committee to consider its action plan. This action plan should address, at least, the following matters:

1. If the incumbent Commissioner will continue in office, the effective date of the retirement or resignation. The date should be acceptable to the Commission and the Commissioner, should provide a reasonable time to search for a successor, and should be sufficiently in the future to permit orientation of the new Commissioner and an orderly transition.

2. If the incumbent Commissioner continues in office, whether there should be a change in the authority, duties, and responsibilities of the office.

3. The extent to which the Committee wishes to call upon the incumbent Commissioner and other staff members to assist the Committee during the transition to an interim or permanent Commissioner.

4. Whether an interim Commissioner will be required and, if so, the date upon which the person should assume office.

5. The identification of possible candidates for interim Commissioner and procedures for the selection of an interim Commissioner. The job description of the Deputy Commissioner specifies that he or she may exercise the powers and prerogatives of the Commissioner during the Commissioner's absence or inability to act.

6. Whether a search should be undertaken and, if so, how broad the search should be.

7. If a search is to be undertaken, whether to engage a consultant or search firm to assist the Committee with the search, and, if so, engaging the consultant or firm in accordance with State procurement requirements.

8. The Committee should also determine the specifics of the application process such as the deadline for applications, the confidentiality of its proceedings, procedures for identifying and interviewing candidates, whether to do background checks, procedures for narrowing the list of candidates, for checking references and for final interviews, whether final interviews should be conducted by the full Commission, and procedures for making an offer of employment.

Interim Commissioner. If the Committee determines that the appointment of an Interim Commissioner is necessary or advisable, the Chair of the Commission shall call for a meeting of the Commission to consider the matter. Any person appointed by the Commission as Interim Commissioner shall have the full authority for decision-making and independent action as the incumbent Commissioner. The Interim Commissioner shall receive a temporary salary increase to the entry-level salary of the Commissioner position or to 5% above his or her current salary, whichever is greater. In no event, however, may the interim Commissioner salary exceed the amount indicated in the Appropriation Act for Department's "Schedule of Exempt Positions".

Transition Planning. In the case of any planned or unplanned departure of the incumbent Commissioner, the Chair of the Commission, the Chair of the Committee, and the incumbent or interim Commissioner shall meet as often as necessary to plan, among other matters, the following:

1. The availability of funds for the transition, including the potential compensation package to be offered to a Commissioner candidate.

2. The orderly transition of the duties and responsibilities of the office of Commissioner to any successor; and

3. The manner in which succession events (concerns with confidentiality, departure, selection process, press releases) are to be announced, including the notification of key interested persons.

Attributes. Candidates should have the requisite personal attributes for the office of Commissioner, including:

- Sufficient experience, stature, and reputation in the credit union movement, regulation, or professional life to command respect as Credit Union Commissioner.

- Professional and business management skills, preferably gained in a credit union or regulatory agency.

- Experience of relationships at Board level in one or more major bodies.

- Intellectual strength, sound business acumen, integrity, and an ability to consider and discuss issues laterally and strategically.

- Awareness of political, regulatory, market, and consumer issues together with an understanding about not-for-profit cooperative financial institutions.

- Sound interpersonal skills and an ability to make good judgments of people.

Plan Review. The Committee shall review the Plan annually in the context of current affairs within and outside of the Department. The annual review of the Plan should include a review of the most recent position description for the Commissioner. It should also include recommendations to the full Commission for any amendments to the Plan or to the Commissioner position description. In addition, after each use of the Plan, the Committee shall meet to discuss how the Plan worked and shall make recommendations for modifications to the Plan based on its experience with the Plan.

CREDIT UNION DEPARTMENT, STATE OF TEXAS
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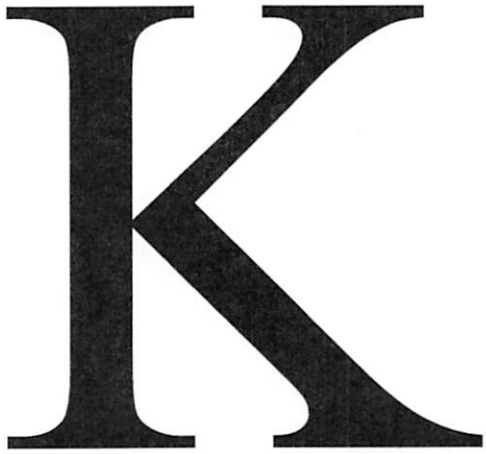

PROCEDURES FOR ADOPTING A PROPOSED RULE

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.

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

BACKGROUND: At its May meeting the Commission approved for publication and comment in the Texas Register the proposed amendments to Rule 91.708. No comments were received on the proposed amendments to the rule.

The rule reflects 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 adopt the amendments as previously published.

RECOMMENDED MOTION: I move that we adopt the proposed amendments to 7 TAC Section 91.708 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 G. Lending Powers

The Credit Union Commission (the Commission) adopts the amendments to Texas Administrative Code, Title 7, Chapter 91, Subchapter B, Section 91.708, Real Estate Appraisals or Evaluations, without changes to the proposed text as published in the May 22nd, 2020, issue of the *Texas Register* (45 TexReg 3405). The amendments will not be republished.

The adopted rule reflects amendments made to the National Credit Union Administrations Rules and Regulations Part 722 (12 CFR Part 722) which aligns with requirements of other depository financial services providers. The adopted rule increases the threshold at which licensed appraisals are required when underwriting consumer real estate loans. The adopted rule 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 adopted rule is necessary for state-chartered credit unions to maintain competitiveness with federally-chartered credit unions, and to ensure credit unions are subject to the same standards that are applied to federal and state banking industries.

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

The rule changes are adopted under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D, and which authorizes the Commission to adopt rules that promote competitive parity of credit unions with other depository financial institutions.

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>

§91.708. 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. For real estate loans in which the loan amount or extension of credit exceeds $400,000, 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 or Less. For real estate loans with a loan amount or extension of credit of $400,000 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.

K. (b) Adoption of Rule Review and Re-adoption of 7 TAC, Part 8, Chapter 151 (concerning Home Equity Lending Procedures); Chapter 152 (concerning Repair, Renovation, and New Construction on Homestead Property); and Chapter 153 (concerning to Home Equity Lending).

BACKGROUND: The Finance Commission of Texas and the Texas Credit Union Commission (commissions) have completed the rule review of the following chapters in Texas Administrative Code, Title 7, Part 8, in their entirety: Chapter 151, concerning Home Equity Lending Procedures; Chapter 152, concerning Repair, Renovation, and New Construction on Homestead Property; and Chapter 153, concerning Home Equity Lending. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapters 151, 152, and 153 was published in the Texas Register on May 1, 2020 (45 TexReg 2897). The commission received no comments in response to that notice. The commissions believe that the reasons for initially adopting the rules contained in these chapters continue to exist.

RECOMMENDED ACTION: The Department recommends that the Commission readopt Chapters 151, 152 and 153 in its entirety.

RECOMMENDED MOTION: I move that we approve the rule review and readoption of Chapters 151, 152 and 153.

Title 7. Banking and Securities
Part 8. Joint Financial Regulatory Agencies
Chapter 151. Home Equity Lending Procedures
Chapter 152. Repair, Renovation, and New Construction on Homestead Property
Chapter 153. Home Equity Lending

The Finance Commission of Texas and the Texas Credit Union Commission (commissions) have completed the rule review of the following chapters in Texas Administrative Code, Title 7, Part 8, in their entirety: Chapter 151, concerning Home Equity Lending Procedures; Chapter 152, concerning Repair, Renovation, and New Construction on Homestead Property; and Chapter 153, concerning Home Equity Lending. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapters 151, 152, and 153 was published in the *Texas Register* on May 1, 2020 (45 TexReg 2897). The commission received no comments in response to that notice. The commissions believe that the reasons for initially adopting the rules contained in these chapters continue to exist.

Before publishing notice of the review in the *Texas Register*, the Joint Financial Regulatory Agencies (Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department) issued an informal advance notice of the rule review to stakeholders. The agencies received six informal precomments in response to the advance notice. The agencies appreciate the thoughtful input provided by stakeholders.

As a result of stakeholder input and internal review by the agencies, the commissions have determined that certain revisions are appropriate and necessary in 7 TAC Chapters 151 and 153. Those proposed changes are published elsewhere in this issue of the *Texas Register.*

As a result of the rule review, the commissions find that the reasons for initially adopting the rules in 7 TAC Chapters 151, 152, and 153 continue to exist, and readopt these chapters in accordance with the requirements of Texas Government Code, §2001.039.

K. (c) Proposed Amendments, A New Rule and Repeals in 7 TAC, Part 8, Chapter 151 (concerning Home Equity Lending Procedures); and Chapter 153 (concerning to Home Equity Lending).

BACKGROUND: The Finance Commission of Texas and the Texas Credit Union Commission ("commissions") propose amendments to §151.1 (relating to Application for Interpretation); and propose the repeal of §151.2 (relating to Review of Request), §151.3 (relating to Initiation of Interpretation Procedure), §151.4 (relating to Notice of Proposed Interpretation), §151.5 (relating to Public Comment), §151.6 (relating to Action on Proposed Interpretation), and §151.7 (relating to Adoption of Interpretation) in 7 TAC, Chapter 151, concerning Home Equity Lending Procedures.

The Finance Commission of Texas and the Texas Credit Union Commission ("commissions") propose amendments to §153.8 (relating to Security of the Equity Loan: Section 50(a)(6)(H)), §153.11 (relating to Repayment Schedule: Section 50(a)(6)(L)(i)), §153.14 (relating to One Year Prohibition: Section 50(a)(6)(M)(iii)), §153.15 (relating to Location of Closing: Section 50(a)(6)(N)), §153.22 (relating to Copies of Documents: Section 50(a)(6)(Q)(v)), and §153.41 (relating to Refinance of a Debt Secured by a Homestead: Section 50(e)); and propose new §153.26 (relating to Acknowledgment of Fair Market Value: Section 50(a)(6)(Q)(ix)) in 7 TAC, Chapter 153, concerning Home Equity Lending.

The rule changes are proposed under Texas Finance Code, §11.308 and §15.413, which authorize the commissions to issue interpretations of Texas Constitution, Article XVI, §50(a)(5) - (7), (e) - (p), (t), and (u), subject to Texas Government Code, Chapter 2001.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment proposed changes to 7 TAC, Part 8, Chapters 151 and 153.

RECOMMENDED MOTION: I move that we approve for publication and comment proposed changes to 7 TAC, Part 8, Chapters 151 and 153.

Title 7. Banking and Securities
Part 8. Joint Financial Regulatory Agencies
Chapter 151. Home Equity Lending Procedures
Chapter 153. Home Equity Lending

7 TAC, Part 8, Chapter 151

The Finance Commission of Texas and the Texas Credit Union Commission ("commissions") propose amendments to §151.1 (relating to Application for Interpretation); and propose the repeal of §151.2 (relating to Review of Request), §151.3 (relating to Initiation of Interpretation Procedure), §151.4 (relating to Notice of Proposed Interpretation), §151.5 (relating to Public Comment), §151.6 (relating to Action on Proposed Interpretation), and §151.7 (relating to Adoption of Interpretation) in 7 TAC, Chapter 151, concerning Home Equity Lending Procedures.

The rules in 7 TAC Chapter 151 govern the procedures for requesting, proposing, and adopting interpretations of the home equity lending provisions of Texas Constitution, Article XVI, Section 50 ("Section 50"). In general, the purpose of the proposed rule changes to 7 TAC Chapter 151 is to implement changes resulting from the commissions' review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 151 was published in the *Texas Register* on May 1, 2020 (45 TexReg 2897). The commissions received no comments in response to that notice.

The rules in 7 TAC Chapter 151 are administered by the Joint Financial Regulatory Agencies ("agencies"), consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The agencies distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held an online webinar regarding the proposed changes. The agencies received three informal precomments on the rule text draft. The agencies appreciate the thoughtful input provided by stakeholders.

Proposed amendments to §151.1 would amend current procedures for stakeholders to request interpretations of Section 50 from the commissions. Proposed amendments to §151.1 would also specify that the commissions will propose and adopt interpretations in accordance with Texas Government Code, Chapter 2001.

Currently, §151.1, §151.2, and §151.3 describe a procedure for an interested person to request an interpretation. Under this procedure, a person submits a request to the general counsel of the Office of Consumer Credit Commissioner, and the request must include legal and factual information supporting the request. The request is evaluated, and the requestor is notified if the commissions initiate an interpretation.

Currently, §151.4, §151.5, §151.6, and §151.7 describe the procedure for the commissions to propose and adopt interpretations. These provisions explain that notice of the proposed interpretation will be published in the *Texas Register* including an explanation that there will be an opportunity for public comment, that the commissions may adopt or decline to adopt the interpretations at a public meeting, and that an adopted interpretation will include a

reasoned justification, restatement of affected provisions, and certification of legal authority.

There are three issues with the current procedures in §151.1 through §151.7. First, the procedure for requesting interpretations in current §151.1 through §151.3 has not been commonly used by stakeholders. Instead, most feedback about interpretations has come from informal comments resulting from constitutional amendments, litigation, or rule review. Second, the commissions already have separate rules on petitions for rulemaking, in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001 ("APA"). The Finance Commission's rule on petitions for rulemaking is codified at 7 TAC §9.82 (relating to Petitions to Initiate Rulemaking Proceedings), while the Credit Union Commission's rule is codified at 7 TAC §97.500 (relating to Petitions to Initiate Rulemaking Proceedings). The request procedure in §151.1 through §151.3 contains some, but not all, of the requirements for a formal petition for rulemaking, so it is unclear whether these requests must meet the requirements for a petition for rulemaking. Third, §151.4 through §151.7 describe some, but not all, of the APA's requirements for proposing and adopting rules.

The proposed amendments to §151.1 are intended to address these issues and provide clear guidelines on how interpretations are requested, proposed, and adopted. A proposed amendment to §151.1(a) would explain that the commissions will propose and adopt interpretations in accordance with the rulemaking requirements of the APA. Proposed new subsection (b) would explain that the agencies may recommend proposed interpretations to the commissions, and may seek informal input from stakeholders. Proposed new subsection (c) would explain that a person may submit an informal request to the agencies, and would describe items the request should include. Proposed new subsection (d) would explain that an interested person may file a petition to initiate rulemaking, and would include citations to the commissions' other rules that govern these petitions. The proposal would remove current subsection (b), which would be unnecessary because of the new guidelines described in proposed subsections (b) through (d). The title of §151.1 would be amended to state "Interpretation Procedures," to properly identify the scope of the rule.

The proposal would repeal §151.2 and §151.3. As discussed earlier, these sections currently describe the process used when a stakeholder requests an interpretation, and would be unnecessary because of the new guidelines described in the proposed amendments to §151.1. The commissions believe that these proposed amendments will provide a balanced approach, enabling stakeholders to use informal requests, while also preserving the important statutory right for an interested person to file a petition for rulemaking under the APA.

The proposal would repeal §151.4, §151.5, §151.6, and §151.7. As discussed earlier, these sections currently describe some, but not all, of the requirements for proposing and adopting rules under the APA. These sections would be unnecessary because of the updated language in the proposed amendments to §151.1(a). The commissions believe that these changes would simplify Chapter 151 to refer to the APA in a more straightforward manner, and would ensure that it is not necessary to update Chapter 151 each time the Texas Legislature amends the APA's rulemaking requirements.

Kurt Purdom (Deputy Commissioner, Texas Department of Banking), Antonia Antov (Director of Administration and Finance, Department of Savings and Mortgage Lending), Mirand Diamond (Director of Licensing and Registration, Office of Consumer Credit Commissioner), and John Kolhoff (Commissioner, Texas Credit Union Department) have determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Kurt Purdom (Deputy Commissioner, Texas Department of Banking), Tony Florence (Director of Mortgage Examination, Department of Savings and Mortgage Lending), Huffman Lewis (Director of Consumer Protection, Office of Consumer Credit Commissioner), and John Kolhoff (Commissioner, Texas Credit Union Department) have determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commissions' rules will be more easily understood by stakeholders, and will provide clearer methods for stakeholders to request interpretations.

There is no anticipated cost to persons who are required to comply with the amendments as proposed. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the agencies, because the agencies are self-directed, semi-independent agencies that do not receive legislative appropriations. The proposed rule changes do not require an increase or decrease in fees paid to the agencies. The proposal would not create a new regulation. The proposal would expand current §151.1 to describe methods for submitting an informal or formal request for an interpretation, and would limit §151.1 by removing current language about requests. The proposal would repeal current §151.2, §151.3, §151.4, §151.5, §151.6, and §151.7. The proposed rule changes do not increase or decrease the number of individuals subject to the rules' applicability. The agencies do not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. central time on the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of business on the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commissions.

The rule changes are proposed under Texas Finance Code, §11.308 and §15.413, which authorize the commissions to issue interpretations of Texas Constitution, Article XVI, §50(a)(5) - (7), (e) - (p), (t), and (u), subject to Texas Government Code, Chapter 2001.

The constitutional and statutory provisions affected by the proposal are contained in Texas Constitution, Article XVI, §50, and Texas Finance Code, Chapters 11 and 15.

7 TAC, Part 8, Chapter 153

The Finance Commission of Texas and the Texas Credit Union Commission ("commissions") propose amendments to §153.8 (relating to Security of the Equity Loan: Section 50(a)(6)(H)), §153.11 (relating to Repayment Schedule: Section 50(a)(6)(L)(i)), §153.14 (relating to One Year Prohibition: Section 50(a)(6)(M)(iii)), §153.15 (relating to Location of Closing: Section 50(a)(6)(N)), §153.22 (relating to Copies of Documents: Section 50(a)(6)(Q)(v)), and §153.41 (relating to Refinance of a Debt Secured by a Homestead: Section 50(e)); and propose new §153.26 (relating to Acknowledgment of Fair Market Value: Section 50(a)(6)(Q)(ix)) in 7 TAC, Chapter 153, concerning Home Equity Lending.

7 TAC Chapter 153 contains the commissions' interpretations of the home equity lending provisions of Texas Constitution, Article XVI, Section 50 ("Section 50"). In general, the purpose of the proposed rule changes to 7 TAC Chapter 153 is to implement changes resulting from the commissions' review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 151 was published in the *Texas Register* on May 1, 2020 (45 TexReg 2897). The commissions received no comments in response to that notice.

The interpretations in 7 TAC Chapter 153 are administered by the Joint Financial Regulatory Agencies ("agencies"), consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The agencies distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held an online webinar regarding the proposed changes. The agencies received three informal precomments on the rule text draft. The agencies appreciate the thoughtful input provided by stakeholders.

A proposed amendment to §153.8(1)(C) would remove the word "or" to correct a list that unnecessarily includes the word "or" twice.

Proposed amendments to §153.11 would explain that the repayment schedule requirements in Section 50(a)(6)(L)(i) of the Texas Constitution apply at closing. Proposed new paragraph (1) would explain that this constitutional provision does not prohibit a lender from agreeing with the borrower to certain modifications, and would explain that a modification may include a deferment of the original obligation. A proposed amendment at §153.11(2) would explain that the modification does not affect the two-month time period described by Section 50(a)(6)(L)(i).

These amendments to §153.11 are based on the Texas Supreme Court's decision in *Sims v. Carrington Mortg. Servs., LLC*, 440 S.W.3d 10 (Tex. 2014). In *Sims*, the Texas Supreme Court analyzed a modification of a home equity loan where the borrower and lender agreed to capitalize past-due interest, fees, property taxes, and insurance premiums into the principal, and where the modification did not involve the satisfaction or replacement of the original note, an advancement of new funds, or an increase in

the obligations created by the original note. The court held that because the modification was not a new extension of credit, it did not trigger reapplication of the constitutional requirements of Section 50. *Sims*, 440 S.W.3d at 18.

In an informal precomment, one precommenter recommended adding the following two sentences to §153.11 regarding which modifications are permissible: "Any deferment may include no payments or monthly payments in an amount that is less than the amount of accrued interest during the deferment period." and "No more than six (6) months of payments may be deferred in any twelve (12) month period." The commissions have not included this text in the current proposal, because the text appears to go beyond interpreting Section 50 of the Texas Constitution, and could be misunderstood to allow actions that are prohibited by other law. For example, for high-cost home loans, Texas Finance Code, §343.203 generally prohibits negative amortization (i.e., a payment schedule that causes the principal balance to increase).

Another precommenter suggested amending §153.11(1) to state that the two-month time period described by Section 50(a)(6)(L)(i) begins "on the day the loan is funded." Section 50(a)(6)(L)(i) provides that the payments must begin "no later than two months from the date the extension of credit is made." Currently, §153.11(1) explains that the two-month period begins "on the date of closing." The commissions believe that the current text appropriately interprets the word "made" in the context of Section 50(a)(6)(L)(i), and have not included this suggested change in the proposal. *Cf.* Black's Law Dictionary, "make" (11th ed. 2019) (defining "make" to include "caus[ing] (something) to exist" and "legally perform[ing], as by executing, signing, or delivering (a document)").

Proposed amendments to §153.14 would describe states of emergency. Section 50(a)(6)(M)(iii) of the Texas Constitution generally prohibits a home equity loan from being closed within one year after another home equity loan on the same property, but includes an exception for a state of emergency declared by the president of the United States or the governor of Texas. Proposed amendments to §153.14 would describe this exception and explain that a state of emergency includes a national emergency declared by the president of the United States under the National Emergencies Act, 50 U.S.C. §§1601-1651, and a state of disaster declared by the governor of Texas under Texas Government Code, Chapter 418. The commissions believe that these federal and state statutes describe states of emergency within the meaning of Section 50(a)(6)(M)(iii).

Proposed amendments to §153.15 would describe permissible closing locations. Section 50(a)(6)(N) of the Texas Constitution provides that a home equity loan must be closed only at the office of a lender, an attorney at law, or a title company. Because of the pandemic resulting from the coronavirus and the disease COVID-19, lenders have expressed interest in closing loans in places where they can maintain social distancing, such as an office parking lot. A proposed amendment to §153.15(1) would explain that the closing may occur in any area located at the permanent physical address of the lender, attorney, or title company. Proposed amendments to paragraphs (2) and (3) would add references to the permanent physical address. The commissions believe that these amendments are consistent with the closing location

requirement of Section 50(a)(6)(N), and clarify that lenders have this option to maintain social distancing while closing loans at their offices.

A proposed amendment to §153.22 describes requirements for electronic copies of loan documents. Section 50(a)(6)(Q)(v) of the Texas Constitution requires the lender to provide the owner with a copy of the loan application and all documents signed by the owner at closing. Proposed new §153.22(3) would explain that the lender may provide documents electronically in accordance with state and federal law governing electronic signatures and delivery of electronic documents, and would include references to the Texas Uniform Electronic Transactions Act, Texas Business & Commerce Code, Chapter 322, and the federal E-Sign Act, 15 U.S.C. §§7001-7006.

Proposed new §153.26 would describe the acknowledgment of fair market value. Under Section 50(a)(6)(Q)(ix) of the Texas Constitution, the owner of the homestead and the lender must sign a written acknowledgment as to the fair market value of the homestead property on the date the extension of credit is made. Proposed new §153.26(1) would explain that the lender may sign the written acknowledgment before or at closing. Proposed new §153.26(2) would explain that an authorized agent may sign the written acknowledgment on behalf of the lender.

In an informal precomment, one precommenter recommended including a statement in §153.26(1) that the lender may sign the written acknowledgment "before, at or after closing." The commissions agree that the acknowledgment may be signed before or at closing. However, the commissions are uncertain about the legal and practical effects where the lender signs the acknowledgment after closing. Under Section 50(a)(6)(Q)(ix) of the Texas Constitution, the home equity loan must be "made on the condition that . . . the owner of the homestead and the lender sign a written acknowledgment as to the fair market value of the homestead property on the date the extension of credit is made." The commissions invite official comments on whether the lender can sign the acknowledgment after closing, including the legal and practical effects on the home equity loan if the lender delays or fails to sign the acknowledgment.

A proposed amendment to §153.41 would remove the phrase "or (a)(7)" in the introductory paragraph. Section 50(e) of the Texas Constitution generally provides that if a refinance of debt against the homestead includes additional funds, the refinance must be described by Section 50(a)(6) (i.e., must be a home equity loan). Section 50(e) does not refer to Section 50(a)(7). The phrase "or (a)(7)" in the introductory paragraph of §153.41 appears to be a typographical error. For this reason, the proposed amendment removes this phrase.

Kurt Purdom (Deputy Commissioner, Texas Department of Banking), Antonia Antov (Director of Administration and Finance, Department of Savings and Mortgage Lending), Mirand Diamond (Director of Licensing and Registration, Office of Consumer Credit Commissioner), and John Kolhoff (Commissioner, Texas Credit Union Department) have determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Kurt Purdom (Deputy Commissioner, Texas Department of Banking), Tony Florence (Director of Mortgage Examination, Department of Savings and Mortgage Lending), Huffman Lewis (Director of Consumer Protection, Office of Consumer Credit Commissioner), and John Kolhoff (Commissioner, Texas Credit Union Department) have determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commissions' rules will be more easily understood by stakeholders, and will provide clearer guidance to ensure that lenders comply with Section 50.

There is no anticipated cost to persons who are required to comply with the amendments as proposed. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the agencies, because the agencies are self-directed, semi-independent agencies that do not receive legislative appropriations. The proposed rule changes do not require an increase or decrease in fees paid to the agencies. The proposal would create a new regulation at §153.26 to provide guidance relating to the acknowledgment of fair market value. The proposal would expand current §153.11, §153.14, §153.15, and §153.22 to provide additional guidance to lenders. The proposal would limit §153.41 by removing an incorrect citation. The proposal would not repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rules' applicability. The agencies do not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. central time on the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of business on the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commissions.

The rule changes are proposed under Texas Finance Code, §11.308 and §15.413, which authorize the commissions to issue interpretations of Texas Constitution, Article XVI, §50(a)(5) - (7), (e) - (p), (t), and (u), subject to Texas Government Code, Chapter 2001.

The constitutional provisions affected by the proposal are contained in Texas Constitution, Article XVI, §50. No statute is affected by this proposal.

Chapter 151. Home Equity Lending Procedures

§151.1. [~~*Application for*~~] *Interpretation Procedures*

(a) Issuing interpretations. The Finance Commission and Credit Union Commission may on their own motion issue interpretations of Section 50(a)(5) - (7), (e) -

(p), and (t), Article XVI of the Texas Constitution. The commissions will propose and adopt interpretations in accordance with the rulemaking requirements of Texas Government Code, Chapter 2001, Subchapter B.

(b) Agency recommendations. The Office of Consumer Credit Commissioner, Department of Banking, or Department of Savings and Mortgage Lending may recommend proposed interpretations to the Finance Commission. The Credit Union Department may recommend proposed interpretations to the Credit Union Commission. The four agencies may seek informal input from stakeholders and the other agencies before recommending a proposed interpretation to the commissions.

(c) Informal request for interpretation. A person may submit an informal request for an interpretation of Section 50(a)(5) - (7), (e) - (p), or (t), Article XVI of the Texas Constitution. An informal request may be submitted to the Office of Consumer Credit Commissioner, Department of Banking, Department of Savings and Mortgage Lending, or Credit Union Department. A request should:

(1) cite the specific provision of the Texas Constitution to be interpreted;

(2) explain the factual and legal context for the request; and

(3) explain the requestor's opinion of how the request should be resolved.

(d) Petition for rulemaking. An interested person may formally request an interpretation of Section 50(a)(5) - (7), (e) - (p), or (t), Article XVI of the Texas Constitution by submitting a petition to initiate rulemaking.

(1) Any petition for the Finance Commission to issue an interpretation must be submitted to the Office of Consumer Credit Commissioner, and must include the information required by §9.82 of this title (relating to Petitions to Initiate Rulemaking Proceedings).

(2) Any petition for the Credit Union Commission to issue an interpretation must be submitted to the Credit Union Department, and must include the information required by §97.500 of this title (relating to Petitions to Initiate Rulemaking Proceedings).

[~~(b) An interested person may submit a request for an interpretation of Section 50(a)(5) - (7), (e) - (p), and (t), Article XVI of the Texas Constitution. All requests must:~~]

[~~(1) be directed to the general counsel for the Office of Consumer Credit Commissioner who will promptly distribute it to the general counsels for the Department of Banking, the Department of Savings and Mortgage Lending, and the Credit Union Department;~~]

[~~(2) contain an explicit statement that an interpretation approved by the Finance Commission and Credit Union Commission is desired;~~]

[~~(3) contain the reference to the specific applicable section, subsection and paragraph of the Texas Constitution of which the interpretation is requested;~~]

[~~(4) state with sufficient particularity the factual and legal context to which the application of the provision is vague or ambiguous; and~~]

[~~(5) indicate the requestor's opinion of how the legal issue should be resolved, the basis for that opinion, an analysis of any relevant court decisions, and all prior interpretations to which the request relates.~~]

{{Section 151.2 will be repealed.}}

[~~*§151.2. Review of Request*~~]

[~~(a) The request for interpretation shall be evaluated to determine:~~]

[~~(1) whether the requestor has complied with the requirements of §151.1(b);~~]

[~~(2) the significance and general application of the interpretation; and~~]

[~~(3) the ambiguity of the constitutional provision.~~]

[~~(b) Reasons for a denial of a request for interpretation will be stated in writing.~~]

{{Section 151.3 will be repealed.}}

[~~*§151.3. Initiation of Interpretation Procedure*~~]

[~~(a) If an interpretation is initiated, the requestor shall be notified in writing.~~]

[~~(b) To ensure that clear and concise formal interpretations are made, it may be necessary to rephrase the original interpretation request. A requestor will be notified in writing if a request is rephrased and a copy of the rephrased request shall be provided to the requestor.~~]

[~~(c) Copies of the request for interpretation will be sent to parties requesting advance notice for their input.~~]

[~~(d) The parties requesting advance notice may provide their input indicating an opinion of how the legal issue should be resolved, the basis for that opinion, an analysis of any relevant court decisions and all prior interpretations to which the request relates.~~]

[~~(e) The input of the parties requesting advance notice will be considered.~~]

{{Section 151.4 will be repealed.}}

[~~*§151.4. Notice of Proposed Interpretation*~~]

[~~If the Finance Commission and the Credit Union Commission propose an interpretation, notice of the proposed interpretation will be published in the Texas Register. The notice of the proposed interpretation shall contain:~~]

[~~(1) A brief explanation of the proposed interpretation;~~]

[~~(2) The text of the proposed interpretation, except any portion omitted under Section 2002.014, Government Code, prepared in a manner to indicate any words to be added or deleted from the current text;~~]

[~~(3) A reference to the section of the constitution interpreted; and~~]

[~~(4) A statement of whether the interpretation is inconsistent with any other interpretations and an explanation of the justification for any inconsistency.~~]

{{Section 151.5 will be repealed.}}

[~~*§151.5. Public Comment*~~]

[~~Any person may submit comments, briefs or proposals pertaining to the proposed interpretation not later than 30 days following the publication of the proposed interpretation in the Texas Register. The Finance Commission and Credit Union Commission will allow the opportunity for public comment and public hearing as required by Section 2001.029, Government Code.~~]

{{Section 151.6 will be repealed.}}

[~~*§151.6. Action on Proposed Interpretation*~~]

[~~The Finance Commission and the Credit Union Commission may adopt or decline to adopt the proposed interpretation or remand the proposed interpretation for modification, revision, or additional comment. This action will be conducted at a public meeting.~~]

{{Section 151.7 will be repealed.}}

[~~*§151.7. Adoption of Interpretation*~~]

[~~The interpretation as finally adopted by the Finance Commission and Credit Union Commission, will include:~~]

[~~(1) a reasoned justification for the interpretation as adopted consisting solely of:~~]

[~~(A) a summary of comments received from parties interested in the interpretation that shows the names of interested parties or associations offering comment on the interpretation and whether they were for or against its adoption;~~]

[~~(B) a summary of the factual basis for the interpretation as adopted which demonstrates a rational connection between the factual basis for the interpretation and the interpretation as adopted; and~~]

[~~(C) the reasons why the Finance Commission and Credit Union Commission disagree with party submissions and proposals;~~]

[~~(2) a concise restatement of the particular constitutional provisions under which the interpretation is adopted and of how the Finance Commission and Credit Union Commission interpret the provisions as authorizing or requiring the interpretation; and~~]

[~~(3) a certification that the interpretation, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Finance Commission's and Credit Union Commission's legal authority.~~]

Chapter 153. Home Equity Lending

§153.8. Security of the Equity Loan: Section 50(a)(6)(H)

An equity loan must not be secured by any additional real or personal property other than the homestead. The definition of "homestead" is located at Section 51 of Article XVI, Texas Constitution, and Chapter 41 of the Texas Property Code.

(1) A lender and an owner or an owner's spouse may enter into an agreement whereby a lender may acquire an interest in items incidental to the homestead. An equity loan secured by the following items is not considered to be secured by additional real or personal property:

(A) escrow reserves for the payment of taxes and insurance;

(B) an undivided interest in a condominium unit, a planned unit development, or the right to the use and enjoyment of certain property owned by an association;

(C) insurance proceeds related to the homestead; [~~or~~]

(D) condemnation proceeds;

(E) fixtures; or

(F) easements necessary or beneficial to the use of the homestead, including access easements for ingress and egress.

(2) A guaranty or surety of an equity loan is not permitted. A guaranty or surety is considered additional property for purposes of Section 50(a)(6)(H). Prohibiting a guaranty or surety is consistent with the prohibition against personal liability in Section 50(a)(6)(C). An equity loan with a guaranty or surety would create indirect liability against the owner. The constitutional home equity lending provisions clearly provide that the homestead is the only allowable collateral for an equity loan. The constitutional home equity provisions prohibit the lender from contracting for recourse of any kind against the owner or owner's spouse, except for provisions providing for recourse against the owner or spouse when the extension of credit is obtained by actual fraud.

(3) A contractual right of offset in an equity loan agreement is prohibited.

(4) A contractual cross-collateralization clause in an equity loan agreement is prohibited.

(5) Any equity loan on an urban homestead that is secured by more than ten acres is secured by additional real property in violation of Section 50(a)(6)(H).

§153.11. Repayment Schedule: Section 50(a)(6)(L)(i)

Unless an equity loan is a home equity line of credit under Section 50(t), the loan must be scheduled at closing to be repaid in substantially equal successive periodic installments, not more often than every 14 days and not less often than monthly, beginning no later than two months from the date the extension of credit is made, each of which equals or exceeds the amount of accrued interest as of the date of the scheduled installment.

(1) Section 50(a)(6)(L)(i) does not prohibit a lender from agreeing with a borrower to modify an equity loan if the modification does not satisfy and replace the original equity loan and does not create a new extension of credit. The modification may include a deferment of the borrower's original obligation, and may include amounts that are past due under the equity loan (e.g., accrued but unpaid interest, taxes and insurance).

(2) [~~(1)~~] The two month time period contained in Section 50(a)(6)(L)(i) begins on the date of closing. A modification described by paragraph (1) of this subsection does not affect the two month time period.

(3) [~~(2)~~] For purposes of Section 50(a)(6)(L)(i), a month is the period from a date in a month to the corresponding date in the succeeding month. For example, if a home equity loan closes on March 1, the first installment must be due no later than May 1. If the succeeding month does not have a corresponding date, the period ends on the

last day of the succeeding month. For example, if a home equity loan closes on July 31, the first installment must be due no later than September 30.

(4) [~~(3)~~] For a closed-end equity loan to have substantially equal successive periodic installments, some amount of principal must be reduced with each installment. This requirement prohibits balloon payments.

(5) [~~(4)~~] Section 50(a)(6)(L)(i) does not preclude a lender's recovery of payments as necessary for other amounts such as taxes, adverse liens, insurance premiums, collection costs, and similar items.

§153.14. One Year Prohibition: Section 50(a)(6)(M)(iii)

An equity loan may not be closed before the first anniversary of the closing date of any other equity loan secured by the same homestead property, unless the owner on oath requests an earlier closing due to a state of emergency that has been declared by the president of the United States or the governor as provided by law, and applies to the area where the homestead is located.

(1) Section 50(a)(6)(M)(iii) prohibits an owner who has obtained an equity loan from:

(A) refinancing the equity loan before one year has elapsed since the loan's closing date; or

(B) obtaining a new equity loan on the same homestead property before one year has elapsed since the previous equity loan's closing date, regardless of whether the previous equity loan has been paid in full.

(2) Section 50(a)(6)(M)(iii) does not prohibit modification of an equity loan before one year has elapsed since the loan's closing date. A modification of a home equity loan occurs when one or more terms of an existing equity loan is modified, but the note is not satisfied and replaced. A home equity loan and a subsequent modification will be considered a single transaction. The home equity requirements of Section 50(a)(6) will be applied to the original loan and the subsequent modification as a single transaction.

(A) A modification of an equity loan must be agreed to in writing by the borrower and lender, unless otherwise required by law. An example of a modification that is not required to be in writing is the modification required under the Servicemembers Civil Relief Act, 50 U.S.C. app. §§501-597b.

(B) The advance of additional funds to a borrower is not permitted by modification of an equity loan.

(C) A modification of an equity loan may not provide for new terms that would not have been permitted by applicable law at the date of closing of the extension of credit.

(D) The two percent limitation required by Section 50(a)(6)(E) applies to the original home equity loan and any subsequent modification as a single transaction.

(3) For purposes of Section 50(a)(6)(M)(iii), a state of emergency includes:

(A) a national emergency declared by the president of the United States

under the National Emergencies Act, 50 U.S.C. §§1601-1651; and

(B) a state of disaster declared by the governor of Texas under Texas Government Code, Chapter 418.

§153.15. Location of Closing: Section 50(a)(6)(N)

An equity loan may be closed only at an office of the lender, an attorney at law, or a title company. The lender is anyone authorized under Section 50(a)(6)(P) that advances funds directly to the owner or is identified as the payee on the note.

(1) An equity loan must be closed at the permanent physical address of the office or branch office of the lender, attorney, or title company. The closing office must be a permanent physical address so that the closing occurs at an authorized physical location other than the homestead. The closing may occur in any area located at the permanent physical address of the lender, attorney, or title company (e.g., indoor office, parking lot).

(2) Any power of attorney allowing an attorney-in-fact to execute closing documents on behalf of the owner or the owner's spouse must be signed by the owner or the owner's spouse at the permanent physical address of an office of the lender, an attorney at law, or a title company. A lender may rely on an established system of verifiable procedures to evidence compliance with this paragraph. For example, this system may include one or more of the following:

(A) a written statement in the power of attorney acknowledging the date and place at which the power of attorney was executed;

(B) an affidavit or written certification of a person who was present when the power of attorney was executed, acknowledging the date and place at which the power of attorney was executed; or

(C) a certificate of acknowledgement signed by a notary public under Chapter 121, Civil Practice and Remedies Code, acknowledging the date and place at which the power of attorney was executed.

(3) The consent required under Section 50(a)(6)(A) must be signed by the owner and the owner's spouse, or an attorney-in-fact described by paragraph (2) of this subsection, at the permanent physical address of an office of the lender, an attorney at law, or a title company.

§153.22. Copies of Documents: Section 50(a)(6)(Q)(v)

At closing, the lender must provide the owner with a copy of the final loan application and all executed documents that are signed by the owner at closing in connection with the equity loan.

(1) One copy of these documents may be provided to married owners.

(2) This requirement does not obligate the lender to give the owner copies of documents that were signed by the owner prior to or after closing.

(3) A lender may provide documents electronically in accordance with state and federal law governing electronic signatures and delivery of electronic documents. The Texas Uniform Electronic Transactions Act, Texas Business & Commerce Code, Chapter

322, and the federal E-Sign Act, 15 U.S.C. §§7001-7006, include requirements for electronic signatures and delivery.

§153.26. Acknowledgment of Fair Market Value: Section 50(a)(6)(Q)(ix)

The owner of the homestead and the lender must sign a written acknowledgment as to the fair market value of the homestead property on the date the extension of credit is made.

(1) A lender may sign the written acknowledgment before or at closing.

(2) An authorized agent may sign the written acknowledgment on behalf of the lender.

§153.41. Refinance of a Debt Secured by a Homestead: Section 50(e)

A refinance of debt secured by a homestead and described by any subsection under Subsections (a)(1)-(a)(5) of Section 50 of the Texas Constitution that includes the advance of additional funds may not be secured by a valid lien against the homestead unless: (1) the refinance of the debt is an extension of credit described by Subsection (a)(6) [~~or (a)(7)~~] of Section 50 of the Texas Constitution; or (2) the advance of all the additional funds is for reasonable costs necessary to refinance such debt or for a purpose described by Subsection (a)(2), (a)(3), or (a)(5) of Section 50 of the Texas Constitution.

(1) Reasonableness and necessity of costs relate to the type and amount of the costs.

(2) In a secondary mortgage loan, reasonable costs are those costs which are lawful in light of the governing or applicable law that authorizes the assessment of particular costs. In the context of other mortgage loans, reasonable costs are those costs which are lawful in light of other governing or applicable law.

(3) Reasonable and necessary costs to refinance may include reserves or impounds (escrow trust accounts) for taxes and insurance, if the reserves comply with applicable law.

Certification

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on August 7, 2020, and August 21, 2020.

Matthew J. Nance
Deputy General Counsel
Office of Consumer Credit Commissioner
Joint Financial Regulatory Agencies

L

RESOLUTION FOR MARK BUIE

L. (i) Resolution of Appreciation for Retiring Field Supervisor Mark D. Buie.

BACKGROUND: Mark D. Buie, Field Supervisor, will be retiring on August 31, 2020, after and long and distinguished career with the Department, spanning twenty-five years. Mr. Buie progressed to various positions within the Department. In recognition of the leadership he has provided in helping to develop the Department into the strong organization it is today, the staff has drafted this resolution for the Commission's consideration.

RECOMMENDED ACTION: I move that we approve the Resolution of Appreciation for retiring Field Supervisor Mark D. Buie as presented and that the resolution be given to him as a token of our appreciation.

SERVICE AWARD

We Hereby Express Our Sincere Appreciation to

Mark Buie

For Twenty Five Years of Service

The Management Team of the Texas Credit Union Department
Appreciates Your Loyalty, Diligence and Outstanding Performance
During Your Tenure with This Organization

July 27, 2020

John J. Kolhoff, Commissioner

Robert W. Etheridge, Deputy Commissioner

RESOLUTION FOR MICHAEL RIEPEN

L. (ii) Resolution of Appreciation for Retiring Director of Examination Support Activities Michael S. Riepen.

BACKGROUND: Michael S. Riepen, Director of Examination Support Activities, will be retiring on October 31, 2020, after having worked for the Department for ten years combined, over several different periods. Mr. Riepen has served in various positions within the Department. In recognition of his contribution in helping to develop the Department into the strong organization it is today, the staff has drafted this resolution for the Commission's consideration.

RECOMMENDED ACTION: I move that we approve the Resolution of Appreciation for retiring Director of Examination Support Activities Michael S. Riepen as presented and that the resolution be given to him as a token of our appreciation.

SERVICE AWARD

We Hereby Express Our Sincere Appreciation to

Michael Riepen

For Ten Years of Service

The Management Team of the Texas Credit Union Department
Appreciates Your Loyalty, Diligence and Outstanding Performance
During Your Tenure with This Organization

July 27, 2020

John J. Kolhoff, Commissioner

Robert W. Etheridge, Deputy Commissioner

M

FUTURE COMMISSION MEETING

M. Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for November 6, 2020.

Adjournment

FUTURE CREDIT UNION

COMMISSION MEETING DATES

Friday, November 6, 2020

Friday, February 5, 2021

Friday, May 7, 2021

Friday, August 7, 2021

Friday, November 5, 2021

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

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

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex

Race	Sex		Annual Salary	Tenure	
ASIAN					
	Summary for M (3 detail records)	$	76,692	9.77	Avg
Summary for 'Race' = ASIAN (3 detail records)		**$**	**76,692**	**9.77**	**Avg**
BLACK					
	Summary for F (3 detail records)	$	101,531	11.14	Avg
	Summary for M (2 detail records)	$	72,615	5.10	Avg
Summary for 'Race' = BLACK (5 detail records)		**$**	**89,964**	**8.72**	**Avg**
HISPA					
	Summary for F (5 detail records)	$	59,662	10.21	Avg
	Summary for M (2 detail records)	$	81,461	2.40	Avg
Summary for 'Race' = HISPA (7 detail records)		**$**	**65,890**	**7.98**	**Avg**
MULTI					
	Summary for F (1 detail record)	$	41,460	1.21	Avg
Summary for 'Race' = MULTI (1 detail record)		**$**	**41,460**	**1.21**	**Avg**
NHOPI					
	Summary for F (1 detail record)	$	36,000	0.35	Avg
Summary for 'Race' = NHOPI (1 detail record)		**$**	**36,000**	**0.35**	**Avg**
WHITE					
	Summary for M (12 detail records)	$	98,132	10.24	Avg
Summary for 'Race' = WHITE (12 detail records)		**$**	**98,132**	**10.24**	**Avg**
TOTALS					
	29	**$**	**82,627**	**8.73**	**Avg**

TEXAS CREDIT UNION DEPARTMENT

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

Race	Sex		Annual Salary	Tenure	
ASIAN					
	Summary for M (3 detail records)	$	76,692	9.77	Avg
Summary for 'Race' = ASIAN (3 detail records)		**$**	**76,692**	**9.77**	**Avg**
BLACK					
	Summary for F (3 detail records)	$	101,531	11.14	Avg
	Summary for M (2 detail records)	$	72,615	5.10	Avg
Summary for 'Race' = BLACK (5 detail records)		**$**	**89,964**	**8.72**	**Avg**
HISPA					
	Summary for F (2 detail records)	$	67,763	4.44	Avg
	Summary for M (1 detail record)	$	56,304	1.35	Avg
Summary for 'Race' = HISPA (3 detail records)		**$**	**63,943**	**3.41**	**Avg**
WHITE					
	Summary for M (7 detail records)	$	83,113	12.18	Avg
Summary for 'Race' = WHITE (7 detail records)		**$**	**83,113**	**12.18**	**Avg**
TOTALS					
	18	**$**	**80,751**	**9.36**	**Avg**

TEXAS CREDIT UNION DEPARTMENT

Employee Breakout by Experience Level (FIELD STAFF)

Summary for 'EXPLEVEL' = < 1 YEAR				
Count	1	$	49,284	Avg
Summary for 'EXPLEVEL' = 1 TO 2 YEARS				
Count	1	$	56,304	Avg
Summary for 'EXPLEVEL' = 2 TO 5 YEARS				
Count	6	$	65,145	Avg
Summary for 'EXPLEVEL' = 5 TO 10 YEARS				
Count	5	$	82,066	Avg
Summary for 'EXPLEVEL' = MORE THAN 10 YEARS				
Count	5	$	109,346	Avg
	18	$	80,751	Avg

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex (ADMIN)

Race	Sex		Annual Salary	Tenure	
HISPA					
	Summary for F (3 detail records)	$	54,261	14.05	Avg
	Summary for M (1 detail record)	$	106,617	3.45	Avg
Summary for 'Race' = HISPA (4 detail records)		**$**	**67,350**	**11.40**	**Avg**
MULTI					
	Summary for F (1 detail record)	$	41,460	1.21	Avg
Summary for 'Race' = MULTI (1 detail record)		**$**	**41,460**	**1.21**	**Avg**
NHOPI					
	Summary for F (1 detail record)	$	36,000	0.35	Avg
Summary for 'Race' = NHOPI (1 detail record)		**$**	**36,000**	**0.35**	**Avg**
WHITE					
	Summary for M (5 detail records)	$	119,158	7.52	Avg
Summary for 'Race' = WHITE (5 detail records)		**$**	**119,158**	**7.52**	**Avg**
TOTALS					
	11	**$**	**85,696**	**7.71**	**Avg**

TEXAS CREDIT UNION DEPARTMENT

Current Ethnicity and Sex Breakout

Race	F	M	
WHITE		12	
ASIAN		3	
NHOPI	1		
MULTI	1		
BLACK	3	2	
HISPA	5	2	
	10	19	29
	34.48%	65.52%	

Examiner Turnover by Period

Thursday, July 23, 2020
8:30:36 AM

03/01/2020 TO 05/31/2020

Reason for Leaving	Count
6	1
	1

Reason Code Definitions

1 - New position with higher pay
2 - Too much travel
3 - Combination of 1 and 2
4 - Perceived lack of opportunity
5 - Relocation
6 - Family situation
7 - Difficulty of position
8 - Other
9 - No reason given
10-Retirement
If multiple reasons use this format:
ex. reasons 1 and 7
"1, 7"

Credit Union Department

Executive Summary

As of 05/31/20

*Information from call report cycle

ACTIVITY	YTD 2018	YTD 2019	2020 FISCAL YEAR 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MOVEMENT PROFILE							
Number of CUs	185	181	180	179	179		
Total Assets (Millions)	*41,451	*43,434	43,737*	44,210*	45,732*	*	
APPLICATIONS (Received)							
Charters	0	0	0	0	0		0
Foreign Branches	0	1	0	0	0		0
Conversions	1	0	0	0	0		0
Mergers	5	2	0	4	1		5
Bylaws	67	58	2	23	31		56
Articles of Incorporation	2	3	0	3	2		5
Total	75	64	2	30	34		66
EXAMINATION ACTIVITIES							
Regular	74	88	23	24	33		80
Joint	77	63	17	11	7		35
Remedial	34	31	10	10	6		26
Total	185	182	50	45	46	0	141
ENFORCEMENT ACTIONS (In Force)							
Determination Letters	3	1	0	0	1		
LUAs	0	0	0	0	0		
Cease & Desist Orders	2	2	1	1	1		
Dividend Restrictions	0	0	0	0	0		
Conservatorships	0	0	1	1	1		
Liquidations	1	1	1	1	1		
Total	6	4	3	3	4	0	
PERSONNEL STAFFING							
Field Examiners	18	19	18	18	18		
Total Personnel	28	29	28	29	29		
FINANCIAL OPERATIONS (In Thousands)							
Budgeted Expenditures	4,063	4,262	1,100	1,100	1,100	0	3,300
Actual Expenditures	3,874	3,904	953	1,017	915	0	2,885
Gifts and Bequests	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Actual Revenue	3,991	4,102	2,333	24	2,022	0	4,379

Credit Union Department
Application Activities - Detail

ACTIVITY	4th Qtr 2018	4th Qtr 2019	2020 FISCAL YEAR 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
CHARTERS							
Pending at Beginning of Period	0	0	0	0	0		
Add: New Applications Filed	0	0	0	0	0		
Less: Approved	0	0	0	0	0		
Denied/Withdrawn	0	0	0	0	0		
Pending at End of Period	0	0	0	0	0	########	
FOREIGN BRANCH OFFICES							
Pending at Beginning of Period	0	1	0	0	0		
Add: New Applications Filed	0	0	0	0	0		
Less: Approved	0	1	0	0	0		
Denied/Withdrawn	0	0	0	0	0		
Pending at End of Period	0	0	0	0	0	########	
CONVERSIONS							
Pending at Beginning of Period	0	0	0	0	0		
Add: Applications Filed	0	0	0	0	0		
Less: Approved	0	0	0	0	0		
Denied/Withdrawn	0	0	0	0	0		
Pending at End of Period	0	0	0	0	0	########	
MERGERS							
Pending at Beginning of Period	3	4	3	2	5		
Add: Applications Filed	3	1	0	4	1		
Less: Approved	1	2	1	1	1		
Denied/Withdrawn	0	0	0	0	0		
Pending at End of Period	5	3	2	5	5	########	
BYLAWS							
Pending at Beginning of Period	7	16	4	0	14		
Add: Applications Filed	35	8	2	23	31		
Less: Approved	20	19	6	8	45		
Denied/Withdrawn	1	1	0	1	0		
Pending at End of Period	21	4	0	14	0	########	
ARTICLES OF INCORPORATION							
Pending at Beginning of Period	1	0	1	0	1		
Add: Applications Filed	0	1	0	3	1		
Less: Approved	1	0	1	2	2		
Denied/Withdrawn	0	0	0	0	0		
Pending at End of Period	0	1	0	1	0	########	

Credit Union Department
Movement Profile - Condition Summary

CAMEL RATING	4th Qtr 2018	4th Qtr 2019	2020 FISCAL YEAR				
			*1st Qtr	*2nd Qtr	*3rd Qtr	*4th Qtr	
1	45	50	50	51	46		
2	115	110	106	106	88		
3	21	19	21	20	41		
4	4	2	2	2	4		
5	0	0	0	0	0		
Total	185	181	179	179	179	#VALUE!	

* Information from exam master list

Texas Credit Union Department
Enforcement Actions - Detail

TYPE OF ACTION	In Force 8/31/2018	Issued	Activity Terminated	In Force 8/31/2019	Issued	Activity Terminated	In Force 05/31/2020
Determination Letters	3	0	3	0	1	0	1
LUAs	0	0	0	0	0	0	0
Cease & Desist Orders	2	1	1	2	1	0	3
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	0	0	0	0	1	0	1
Liquidations	1	1	1	1	0	0	1
Total	6	2	5	3	3	0	6

Texas Credit Union Department
Examination Activities
Analysis of Current Year

TYPE OF EXAM	Budgeted Number	Actual Number	% Budget	% of Total	% Mailed Within 21 Days
Regular	60	33	165%	18%	100%
Joint	42	7	50%	4%	100%
Remedial	18	6	100%	3%	100%
Total	120	46	115%	29%	100%

Credit Union Department
Movement Profile - Consumer Complaints

CONSUMER COMPLAINTS	YTD 2018	YTD 2019	2020 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Received	351	363	88	68	91		247
Closed	338	376	85	71	88		244
Avg. Days to Process	13.75	15.5	17	16	15		16
% Resolved in 30 Days	100%	98%	93%	97%	100%		97%

Texas Credit Union Department
Consumer Complaint - Detail

TYPES OF COMPLAINTS	YTD 2018	YTD 2019	2020 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
LOAN ISSUES							
Collections/Loans	14	14	2	1	7		10
Denial	0	0					0
Loan Issues	2	5		6	5		11
Credit Report Issues	57	89	12	9	8		29
Insurance - CPI, GAAP, Property, etc	7	7			1		1
ACCOUNT ISSUES							
Discriminiation	0	0		1			1
Electronic Funds Transfer	12	10	4	3	6		13
Holds on Checks	8	10		3	2		5
Estate/Probate	3	2					0
Fraud/Unauthorized	28	33	7	8	10		25
Fees	51	26	7	8	7		22
Billing Disputes	10	13	5	2	6		13
Other	75	66	26	14	7		47
OTHER PRODUCTS/SERVICES							
Account/Loan Balance	23	39	12	3	11		26
Account Closed/Frozen	8	8	3				3
Customer Service	24	38	4	10	9		23
Deceptive Advertisment	2	5	2	1	1		4
Vehicle Title	6	7		2	1		3
Website Issues	2	2	1		7		8
TOTAL	332	374	85	71	88	0	244

Credit Union Department
Merger/Conversion Finalized

ACTIVITY	YTD 2018	YTD 2019	2020 FISCAL YEAR 1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MERGERS							
Number:							
State-to-State	1	1		1			**1**
Federal-to-State	2	4	1				**1**
State-to-Federal	1	2					**0**
Total	**4**	**7**	**1**	**1**	**0**	**0**	**2**
Assets:							
State-to-State	2,863,489	2,863,489		3,432,108			3,432,108
Federal-to-State	6,006,873	69,246,226	2,352,989				2,352,989
State-to-Federal	10,871,461	24,000,070					0
Total	**19,741,823**	**96,109,785**	**2,352,989**	**3,432,108**	**0**	**0**	**5,785,097**
CONVERSIONS							
Number:							
Federal-to-State	4	0	0	0	0		**0**
State-to-Federal	0	0	0	0	0		**0**
State-to-Mutual Bank	0	0	0	0	0		**0**
Assets:							**0**
Federal-to-State		-					**0**
State-to-Federal							**0**
State-to-Mutual Bank							**0**
Total	**-**	**-**	**0**	**0**	**0**	**0**	**0**

Credit Union Department
Web Site Statistics
Report Range:09/01/19 thru 05/31/20

		Number
Total Visits:		
	Number of Visits	6,804
	Visitors	3,815
	Page Views	14,128
	Number of Repeat Visitors	3,299
	Average Pages per Visit	2.08
	Average Visit Duration	0:02:06
Most Requested Pages:	**Home**	4,755
	Texas Rules for Credit Unions	967
	Informational Memorandums	630
	Job Postings	580
	Bylaw Charter Applications	529
Most Downloaded Files:	**Rules for Credit Unions**	504
	Guidance & Resources for Credit Union Preparedness & Contingency Planning (COVID-19)	473
	Pandemic Resources and Considerations	265
	Position	201
	COVID-19 Emergency Declaration	185