

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
July 13, 2018

A. CALL TO ORDER - ASCERTAIN A QUORUM – Chair Allyson “Missy” Morrow called the meeting to order at 9:00 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included, Liz Bayless, Beckie Stockstill Cobb, Yusuf Farran, Steven “Steve” Gilman, Sherri Merket, Jim Minge, Kay Stewart and Rick Ybarra. Assistant Attorney General Melissa Juarez was in attendance to serve as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner; Robert E. Etheridge, Deputy Commissioner; and Joel Arevalo, Director of Information Technology. Chair Morrow appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted in the *Texas Register* (**July 2, 2018, TRD#2018006348**). Chairwoman Morrow introduced and welcomed the newest member of the Commission, Liz Bayless.

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chair Morrow 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. RECEIVE MINUTES OF PREVIOUS MEETING (March 9, 2018). The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet. Mr. Minge moved for approval of the minutes of March 9, 2018 as presented. Mr. Ybarra seconded the motion, and the motion was unanimously adopted.

C. COMMITTEE REPORT – Commissioner Evaluation Committee. Mrs. Cobb, Commissioner Evaluation Committee Chairwoman, reported on the Committee’s public meeting held on July 12, 2018. She explained that the Committee had received notice of the Commissioner’s intention to retire effective December 31, 2018. She indicated that Commission policy prescribes when the Commissioner Succession Plan becomes operative, the Commissioner Evaluation Committee assumes responsibility for the succession process and serves as the Commission’s Search Committee. As a result, the Committee deferred action on the FY 2019 Performance Objectives and spent most of its public meeting discussing how the Committee will go about implementing the Commissioner Succession Plan. The Committee Chairwoman noted that, given the Commissioner’s planned departure, it was the consensus of the Committee that its time would be better spent concentrating energies on finding the next Commissioner rather than conducting the Commissioner’s FY 2018 performance evaluation. Mrs. Cobb further explained that it was the Committee’s intention to begin a nationwide search, as soon as possible, with the hope of bringing the top candidate(s) to the Commission at the November regularly scheduled meeting.

C. COMMITTEE REPORT – Rules Committee.

Mrs. Stewart, Rules Committee Chairwoman, reported on the Committee’s public meeting held on July 12, 2018. She explained that the Committee had six recommendations for consideration by the Commission.

(b) (1) Discussion, Consideration, and Possible Action to Adopt Proposed Amendments, a New Section and Three Repeals in 7 TAC, Part 6, Chapter 93 Concerning Administrative Proceedings. Mrs. Stewart indicated that at its March meeting the Commission approved for publication and comment proposed amendments, a new section, and three repeals to Chapter 93. She

explained the proposed amendments relate to four areas: (1) consistency with the Administrative Procedure Act Texas Government Code, Chapter 2001 (APA), (2) consistency with the State Office of Administrative Hearings (SOAH) procedural rules, (3) better readability and clarification, and (4) technical corrections. Mrs. Stewart indicated that the Department received no written comments during the public comment period.

Mrs. Stewart moved that the Commission adopt the amendments to 7 TAC, Part 6, Chapter 93, Sections 93.101, 93.204, 93.205, 93.208, 93.209, 93.210, 93.211, 93.212, 93.301, 93.303, 93.401, 93.501, 93.604 and 93.605; adopt new 7 TAC Section 93.201; and adopt the repeal of existing 7 TAC Sections 93.201, 93.206, and 93.601 as previously published in the *Texas Register*. Coming upon recommendation from the Rules Committee, no second was required, and the motion was unanimously adopted.

(b) (2) Discussion, Consideration, and Possible Action on the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapters G Concerning Lending Powers. Mrs. Stewart indicated that in accordance with the Commission's Rule Review Plan, the Committee reviewed all of the rules in Chapter 91, Subchapter G (Lending Powers). After that review, it was the Committee's determination that revisions were appropriate for two of the rules. The Committee will be concurrently proposing amendments to these rules.

Mrs. Stewart moved that the Commission finds that the reasons for adopting the rules in Subchapter G (Lending Powers) continue to exist and that subject to the separately proposed amendments, the Commission readopt the rules in this subchapter. Coming upon recommendation from the Rules Committee, no second was required, and the motion was unanimously adopted.

(b) (3) Discussion, Consideration, and Possible Action to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.709 Concerning Member Business and Commercial Loans. Mrs. Stewart indicated that because of the review of the rules in Subchapter G, the Committee was proposing amendments to Rule 91.709 that would conform the rule to the recent changes in federal law.

Mrs. Stewart moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.709** concerning member business and commercial loans. Coming upon recommendation from the Rules Committee, no second was required, and the motion was unanimously adopted.

(b) (4) Discussion, Consideration, and Possible Action to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.712 Concerning Plastic Cards. Mrs. Stewart noted that because of the review of the rules in Subchapter G, the Committee was proposing amendments to Rule 91.712 that would permit a plastic card to be activated by logging on to the card issuer/processor's website to go through a member verification process.

Mrs. Stewart moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.712** concerning plastic cards. Coming upon recommendation from the Rules Committee, no second was required, and the motion was unanimously adopted.

(b) (5) Discussion, Consideration, and Possible Action to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.121 Concerning Complaint Notification. Mrs. Stewart explained that the proposed amendments are intended to be explanatory in nature and generally relate to four areas: (1) how to file a complaint with the Department, (2) how a complaint

is handled after receipt, (3) the authority of the Department in reviewing complaints, and (4) the privacy of information provided in a complaint.

Mrs. Stewart moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.121** concerning complaint notices and procedures. Coming upon recommendation from the Rules Committee, no second was required, and the motion was unanimously adopted.

(b) (6) Discussion, Consideration, and Possible Action to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.403 Concerning Debt Cancellation Products; Federal Parity. Mrs. Stewart reported that the proposed amendments will update the standards governing the offer and sale of debt cancellation products. She further explained that the proposed rule d adopts and incorporates by reference the guidance issued by NCUA in its Letter to Federal Credit Unions No. 03-FCU-06 and directs credit unions to look to 12 C.F.R. Part 37, for guidance as to best practices related to the offer and sale of debt cancellation products.

Mrs. Stewart moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.403** concerning debt cancellation products. Coming upon recommendation from the Rules Committee, no second was required, and the motion was unanimously adopted.

D. PENDING AND ONGOING MATTERS

(a) Discussion and Consideration of the Department's FY 2018 Budget and Financial Performance. Commissioner Feeney indicated that for the first nine months of FY 2018, operating income totaled \$4,075,617, which is \$12,164 above the YTD budgeted amount. Mr. Feeney explained that during the same period of time, \$2,798,726 was spent operating the Department, which is about 94% of the

budgeted amount. He reiterated that most bills are not paid until 30 days after the due date so some of the operating cost being reflected are only for an eight-month period.

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

(b) Discussion and Consideration of Current Status of the State Credit Union System. Deputy Commissioner Etheridge indicated that Texas credit unions remain financially and operationally sound as the result of effective credit union management and a sound economy in Texas. He further explained that, generally, Texas credit unions continue to perform well and realize positive loan growth, strong asset quality trends, satisfactory earnings performance and stable net worth positions.

After a short discussion of some of the key financial trends, no formal action was taken by the Commission.

E. NEW MATTERS

(a) Discussion, Consideration, and Possible Approval of the Department's Operating Plan and Budget for Fiscal Year 2019. Commissioner Feeney noted that Section 16.003 of the Finance Code gives the Commission exclusive responsibility for approving the Department's annual budget. He noted that in accordance with the budget policies and guidelines approved at the Commission's last meeting, staff was presenting for consideration a proposed FY 2019 budget of \$4,140,909 which represents a 1.9 percent increase from the FY 2018 budget. The proposed budget includes additional funding for the associated cost related to a performance-based merit increase program for staff members (\$112,027)

as well as extra funding to accomplish the NCUA Leased Laptop rollover (\$7,372). He provided a brief explanation of the two initiatives.

Commissioner Feeney further reported the proposed operating plan included a suggested modification to one performance measure and suggests three new measures. He provided an explanation of the proposed changes.

Commissioner Feeney also noted that staff had reviewed all fees established by Rule 97.113 and recommends that the Commission make no changes to the fee structure in FY 2019.

Commissioner Feeney noted that Commission policy prescribes that if a project that is a legally binding obligation is not completed by the end of a given fiscal year, any unspent funds are automatically carried over to the next fiscal year to complete the project. He explained that the current database conversion project will probably not be completed until FY 2019.

Mrs. Cobb indicated that the Commissioner Evaluation Committee felt that it may need funding to conduct a search for the next commissioner. She noted that the Committee estimated that \$25,000 may be sufficient.

After a lengthy discussion, Mrs. Stewart moved that Commission approve the proposed FY 2019 Operating Plan and Budget, with a total budget of \$4,165,909, which includes authorization for 29.5 FTEs and an additional amount of \$25,000 to exclusively cover costs associated with the new commissioner search. Mr. Gilman seconded the motion, and the motion was unanimously adopted.

(b) Discussion and Consideration of the Chair's Appointment of a Member to the Commissioner Evaluation Committee. Chairwoman Morrow

noted that as provided in Commission Policy, the Chair has the authority to appoint members to the Commission's standing committees. Given the recent appointment of a new Commission Member the Chair announced that she was appointing Liz Bayless to the Commissioner Evaluation Committee. She requested that the minutes should reflect the appointment.

(c) **Discussion and Consideration of the Date for Next Commission Meeting (November 2, 2018).** Chair Morrow reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for November 2, 2018 at 9:00 a.m. in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chairwoman Morrow adjourned the meeting at 9:35 a.m.

Allyson "Missy" Morrow
Chairman

Isabel Velasquez
Recording Secretary

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