News of Interest to Credit Unions Regulated by the Credit Union Department

Newsletter

No. 07-20 ★ ☆ ★ *July 15, 2020*

5300 June 2020 Call Report Cycle

The 5300 Call Report, with credit union profile updates must be successfully submitted by Sunday, July 26, 2020, 11:59:59 p.m., EDT to avoid paying civil money penalties. NCUA will send email reminders before the deadline to credit unions with outstanding call reports. If after attempting submission you receive such an email, please log into the Credit Union Online immediately, resubmit your call report, and look for the NCUA's confirmation to limit the fine.

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Texas State-Chartered Credit Union System Profile

The 2019 credit union financial trends and rankings is now available on our website. You can locate this report under "Reports and Publications" tab in the Credit Union Statistics" Section.

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Annual Bond Coverage Review During COVID-19

With COVID-19 changing the way that credit unions deliver service, and with more employees working remotely, now is a good time to review your bond coverage and ensure that it is adequate in relation to the potential risks that the credit union faces, and your new operational needs.

Under 7 TAC Section 91.510, the board of directors is required to annually review its fidelity and other insurance coverage to assess the continuing adequacy, and if there is a need for any supplemental coverage. Additionally, Part 713.2 of the NCUA Rules and Regulation

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The Credit Union Department (CUD) is the state agency that regulates and supervises credit unions chartered by the State of Texas. The Department is professionally accredited by the National Association of State Credit Union Supervisors (NASCUS) certifying that CUD maintains the highest standards and practices in state credit union supervision.

*Our **Mission** is to safeguard the public interest, protect the interests of credit union members and promote public confidence in credit unions.*

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Credit Union Commission

The Commission is the policy making body for CUD. The Commission is a board of private citizens appointed by and responsible to the Governor of Texas.

Next Commission Meeting

Friday, August 7, 2020 beginning at 9:00 a.m. in the offices of CUD.

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Annual Bond Coverage Review During COVID-19 (Continued):

requires the board of directors of each federally insured credit union, after review, to pass a resolution approving the purchase or renewal of fidelity bond coverage and delegate one member of the board, who is not an employee of the federally insured credit union, to sign the purchase or renewal agreement and all attachments.

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State System Backs Sub Debt Rule, but Urges Room for Future Growth:

The state system supports the inclusion of subordinated debt in the calculation of a credit union's regulatory capital and modernization of the overall regulatory capital framework, but advocates for a rule that sets the stage for innovation and growth in the future, according to a comment letter submitted this week by NASCUS.

In its comment to NCUA on the agency's proposal for a rule on subordinated debt for credit unions, NASCUS said the development of the rule is an essential complement to the implementation of a risk-based capital (RBC) rule.

"Including Subordinated Debt in risk-based capital ratio calculations is consistent with the statutory purposes of both state and federal credit unions and is sound public policy," NASCUS wrote. "This rule will help credit unions and their members, protect the share insurance fund, and help place natural person credit unions in the United States on par with credit unions and other depository institutions worldwide."

In January, NCUA issued a proposal to allow certain credit unions (low-income designated credit unions (LICUs), complex credit unions, and "New Credit Unions" – or those that have both been in operation for less than 10 years and have $10 million in assets for less) to issue subordinated debt for purposes of regulatory capital treatment. More specifically, the proposal creates new provisions in the agency's rules for applying for authority to issue subordinated debt, credit union eligibility to issue subordinated debt, prepayments, disclosures, securities laws, and the terms of subordinated debt notes.

The 12-page NASCUS comment letter, developed with the significant input from state regulatory agencies, acknowledged that organizing the proposal around subordinated debt instruments and borrowing minimizes issues related to federal and state credit union tax exemptions and credit union mutuality. However, NASCUS added, NCUA should avoid issuing a final rule that unintentionally closes off future market innovation through an overly prescriptive approach that could be counterproductive and unnecessary.

That approach, NASCUS said, "is counterproductive because it would unduly restrict the ability of credit unions and the marketplace to develop and evolve models of Subordinated Debt or Subordinated Capital that benefit the credit union system, present an attractive return to third-parties, and cohere to the unique features of credit unions. An overly restrictive initial rule could thwart the very innovation needed for the development of a robust Subordinated Debt marketplace.''
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State System Backs Sub Debt Rule, but Urges Room for Future Growth: Continued:

NASCUS also noted that existing supervisory safeguards – at the state level in particular -- mitigate risks now, further minimizing the need for a prescriptive approach in the rule. NASCUS pointed to a provision in the proposal that requires pre-approval of original issuances of securities, which ensures that state and federal regulators have the opportunity to "identify imprudent offerings."

"Many state regulators have extensive experience with securities regulation and subordinated capital by virtue of their roles as banking and securities regulators and are therefore well positioned to evaluate innovative offerings," NASCUS pointed out.

In other comments, the NASCUS letter stated:

- Due consideration should be given to the successful history of LICU issuances of Secondary Capital as well as the unique nature of the credit union system.
- The agency should avoid classifying credit union debt agreements as "securities" where comparable contracts executed by other depository institutions might not be so classified.
- The association does not support special registration requirements or special supervisory fees because both would disproportionately burden smaller credit unions.
- Proposed limitations on negative covenants may dampen the potential market for credit union issuances, although NASCUS voiced support for inclusion of interest payments and repudiation safe harbors.
- NASCUS generally supports provisions prescribing various protections for investors and issuing credit unions including requirements for reporting and disclosures, director and officer liability, broker dealer registration requirements, and suitability standards for investors.
- However, limitations on resale of credit union subordinated debt raises concern in that it might hinder the marketability of the issuances. "In particular, the distinction between entity and individual investor suitability combined with the pass-through restrictions on the secondary market is too prescriptive to be workable in the marketplace," NASCUS stated.
- Limitations on the dollar amount of offering are overly prescriptive and NASCUS recommended those be reconsidered.
- On concentration limits, NASCUS wrote that it supports a baseline 25% limit, but recommended the agency include a waiver provision allowing qualifying credit unions to request an increase up to 40%.

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Publication Deadlines

In order to meet the submission deadlines for the applicable issues of the Texas Register, it is necessary for the Department to establish the schedule shown below. Completed applications received after the deadline for the month cannot be published until the following month.

Publication Date	Application Deadline
August 2020	Friday, August 14
September 2020	Friday, September 11

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Applications Approved

Applications approved since June 17, 2020 include:

Credit Union	Changes or Groups Added

Field of Membership Change – Approved:

Texas Bay Credit Union #1 (Houston)	See Newsletter No. 04-20
Texas Bay Credit Union #2 (Houston)	See Newsletter No. 04-20

Articles of Incorporation Change – Approved:

Coastal Community And Teachers Credit Union (Corpus Christi)	See Newsletter No. 05-20

Merger or Consolidation – Approved:

National Oilwell Varco Employees CU (Houston) and MemberSource CU (Houston)	See Newsletter No. 12-19

Applications Received

The following applications were received and will be published in the **July 24, 2020** issue of the *Texas Register.*

Field of Membership Expansion:

Neighborhood Credit Union (Dallas) – Persons who work, reside, worship or attend school in Grayson County, Texas, to be eligible for membership in the credit union.

Plus4 Credit Union (Houston) – Persons who live, work, attend school or worship in and businesses located with 10 miles of 19506 Eastex Fwy., Humble, Texas, to be eligible for membership in the credit union.

EECU Credit Union #1 (Fort Worth) – Persons who live, work, worship, or attend school and businesses and other legal entities in Dallas County, Texas, to be eligible for membership in the credit union.
EECU Credit Union #2 (Forth Worth) – Persons who live, work, worship, or attend school and businesses and other legal entities in Jack, Wise, Denton and Ellis Counties, Texas, to be eligible for membership in the credit union.

Articles of Incorporation:

Pasadena Postal Credit Union (Pasadena) – The credit union is proposing to change its name to Priority Postal Credit Union.

This newsletter is produced monthly as a part of the Department's continued communication outreach with the credit unions it regulates. Delivery is generally provided by electronic notification of its availability on the Department's website.

Suggestions and comments concerning the newsletter or its content are welcomed.

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To learn more about CUD click http://www.cud.texas.gov or contact us at 914 E. Anderson Lane, Austin, TX 78752


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