



# **CREDIT UNION COMMISSION MEETING**

*Credit Union Department Building  
914 East Anderson Lane  
Austin, Texas*

**March 8, 2019  
9:00 a.m.**

## **AGENDA**

Public comment on any agenda item or issue under the jurisdiction of the Credit Union Commission is allowed. Unless authorized by a majority vote of the meeting quorum, the comments of any persons wishing to address the Commission will be limited to no more than ten (10) minutes.

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

<b><u>TAB</u></b>	<b><u>PAGE</u></b>
<b>A.</b> Call to Order (9:00 a.m.) – Chair Missy Morrow Ceremonial Swearing-In of Commissioner John J. Kolhoff General Public Comment	<b>4</b>
<b>B.</b> Minutes of the October 15, 2018 Credit Union Commission Meeting	<b>7</b>
<b>C.</b> Pending and Ongoing Matters Before the Commission	
a. Adoption of the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter E Concerning Direction of Affairs	<b>24</b>
b. Adoption of the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter F Concerning Accounts and Services	<b>32</b>
c. The Department's FY 2019 Financial Performance	<b>39</b>
d. Status of the State Credit Union System	<b>41</b>
<b>D.</b> New Matters Before the Commission	
a. Submission of the Department's Annual Risk Assessment Report for FY 2019 as Required by Section 2102.004, Government Code	<b>45</b>
b. Credit Union Commission Policies Manual, Annual Policy Review	<b>54</b>
c. Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2019 Budget	<b>55</b>
d. A New Direction Credit Union (formerly Texas Health Resources Credit Union) on the Respective Milestone Anniversary Date of their Origin	<b>59</b>
e. Legislative Issues and Activities Relating to the 86 <sup>th</sup> Regular Session that may Impact the Department	<b>61</b>
f. Tentative Date for Next Commission Meeting (July 12, 2019 at 9:00 a.m.)	

## Adjournment

**Note:** The Credit Union Commission may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

**Meeting Recess:** In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

**Meeting Accessibility:** Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Joel Arevalo, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

A

## **CALL TO ORDER**

### **TEXAS CREDIT UNION COMMISSION MEMBERS**

- ***Allyson “Missy” Morrow, Chair***
- ***Elizabeth L. “Liz” Bayless***
- ***Beckie Stockstill Cobb***
- ***Yusuf E. Farran***
- ***Steven “Steve” Gilman***
- ***Sherri B. Merket***
- ***Jim Minge***
- ***Kay Stewart***
- ***Rick Ybarra***

### ***Legal Counsel***

- ***Melissa Juarez***

### ***Staff***

- ***John J. Kolhoff***
- ***Robert W. Etheridge***
- ***Joel R. Arevalo***
- ***Isabel Velasquez***



**FUTURE CREDIT UNION  
COMMISSION MEETING DATES**

---

**Friday, July 12, 2019**

**Friday, November 1, 2019**

**Friday, March 6, 2020**

---

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

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

B

## **CREDIT UNION COMMISSION MEETING MINUTES**

Draft copies of the minutes for the October 15, 2018 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 October 15, 2018 be approved as presented.

**CREDIT UNION COMMISSION MEETING MINUTES**  
**Credit Union Department Building**  
**914 East Anderson Lane, Austin, Texas**  
**October 15, 2018**

**A. CALL TO ORDER - ASCERTAIN A QUORUM** – Chair Allyson “Missy” Morrow called the meeting to order at 8:32 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, Steven “Steve” Gilman, Sherri Merket, and Jim Minge. Commission Member Rick Ybarra and Assistant Attorney General Melissa Juarez arrived late due to traffic congestion. Commission Members Kay Steward and Yusuf Farran were absent due to scheduling conflicts. 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* (**October 5, 2018, TRD#2018008397**).

❖ **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.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** – Chair Morrow inquired if there were any requests or motions to excuse an absence. Mrs. Merket moved to excuse Commission Members Yusuf Farran and Kay Stewart from the Commission meeting on October 15, 2018. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

**B. RECEIVE MINUTES OF PREVIOUS MEETING (July 13, 2018).** The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet. Mr. Gilman moved for approval of the minutes of July 13, 2018 as presented. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

**C. PENDING AND ONGOING MATTERS**

**(a) Discussion, Consideration, and Possible Action to Adopt Proposed Amendments to 7 TAC Section 91.121 Concerning Complaint Notification.**

Commissioner Feeney reported that the Commission had previously approved for publication and comment proposed amendments to Rule 91.121. Mr. Feeney explained that the proposal generally relates 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. He indicated that the Department received one written comment supporting the proposed amendments to the rule.

After a short discussion, Mr. Minge moved that the Commission adopt the proposed amendments to **7 TAC Section 91.121** as previously published in the *Texas Register*. Mr. Gilman seconded the motion and the motion was unanimously adopted.

**(b) Discussion, Consideration, and Possible Vote to Take Action to Adopt Proposed Amendments to 7 TAC Section 91.403 Concerning Debt Cancellation Products; Federal Parity; Adoption by Reference.** Commissioner Feeney noted that the Commission had previously approved for publication and comment the proposed amendments to Rule 91.403. Mr. Feeney explained that the

proposal would update standards governing debt cancellation products to encourage credit unions to provide such products consistent with safe and sound credit union practices and subject to appropriate consumer protections. He further explained that the proposal would adopt and incorporate by reference the guidance issued by NCUA in its Letter to Federal Credit Unions No. 03-FCU-06 and direct 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. Mr. Feeney also indicated that the Department received three written comments supporting the proposed amendments to the rule.

After a brief discussion, Mr. Gilman moved that the Commission adopt the proposed amendments to **7 TAC Section 91.403** as previously published in the *Texas Register*. Mrs. Cobb seconded the motion and the motion was unanimously adopted.

Commission member Rick Ybarra arrived at 8:40 a.m.

**(c) Discussion, Consideration, and Possible Vote to Take Action to Adopt Proposed Amendments to 7 TAC Section 91.709 Concerning Member Business and Commercial Loans.** Commissioner Feeney reported that the Commission had previously approved for publication and comment the proposed amendments to Rule 91.709. Mr. Feeney explained that the amended rule would modify the definition of member business loan (MBL) with respect to 1- to 4- family dwellings to conform with recent amendments to 12 U.S.C. 1757a(c)(1)(B)(i). The amended rule would also provide credit unions parity, under Texas Finance Code Section 123.003, with federal credit unions engaged in the business of making MBLs in Texas. He indicated that the Department received one written comment supporting the proposed amendments to the rule.

After a short discussion, Mr. Minge moved that the Commission adopt the proposed amendments to **7 TAC Section 91.709** as previously published in the *Texas Register*. Mrs. Bayless seconded the motion and the motion was unanimously adopted.

**(d) Discussion, Consideration, and Possible Vote to Take Action to Adopt Proposed Amendments to 7 TAC Section 91.712 Concerning Plastic Cards.** Commissioner Feeney reported that the Commission had previously approved for publication and comment the proposed amendments to Rule 91.712. Mr. Feeney explained that the amended rule would allow a plastic card to be activated by logging on to the card issuer/processor's website to go through a member verification process. He indicated that the Department received one written comment supporting the proposed amendments to the rule.

After a brief discussion, Mrs. Bayless moved that the Commission adopt the proposed amendments to **7 TAC Section 91.712** as previously published in the *Texas Register*. Mr. Ybarra seconded the motion and the motion was unanimously adopted.

Assistant Attorney General Melissa Juarez arrived at 8:45 a.m. to serve as legal counsel.

**(e) Discussion and Consideration of the Department's FY 2018 Financial Performance and FY 2019 Budget.** Commissioner Feeney indicated that FY 2018 operating income totaled \$3,965,819, which was \$97,634 less than the budgeted amount. Mr. Feeney explained that the reasons for the revenue shortfall was because of Commission policies, which require any monies in excess of the Contingency Reserve Fund Cap to be used to reduce the fees paid by credit unions.

At the time of assessing the final installment of the FY 2018 operating fee, the funds in the Contingent Reserves exceeded the Cap by approximately \$98,000. He further explained that during FY 2018, \$3,874,028 was spent operating the Department. Mr. Feeney specifically noted that the Database conversion project had not been completed before the ending of the fiscal year, and the \$50,000 in funds budgeted to finish the project had been automatically carried over to FY 2019.

Mr. Feeney also reported that during the first month of FY 2019, revenues collected totaled \$2,217,625, which was \$38,737 below the budgeted amount. He explained that a few credit unions had been late paying their operating fees, but the first installment of the operating fees had now been collected from all credit unions. He further noted that during the first month of the fiscal year the Department spent \$287,943. Mr. Feeney reminded everyone that most bills are not paid until 30 days after the due date so some of September's operating cost will not be reflected until October.

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

**(f) 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 the 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.



## **D. NEW MATTERS**

**(a) Discussion, Consideration and Possible Vote to Take Action on the Adoption of the Completed Rule Review of 7 TAC, Part 6, Chapter 95 Concerning Share and Depositor Insurance Protection.** Commissioner indicated that at the July 2016 meeting, the Commission approved a plan which established a date for the required review for each of the Commission's rules. He reported that staff had reviewed 7 TAC, Part 6, Chapter 95 and was recommending that these rules be readopted without change. He explained that the notice of review and a request for comments on the rules in this Chapter was published in the August 10, 2018 issue of the *Texas Register* and no comments were received.

After consideration of the rules, Mr. Gilman moved that the Commission find that the reasons for adopting the rules in **7 TAC, Part 6, Chapter 95** continue to exist and that the Commission readopt the Chapter in its entirety. Mrs. Merket seconded the motion and the motion was unanimously adopted.

**(b) Discussion, Consideration and Possible Vote to Take Action on the Re-adoption of the Department's Equal Employment and Workforce Diversity Plan.** Commissioner Feeney noted that various State laws require the Department to prepare and maintain a written policy statement to assure implementation of a program of equal employment and workforce diversity. He indicated the Commission originally approved a Plan back in 1977 and that the Plan covers a 12-month period, and therefore, must be ratified annually.

After a brief discussion, Mrs. Bayless moved that the Commission re-adopt the Department's Equal Employment and Workforce Diversity Plan as

recommended by Staff. Mr. Minge seconded the motion and the motion was unanimously adopted.

**(c) Examination Pilot Program with NCUA.** Commissioner Feeney explained that since 2017 the Department has been participating in a work group that consists of NCUA, NASCUS and 4 other states. The goal of this Group goals is to facilitate the evolution of certain features in the examination and supervision program. He indicated that the Department plans to be involved in a “pilot program” which will involve a relatively small number of credit unions. The Pilot Program will last several years to provide sufficient time to evaluate the potential benefits. The planned kickoff of the Program should be early 2019.

No formal action was taken by the Commission.

**E. COMMITTEE REPORTS – COMMISSIONER EVALUATION COMMITTEE (SEARCH COMMITTEE) REPORT.**

Mrs. Cobb, Commissioner Evaluation Committee Chairwoman, reported that upon notification of the planned retirement of Commissioner Feeney, the Commissioner Succession Plan became operative and the Committee had assumed responsibility for the processes associated with choosing the next commissioner. Mrs. Cobb reported that on September 14, 2018, the Committee met in an open meeting where, among other things, the Committee reviewed the applications received in response to the job posting for the commissioner position. Three applicants were invited to an initial interview with the Committee. On October 1, 2018, the Committee met in an open meeting for the expressed purpose of interviewing the three applicants. Based upon those interviews, the Committee has referred two candidates to the Commission for final interview for the commissioner position. Mrs. Cobb further explained the Committee had one final responsibility in the succession process and that was to

discuss how the Commissioner Succession Plan worked in practice and whether to recommend to the Commission any changes to the Plan. She noted that the Committee would meet in March to conduct those discussions, however, she did note that eleven of the fourteen applications did not meet the practical experience requirement dictated by the statutes and that no internal candidates applied for the commissioner position. Mrs. Cobb concluded her report by publicly thanking the members of the Committee for their time and active participation in the recruitment efforts.

#### **F. MATTERS RELATED TO THE SEARCH AND SELECTIONS OF A NEW CREDIT UNION COMMISSIONER**

**(a) Interview One or More Finalist for the Position of Credit Union Commissioner.** Mrs. Morrow announced that it was 9:05 a.m., and that the Commission would be going into closed session pursuant to Section 551.074 of the Government Code, to discuss personnel matters under agenda item F(a). She requested that all non-Commission Members leave the room, with the exception of Assistant Attorney General Melissa Juarez, Commissioner Harold E. Feeney, and Recording Secretary Isabel Velasquez. She further explained that the Commission would not reconvene the open session of the meeting until at least 1:00 p.m.

Mrs. Morrow announced that it was 1:56 p.m. and the Commission was back in the open session.

**(b) Potential Selection of a New Credit Union Commissioner.** Mrs. Morrow inquired if the members had any thoughts, comments, or motions with respect to either of the candidates that were interviewed in the closed session.

Mr. Minge moved that John J. Kolhoff be offered the position of Credit Union Commissioner at an annual salary of \$185,000 with a starting date of December 3, 2018. Mr. Ybarra seconded the motion and the motion passed with six “ayes” and one “no”.

**(c) New Commissioner’s FY 2019 Performance Objectives and Goals.**

Commissioner Feeney noted that Commission policy requires that the commissioner’s evaluation form and performance targets be approved annually by the Commission.

After a brief discussion, Mrs. Cobb moved that the Commission adopt the current evaluation form and the existing performance objectives and goals for the new commissioner. Mr. Gilman seconded the motion and the motion was unanimously adopted.

**(d) FY 2019 Budget Implications as a Result of the Potential Hiring of a New Commissioner.** Commissioner Feeney indicated that the upcoming transition to a new commissioner would have implications for the Department’s FY 2019 budget. He provided a brief explanation of the potential increase in cost and the need to temporarily authorize an additional FTE.

After a short discussion, Mr. Gilman moved that the Commission temporarily increase the authorized FTE count by one for the month of December, and that the Department’s FY 2019 budget be increased in the amount of \$45,000 and any of the restricted funds that were not used by the Commissioner Evaluation Committee in the search for a new commissioner (estimated to be \$19,800) may be used by the Department to cover the cost associated with the retirement of the commissioner and

the onboarding of the new commissioner. Ms. Bayles seconded the motion and the motion was unanimously adopted.

**ADJOURNMENT** – There being no further business for the Credit Union Commission, Chair Morrow reminded everyone that the next regular meeting had been tentatively scheduled for March 8, 2019 at 9:00 a.m. and adjourned the meeting at 2:08 p.m.

---

Allyson “Missy” Morrow  
Chairman

---

Isabel Velasquez  
Recording Secretary

**Distribution:**

Legislative Reference Library

# FOLLOW-UP ACTION REPORT

## CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 02-11-19)
<b><u>October 15, 2018</u></b>		
7 TAC Section 91.121 Complaint Notification	Published in <i>Texas Register</i> as adopted rule.	Published in <i>Texas Register</i> on 11/02/18
7 TAC Section 91.403 Debt Cancellation Products	Published in <i>Texas Register</i> as adopted rule.	Published in <i>Texas Register</i> on 11/02/18
7 TAC Section 91.709 Member Business and Commercial Loans	Published in <i>Texas Register</i> as adopted rule.	Published in <i>Texas Register</i> on 11/02/18
7 TAC Section 91.712 Plastic Cards	Published in <i>Texas Register</i> as adopted rule.	Published in <i>Texas Register</i> on 11/02/18

C

### **PENDING AND ONGOING MATTERS**

Four pending items from previous meetings are being presented to the Commission for its information, consideration, and/or possible action. Specifically, the Commission will discuss, consider and possibly take action on:

- (a) the adoption of completed rule review of 7 TAC, Part 6, Chapter 91, Subchapter E concerning direction of affairs;
- (b) the adoption of completed rule review of 7 TAC, Part 6, Chapter 91, Subchapter F concerning accounts and services;
- (c) the Department's FY 2019 financial performance; and
- (d) the status of the state credit union system.

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



## **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.

## **MANDATORY RULE REVIEW**

**C. (a) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Take Action on the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter E Concerning Direction of Affairs.**

**BACKGROUND:** Section 2001.39, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 8, 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed 7 TAC, Part 6, Chapter 91, Subchapter E and is recommending that no changes be made.

Notice of review and a request for comments on these rules were published in the November 23, 2018 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rules continue to exist.

**RECOMMENDED ACTION:** The Department recommends that the Commission adopt the rule review of Chapter 91, Subchapter E as the reasons for these rules continue to exist.

**RECOMMENDED MOTION:** I move that the Commission find that the reasons for adopting Chapter 91, Subchapter E continues to exist and that the Commission re-propose and readopt these rules.

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter E (relating to Direction of Affairs), of the Texas Administrative Code, Title 7, Part 6, consisting of §§91.501, 91.502, 91.503, 91.510, 91.515, and 91.516. The Commission proposes to readopt these rules.

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

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter E, was published in the *Texas Register* as required on November 23, 2018 (43 TexReg 7685). The Department received no comments on the notice of intention to review.

As a result of the internal review by the Department, the Commission has determined that no revisions are appropriate and necessary. The Commission finds that the reasons for initially adopting these rules continue to exist, and readopts Chapter 91, Subchapter E, in accordance with the requirements of Texas Government Code, Section 2001.039. This concludes the review of 7 TAC, Part 6, Chapter 91, Subchapter E.

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

## **Subchapter E. Direction of Affairs**

### **§91.501. Director Eligibility and Disqualification.**

(a) **Board Representation.** The credit union's bylaws shall govern board selection and election procedures. No credit union shall adopt or amend its articles of incorporation or bylaws to designate or reserve one or more places on the board of directors for any classification that results in a restriction or infringement upon the equal rights of all members to vote for, or seek any position on, the board of directors of the credit union. In addition, each credit union shall adopt policies and procedures that are designed to assure that the elections of directors are conducted in an impartial manner.

(b) **Qualifications.** A member may not serve as director of a credit union if that member:

(1) has been convicted of any criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage by the blanket bond required under the provisions of the Act, or §91.510 of this title (relating to Bond and Insurance Requirements);

(3) has had a final judgment entered against him/her in a civil action upon the grounds of fraud, deceit, or misrepresentation;

(4) has a payment on a voluntary obligation to the credit union that is more than 90 days delinquent or has otherwise caused the credit union to suffer a financial loss;

(5) has been removed from office by any regulatory or government agency as an officer, agent, employee, consultant or representative of any financial institution;

(6) has been personally made subject to an operating directive for cause while serving as an officer, director, or senior executive management person of a financial institution; or has caused or participated in a prohibited activity or an unsafe or unsound condition at a financial institution which resulted in the suspension or revocation of the financial institution's certificate of incorporation, or authority or license to do business;

(7) has failed to complete and return a director application in accordance with subsection (c) of this section; or

(8) refuses to take and subscribe to the prescribed oath or affirmation of office.

(c) **Director application.** Any member nominated for, or seeking election to, the board of directors shall submit a written application in such form as the credit union may prescribe. The application shall be submitted either to the nominating committee prior to its selection of nominees; or to the board chair within 30 days following the election of a member who was not nominated by the nominating committee or who was appointed by the board to fill a vacancy. The applications of the elected/appointed directors shall be incorporated into and made part of the minutes of the first board meeting following the election/appointment of those directors. Applications of unsuccessful candidates shall be destroyed or returned upon request. The commissioner may review and require that changes be made to any application form, which is deemed inadequate or unfairly discriminates against certain classes of members.

(d) **Director continuing education.** Directors must develop and maintain a fundamental, ongoing knowledge of the regulations and issues affecting credit union operations to assure a safe and sound institution. A credit union shall, by written board policy, establish appropriate continuing education requirements and provide sufficient resources for directors to achieve and maintain professional competence. The policy shall include a provision requiring the credit union to prepare, on an annual basis, a continuing education plan for its Directors that is appropriate to the size and financial condition of the credit union and the nature and scope of its operations.

(e) Prohibited conduct. A director shall not:

(1) Divulge or make use of, except in the performance of office duties, any fact, information, or document not generally available to the membership that is acquired by virtue of serving on the board of the credit union.

(2) Use the director's position to obtain or attempt to obtain special advantage or favoritism for the director, any relative of the director, or any person residing in the director's household.

(3) Accept, directly or indirectly, any gift, fee, or other present that is offered or could be reasonably be viewed as being offered to influence official action or to obtain information that the director has access to by reason of serving on the board of the credit union.

(f) Recall of director(s).

(1) Petition. Under procedures set out in the credit union's bylaws, members may request a special membership meeting to consider removing the entire board or individual directors for cause relating to serious mismanagement or a breach of fiduciary duties. The board shall conduct any resulting special meeting as prescribed in the credit union's bylaws.

(2) Membership Vote. The members of a credit union may remove a director by a vote of two-thirds of those members voting at the special meeting; provided, however, that:

(A) a separate vote is conducted for each director sought to be recalled;

(B) the members voting shall constitute not less than 10% of the membership eligible to vote in the recall election;

(C) all members are given at least 30 days notice of the meeting which shall state the reasons why the meeting has been called; and

(D) the affected director(s) is afforded an opportunity to be heard at such meeting prior to a vote on removal.

(3) Vacancy on the Board. If a vacancy occurs as a result of a recall, the vacancy shall be filled by the affirmative vote of a majority of the remaining directors. If the entire board is removed as a result of the recall, the members shall fill the vacancies at the recall meeting. Directors elected to fill a recall vacancy shall hold office only until the next annual meeting when any unexpired terms shall be filled by vote of the members.

(g) Absences. Any director who fails to attend three (3) consecutive regularly scheduled meetings without an excuse approved by a majority vote of the board, or who fails to attend six (6) regularly scheduled meetings during any twelve-month period following the director's election or appointment is automatically removed from office. A new person shall be appointed to fill any vacancies resulting from poor attendance within sixty days of the date of the meeting that led to the automatic removal. The commissioner in the exercise of discretion may extend the deadline for filling the vacancy.

#### **§91.502. Director/Committee Member Fees, Insurance, Reimbursable Expenses, and Other Authorized Expenditures.**

(a) Expense reimbursement. A credit union may reimburse out-of-pocket travel and related expenses that are reasonable and appropriate for the business activity undertaken. A credit union shall adopt a written board policy to administer and control travel expenses paid or incurred in connection with directors or committee members carrying out official credit union business.

(b) Payment of fees. Subject to the provisions of this rule, a credit union may pay a reasonable meeting fee to any of its directors, honorary directors, advisory directors, (hereafter referred to as directors) or committee members for attending duly called meetings at which appropriate credit union business is conducted. Any credit union electing to pay any type of

meeting fee shall annually disclose to the membership the fees paid in the prior calendar year and scheduled to be paid in the current calendar year. This disclosure may be provided to the members as part of the credit union's annual report as prescribed in §91.310 of this title (relating to annual report to membership). A credit union, however, may not pay any meeting fees to a director or committee member if the credit union is operating under a Net Worth Restoration Plan; or an order issued under Finance Code §122.257 or §122.258.

(c) **Enforcement Authority; Prohibition.** The commissioner may prohibit or otherwise limit or restrict the payment of meeting fees to directors or committee members if, in the opinion of the commissioner, the credit union has paid, is paying, or is about to pay meeting fees that are excessive as defined in §91.502(f).

(d) **Use of credit union equipment.** A credit union may provide personal computers, access to electronic mail, and other electronic conveniences to directors during their terms of office provided:

(1) the board of directors determines that the equipment and the electronic means are necessary and appropriate for the directors to fulfill their duties and responsibilities;

(2) the board of directors develops and maintains written policies and procedures regarding this matter; and

(3) the arrangement ceases immediately upon the person's leaving office.

(e) **Insurance.** A credit union may, in accordance with written board policy, provide health, life, accident, liability, or similar personal insurance protection for directors and committee members. The kind and amount of these insurance protections must be reasonable given the credit union's size, financial condition, and the duties of the director or committee member. The insurance protection must cease upon the director or committee member's leaving office, without providing residual benefits beyond those earned during the individual's term on the board or committee.

(f) **Review by board.** A credit union shall implement and maintain appropriate controls and other safeguards to prevent the payment of fees or expenses that are excessive or that could lead to material financial loss to the institution. At least annually, the board, in good faith, shall review the director/committee member fees and director/committee member-related expenses incurred, paid or reimbursed by the credit union and determine whether its policy continues to be in the best interest of the credit union. The Board's review shall be included as part of the minutes of the meeting at which the policy and the fees and expenses were studied. Fees and expenses shall be considered excessive when amounts paid are disproportionate to the services performed by a director or committee member, or unreasonable considering the financial condition of the institution and similar practices at credit unions of a comparable asset size, geographic location, and/or operational complexity.

(g) **Guest travel.** A credit union's board may authorize the payment of travel expenses that are reasonable in relation to the credit union's financial condition and resources for one guest accompanying a director or committee member to an approved conference or educational program. The payment will not be considered compensation for purposes of Finance Code §122.062 if:

(1) it is determined by the board to be necessary or appropriate in order to carry out the official business of the credit union; and

(2) it is in accordance with written board policies and procedures.



### **§91.503. Change in Credit Union President**

The board of directors, in executing its fiduciary responsibilities, may find it necessary to replace the credit union's president. The board shall submit written notification to the commissioner within ten days of any such personnel change. For purposes of this section, the term president refers to the individual responsible for the day-to-day operation of the credit union, irrespective of the actual title given to such individual.

### **§91.510. Bond and Insurance Requirements.**

(a) Fidelity bond. Each credit union shall purchase and maintain a blanket fidelity bond covering the officers, directors, employees, committee members, and its agents, against loss caused by dishonesty, burglary, robbery, larceny, theft, holdup, forgery or alteration of instruments, misplacement or mysterious disappearance. All carriers writing credit union blanket bonds must be authorized by the Insurance Commissioner for the state of Texas as an acceptable fidelity on bonds in this state.

(1) Subject to approval by the credit union's board of directors, the amount of coverage to be required for each credit union shall be determined by the credit union, based on its assessment of the level that would be safe and sound in view of the credit union's potential exposure to risk.

(2) Each credit union may maintain bond coverage in addition to that provided by the insurance underwriter industry's standard forms, through the use of endorsements, riders, or other forms of supplemental coverage, if, in the judgment of the credit union's board of directors, additional coverage is warranted.

(3) The commissioner may require additional coverage of any credit union when, in his opinion, the fidelity bond in force is insufficient to provide adequate fidelity coverage. It shall be the duty of the board of directors to obtain the additional coverage within 30 days after the date of written notice of the findings by the commissioner.

(b) Cancellation. A fidelity bond must include a provision requiring written notification by the fidelity to the commissioner prior to cancellation of any or all coverages set out in the bond which includes a brief statement of cause for termination.

(c) Other insurance. Each credit union shall, subject to approval by the board, purchase appropriate insurance coverages to insure the credit union and its assets against loss or damage by fire, liability, casualty or any other insurance risks.

(d) Board review. The board of directors of each credit union shall formally approve the credit union's bond and insurance coverages. In deciding whether to approve the coverages, the board shall review the adequacy of the standard coverage and the need for supplemental coverage. Documentation of the board's approval shall be included as part of the minutes of the meeting at which the board approves coverages. Additionally, the board of directors shall review the credit union's bond and insurance coverages at least annually to assess the continuing adequacy of coverage.

(e) Review by fidelity company. Credit unions which are analyzed by a fidelity company shall notify the commissioner of the analysis within 30 days of the review commencement. The report of the review is to be provided to the commissioner upon request. The confidentiality of the report shall be preserved in the same manner afforded a report of examination conducted by the department.

(f) Insuring organization's bond requirements. A credit union shall also comply with all bond requirements imposed by an insuring organization as a condition to maintain insurance on

share and deposit accounts. Any credit union that fails to meet the minimum fidelity bond specifications contained within Part 741.201 of the NCUA Rules and Regulations may be deemed to be engaged in an unsafe practice pursuant to Finance Code §122.255.

#### **§91.515. Financial Reporting.**

(a) Each credit union having assets of \$5 million or greater shall:

(1) prepare and maintain, on an accrual basis, accurate and complete records of its business transactions in accordance with generally accepted accounting principles, except as otherwise directed by regulatory requirements; and

(2) prepare its financial statements and reports, including reports to the members, board of directors, management and the department, in accordance with generally accepted accounting principles, except as otherwise directed by regulatory requirements.

(b) Credit unions having assets of less than \$5 million may use another comprehensive basis of accounting.

(c) In addition to the quarterly report to the department as prescribed by the Act, the commissioner may require from all credit unions or from selected categories of credit unions other financial and statistical reports relating to financial condition and accounting practices.

#### **§91.516. Audits and Verifications.**

(a) Audit requirements. At least once every calendar year, the board of directors shall obtain or cause to be performed an annual audit of the credit union which must cover the period elapsed since the last audit period. A summary of the audit must be reported to the members at the next membership meeting. The audit must be conducted in accordance with generally accepted auditing standards by a licensee of the Texas State Board of Public Accountancy or as permitted under the provisions of §741.202(a) of the National Credit Union Administration's Rules and Regulations (12 CFR, Chapter VII, Part 741).

(b) Definitions.

(1) A record-keeping deficiency is serious if the commissioner reasonably believes that the board of directors and management of the credit union have not timely met financial reporting objectives and established practices and procedures sufficient to safeguard members' assets.

(2) A serious recordkeeping deficiency is persistent when it continues beyond a usual, expected or reasonable period of time.

(c) Verification obligation. The board of directors shall, at least once every two years, cause the share, deposit, and loan accounts to be verified against the records of the credit union as prescribed in §741.202(b) of the National Credit Union Administration's Rules and Regulations (12 CFR, Chapter VII, Part 741).

(d) Remedies. The commissioner may compel a credit union to obtain an audit and/or a verification of members' accounts, performed by an independent person, for any year in which any one of the following conditions is present:

(1) the credit union has not obtained an annual audit or caused an audit/verification to be performed;

(2) the credit union has obtained an audit/verification or performed an audit/verification which does not meet the specified requirements; or

(3) the credit union has experienced serious and persistent recordkeeping deficiencies.

(e) Opinion audit required. The commissioner may compel a credit union to obtain an opinion audit performed in accordance with Generally Accepted Auditing Standards by an independent person who is licensed by the state for any year in which the credit union has experienced persistent serious recordkeeping deficiencies. The objective of such an audit is to obtain an unqualified opinion on the credit union's financial statements.

## **MANDATORY RULE REVIEW**

**C. (b) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Take Action on the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter F Concerning Accounts and Services.**

**BACKGROUND:** Section 2001.39, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 8, 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff reviewed 7 TAC, Part 6, Chapter 91, Subchapter F and is recommending that no changes be made.

Notice of review and a request for comments on these rules were published in the November 23, 2018 issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rules continue to exist.

**RECOMMENDED ACTION:** The Department recommends that the Commission adopt the rule review of Chapter 91, Subchapter F as the reasons for these rules continue to exist.

**RECOMMENDED MOTION:** I move that the Commission find that the reasons for adopting Chapter 91, Subchapter F continues to exist and that the Commission re-propose and readopt these rules.

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter F (relating to Accounts and Services), of the Texas Administrative Code, Title 7, Part 6, consisting of §§91.601, 91.602, 91.608, and 91.610. The Commission proposes to readopt these rules.

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

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter F, was published in the *Texas Register* as required on November 23, 2018 (43 TexReg 7685). The Department received no comments on the notice of intention to review.

As a result of the internal review by the Department, the Commission has determined that no revisions are appropriate and necessary. The Commission finds that the reasons for initially adopting these rules continue to exist, and readopts Chapter 91, Subchapter F, in accordance with the requirements of Texas Government Code, Section 2001.039. This concludes the review of 7 TAC, Part 6, Chapter 91, Subchapter F.

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

## **Subchapter F. Accounts and Services**

### **§91.601. Share and Deposit Accounts.**

- (a) **Accounts.** A credit union may offer any type of share or deposit accounts and prescribe the terms and conditions relating to the accounts as established by written policies approved by the board of directors.
- (b) **Policies and procedures.** Each credit union, before accepting any funds for any share or deposit accounts, shall adopt, implement and maintain appropriate policies and procedures which address, at a minimum, asset liability management and adequate liquidity levels.
- (c) **Limitation on deposit accounts.** Acceptance of funds from a depositor authorized by the Act that is not within the credit union's field of membership is subject to the limitations prescribed by §123.201(b) of the Act. This restriction does not apply to a credit union accepting for deposit the money of:
  - (1) the United States or any agent or instrumentality of the United States;
  - (2) this or another state; or
  - (3) a political subdivision of this or another state.
- (d) **Nonmember deposit.** The written documentation evidencing a deposit under subsection (c) of this section shall clearly and conspicuously disclose that the funds are not insured. This section does not apply to insured deposits from other credit unions or deposits received by a credit union with a low-income designation.

### **§91.602. Solicitation and Acceptance of Brokered Deposits.**

- (a) **Definitions.**
  - (1) **Brokered deposit** means any deposit that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.
  - (2) **Deposit broker** means a person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with financial institutions; or the business of placing funds with financial institutions for the purpose of selling interests in the deposit to third parties.
- (b) **Limitation.** A credit union that has a net worth ratio of less than six percent as defined in §91.901 of this title (relating to Reserve Requirements) or is not deemed adequately capitalized by its insuring organization may not accept, renew or roll over any brokered deposit unless it has been granted a waiver by the commissioner.
- (c) **Risk management and due diligence.** Credit unions utilizing brokered deposits shall ensure that proper risk management practices are in place, including appropriate written asset/liability management policies, business strategies, concentration limits, monitoring procedures, and contingency funding plans. In addition, credit unions must implement adequate due diligence procedures before entering into a business relationship with a deposit broker.

### **§91.608. Confidentiality of Member Records.**

- (a) **Confidentiality of members' accounts.** No credit union officer, director, committee member or employee may disclose to any person, other than the member, or to any company or governmental body the individual savings, shares, or loan records of any credit union member, contained in any

document or system, by any means unless specifically authorized to do so in writing by such members, except as follows:

(1) reporting credit experience to a bona fide credit reporting agency, another credit union, or any other bona fide credit-granting business and/or merchants information exchange, provided that applicable state and federal laws and regulations pertaining to credit collection and reporting are followed;

(2) furnishing information in response to a valid request from a duly constituted government agency or taxing authority, or any subdivision thereof, including law enforcement agencies;

(3) furnishing information, orally or in written form, in response to the order of a court of competent jurisdiction or pursuant to other processes of discovery duly issuing from a court of competent jurisdiction;

(4) furnishing reports of loan balances to co-borrowers, co-makers, and guarantors of loans of a member and of share or deposit account balances, signature card information, and related transactions to joint account holders;

(5) furnishing information to and receiving information from check and draft reporting, clearing, cashing and authorization services relative to past history of a member's draft and checking accounts at the credit union; or

(6) as otherwise authorized by law, including access by examiners of the Department.

(b) Non-disclosure statement. Nothing in this rule shall prohibit the credit union from releasing the name and address of members to assist the credit union in its marketing efforts or sale of third party products, provided, however, that the credit union obtains a written non-disclosure statement providing assurances that the information will be used exclusively for the benefit of the credit union and no other.

(c) Privacy policy. Each credit union shall develop, implement and maintain a written policy on the protection of nonpublic personal information of individual members in its possession. This policy shall be consistent with the disclosure and reporting requirements applicable to federally insured credit unions as addressed in Part 716 of NCUA Rules and Regulations.

(d) Relation to federal laws. This section shall not be construed as altering or affecting any applicable federal statute, regulation, or interpretation that affords a member greater protection than provided under this section.

#### **§91.610. Safe Deposit Box Facilities.**

(a) Purpose. Finance Code §59.110 requires credit unions to imprint keys issued to safe deposit boxes with the institution's routing number. In addition, it requires a report to the Department of Public Safety if the routing number is altered or defaced so that the correct routing number is illegible. The purpose of this section is to clarify the requirements of the noted section of the Finance Code.

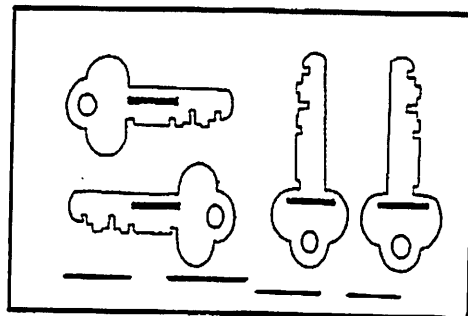
(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Credit union — This term includes all state or federal credit unions that have been assigned a routing number unique to that institution.

(2) Routing number — The number printed on the face of a share draft or check in fractional form or in nine-digit form that identifies a paying financial institution.

(c) Imprinting requirements. A credit union which has been issued a routing number shall imprint that routing number on safe deposit box keys on either the head of the key or the shank of the key if there is adequate room. The typical locations to be used are indicated in the following instructions and diagram. The imprint can be made anywhere on the key that has the required space available.

When positioning the die on the key, be careful to place the die on the key where it will imprint on a flat surface and not in the area of the key cuts or on any of the shank ridges or grooves. Imprinting in these areas may interfere with the proper working of the key in the lock and may cause damage. In the event these standard areas for the location of the imprint are unavailable, either because of grooves on the key shank or the fact that the head of the key already has names and other numbers imprinted on it, then the credit union may attach to the key a tag imprinted with the routing number. The tag used must be of such a nature as to be secure. Thus, a paper or cardboard tag or a tag affixed with string will not be acceptable. However, any other medium such as plastic or metal which can retain an imprint of a number shall be acceptable. The tag may be attached in any way to assure its affixation to the key. Typically, this will mean inserting the tag or a device to affix the tag through the hole in the head of the key normally used for placing keys on key chains. The tag method shall not be used if there is adequate room on the key itself for imprinting the numbers. There are four standard areas for the location of the imprinted routing number. These include: the head of the key, the shank of the key, and either place on the reverse side of the key. The standard imprint areas are shown as follows.



(d) Branch designation. A credit union may, but is not required to, add a three-digit branch designation to its routing number. Thus, the main credit union facility should receive the designation "001" and branch facilities should receive numbers consecutively beginning with "002" with successive numbers as needed. However, the credit union may control the branch numbering system used provided that the credit union maintains a master list of branch designations used for this purpose. The master list should be maintained at the main office of the credit union and shall include the three-digit branch designation and address of facility. The credit union then may imprint safe deposit box keys or tags with the routing number plus three-digit branch designation for full identification of the facility.

(e) Report of defaced or altered key. Within 10 days after an officer or employee of a credit union observes that a key used to access a safe deposit box has had the routing number altered or defaced or the tag removed, a report shall be prepared of such incident. The report shall be on a form promulgated by the Credit Union Department in the form of the attached **Exhibit A**. The report should be submitted to the Department of Public Safety, Attention: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001. The report should be mailed no later than ten days after the incident. The credit union should retain one copy of the incident report for a period of three years. Nothing in this rule nor in the Finance Code §59.110 shall require a credit union to inspect routing numbers imprinted on a key or an attached tag to determine if the number has been altered or defaced.

(f) Effective date; applicability to existing keys. A credit union must imprint all safe deposit box keys on or after September 1, 1992. Additionally, the imprinting requirement applies to all keys issued prior to September 1, 1992. However, keys for boxes rented prior to September 1, 1992, need



not be imprinted with the routing number unless and until a member presents a safe deposit box key at a credit union for access to a box. Nothing in this rule or the Finance Code §59.110 shall be construed to require a credit union to provide notice to its safe deposit box users or to otherwise require such members to present their keys for imprinting. However, on the first date after September 1, 1992, that a member presents a key which has not been imprinted, the credit union shall imprint the key with the routing numbers as required by Finance Code §59.110.

(g) Effect of change in routing number. In the event a credit union's routing number is changed as a result of a merger, acquisition, or other change, safe deposit box keys need not be replaced with a new routing number provided that the credit union maintains a master list of the routing numbers used to imprint keys.

**REPORT OF DEFACED OR ALTERED ROUTING NUMBER  
ON SAFE DEPOSIT BOX KEY**

INSTRUCTIONS: Complete the information below and submit the original report to Department of Public Safety, Attn: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001, no later than 10 days after the defaced or altered key is used to access the box. Retain one copy for your files for a period of three years.

**CREDIT UNION INFORMATION**

Name of credit union \_\_\_\_\_

Address of safe deposit box facility \_\_\_\_\_

\_\_\_\_\_

Name and title of contact person at facility \_\_\_\_\_

\_\_\_\_\_

Area code and phone number of facility \_\_\_\_\_

Routing number and branch designation (if any) \_\_\_\_\_

**INCIDENT INFORMATION**

Member name \_\_\_\_\_

Date member presented defaced or altered key \_\_\_\_\_

Description of problem with key \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of reports: \_\_\_\_\_

**Exhibit A**

\_\_\_\_\_

**DEPARTMENT'S FY 2019 FINANCIAL PERFORMANCE**

**C. (c) Discussion and Consideration of the Department's FY 2019 Financial Performance.**

**BACKGROUND:** In March 2018, the Commission adopted a Strategic Plan for Fiscal Years 2019-2023. The \$4.1 million FY 2019 Budget, approved by the Commission in July 2018 includes the maintenance and operation budget and capital improvement budget in support of the second year of the Strategic Plan.

The following report highlights the Department's financial results for the period ended January 31, 2019.

The financial report is unaudited and is prepared on a cash basis of accounting. In most cases, expenditures are expensed 30 days after the invoice due date.

**RECOMMENDED ACTION:** No action is anticipated.

Credit Union Department  
BY 2019 Budget Analysis  
For the Period Ended 11/30/18

	BY 2019 Budget	BY 2019 YTD Budgeted	BY 2019 YTD Actual	Over (Under) Budget	Percent of YTD Budget
<b>REVENUES:</b>					
Operating Income					
Operating Fees	\$4,201,909	\$2,247,362	\$2,247,358	(\$4)	100%
Out-of-State Branch Fees	\$9,000	\$9,000	\$9,000	\$0	100%
Examination Fees			\$0	\$0	
Application Fees			\$0	\$0	
Penalties		\$0	\$1,387	\$1,387	
Other			\$0	\$0	
<b>Operating Income Subtotal</b>	<b>\$4,210,909</b>	<b>\$2,256,362</b>	<b>\$2,257,745</b>	<b>\$1,383</b>	<b>100%</b>
Interest Income (Trust Acct #2972)			\$7,514	\$7,514	
Refunds					
<b>TOTAL REVENUES</b>	<b>\$4,210,909</b>	<b>\$2,256,362</b>	<b>\$2,265,259</b>	<b>\$8,897</b>	<b>100%</b>
Encumbrance from BY 18	\$50,000	\$50,000	\$50,000	\$0	100%
Excess from Reserve Account			\$139,425	\$139,425	
<b>TOTAL FUNDS AVAILABLE TO COVER EXPENDITURES</b>	<b>\$4,260,909</b>	<b>\$2,306,362</b>	<b>\$2,454,684</b>	<b>\$148,322</b>	<b>106%</b>

<b>EXPENDITURES:</b>					
<b>Personnel Expenses:</b>					
Salaries and Wages	\$2,621,239	\$627,483	\$593,816	\$33,667	95%
Employee Benefits	\$821,630	\$202,670	\$176,591	\$26,079	87%
<b>Total Personnel Expenses</b>	<b>\$3,442,869</b>	<b>\$830,153</b>	<b>\$770,407</b>	<b>\$59,746</b>	<b>93%</b>
<b>Travel Expenses:</b>					
In State					100%
Examinations			\$86,463		
Training/Conferences			\$668		
Meetings			\$5,225		
Public Forums			\$0		
Other			\$129		
Total In-State	\$425,847	\$109,463	\$92,485	\$16,978	84%
Out-of-State	\$10,000	\$3,330	\$718	\$2,612	22%
Commission	\$11,000	\$3,142	\$4,593	(\$1,451)	146%
<b>Total Travel Expenses</b>	<b>\$446,847</b>	<b>\$115,935</b>	<b>\$97,796</b>	<b>\$18,139</b>	<b>84%</b>
<b>Other Operating Expenses:</b>					
Communication/Utilities	\$51,028	\$8,506	\$9,063	(\$557)	107%
Professional Services/Fees	\$176,840	\$39,942	\$12,454	\$27,488	31%
Supplies/Materials	\$36,370	\$4,076	\$3,484	\$592	85%
Printing and Reproduction	\$2,855	\$714	\$1,260	(\$546)	176%
Repairs/Maintenance	\$2,800	\$702	\$637	\$65	91%
Rentals and Leases	\$7,250	\$3,124	\$2,722	\$402	87%
Other Operating	\$94,050	\$20,636	\$12,313	\$8,323	60%
<b>Total Other Operating Expenses</b>	<b>\$371,193</b>	<b>\$77,700</b>	<b>\$41,933</b>	<b>\$35,767</b>	<b>54%</b>
<b>TOTAL EXPENDITURES</b>	<b>\$4,260,909</b>	<b>\$1,023,788</b>	<b>\$910,136</b>	<b>\$113,652</b>	<b>89%</b>
<b>REMAINING FUNDS TO COVER EXPENDITURES</b>			<b>\$1,396,226</b>		

## **FINANCIAL CONDITION**

### **C. (d) Discussion of the Financial Condition of the State Credit Union System.**

**BACKGROUND:** The operating environment for Texas credit unions continues to be positive and the Texas economy remains sound. The economic outlook for most areas in Texas is favorable, with continued economic growth and low unemployment anticipated. During 2018, the Texas economy prospered, and Texas added more than 391,800 nonfarm jobs, up from 278,000 in 2017. Job gains pulled the Texas unemployment rate down to a historic low of 3.7 percent for 2018, down from the 2017 level of 4.4 percent. The current unemployment rate has held steady since October 2018 and is at the lowest level since state unemployment tracking was initiated by the Texas Workforce Commission in 1976. In addition, the unemployment rate for three of the four major metropolitan areas in Texas remain below the national average of 3.9 percent, with the city of Austin experiencing the lowest level at 2.7 percent.

Overall, Texas credit unions are performing well and continue to realize positive loan growth, good asset quality trends, high earnings performance and strengthening net worth positions. Trends throughout 2018 indicate continued improvement in credit unions' bottom lines, driven primarily by increased gross income levels from higher investment yields, as well as reduced provisions for loan and lease losses. Texas state-chartered credit unions recognized an average Return on Average Assets of 0.88 percent for 2018, surpassing any previous year-end level during the last five years. In addition, the average net worth ratio for a Texas chartered credit union rose rapidly in 2018, increasing by 54 basis points, from 10.30 percent to 10.84 percent. The rapid increase in net worth ratios realized during 2018 exceeded the combined increase in net worth ratios (29 basis points) for credit unions over the four-year period ending 2017. Regardless of the strong financial performance recognized by credit unions during 2018, the costs associated with advancing technology, and achieving and maintaining regulatory compliance will continue to create operational challenges. Thus, improving operational efficiency and diversifying revenue streams remain critical to the long-term viability of the industry.

**INDUSTRY STATUS:** At **December 31, 2018**, there were 183 state-chartered credit unions in Texas. Assets in these credit unions totaled **\$41.91 billion**, which is an increase of **\$1.38 billion** since **December 30,**



2017, for a growth rate of 3.4%. The average net worth ratio rose to 10.84%, up considerably from the December 31, 2017 level of 10.30%.

Loans for Texas chartered credit unions totaled \$31.61 billion as of December 31, 2018. This is an increase of \$1.92 billion since December 31, 2017 for a growth rate of 6.5%.

Shares for Texas chartered credit unions totaled \$35.67 billion as of December 31, 2018. This is an increase of \$0.79 billion, or 2.3% since December 31, 2017.

Texas chartered credit unions average loan delinquency ratio was 0.75% as of December 31, 2018, compared to a ratio of 0.89% as of December 31, 2017.

At December 31, 2018, 18 state-chartered credit unions reported year to date net operating losses, compared to 165 at December 31, 2017. In the aggregate, Texas credit unions reported net earnings for 2018 of \$364.37 million.

**PROBLEM INSTITUTIONS:** As of December 31, 2018, there were 23 credit unions assigned a CAMEL rating of 3 or higher, compared to 25 credit unions at December 31, 2017. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

**ENFORCEMENT ISSUES:** As of December 31, 2018, the Department had the following administrative sanctions outstanding:

Dividend Restrictions	0
LUAs	0
Determination Letters	3
Conservatorships	0
Cease and Desist	0

**Chartering Activity**

New Charter	0
-------------	---

**RECOMMENDED ACTION:** No formal action is anticipated.

D

## **NEW MATTERS**

Five (5) new items are being presented to the Commission for its consideration and possible action. Specifically, the Commission will have:

- a. Discussion, Consideration, and Possible Vote to Approve and Authorize the Submission of the Department's Annual Risk Assessment Report for FY 2019 as Required by Section 2102.004, Government Code.
- b. Discussion, Consideration, and Possible Vote to Approve the Commission's Policies Manual as Part of its Annual Policy Review.
- c. Discussion, Consideration and Possible Vote to Approve the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2020 Budget.
- d. Discussion, Consideration and Possible Vote to Approve Resolution Commemorating A New Direction Credit Union (formerly Texas Health Resources Credit Union) on the Respective Milestone Anniversary Date of its Origin.
- e. Discussion, Consideration of Legislative Issues and Activities Relating to the 86<sup>th</sup> Regular Session that may Impact the Department or Credit Unions under its Jurisdiction.



## **INTERNAL RISK ASSESSMENT REPORT**

**D. (a) Discussion, Consideration, and Possible Vote to Approve and Authorize the Submission of the Department's Annual Risk Assessment Report for FY 2019 as Required by Section 2102.004, Government Code.**

**BACKGROUND:** Section 2102.013 of the Texas Government Code requires state agencies which meet certain requirements to conduct a formal risk assessment each year and submit the assessment to the State Auditor's Office. The Department has completed the internal risk review and has prepared the required written assessment of the risks for submission to the State Auditor's Office.

**RECOMMENDED ACTION:** The Department requests that the Commission approve the 2019 Internal Risk Assessment Report and authorize its submission to the State Auditor's Office.

**RECOMMENDED MOTION:** I move that the Commission approve the Department's Internal Risk Assessment Report for 2019 and authorize its submission to the State Auditor's Office.

Small Agency Risk Assessment - Fiscal Year 2019  
Audit History - Credit Union Department

Fiscal Year Conducted	Type of Audit/Review	Audited/Reviewed Activity	Entity Conducting Audit/Review
2018	Post Payment Audit	Payroll, Purchasing, Procurement and Travel Expenditures compliance with state laws and regulations	Comptroller of Public Accounts
2019	Risk Management Program Review	<ul style="list-style-type: none"><li>• The SORM-200 data for FY18 was reviewed for completeness and accuracy.</li><li>• The agency's Annual Report, COOP Plan, Emergency Procedures Manual, Safety &amp; Health Manual, and Personnel Manual were reviewed.</li><li>• The Risk Evaluation and Planning System Questions (REPS) were reviewed.</li><li>• SORM reviewed and discussed the following workers' compensation insurance data and claims with CUD during the consultation.</li><li>• SORM conducted an On-Site Consultation (OSC) of CUD, performing a walkthrough of the agency.</li></ul>	State Office of Risk Management

**Small Agency Risk Assessment - Fiscal Year 2019**  
**Activities from Brainstorming - Credit Union Department**

1	perform regular and remedial credit union examinations	13	purchasing (equipment, supplies, services)	25	approve/ deny applications	37	maintain security of office building	49	
2	monitor credit unions	14	report to state agencies	26	pay bills	38	work with federal regulator(s)	50	
3	answer questions from credit unions and public	15	prepare, edit and issue examination reports	27	maintain financial records	39	work with state regulating agencies	51	
4	hire employees	16	manage office paperwork	28	prepare/submit financial reports to applicable parties	40	prepare for new programs	52	
5	maintain employee policies & records	17	comply with state/ federal regulations	29	maintain the agency's server, desktop/laptop computer security	41	maintain NASCUS accreditation	53	
6	manage employees	18	respond to credit union member complaints (of credit union and agency)	30	cybersecurity-raising awareness and educating users	42	maintain building and its infrastructure	54	
7	manage/monitor examiner travel	19	manage computer system, including hardware and software	31	maintain agency website	43	maintain all agency's asset inventory	55	
8	manage examination schedule	20	issue interpretations and opinions	32	Meet the IT requirements of the agency and all stakeholders	44	maintain agency's consumable supply inventory	56	
9	meet with industry representatives	21	review, revise rules	33	Inventory and maintain database of IT infrastructure and IT assets	45	Maintain Risk Management program	57	
10	hold Commission & committee meetings	22	publishing rules	34	maintain agency procedures and policies	46		58	
11	hold public hearings	23	provide new rules to credit unions	35	report to Legislature	47		59	
12	report to Commission	24	receive, review, & publish applications	36	draft legislation	48		60	

**Small Agency Risk Assessment - Fiscal Year 2019**  
**Consolidated Activities - Credit Union Department**

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

**Small Agency Risk Assessment - Fiscal Year 2019**  
**Risk Assessment Table - Pre-Controls - Credit Union Department**

[illegible]

**Small Agency Risk Assessment - Fiscal Year 2019**  
**Risk Management Table - Credit Union Department**  
**Consolidated Activity**

<div> <div>RISKS →</div> <div>CONTROL STEPS ↓</div> </div>	Inconsistent enforcement	Employee turnover/ inexperienced staff/morale issues	Inconsistent exam procedures/ exam integrity	Loss of Agency Credibility	Lack of adequate training for staff	Failure of CUs	Failure to meet deadlines	Loss of CUs as low cost financial institutions	
Standardized exam software program	x		x	x	x	x	x		
Review of all exam reports by Department (random sample reviewed by Field Supervisors)	x		x	x	x	x	x	x	
NASCUS accreditation & annual review	x		x	x	x	x		x	
Joint oversight with deposit insurer	x		x	x	x	x		x	
Training program (including OTJ training and specialized courses)	x	x	x	x	x	x	x	x	
Regular employee performance evaluations	x	x	x	x	x		x		
Quarterly monitoring of CU financial data by both field and office staff	x	x	x	x	x	x		x	
Periodic rule review by Commission	x		x	x		x		x	
Career ladder/merit raises		x		x					
Experienced management oversight	x	x	x	x	x	x	x	x	
Examiner's Guide	x		x	x	x	x		x	
Performance measures	x			x	x		x		
Management information systems	x		x	x	x	x	x		
Technology tools for field examiners	x	x	x	x	x	x	x	x	

### Risk Assessment Table - Post-Controls - Credit Union Department

51

**Small Agency Risk Assessment - Fiscal Year 2019**  
**Significant Changes in**  
**Risk Assessment - Credit**

<b>NEW Activities, Risks, and/or Controls from Prior Year Submission</b>  <b>List by Consolidated Activity</b>	Conducted an ergonomic asesment for staff and implemented changes that will mitigate fatigue due to long seating periods.
	Posted emergency egress routes in every room and common area.
	Fire alarm system was inspected and tested. Replaced batteries in system.
<b>REVISIONS or DELETIONS in Activities, Risks, and/or Controls from Prior Year Submission</b>  <b>List by Consolidated Activity</b>	



**Small Agency Risk Assessment - Fiscal Year 2019**  
**Audit History - Credit Union Department**

Fiscal Year Conducted	Type of Audit/Review	Audited/Reviewed Activity	Entity Conducting Audit/Review
2018	Post Payment Audit	Payroll, Purchasing, Procurement and Travel Expenditures compliance with state laws and regulations	Comptroller of Public Accounts
2019	Risk Management Program Review	<ul style="list-style-type: none"> <li>• The SORM-200 data for FY18 was reviewed for completeness and accuracy.</li> <li>• The agency's Annual Report, COOP Plan, Emergency Procedures Manual, Safety &amp; Health Manual, and Personnel Manual were reviewed.</li> <li>• The Risk Evaluation and Planning System Questions (REPS) were reviewed.</li> <li>• SORM reviewed and discussed the following workers' compensation insurance data and claims with CUD during the consultation.</li> <li>• SORM conducted an On-Site Consultation (OSC) of CUD, performing a walkthrough of the agency.</li> </ul>	State Office of Risk Management

## **POLICIES MANUAL**

**D. (b) Discussion, Consideration, and Possible Vote to Take Action to Amend the Commission's Policies Manual, as Part of its Annual Policy Review.**

**BACKGROUND:** In accordance with policy, the Commission is required to review its policies manual at least once each year. At this time, staff has no recommendation for changes to any of the policies contained in the Manual.

**RECOMMENDED MOTION:** Unless the Commission members have suggested modifications to the policies, the record will reflect that the Commission has reviewed the manual and no modifications are necessary at this time.

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

**D. (c) Discussion, Consideration, and Possible Vote to Take Action on the General Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2020 Budget.**

**BACKGROUND:** Finance Code Section 16.003 gives the Commission the exclusive responsibility for approving the Department's budget each year. Since the budget must be adopted at the July meeting, staff is seeking approval of guidelines for developing the FY 2020 budget to present at the July meeting.

**RECOMMENDED ACTION:** The Department recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2020 budget.

**RECOMMENDED MOTION:** I move that the Commission adopt the proposed budget assumptions and parameters for FY 2020 as recommended by staff.

---

## BUDGET ASSUMPTIONS FOR BUDGET YEAR 2020

---

The following broad assumptions will establish the foundation for the development of the Department's Budget Year (BY) 2020 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 2019 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) 2019 for which the requested services performed until after the start of FY 2020 are considered obligated funds. The budget authority for these obligated funds will automatically be carried over to BY 2020 and the BY 2020 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 2019-2023 strategic plan, the budget will provide appropriate funding to implement the delineated initiatives for FY 2020.
5. **Salary and Benefits** – The expenditures for FY 2020 will be based on authorized and existing positions as of August 31, 2019 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 3.5% 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. **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.
12. **Electronic Document Management System (EDMS)** – The budget shall provide for the costs associated with the further development and maintenance of our EDMS.
13. **Information Technology** – The budget shall provide sufficient funding for computer network upgrades and computer equipment replacement in accordance with the Information Resources Strategic Plan.
14. **Improvements** – The budget shall provide sufficient funding for scheduled maintenance and repairs in accordance with the Replacement/Capital Improvement Plan.
15. **NASCUS Dues** – The budget shall provide sufficient funding to accommodate the projected increase in the professional association's dues.
16. **Accreditation Fees** – The budget shall provide sufficient funding to accommodate the fees associated with the Department's continued NASCUS accreditation.
17. **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.
18. **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 budget shall provide funding for the first 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.

**RESOLUTION COMMEMORATING**  
**CREDIT UNION**

**D. (d) Discussion, Consideration, and Possible Vote to Adopt Resolutions Commemorating A New Direction Credit Union (formerly Texas Health Resources Credit Union) for their Contribution to the Citizens of Texas on the Respective Milestone Anniversary Date of its Origin.**

**BACKGROUND:** In accordance with Section VII. D of the Commission's Policies Manual, the Commission may adopt resolutions honoring credit unions for reaching certain milestones dates.

**RECOMMENDED MOTION:** I move that we adopt the Resolution Commemorating **A New Direction Credit Union** (formerly Texas Health Resources Credit Union) for their Contribution to the Citizens of Texas on the Respective Milestone Anniversary of its Origin and that a copy of the appropriate resolution be mailed to the credit union.

# **CONGRATULATORY RESOLUTION**

**Whereas, A New Direction Credit Union, Dallas, Texas, was issued Charter #678 and opened for business on November 7, 1968, under the name of Presbyterian Hospital Credit Union; and**

**Whereas, A New Direction Credit Union, has built a solid reputation inspired by a spirit of volunteerism among its directors and by its dedication to meeting the financial needs of its members; and**

**Whereas, A New Direction Credit Union holds total assets in excess of \$16 million as of December 31, 2018, reflecting strong performance and capable management; now therefore,**

**Be it Resolved, that the Credit Union Commission congratulates A New Direction Credit Union of Texas on its 50 years of service and extends appreciation to its directors, officers, and employees for their contributions to the citizens of Texas; and**

**Further Resolved, that a copy of this Resolution be entered in the minutes of the Commission with the original to be conveyed to the Credit Union.**

**READ, ADOPTED, AND APPROVED** unanimously by the Credit Union Commission, State of Texas, this 8th day of March, 2019.

---

**Allyson "Missy" Morrow, Chairman**



## **LEGISLATIVE ISSUES**

### **D. (e) Discussion and Consideration of Legislative Issues and Activities Relating to the 86<sup>th</sup> Regular Session that may Impact the Department or Credit Unions under its Jurisdiction.**

**BACKGROUND:** The 86<sup>th</sup> session is well under way at the time of this writing. Attached is a review of potentially impactful legislation, but most seem to only modestly impact the industry or the Department. I will continue to track the progress of legislation as the session progresses.

I have been working with the Credit Union Coalition and the Cornerstone Credit Union League to help ensure I do not miss any legislation due to my newness to the Texas systems.

I have introduced myself to Speaker of the House Bonnen's office; the House Pension, Investment and Financial Services Committee (PIFS) and Senate Committee on Business and Commerce Clerks.

PIFS will meet on February 14, with planned testimony from the Cornerstone Credit Union League and the Credit Union Coalition. I will testify for the Department to PIFS on February 21 and will present to Cornerstone's Texas Government Affairs Conference on that same day.

### **Dates of Interest**

**Friday, March 8, 2019** – Deadline for filing bills.

**Monday, May 27, 2019** – Last day of 86th Regular Session.

**Sunday, June 16, 2019** – Last day Governor can sign, or veto bills passed during the 86th Regular Session.

**Monday, August 26, 2019** – Date that bills without specific effective dates become law.

**RECOMMENDED ACTION:** No formal action is required at this time.



## Credit Union Department Bill Status Report

02-13-2019 - 10:35:31

Ⓐ - Action in the date range    ⓘ - Link to Related Information    ( ) - Priority

### Credit Union Department

Ⓐ HB 90      Ortega, Lina(D)      Relating to residential mortgage loans, including the financing of residential real estate purchases by means of a wrap mortgage loan.

**Companions:** SB 42      Zaffirini, Judith      (Identical)  
2- 1-19 S Introduced and referred to committee on Senate Business and Commerce

**Track Name(s):** Legislation Impacting CUs (Neutral)

**Bill History:** 02-12-19 H Introduced and referred to committee on House Pensions/Investments/Financial Services

Ⓐ HB 242      Bernal, Diego(D)      Relating to credit services organizations and extensions of consumer credit facilitated by credit services organizations.

**Companions:** HB 1134      Craddick, Tom      (Refiled from 85R Session)  
HB 1258      Craddick, Tom      (Identical)  
1-31-19 H Filed

**Track Name(s):** Legislation Impacting CUs

**Bill History:** 11-12-18 H Filed

Ⓐ HB 592      Hernandez, Ana(D)      Relating to authorizing a credit union to act as a school district depository.

**Companions:** SB 398      Zaffirini, Judith      (Identical)  
1-22-19 S Filed

**Track Name(s):** Legislation Impacting CUs (Support)

**Bill History:** 12-27-18 H Filed

Ⓐ HB 869      Hefner, Cole(R)      Relating to the prosecution of organized criminal activity involving the interception, use, or disclosure of certain communications.

**Companions:** SB 315      Hughes, Bryan      (Identical)

2- 7-19 S Introduced and referred to  
committee on Senate Criminal Justice

**Track Name(s):** Legislation Impacting CUs

**Bill History:** 01-16-19 H Filed

**A** HB 904 Minjarez, Ina(D) Relating to requiring The University of Texas at San Antonio to conduct a study regarding cyber attacks against financial institutions in this state.

**Track Name(s):** Legislation Affecting State Ag

**Bill History:** 01-17-19 H Filed

**A** HB 996 Collier, Nicole(D) Relating to the collection of consumer debt by debt buyers.

**Track Name(s):** Finance Code Changes

**Bill History:** 01-23-19 H Filed

**A** SB 42 Zaffirini, Judith(D) Relating to residential mortgage loans, including the financing of residential real estate purchases by means of a wrap mortgage loan.

**Companions:** HB 90 Ortega, Lina (Identical)  
2-12-19 H Introduced and referred to  
committee on House  
Pensions/Investments/Financial Services

**Track Name(s):** Legislation Impacting CUs (Neutral)

**Bill History:** 02-01-19 S Introduced and referred to committee on  
Senate Business and Commerce

**A** SB 68 Nelson, Jane(R) Relating to strategic fiscal reviews of state agencies and programs.

**Track Name(s):** Legislation Affecting State Ag

**Bill History:** 02-01-19 S Introduced and referred to committee on  
Senate Finance

**A** SB 122 West, Royce(D) Relating to the procedure by which a state agency considers legislative intent when adopting an agency rule.

**Track Name(s):** Legislation Affecting State Ag

**Bill History:** 02-01-19 S Introduced and referred to committee on  
Senate Business and Commerce

**A** SB 646 Birdwell, Brian(R) Relating to approval for purchases of property or construction projects by a state agency with self-directed semi-independent status.

**Track Name(s):** Legislation Affecting State Ag (Neutral)

**Bill History:** 02-05-19 S Filed

**Total Bills:** 10

Copyright © 2019. Texas Legislative Service. All Rights Reserved.

***CREDIT UNION DEPARTMENT***

***INDUSTRY STATUS***

***AND***

***DEPARTMENTAL OPERATION***

## **Affirmative Actioned/EEO Quarterly Report**

1st Quarter - FISCAL YEAR 2019

11/30/2018

During this fiscal year, the department is authorized to have 29.5 employees.

Q4	White		Black		Hispanic		Asian		
<u>Last Quarter</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>
Current Employees	11	3	2	4	1	5	3	0	29
Resignations (retirees)	0	1	0	1	0	0	0	0	2
New Hires	0	0	0	0	0	1	0	0	1
Grand Total of Employees	11	2	2	3	1	6	3	0	28
Q1									
<u>Current Quarter</u>									
Current Employees	11	2	2	3	1	6	3	0	28
Resignations (retirees)	1	1	0	0	0	0	0	0	2
New Hires	1	0	0	0	0	0	0	0	1
Grand Total of Employees	11	1	2	3	1	6	3	0	27

Percent Male 62.96%

Percent Female 37.04%

### **Salary Breakdown**

	Q4		Q1	
	<u>Last Quarter</u>		<u>Current Quarter</u>	
	<u>Average Salaries</u>	<u>Average Tenure</u>	<u>Average Salaries</u>	<u>Average Tenure (months)</u>
White	\$ 94,552.30	165.51	\$ 100,627.66	155.35
Male	\$ 100,977.45	185.67	\$ 104,445.45	163.77
Female	\$ 59,214.00	54.64	\$ 58,632.00	62.69
Black	\$ 70,104.81	73.97	\$ 72,931.20	76.96
Male	\$ 66,106.02	38.37	\$ 68,472.00	41.36
Female	\$ 72,770.67	97.71	\$ 75,904.00	100.70
Hispanic	\$ 69,316.57	80.07	\$ 71,038.86	83.06
Male	\$ 103,512.00	18.63	\$ 103,512.00	21.62
Female	\$ 63,617.33	90.31	\$ 65,626.67	93.30
Asian	\$ 72,200.00	94.41	\$ 74,076.00	97.40
Male	\$ 72,200.00	94.41	\$ 74,076.00	97.40
Female	\$ -	0.00	\$ -	0.00
Total Average	\$ 81,482.86	120.19	\$ 84,877.33	115.65

### **Examiner Experience**

	Q4		Q1	
	<u>Last Quarter</u>		<u>Current Quarter</u>	
	<u># of Employees</u>	<u>Average Salary</u>	<u># of Employees</u>	<u>Average Salary</u>
Less Than 1 Year	0	\$ -	0	\$ -
1-2 Years	2	\$ 59,178.00	1	\$ 62,052.00
2-5 Years	10	\$ 62,774.40	10	\$ 64,176.00
5-10 Years	0	\$ -	0	\$ -
Over 10 Years	6	\$ 104,770.00	6	\$ 109,450.00
Total	18	\$ 76,373.34	17	\$ 80,030.12

**Quarterly Survey Results**  
**Examinations**  
**September, 2018 thru December, 2018**

Reflects summary responses from 10 surveys received or 15 % of the 67 surveys mailed

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

### Examinations (Continued)

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 19. The examination findings will assist you in enhancing your safety and soundness practices.	6	2	2			
Q 20. The examination was conducted in a fair and objective manner.	9	1				

### Applications

Reflects summary responses from 6 surveys received or 21 % of the 28 surveys mailed

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

### Complaints

Reflects summary responses from 8 surveys received or 6 % of the 141 surveys mailed

Questions	Strongly Agree	Somewhat Agree	Neutral	Somewhat Disagree	Strongly Disagree	No Response
Q 1. It was relatively easy to file a complaint with the Department.	6		1			1
Q 2. Department staff communicated with me in a courteous and professional manner.	4	1		3		
Q 3. I believe Department staff understood the basis of my complaint.	2			2	3	



## Complaints (Continued)

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

# Credit Union Department

## Executive Summary

As of 11/30/18

\*Information from call report cycle

ACTIVITY	YTD 2017	YTD 2018	2019 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MOVEMENT PROFILE							
Number of CUs	186	185	183				
Total Assets (Millions)	*39,356	*41,451	*41,912	*	*	*	
APPLICATIONS (Received)							
Charters	0	0	0				0
Foreign Branches	1	0	0				0
Conversions	1	1	0				0
Mergers	3	5	0				0
Bylaws	65	67	13				13
Articles of Incorporation	2	2	1				1
Total	72	75	14	0	0	0	14
EXAMINATION ACTIVITIES							
Regular	115	74	21				21
Joint	55	77	21				21
Remedial	28	34	8				8
Total	198	185	50	0	0	0	50
ENFORCEMENT ACTIONS (In Force)							
Determination Letters	1	3	3				
LUAs	0	0	0				
Cease & Desist Orders	3	2	1				
Dividend Restrictions	0	0	0				
Conservatorships	0	0	0				
Liquidations	1	1	2				
Total	5	6	6	0	0	0	
PERSONNEL STAFFING							
Field Examiners	19	18	17				
Total Personnel	29	28	27				
FINANCIAL OPERATIONS (In Thousands)							
Budgeted Expenditures	3,935	4,063	1,024	0	0	0	1,024
Actual Expenditures	3,855	3,874	910	0	0	0	910
Gifts and Bequests	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Actual Revenue	3,707	3,991	2,265	0	0	0	2,265

**Credit Union Department**  
**Application Activities - Detail**

ACTIVITY	4th Qtr 2017	4th Qtr 2018	2019 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	
CHARTERS							
Pending at Beginning of Period	0	0	0	0	0	0	
Add: New Applications Filed	0	0	0	0	0	0	
Less: Approved	0	0	0	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	0	0	0	0	
FOREIGN BRANCH OFFICES							
Pending at Beginning of Period	0	0	0	0	0	0	
Add: New Applications Filed	0	0	0	0	0	0	
Less: Approved	0	0	0	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	0	0	0	0	
CONVERSIONS							
Pending at Beginning of Period	1	0	0	0	0	0	
Add: Applications Filed	0	0	0	0	0	0	
Less: Approved	1	0	0	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	0	0	0	0	
MERGERS							
Pending at Beginning of Period	1	3	5	0	0	0	
Add: Applications Filed	1	3	0	0	0	0	
Less: Approved	0	1	2	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	2	5	3	0	0	0	
BYLAWS							
Pending at Beginning of Period	9	7	21	0	0	0	
Add: Applications Filed	16	35	13	0	0	0	
Less: Approved	15	20	20	0	0	0	
Denied/Withdrawn	0	1	3	0	0	0	
Pending at End of Period	10	21	11	0	0	0	
ARTICLES OF INCORPORATION							
Pending at Beginning of Period	0	1	0	0	0	0	
Add: Applications Filed	1	0	1	0	0	0	
Less: Approved	1	1	0	0	0	0	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	1	0	0	0	



Credit Union Department  
Movement Profile - Condition Summary

CAMEL RATING	4th Qtr 2017	4th Qtr 2018	2019 FISCAL YEAR				
			*1st Qtr	*2nd Qtr	*3rd Qtr	*4th Qtr	
1	42	45	47	0	0	0	
2	124	115	111	0	0	0	
3	18	21	21	0	0	0	
4	3	4	4	0	0	0	
5	0	0	0	0	0	0	
<b>Total</b>	187	185	183	0	0	0	

\* Information from exam master list

Texas Credit Union Department  
Enforcement Actions - Detail

TYPE OF ACTION	In Force 8/31/2017	Issued	Activity Terminated	In Force 8/31/2018	Issued	Activity Terminated	In Force 11/30/2018
Determination Letters	1	3	1	3	0	0	3
LUAs	0	0	0	0	0	0	0
Cease & Desist Orders	3	0	2	2	0	1	1
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	0	0	0	0	0	0	0
Liquidations	1	0	0	1	1	0	2
<b>Total</b>	5	3	3	6	1	1	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	22	21	95%	11%	100%
Joint	15	21	140%	11%	100%
Remedial	8	8	100%	4%	100%
<b>Total</b>	45	50	111%	28%	100%

**Credit Union Department**  
**Movement Profile - Consumer Complaints**

CONSUMER COMPLAINTS	YTD 2017	YTD 2018	2019 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
Received	280	351	80	0	0	0	80
Closed	280	338	97	0	0	0	97
Avg. Days to Process	12.5	13.75	0	0	0	0	0
% Resolved in 30 Days	100%	100%	95%				

**Texas Credit Union Department**  
**Consumer Complaint - Detail**

TYPES OF COMPLAINTS	YTD 2017	YTD 2018	2019 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
LOAN ISSUES							
Collections/Loans	13	14	4				4
Procedure Irregularity	8	6					0
Denial	0	0					0
Cross Collateralization	1	2					0
Credit Report Issues	42	57	27				27
Collateral Protection Insurance	5	7	3				3
ACCOUNT ISSUES							
NSF/Overdraft	0	0					0
Electronic Funds Transfer	13	12	1				1
Holds on Checks	3	8	3				3
Posting Order	6	3					0
Fraud/Unauthorized	32	28	4				4
Fees	41	51	12				12
Billing Disputes	10	10	1				1
Other	49	75	14				14
OTHER PRODUCTS/SERVICES							
Account/Loan Balance	23	23	13				13
Account Closed/Frozen	13	8	1				1
Customer Service	16	24	12				12
Deceptive Advertisment	0	2	1				1
Vehicle Title	5	6	1				1
Website Issues	0	2					0
TOTAL	280	338	97	0	0	0	97

Credit Union Department  
Merger/Conversion Finalized

ACTIVITY	YTD 2017	YTD 2018	2019 FISCAL YEAR				
			1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	YTD
MERGERS							
Number:							
State-to-State	1	1	1				1
Federal-to-State	0	2	1				1
State-to-Federal	0	1					0
Total	1	4	2	0	0	0	2
Assets:							
State-to-State	2,945,999	193,161,845	2,863,489				2,863,489
Federal-to-State	-	6,006,873	54,273,045				54273045
State-to-Federal	-	10,871,461					0
Total	2,945,999	210,040,179	57,136,534	0	0	0	57,136,534
CONVERSIONS							
Number:							
Federal-to-State	4	0	0				0
State-to-Federal	0	0	0				0
State-to-Mutual Bank	0	0	0				0
Assets:							0
Federal-to-State	1,639,524,324	-					0
State-to-Federal							0
State-to-Mutual Bank						0	
Total	1,639,524,324	-	0	0	0	0	0

**Credit Union Department**  
**Quarter Assessment of HUB Related Activities**  
November 30, 2018  
**Q1**

PROCUREMENT CATEGORY	GOAL	QTR PERFORMANCE	YTD PERFORMANCE
Heavy Construction	11.2%	*	*
Building Construction	21.1%	*	*
Special Trade Construction	32.9%	0.00%	0.00%
Professional Services	23.7%	0.00%	0.00%
Other Services	26.0%	33.08%	33.08%
Commodities	21.1%	50.52%	50.52%

\*This goal is generally not applicable to the Department

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Total Expenditure During This Quarter							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Building Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Special Trade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 132.98	\$ -
Professional Services	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Services	\$ 691.04	\$ -	\$ -	\$ -	\$ 8,253.50	\$ 18,091.07	\$ 8,944.54
Commodities	\$ -	\$ 819.99	\$ -	\$ -	\$ 1,162.44	\$ 2,818.70	\$ 2,877.82

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized This Quarter							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	0	0	0	0	0	0	0
Building Construction	0	0	0	0	0	0	0
Special Trade	0	0	0	0	0	1	0
Professional Services	0	0	0	0	0	0	0
Other Services	1	0	0	0	1	11	2
Commodities	0	1	0	0	2	6	3

**Credit Union Department**  
**Year to Date Assessment of HUB Related Activities**  
**November 30, 2018**  
**YTD**

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Total Expenditure YTD							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Building Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Special Trade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 132.98	\$ -
Professional Services	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Services	\$ 691.04	\$ -	\$ -	\$ -	\$ 8,253.50	\$ 18,091.07	\$ 8,944.54
Commodities	\$ -	\$ 819.99	\$ -	\$ -	\$ 1,162.44	\$ 2,818.70	\$ 2,877.82

	(MBL, FBL)	(MAS, FAS)	(MHI, FHI)	(VVV, VVY)	(FWO)		
Number of HUB/Non-HUB Vendors (Ongoing and New) Utilized YTD							
Procurement Category	AFRICAN AMERICAN	ASIAN AMERICAN	HISPANIC AMERICAN	NATIVE AMERICAN	NON-MINORITY WOMAN	NON HUB	HUB Total
Heavy Construction	0	0	0	0	0	0	0
Building Construction	0	0	0	0	0	0	0
Special Trade	0	0	0	0	0	1	0
Professional Services	0	0	0	0	0	0	0
Other Services	1	0	0	0	1	11	2
Commodities	0	1	0	0	2	6	3

African American (MBL, FBL)  
Asian American (MAS, FAS)  
Hispanic American (MHI, FHI)  
Native American (VVV, VVY)  
Non-Minority Woman (FWO)

YTD Calculations Include:  
Q1



**Credit Union Department  
Web Site Statistics  
Report Range:09/01/18 thru 11/30/18**

		<b>Number</b>
<b>Total Visits:</b>		
	<b>Number of Visits</b>	6,134
	<b>Visitors</b>	3,050
	<b>Page Views</b>	12,760
	<b>Number of Repeat Visitors</b>	3,374
	<b>Average Pages per Visit</b>	2.08
	<b>Average Visit Duration</b>	0:03:27
<b>Most Requested Pages:</b>		
	<b>Home</b>	5,341
	<b>Job Postings</b>	1,032
	<b>Texas Rules for Credit Unions</b>	836
	<b>Department Newsletter</b>	424
	<b>Contact Us</b>	362
<b>Most Downloaded Files:</b>		
	<b>Rules for Credit Unions</b>	400
	<b>Complaint Form</b>	95
	<b>Department Newsletter (September 2018)</b>	95
	<b>Department Newsletter (October 2018)</b>	89
	<b>Finance Code - Unofficial Compilation of Credit Union - Specific Provisions</b>	82