CREDIT UNION COMMISSION MEETING

Credit Union Department Building
914 East Anderson Lane
Austin, Texas

November 1, 2019
9:00 a.m.

AGENDA

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

TAB		PAGE
A.	Call to Order (9:00 a.m.) – Chair Yusuf Farran	**5**
	General Public Comment	
B.	Receive and Approve Minutes of the July 12, 2019 Credit Union Commission Meeting	**8**
C.	a. Consideration of Report and Recommendations of the Commissioner Evaluation Committee Related to the Commissioner's FY 2019 Performance Review and FY 2020 Remuneration	**21**
D.	Review of Pending and Ongoing Matters	
	a. Adoption of Amendments to 7 TAC Section 91.101 Concerning Definitions and Interpretations	**35**
	b. Adoption of Amendments to 7 TAC Section 91.801 Concerning Investments in Credit Union Service Organizations	**42**
	c. Adoption of Amendments to 7 TAC Section 91.803 Concerning Investment Limits and Prohibitions	**48**
	d. Adoption of Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements	**52**
	e. Department's FY 2019 Financial Performance	**56**
	• Commission/Commissioner's FY2019 Travel	
	f. Status of the State Credit Union System	**59**
	g. Sunset Review Status Update	**62**

TAB		PAGE
E.	Review of New Matters	
	a. Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91 Subchapter K (Credit Union Development Districts), Sections 91.2000 Concerning Purpose and Scope, 91.2001 Concerning Definitions, 91.2002 Concerning Application Requirements to Establish a District, 91.2003 Concerning Submission and Processing of Application, 91.2004 Concerning Criteria for Approval of a District by the Commission, 91.2005 Concerning Monitoring, 91.2006 Concerning Rulemaking and Amendment for this Subchapter, and Readoption of rules	**69**
	b. Approval for Publication and Comment the Proposed Amendments to 7 TAC Section 91.2000 Concerning Purpose and Scope	**74**
	c. Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91 Subchapter O (Trust Powers), Sections 91.6001 Concerning Fiduciary Duties, 91.6002 Concerning Fiduciary Capacities, 91.6005 Concerning Exemption from Notice, 91.6006 Concerning Policies and Procedures, 91.6007 Concerning Review of Fiduciary Accounts, 91.6008 Concerning Recordkeeping, 91.6009 Concerning Audit, 91.6011 Concerning Trust Funds, 91.6012 Concerning Compensation, Gifts, and Bequests, and 91.6015 Concerning Litigation File, and Readoption of rules	**80**
	d. Approval for Publication and Comment the Proposed Amendments to 7 TAC Section 91.6001 Concerning Fiduciary Duties	**85**
	e. Approval for Publication and Comment the Proposed Amendments to 7 TAC Section 91.6003 Concerning Notice Requirements	**89**
	f. Approval for Publication and Comment the Proposed Amendments to 7 TAC Section 91.6004 Concerning the Exercise of Fiduciary Powers	**93**
	g. Approval for Publication and Comment the Proposed Amendments to 7 TAC Section 91.6006 Concerning Policies and Procedures	**97**
	h. Approval for Publication and Comment the Proposed Amendments to 7 TAC Section 91.6010 Concerning Custody of Fiduciary Assets	**101**
	i. Adoption of Proposed Amendments to 7 TAC Section 91.6014 Concerning Errors and Omissions Insurance	**105**
	j. Adoption of Proposed Amendments to 7 TAC Section 95.200 Concerning Notice of Taking Possession; Appointment of Liquidating Agent; Subordination of Rights	**109**
	k. Adoption of the Department's Equal Employment and Workforce Diversity Plan	**113**
	l. Approve Resolutions of Appreciation for Outgoing Commission Members Missy Morrow, Kay Stewart and Rick Ybarra	**122**
	m. Designation of a Vice Chair and Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation)	**126**
	n. Discussion and Consideration of a Tentative Date for Next Committee Meeting (March 13, 2020 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 Cheli Castro, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

A

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

- ***Yusuf Farran, Chair***
- ***Elizabeth L. "Liz" Bayless***
- ***Karyn C. Brownlee***
- ***Beckie Stockstill Cobb***
- ***Steven "Steve" Gilman***
- ***Sherri B. Merket***
- ***Jim Minge***
- ***David Shurtz***
- ***Kay Rankin-Swan***

Legal Counsel

- ***Melissa Juarez***

Staff

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

FUTURE CREDIT UNION

COMMISSION MEETING DATES

Friday, March 13, 2020

Friday, July 10, 2020

Friday, November 6, 2020

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

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

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the July 12, 2019 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 July 12, 2019 be approved as presented.

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
July 12, 2019

A. CALL TO ORDER - ASCERTAIN A QUORUM – Chair Allyson "Missy" Morrow called the meeting to order at 9:01 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included, Beckie Stockstill Cobb, Liz Bayless, Yusuf Farran, Steven "Steve" Gilman, Sherri Merket, and Jim Minge. Commission members Kay Stewart and Rick Ybarra were absent due to schedule conflicts. Assistant Attorney General Melissa Juarez was in attendance to serve as legal counsel. Representing the Department staff were John J. Kolhoff, Commissioner, and Robert E. Etheridge, Deputy Commissioner. Chair Morrow appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted **(July 2, 2019, TRD#2019003909).**

- **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. Cobb moved to excuse Commission Members Kay Stewart and Rick Ybarra from the Commission meeting on July 12, 2019. Mrs. Merket seconded the motion, and the motion was unanimously adopted.

DRAFT

B. RECEIVE MINUTES OF PREVIOUS MEETING (March 8, 2019). 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 March 8, 2019 as presented. Mrs. Merket seconded the motion, and the motion was unanimously adopted.

C. COMMITTEE REPORT – Commissioner Evaluation Committee.

(a) Discussion, Consideration and Possible Vote to Recommend that the Credit Union Commission Take Action to Approve the Commissioner's FY 2019 Performance Objectives and Goals. Mrs. Cobb, Commissioner Evaluation Committee Chairwoman, reported on the Committee's public meeting held on July 11, 2019. Mrs. Cobb reported that it was the Committee's determination that the 2019 Performance Objectives and Goals were still appropriate and on behalf of the Committee, she moved that the Commission re-adopt the current performance objectives and goals for FY 2020 with a correction noted on language dropped in the objectives to #2 Administration. Entered on a motion of a standing committee, a second was not needed and the motion passed unanimously.

(b) Discussion of the Procedures to be Utilized in the Commissioner's FY 2019 Performance Review. Mrs. Cobb briefly highlighted the procedures to be used as part of the Commissioner's performance review. No formal action was taken by the Commission.

D. PENDING AND ONGOING MATTERS

(a) Final Post-Payment Audit Report. Commissioner Kolhoff reported that the audit covered the period from December 1, 2016 through November 30, 2017. The Department was found in general compliance with the General Appropriations Act (GAA). No issues were found with travel and property

DRAFT

management records. However, the Department was asked to consider improving controls over verification of prior state service for new employees, compliance with procurement and contracting rules, system security access and expenditure processing. Furthermore, as part of the response the Department initiated policy changes to ensure future compliance and acted to correct errors when necessary. No formal action was taken by the Commission.

(b) Department's FY 2019 Budget and Financial Performance. Commissioner Kolhoff indicated that for the first nine months of FY 2019, total expenditures totaled $2,838,693, which is $289,418 below the YTD budgeted amount. Appropriated funds remaining to cover the last quarter of the 2019 FY is $1,422,216. He reiterated that most bills are not paid until 30 days after the due date so some of the operating cost being reflected are only for an eight-month period.

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

(c) 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 a healthy economy and low unemployment. 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.

Commission Member Gilman suggested it would be helpful for Department staff to analyze and present to the Commission the potential impact of CECL implementation on Texas credit unions at a later meeting.

DRAFT

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

E. NEW MATTERS

(a) Discussion, Consideration and Possible Approval of the Department's Operating Plan and Budget for Fiscal Year 2020. Commissioner Kolhoff noted that Section 16.003 of the Finance Code gives the Commission exclusive responsibility for approving the Department's annual budget. He noted that in accordance with the budget policies and guidelines approved at the Commission's last meeting, staff was presenting for consideration a proposed FY 2020 budget of $4,485,694 which represents a 5.3 percent increase from the FY 2019 budget. The proposed budget includes additional funding for the associated costs related to a performance-based merit increase program ($102,339), funding to accomplish the NCUA laptop rollover ($22,000), increase examiner training ($10,000), examiner travel costs ($20,000) and sunset review (every 12 years) ($100,000). Commissioner Kolhoff further reported on each of the proposed strategic initiatives.

After a lengthy discussion, Mr. Minge moved that the Commission approve the proposed FY 2020 Operating Plan and Budget, with a total budget of ***$4,485,694** and 30 full time employees. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

***Let the record show that the discussion included the Department not moving forward with the ACT! database conversion; therefore, the $40,000 associated cost is no longer applicable to the proposed budget and should have been removed from the monies appropriated through the motion. Therefore, while the Commission's motion approved the amount of $4,485,694,**

DRAFT

Commissioner Kolhoff is amending the operating budget amount to $4,445,694 to remove the $40,000 database conversion costs. The new operating budget will now represent a 4.3 percent increase from the FY 2019 budget.

(b) Discussion, Consideration, and Possible Action to Approve the for Publication and Comment the Proposed Amendments to 7 TAC Section 91.101 Concerning Definitions and Interpretations. Commissioner Kolhoff indicated that the purpose of the proposed amendments would define the term "consolidated CUSO" utilized in Section 91.401 and make grammatical changes. This language is presented to clearly define the terms involved to both the industry and Department staff.

Mr. Gilman moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.101** concerning definitions and interpretations. Mrs. Bayles seconded the motion and the motion was unanimously adopted.

(c) Discussion, Consideration, and Possible Vote to Take Action on the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter H (Relating to Investments) – Commissioner Kolhoff indicated that under Section 2001.039, 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. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 91, Subchapter H (Investments) and believes certain revisions are appropriate and necessary. Amendments to the noted subchapter are being separately presented for proposal.

DRAFT

Mrs. Merket moved that the Commission find that the reasons for adopting the rules in Subchapter H (Investments) continue to exist and that, subject to the separately proposed amendments, the Commission readopt the rules in this subchapter. Mrs. Cobb seconded the motion and the motion was unanimously adopted.

(d) Discussion, Consideration, and Possible Action to Approve the for Publication and Comment the Proposed Amendments to 7 TAC Section 91.801 Concerning Investments in Credit Union Service Organizations. Commissioner Kolhoff noted that the proposed amendment would authorize investments in certain CUSOs to the extent they are providing property management services. The language is presented to clearly document state credit union authority to invest in CUSOs providing property management services.

Mr. Minge moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.801** concerning investments in credit union service organizations. Mrs. Bayles seconded the motion and the motion was unanimously adopted.

(e) Discussion, Consideration, and Possible Action to Approve the for Publication and Comment the Proposed Amendments to 7 TAC Section 91.803 Concerning Investment Limits and Prohibitions. Commissioner Kolhoff explained that the proposed amendment would clarify that the limits in Section 91.803 apply to loan participation investments and differ from the member loan participation lending limits found in Section 91.711 and in the Texas Finance Code, Title 3, Subtitle D, Section 124.003.

DRAFT

Mrs. Merket moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.803** concerning investment limits and prohibitions. Mr. Gilman seconded the motion and the motion was unanimously adopted.

(f) Discussion, Consideration, and Possible Vote to Take Action on the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter I (Relating to Reserves and Dividends). Commissioner Kolhoff indicated that under Section 2001.039, 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. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 91, Subchapter I (Reserves and Dividends) and believes certain revisions are appropriate and necessary. Amendments to the noted subchapter are being separately presented for proposal.

Mrs. Bayless moved that the Commission finds that the reasons for adopting the rules in Subchapter I (Reserves and Dividends) continue to exist and that subject to the separately proposed amendments, the Commission readopt the rules in this subchapter. Mr. Gilman seconded the motion and the motion was unanimously adopted.

(g) Discussion, Consideration, and Possible Action to Approve the for Publication and Comment the Proposed Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements. Commissioner Kolhoff noted that the proposed amendment would match deadlines for waiver applications contained in NCUA 12 C.F.R. Part 702.201 relating to Prompt Corrective Action (PCA)

DRAFT

requirements for waiver applications. The language is presented to ensure deadline uniformity between the state and federal regulatory agencies in a waiver process.

Mrs. Merket moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.901** concerning reserve requirements. Mrs. Cobb seconded the motion and the motion was unanimously adopted.

(h) Discussion, Consideration, and Possible Action to Approve the for Publication and Comment the Proposed Amendments to 7 TAC Section 91.1003 Concerning Mergers/Consolidations. Commissioner Kolhoff indicated that the proposed amendments would reference the Hart-Scott Rodino Act (HSRA) requirements of proposed mergers instead of repeating specific thresholds within the HSRA that change over time. The language is presented to refer institutions directly to the federal HSRA language and its specific requirements and thresholds instead of duplicating all or part of the federal provision within the state rule. Currently the rule refers to an outdated dollar threshold for measurement of HSRA applicability. This amendment improves the current rule, which currently does not refer to all the tests used to determine if HSRA applies to a merger transaction.

Mr. Minge moved that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.1003** concerning mergers/consolidations. Mrs. Bayless seconded the motion and the motion was unanimously adopted.

(i) Legislative Issues and Activities to the 86th Regular Session (2019) that may Impact the Department. Commissioner Kolhoff expressed that very little of the legislation that was enacted this session dealt directly with the

DRAFT

Department or the industry. He indicated there were some issues that would affect our agency especially SDSI agencies that would require approvals and reviews by other agencies if we were going to build a new building. Mr. Kolhoff indicated he has been keeping his focus on the sunset review and some of the other agencies that were going through the process. In addition, Mr. Kolhoff reported that he has been in constant contact with the League and the Coalition and their staff on many of the different issues.

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

(j) Resolution of Appreciation for Retiring Field Supervisor Cary L. Cabe. Commissioner Kolhoff noted that Mr. Cabe will be retiring on September 30, 2019 after a long and distinguished career with the Department.

After a short discussion, Mr. Gilman moved that the Commission adopt the Resolution acknowledging Cary L. Cabe's retirement and that a copy of the resolution be given to him as a token of our appreciation for his many years of service to Texas credit unions. Mr. Farran seconded the motion and the motion was unanimously adopted.

(k) Status of the Department's Sunset Review. Commissioner Kolhoff reported that the Sunset Commission provided us with the self-evaluation questionnaire on May 9. We have begun preparing our response which is due to the Sunset Commission by September 1. On June 3 Deputy Commissioner Robert Etheridge and Director of Information and Technology Joel Arevalo attended an orientation.

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

DRAFT

(l) Cybernance Request to Commission Study. Commissioner Kolhoff reported that this was the result of Cybernance reaching out through a Commission member. Cybernance is an Austin startup that is seeking to collect cybersecurity related risk profile assessments of Texas credit unions and consolidate that data with the intent of reviewing the level of aggregate risk statewide and providing peer assessments to institutions on how they perform relative to similar institutions. According to Cybernance staffers the Texas Bankers Association has initiated a similar study for Texas banks and they wanted to talk to the Department about doing the same for the Texas credit unions.

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

ADJOURNMENT – There being no further business for the Credit Union Commission, Chairwoman Morrow adjourned the meeting at 10:21 a.m.

Allyson "Missy" Morrow Chairman	Isabel Velasquez Recording Secretary

Distribution:

Legislative Reference Library

DRAFT

FOLLOW-UP ACTION REPORT
CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 10-14-19)
July 12, 2019		
7 TAC Section 91.101 Definitions and Interpretations	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 07/26/19
7 TAC, Part 6, Chapter 91, Subchapter H – Investments 91.802, 91.804, 91.805, and 91.808	Published in *Texas Register* as readopted rules.	Published in *Texas Register* on 07/26/19
7 TAC Section 91.801 Investments in Credit Union Service Organizations	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 07/26/19
7 TAC Section 91.803 Investment Limits and Prohibitions	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 07/26/19
7 TAC, Part 6, Chapter 91 Subchapter I – Reserves and Dividends 91.902	Published in *Texas Register* as readopted rule.	Published in *Texas Register* on 07/26/19
7 TAC Section 91.901 Reserve Requirements	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 07/26/19
7 TAC Section 91.1003 Mergers/Consolidations	Published in *Texas Register* with a 31 day comment period.	Published in *Texas Register* on 07/26/19

C

COMMITTEE REPORT

The Commissioner Evaluation Committee will report on its activities and the proposed evaluation will be discussed in Executive Session.

RECOMMENDED ACTION: The Department requests that the Commission accept the Committee report as presented.

COMMISSIONER EVALUATION COMMITTEE REPORT

The Commissioner Evaluation Committee is a standing committee of the Commission. The Committee will report on their activities and recommendations to the Commission.

(a) Approve the Commissioner's FY 2019 Performance Review and FY 2020 Remuneration.

RECOMMENDED ACTION: The Department requests that the Commission accept the Committee's report as presented.

Performance Review
Texas Credit Union Commissioner
Instructions

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

Part I - Board Assessment

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

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

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

Part II - Performance Objectives

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

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

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

Part III – Special Projects

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

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

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

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

Monitoring Results

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

Final Review

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

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

Time Table

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

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

Commissioner Compensation

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

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

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

CREDIT UNION DEPARTMENT
COMMISSIONER EVALUATION FORM
FY ____

Name:_____

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

I. 20__ Commission Assessment

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

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

II. 20__ Performance Objectives

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

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

III. 20__ Special Projects

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

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

IV. Final Evaluation Score: _____
Final Evaluation Score

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

BASE PAY ADJUSTMENT

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

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

Additional Comments: _____

Commissioner Comments: _____

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

Part I
Credit Union Department
Commission Member Assessment Form

Commission Member: _____

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

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

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

Rating: _____

Comments:

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

Rating: _____

Comments:

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

Rating: _____

Comments:

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

Rating: _____

Comments:

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

Rating: _____

Comments:

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

Rating:_____

Comments:

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

SUM OF RATINGS: _____

AVERAGE POINTS: _____

II. PERFORMANCE OBJECTIVES

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

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

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

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

Part II. Performance Objectives

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

Part III
Special Projects/ Other Non-Quantifiable Objectives

Commission Member:_____

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

D

PENDING AND ONGOING MATTERS

Seven pending items from a previous meeting 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) adoption of amendments to 7 TAC Section 91.101 concerning Definitions and Interpretations;
(b) adoption of amendments to 7 TAC Section 91.801 concerning Investments in Credit Union Service Organizations;
(c) adoption of amendments to 7 TAC Section 91.803 concerning Investment Limits and Prohibitions;
(d) adoption of amendments to 7 TAC Section 91.901 concerning Reserve Requirements;
(e) the Department's FY 2019 Financial Performance
    - Commission/Commissioner FY 2019 Travel
(f) the status of the State Credit Union System;
(g) the Sunset Review Status Update

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

DEFINITIONS AND INTERPRETATIONS

D. (a) Adoption of Amendments to 7 TAC Section 91.101 Concerning Definitions and Interpretations.

BACKGROUND: At its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.101. No comments were received on the proposed amendments to the rule.

The amended rule defines the term "consolidated CUSO" utilized in Section 91.401 and addresses minor grammar and formatting errors.

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

RECOMMENDED MOTION: I move that we adopt the amendments to Rule 91.101 without changes to the proposed text as published in the *Texas Register*.

TITLE 7. BANKING AND SECURITIES
Part 6. Credit Union Department
Chapter 91. General Rules
Subchapter A. Definitions and Interpretations

The Credit Union Commission (the Commission) adopts the amendments to 7 TAC, Chapter 91, Subchapter A, Section 91.101, concerning definitions and interpretations, without changes to the proposed text as published in the July 26, 2019, issue of the *Texas Register* (44 TexReg 3715). The amendments will not be republished.

The amended rule defines the term "consolidated CUSO" utilized in Section 91.401 and addresses minor grammar and formatting errors.

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

The rule changes are proposed under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Title 3, Subchapter D of the Texas Finance Code, and under Texas Finance Code Section 15.351, which authorizes the Commission to adopt rules regarding permitted investments.

The statutory provisions affected by the adopted amendments are contained in Texas Finance Code Chapter 124.

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

<rule>

§91.101. Definitions and Interpretations.

(a) Words and terms used in this chapter that are defined in Finance Code §121.002, have the same meanings as defined in the Finance Code. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--the Texas Credit Union Act (Texas Finance Code, Subtitle D).

(2) Allowance for loan and lease losses (ALLL)--a general valuation allowance that has been established through charges against earnings to absorb losses on loans and lease financing receivables. An ALLL excludes the regular reserve and special reserves.

(3) Applicant--an individual or credit union that has submitted an application to the commissioner.

(4) Application--a written request filed by an applicant with the department seeking approval to engage in various credit union activities, transactions, and operations or to obtain other relief for which the commission is authorized by the act to issue a final decision or order subject to judicial review.

(5) Appraisal--a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of a specifically described

DRAFT

asset as of a specific date, supported by the presentation and analysis of relevant market information.

(6) Automated teller machine (ATM)--an automated, unstaffed credit union facility owned by or operated exclusively for the credit union at which deposits are received, cash dispensed, or money lent.

(7) Community of interest--a unifying factor among persons that by virtue of its existence, facilitates the successful organization of a new credit union or promotes economic viability of an existing credit union. The types of community of interest currently recognized are:

(A) Occupational--based on an employment relationship that may be established by:

(i) employment (or a long-term) contractual relationship equivalent to employment) by a single employer, affiliated employers or employers under common ownership with at least a 10% ownership interest;

(ii) employment or attendance at a school; or

(iii) employment in the same trade, industry or profession (TIP) with a close nexus and narrow commonality of interest, which is geographically limited.

(B) Associational--based on groups consisting primarily of natural persons whose members participate in activities developing common loyalties, mutual benefits, or mutual interests. In determining whether a group has an associational community of interest, the commissioner shall consider the totality of the circumstances, which include:

(i) whether the members pay dues,

(ii) whether the members participate in furtherance of the goals of the association,

(iii) whether the members have voting rights,

(iv) whether there is a membership list,

(v) whether the association sponsors activities,

(vi) what the association's membership eligibility requirements are, and

(vii) the frequency of meetings. Associations formed primarily to qualify for credit union membership and associations based on client or customer relationships, do not have a sufficient associational community of interest.

(C) Geographic--based on a clearly defined and specific geographic area where persons have common interests and/or interact. More than one credit union may share the same geographic community of interest. There are currently four types of affinity on which a geographic community of interest can be based: persons, who:

(i) live in,

(ii) worship in,

(iii) attend school in, or

(iv) work in that community. The geographic community of interest requirements are met if the area to be served is in a recognized single political jurisdiction, e.g., a city or a county, or a portion thereof.

(D) Other--The commissioner may authorize other types of community of interest, if the commissioner determines that either a credit union or foreign credit union has sufficiently demonstrated that a proposed factor creates an identifiable affinity among the persons within the proposed group. Such a factor shall be well-defined, have a geographic

DRAFT

definition, and may not circumvent any limitation or restriction imposed on one of the other enumerated types.

(8) A credit union service organization (CUSO)--an organization authorized by §91.801 (relating to Investments in Credit Union Service Organizations). A consolidated CUSO is one where control or ownership by a credit union requires consolidation of the credit union and CUSO financial statements to comply with Generally Accepted Accounting Principles.

(9) Day--whenever periods of time are specified in this title in days, calendar days are intended. When the day, or the last day fixed by statute or under this title for taking any action falls on Saturday, Sunday, or a state holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or a state holiday.

(10) Department newsletter--the monthly publication that serves as an official notice of all applications, and by which procedures to protest applications are described.

(11) Field of membership (FOM)--refers to the totality of persons a credit union may accept as members. The FOM may consist of one group, several groups with a related community of interest, or several unrelated groups with each having its own community of interest.

(12) Finance Code or Texas Finance Code--the codification of the Texas statutes governing financial institutions, financial businesses, and related financial services, including the regulations and supervision of credit unions.

(13) Imminent danger of insolvency--a circumstance or condition in which a credit union is unable or lacks the means to meet its current obligations as they come due in the regular and ordinary course of business, even if the value of its assets exceeds its liabilities; or the credit union has a positive net worth ratio equal to two percent or less of its assets.

(14) Improved residential property--residential real estate containing on-site, offsite or other improvements sufficient to make the property ready for primarily residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of construction for primarily residential use.

(15) Interactive teller machine (ITM) -- a video-based interactive technology which allows members to conduct transactions and credit union services driven by a centrally based teller, in a real time video or audio interaction.

(16) Indirect financing--a program in which a credit union makes the credit decision in a transaction where the credit is extended by the vendor and assigned to the credit union or a loan transaction that generally involves substantial participation in and origination of the transaction by a vendor.

(17) Loan and extension of credit--a direct or indirect advance of funds to or on behalf of a member based on an obligation of the member to repay the funds or repayable from the application of the specific property pledged by or on behalf of the member. The terminology also includes the purchase of a member's loan or other obligation, a lease financing transaction, a credit sale, a line of credit or loan commitment under which the credit union is contractually obligated to advance funds to or on behalf of a member, an advance of funds to honor a check or share draft drawn on the credit union by a member, or any other indebtedness not classified as an investment security.

(18) Loan-to-value ratio--the aggregate amount of all sums borrowed and secured by the collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the credit union's lien divided by the current value of the collateral.

DRAFT

(19) Manufactured home--a HUD-code manufactured home as defined by the Texas Manufactured Housing Standards Act. The terminology may also include a mobile home, house trailer, or similar recreational vehicle if the unit will be used as the member's residence and the loan is secured by a first lien on the unit, and the unit meets the requirements for the home mortgage interest deduction under the Internal Revenue Code (26 U.S.C. Section 163(a), (h)(2)(D)).

(20) Market Value--the most probable price which an asset should bring in a competitive and open market under an arm's-length sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of ownership from seller to buyer where:

(A) Buyer and seller are typically motivated;

(B) Both parties are well informed or well advised, and acting in their own best interests;

(C) A reasonable time is allowed for exposure in the open market;

(D) Payment is made in cash in "U.S." dollars or in terms of financial arrangements comparable thereto; and

(E) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(21) Metropolitan Statistical Area (MSA)--a geographic area as defined by the director of the "U. S." Office of Management and Budget.

(22) Mobile office--a branch office that does not have a single, permanent site, including a vehicle that travels to various public locations to enable members to conduct their credit union business.

(23) Office--includes any service facility or place of business established by a credit union at which deposits are received, checks or share drafts paid, or money lent. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, or a credit union owned ITM or other electronic facility that meets, at a minimum, these requirements; however, it does not include the credit union's Internet website. This definition also includes a shared branch or a shared branch network if either:

(A) the credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or

(B) the service facility is local to the credit union and the credit union is an authorized participant in the service center.

(24) Overlap--the situation which exists when a group of persons is eligible for membership in two or more state, foreign, or federal credit unions doing business in this state. Notwithstanding this provision, no overlap exists if eligibility for credit union membership results solely from a family relationship.

(25) Pecuniary interest --the opportunity, directly or indirectly, to make money on or share in any profit or benefit derived from a transaction.

(26) Person--an individual, partnership, corporation, association, government, governmental subdivision or agency, business trust, estate, trust, or any other public or private entity.

(27) Principal office--the home office of a credit union.

DRAFT

(28) Protestant--a credit union that opposes or objects to the relief requested by an applicant.

(29) Real estate or real property--an identified parcel or tract of land. The term includes improvements, easements, rights of way, undivided or future interest and similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights and similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(30) Remote service facility--an automated, unstaffed credit union facility owned or operated by, or operated for, the credit union, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispensed, or money lent.

(31) Reserves--allocations of retained earnings including regular and special reserves, except for any allowances for loan, lease or investment losses.

(32) Resident of this state--a person physically located in, living in or employed in the state of Texas.

(33) Respondent--a credit union or other person against whom a disciplinary proceeding is directed by the department.

(34) Secured credit--a loan made or extension of credit given upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more certain than the mere personal obligation of the debtor or promisor. Any assignment may include an interest in personal property or real property or a combination thereof.

(35) Shared service center--a facility which is connected electronically with two or more credit unions so as to permit the facility, through personnel at the facility and the electronic connection, to provide a credit union member at the facility the same credit union services that the credit union member could lawfully obtain at the principal office of the member's credit union.

(36) TAC--an acronym for the Texas Administrative Code, a compilation of all state agency rules in Texas.

(37) Title or 7 TAC--Title 7, Part VI of the Texas Administrative Code Banking and Securities, which contains all of the department's rules.

(38) Underserved area--a geographic area, which could be described as one or more contiguous metropolitan statistical areas (MSA) or one or more contiguous political subdivisions, including counties, cities, and towns, that satisfy any one of the following criteria:

(A) A majority of the residents earn less than 80 percent of the average for all wage earners as established by the U. S. Bureau of Labor Statistics;

(B) The annual household income for a majority of the residents falls at or below 80 percent of the median household income for the State of Texas, or the nation, whichever is higher; or

(C) The commission makes a determination that the lack of available or adequate financial services has adversely affected economic development within the specified area.

(39) Uninsured membership share--funds paid into a credit union by a member that constitute uninsured capital under conditions established by the credit union and agreed to by the member including possible reduction under §122.105 of the act, risk of loss through operations, or other forfeiture. Such funds shall be considered an interest in the capital of the credit union upon liquidation, merger, or conversion.

DRAFT

(40) Unsecured credit--a loan or extension of credit based solely upon the general credit financial standing of the borrower. The term shall include loans or other extensions of credit supported by the signature of a co-maker, guarantor, or endorser.

(b) The same rules of construction that apply to interpretation of Texas statutes and codes, the definitions in the Act and in Government Code §2001.003, and the definitions in subsection (a) of this section govern the interpretation of this title. If any section of this title is found to conflict with an applicable and controlling provision of other state or federal law, the section involved shall be void to the extent of the conflict without affecting the validity of the rest of this title.

DRAFT

D. (b) Adoption of Amendments to 7 TAC Section 91.801 Concerning Investments in Credit Union Service Organizations.

BACKGROUND: At its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.801. No comments were received on the proposed amendments to the rule.

The amended rule recognizes parity with federal regulations by specifically authorizing credit union ability to invest in CUSOs providing property management services.

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

RECOMMENDED MOTION: I move that we adopt the amendments to Rule 91.801 without changes to the proposed text as published in the *Texas Register*.

TITLE 7. BANKING AND SECURITIES
Part 6. Credit Union Department
Chapter 91. General Rules
Subchapter H. Investments

The Credit Union Commission (the Commission) adopts the amendments to 7 TAC, Chapter 91, Subchapter H, Section 91.801, concerning investments, without changes to the proposed text as published in the July 26, 2019, issue of the *Texas Register* (44 TexReg 3718). The amendments will not be republished.

The amended rule recognizes parity with federal regulations by specifically authorizing credit union ability to invest in CUSOs providing property management services.

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

The rule changes are proposed under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Title 3, Subchapter D of the Texas Finance Code, and under Texas Finance Code Section 15.351, which authorizes the Commission to adopt rules regarding permitted investments.

The statutory provisions affected by the adopted amendments are contained in Texas Finance Code Chapter 124.

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

<rule>

§91.801. Investments in Credit Union Service Organizations.

(a) Definitions. As used in this section:

(1) A credit union service organization (CUSO) is an organization whose primary purpose is to strengthen or advance the credit union movement, serve or otherwise assist credit unions or their operations, and provide products or services authorized by this section to credit unions and their members.

(2) An investment in a CUSO includes the following:

(A) an investment in the stock, bonds, debentures, or other equity ownership interest of the CUSO; and

(B) loans granted by a third party to the CUSO which are guaranteed in writing by the credit union.

(3) A financing program is a plan, approved by the credit union's board of directors, that provides for multiple extensions of credit to a CUSO during the regular course of business.

(b) Authority. A credit union by itself, or with other parties, may organize, invest in or make loans to a CUSO only if it is structured and operated in a manner that demonstrates to the public

DRAFT

that it maintains a legal existence separate from the credit union. A credit union and a CUSO must operate so that:

(1) their respective business transactions, accounts, and records are not intermingled;

(2) each observes the formalities of its separate corporate or other organizational procedures;

(3) each is adequately capitalized as a separate unit in light of normal obligations reasonably foreseeable in a business of its size and character;

(4) each is held out to the public as a separate and distinct enterprise;

(5) all transactions between them are at arm's length and consistent with sound business practices as to each of them;

(6) unless the credit union has guaranteed a loan to the CUSO, all borrowings by the CUSO indicate that the credit union is not liable; and

(7) their respective activities are in compliance with any licensing or registration requirements imposed by applicable federal or state law.

(c) Notice; Authorization; Supplemental Information; Written Objection.

(1) Required Notice. Before committing to any aggregate investment or loan to a CUSO in an amount greater than 15% of the credit union's net worth, a credit union shall provide at least thirty days' written notice to the commissioner of its intent to make or increase its investment in a CUSO, or make a loan to or enter into a financing program with a CUSO. Subject to the net worth threshold, a credit union shall also provide notice of its intent to engage in additional or substitute activities in an existing CUSO or its intent to materially alter an existing loan or financing program with a CUSO. The written notice shall include as applicable:

(A) a description of the organizational and legal structure of the CUSO and the proposed method of capitalizing the organization;

(B) a description of the loan, including the purpose, terms, guarantors, and collateral;

(C) a description of the products or services to be offered by the CUSO and the customer base it will serve;

(D) an explanation of how the CUSO will primarily serve credit unions or members of credit unions, or how the activities of the CUSO could be conducted directly by a credit union or are incidental to the conduct of the business of a credit union; and

(E) a representation that the activities will be conducted in accordance with applicable law, the requirements of this section, and in a manner that will limit exposure of the credit union to no more than the loss of funds invested in, or loaned to, the CUSO.

(2) Authorization to Proceed. If the commissioner issues a non-objection letter, the credit union may proceed with the proposed transaction when it receives the letter. Otherwise, a credit union may proceed with the proposed transaction or the CUSO may engage in the new activities 30 days after the department receives the required notice, unless the commissioner takes one of the following actions before the expiration of that time period:

(A) the commissioner notifies the credit union that it must file additional information supplementing the required notice. If a credit union is required to file additional information, it may proceed with the proposed transaction or the CUSO may engage in the new activities 30 days after the department receives the requested information, unless the commissioner issues a written objection before the expiration of that time period; or

(B) the commissioner notifies the credit union of an objection to the proposed transaction or new activity.

DRAFT

(3) Request for Supplemental Information. A credit union shall provide any additional information reasonably requested by the commissioner.

(4) Action on a Notice. The commissioner shall object to a proposed transaction or activity if the commissioner finds that:

(A) there is inadequate capital to support the proposed transaction or activity;

(B) the proposed transaction or activity does not comply with this section;

(C) the credit union's concentrated exposures to the CUSO give rise to safety and soundness issues; or

(D) the credit union has regulatory or operational deficiencies which would materially affect its ability to properly and effectively manage and monitor the risk associated with the CUSO.

(5) Written Objection. If the commissioner determines that an objection should be interposed, the commissioner will notify the credit union in writing of the determination and the actions the credit union must take to proceed with the proposed transaction or activity. A credit union receiving notification of an objection may appeal the commissioner's finding to the commission in the manner provided by Chapter 93, Subchapter C of this title (relating to Appeals of Preliminary Determinations on Applications).

(d) Limitations. The board of directors of a credit union that organizes, invests in, or lends to any CUSO shall adopt and maintain written policies, which establish appropriate limits and standards for this type of investment including the maximum amount relative to the credit union's net worth, that will be invested in or loaned to any one CUSO. The maximum amount invested in any one CUSO may not exceed the statutory limit established by Texas Finance Code §124.352(b). Total investments in and total loans to CUSOs shall not, in the aggregate, exceed 10% of the total unconsolidated assets of the credit union, unless the credit union receives the prior written approval of the commissioner. The amount of loans to CUSOs, cosigned, endorsed, or otherwise guaranteed by the credit union, shall be included in the aggregate for the purpose of determining compliance with the limitations of this section.

(e) Prohibitions. No credit union may invest in or make loans to a CUSO:

(1) if any officer, director, committee member, or employee of the credit union or any member of the immediate family of such persons owns or makes an investment in or has made or makes a loan to the CUSO;

(2) unless the organization is structured as a corporation, limited liability company, registered limited liability partnership, or limited partnership;

(3) unless the credit union has obtained written legal advice that the CUSO has been designed in a manner that will limit the credit union's potential exposure to no more than the amount of funds invested in or loaned to the CUSO;

(4) if the CUSO engages in any revenue-producing activity other than the performance of services for credit unions or members of credit unions, and such activity equals or exceeds one half (1/2) of the CUSO's total revenue;

(5) unless prior to investing in or making a loan to a CUSO the credit union obtains a written agreement which requires the CUSO to follow GAAP, render financial statements to the credit union at least quarterly, and provide the department, or its representatives, complete access to the CUSO's books and records at reasonable times without undue interference with the business affairs of the CUSO;

(6) unless the CUSO is adequately bonded or insured for its operations;

DRAFT

(7) unless the CUSO obtains an annual opinion audit, by a licensed Certified Public Accountant, on its financial statements in accordance with generally accepted auditing standards, unless the investment in or loan to the CUSO by any one or more credit unions does not exceed $100,000, or the CUSO is wholly owned and the CUSO is included in the annual consolidated financial statement audit of its parent credit union; or

(8) if any director of the credit union is an employee of the CUSO, or anticipates becoming an employee of the CUSO upon its formation.

(f) Permissible activities and services. The commissioner may, based upon supervisory, legal, or safety and soundness reasons, limit any CUSO activities or services, or refuse to permit any CUSO activities or services. Otherwise, a credit union may invest in or loan to a CUSO that is engaged in providing products and services that include, but are not limited to:

(1) operational services including credit and debit card services, cash services, wire transfers, audits, ATM and other EFT services, share draft and check processing and related services, shared service center operations, electronic data processing, development, sale, lease, or servicing of computer hardware and software, alternative methods of financing and related services, other lending related services, and other services or activity, including consulting, related to the routine daily operations of credit unions;

(2) financial services including financial planning and counseling, securities brokerage and dealer activities, estate planning, tax services, insurance services, administering retirement, or deferred compensation and other employee or business benefit plans;

(3) internet-based or related services including sale and delivery of products to credit unions or members of credit unions;

(4) Property management services; or

(5) any other product, service or activity deemed economically beneficial or attractive to credit unions or credit union members if approved, in writing, by the commissioner.

(g) Compensation. A credit union director, senior management employee, or committee member or immediate family member of any such person may not receive any salary, commission, or other income or compensation, either directly or indirectly, from a CUSO affiliated with their credit union, unless received in accordance with a written agreement between the CUSO and the credit union. The agreement shall describe the services to be performed, the rate of compensation (or a description of the method of determining the amount of compensation) and any other provisions deemed desirable by the CUSO and the credit union. The agreement, and any amendments, must be approved by the board of directors of the credit union and the board of directors (or equivalent governing body) of the CUSO prior to any performance of service or payment and annually thereafter. For purposes of this section, senior management employee shall include the chief executive officer, any assistant chief executive officers (vice presidents and above), and the chief financial officer. Immediate family shall include a person's spouse or any other person living in the same household.

(h) Examination fee. If the commissioner requests a CUSO to make its books and records available for inspection and examination, the CUSO shall pay a supplemental examination fee as prescribed in §97.113(e) of this title (relating to Supplemental examination fees). The commissioner may waive the supplemental examination fee or reduce the fee.

(i) Exception. A credit union which has a net worth ratio greater than six percent (6%) and is deemed adequately capitalized by its insuring organization may make an investment in or make loans to a CUSO that is not limited by the restriction set forth in subsection (e)(4) of this section, provided the activities of the CUSO are limited to activities which could be conducted directly

DRAFT

by a credit union or are incidental to the conduct of the business of a credit union. Notwithstanding this exception, all other provisions of the act and this chapter applicable to a CUSO apply. In the event a credit union's net worth declines below the required thresholds, the credit union may not renew, extend the maturity of, or restructure an existing loan, advance additional funds, or increase the investment in the CUSO without the prior written approval of the commissioner.

(j) Change in Valuation. If the limitations established by this section are reached or exceeded solely because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method, divestiture is not required. A credit union may continue to invest up to the limitation without regard to the increase in the GAAP valuation resulting from a CUSO's profitability.

DRAFT

D. (c) Adoption of Amendments to 7 TAC Section 91.803 Concerning Investment Limits and Prohibitions.

BACKGROUND: At its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.803. No comments were received on the proposed amendments to the rule.

The amended rule clarifies that limits imposed by Section 91.803 apply only to investments as outlined by the Subchapter heading and to provide minor grammar edits.

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

RECOMMENDED MOTION: I move that we adopt the amendments to Rule 91.803 without changes to the proposed text as published in the *Texas Register*.

TITLE 7. BANKING AND SECURITIES
Part 6. Credit Union Department
Chapter 91. General Rules
Subchapter H. Investments

The Credit Union Commission (the Commission) adopts the amendments to 7 TAC, Chapter 91, Subchapter H, Section 91.803, concerning investment limits and prohibitions, without changes to the proposed text as published in the July 26, 2019, issue of the *Texas Register* (44 TexReg 3721). The amendments will not be republished.

The amended rule clarifies the limits found in Section 91.803 apply only to investments as outlined by the Subchapter heading and to provide minor grammar edits.

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

The rule changes are proposed under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Title 3, Subchapter D of the Texas Finance Code, and under Texas Finance Code Section 15.351, which authorizes the Commission to adopt rules regarding permitted investments.

The statutory provisions affected by the adopted amendments are contained in Texas Finance Code Chapter 124.

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

<rule>

§91.803. Investment Limits and Prohibitions.

(a) Limitations. Except for deposits placed in a Federal Reserve Bank, a credit union may invest no more than 50% of its net worth with any single obligor or related obligors. This limitation does not apply to the extent that the investment is insured or guaranteed by the United States government, or an agency, sponsored enterprise, corporation, or instrumentality, of the United States government, or to any trust or trusts established for investing, directly or collectively, in such securities, obligations, or instruments. For the purposes of this section, obligor is defined as an issuer, trust, or originator of an investment, including the seller of a loan participation investment.

(b) Designated Depository. As a single exception to subsection (a) of this section, a credit union's board of directors may establish the maximum aggregate deposit limit for a single financial institution approved by the board as the credit union's designated depository. This deposit limit shall be a percentage of net worth and must be based on the credit union's liquidity trends and funding needs as documented by its asset/liability management policy. This authority is contingent upon the credit union appropriately documenting its due diligence to demonstrate that the investments in this designated depository do not pose a safety and soundness concern.

DRAFT

The credit union's board of directors shall review and approve at least annually the maximum aggregate deposit limit for its designated depository. The review shall include a current due diligence analysis of the financial institution.

(c) Prohibited Activities.

(1) Definitions.

(A) Adjusted trading--selling an investment to a counterparty at a price above its current fair value and simultaneously purchasing or committing to purchase from the counterparty another investment at a price above its current fair value.

(B) Collateralized mortgage obligation (CMO)--a multi-class bond issue collateralized by mortgages or mortgage-backed securities.

(C) Commercial mortgage related security--a mortgage related security except that it is collateralized entirely by commercial real estate, such as a warehouse or office building, or a multi-family dwelling consisting of more than four units.

(D) Fair value--the price at which a security can be bought or sold in a current, arm's length transaction between willing parties, other than in a forced or liquidation sale.

(E) Real estate mortgage investment conduit (REMIC)--a nontaxable entity formed for the sole purpose of holding a fixed pool of mortgages secured by an interest in real property and issuing multiple classes of interests in the underlying mortgages.

(F) Residual interest--the remainder cash flows from a CMO/REMIC, or other mortgage-backed security transaction, after payments due bondholders and trust administrative expenses have been satisfied.

(G) Short sale--the sale of a security not owned by the seller.

(H) Stripped mortgage-backed security--a security that represents either the principal-only or the interest-only portion of the cash flows of an underlying pool of mortgages or mortgage-backed securities.

(I) Zero coupon investment--an investment that makes no periodic interest payments but instead is sold at a discount from its face value. The holder of a zero coupon investment realizes the rate of return through the gradual appreciation of the investment, which is redeemed at face value on a specified maturity date.

(2) A credit union may not:

(A) Use financial derivatives for replication, or for any purposes other than hedging;

(B) Engage in adjusted trading or short sales;

(C) Purchase stripped mortgage backed securities;

(D) Purchase residual interests in CMOs/REMICs, or other structured mortgage backed securities;

(E) Purchase mortgage servicing rights as an investment but may retain mortgage servicing rights on a loan originated by the credit union and sold on the secondary market;

(F) Purchase commercial mortgage related securities of an issuer other than a U.S. Government sponsored enterprise;

(G) Purchase any security that has the capability of becoming a first credit loss piece which supports another more senior security;

(H) Purchase a zero coupon investment with a maturity date that is more than 10 years from the settlement date;

(I) Purchase investments whereby the underlying collateral consists of foreign receivables or foreign deposits;

DRAFT

(J) Purchase securities used as collateral by a safekeeping concern;

(K) Purchase exchangeable mortgage backed securities, unless they are fully compliant with the provisions outlined in Part 703 of the National Credit Union Administration Rules and Regulations; or

(L) Purchase securities convertible into stock at the option of the issuer.

(d) Investment pilot program.

(1) The commissioner may authorize a limited number of credit unions to engage in other types of investment activities under an investment pilot program. A credit union wishing to participate in an investment pilot program shall submit a request that addresses the following items:

(A) Board policies approving the activities and establishing limits on them;

(B) A complete description of the activities, with specific examples of how the credit union will conduct them and how they will benefit the credit union;

(C) A demonstration of how the activities will affect the credit union's financial performance, risk profile, and asset-liability management strategies;

(D) Examples of reports the credit union will generate to monitor the activities;

(E) A projection of the associated costs of the activities, including personnel, computer, audit, etc.;

(F) A description of the internal systems to measure, monitor, and report the activities, and the qualifications of the staff and/or official(s) responsible for implementing and overseeing the activities; and

(G) The internal control procedures that will be implemented, including audit requirements.

(2) In connection with a request to participate in an investment pilot program, the commissioner will consider the general nature and functions of credit unions, as well as the specific financial condition and management of the applicant credit union, as revealed in the request, examinations, or such other information as may be available to the commissioner. The commissioner may approve the request, approve the request conditionally, approve it in modified form, or deny it in whole or in part. A decision by the commissioner concerning participation in an investment pilot program is not appealable.

(3) The commissioner may find that an investment pilot program previously authorized is no longer a safe and prudent practice for credit unions generally to engage in, that it has become inconsistent with applicable state or federal law, or that it has ceased to be a safe and prudent practice for one or more credit unions in light of their financial condition or management. Upon such a finding, the commissioner will send written notice informing the board of directors of any or all of the credit unions engaging in such a practice that the authority to engage in the practice has been revoked or modified. When the commissioner so notifies any credit union, its directors and officers shall forthwith take steps to liquidate the investments in question or to make such modifications as the commissioner requires. Upon demonstration of good cause, the commissioner may grant a credit union some definite period of time in which to arrange its affairs to comply with the commissioner's direction. The commissioner deems credit unions that continue to engage in investment practices after their authority to do so has been revoked or modified to be engaging in an unsound practice.

DRAFT

D. (d) Adoption of Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements.

BACKGROUND: At its July meeting, the Commission approved for publication and comment in the *Texas Register* the proposed amendments to Rule 91.901. No comments were received on the proposed amendments to the rule.

The amended rule ensures deadline uniformity between state and federal regulatory agencies in a waiver process.

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

RECOMMENDED MOTION: I move that we adopt the amendments to Rule 91.901 without changes to the proposed text as published in the *Texas Register*.

TITLE 7. BANKING AND SECURITIES
Part 6. Credit Union Department
Chapter 91. General Rules
Subchapter I. Reserves and Dividends

The Credit Union Commission (the Commission) adopts the amendments to 7 TAC, Chapter 91, Subchapter I, Section 91.901, concerning investment limits and prohibitions, without changes to the proposed text as published in the July 26, 2019, issue of the *Texas Register* (44 TexReg 3723). The amendments will not be republished.

The amended rule ensures deadline uniformity between state and federal regulatory agencies in a waiver process.

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

The rule changes are proposed under Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Title 3, Subchapter D of the Texas Finance Code, and under Texas Finance Code Section 122.104, which authorizes the Commission to adopt rules regarding net worth reserve allocations.

The statutory provisions affected by the adopted amendments are contained in Texas Finance Code Chapter 122.

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

<rule>

§91.901. Reserve Requirements.

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

(1) Net worth means the retained earnings balance of the credit union as determined under generally accepted accounting principles. Retained earnings consist of undivided earnings, regular reserves, and any other appropriations designated by management, the insuring organization, or the commission. This means that only undivided earnings and appropriations of undivided earnings are included in net worth. Net worth does not include the allowance for loan and lease losses account.

(2) Net worth ratio means, with respect to a credit union, the ratio of the net worth of the credit union to the total assets of the credit union.

(3) Total assets means the average of the total assets as measured using one of the following methods:

(A) Average Quarterly Balance--the average of quarter-end balances of the four most recent calendar quarters; or

(B) Average Monthly Balance--the average of month-end balances over the three calendar months of the calendar quarter; or

DRAFT

(C) Average Daily Balance--the average daily balance over the calendar quarter; or

(D) Quarter-End Balance--the quarter-end balance of the calendar quarter as reported on the credit union's call report.

(b) In accordance with the requirements of §122.104 of the Act, state-chartered credit unions shall set aside a portion of their current gross income, prior to the declaration or payment of dividends, as follows:

(1) A credit union with a net worth ratio below 7.0% shall increase the dollar amount of its net worth reserves by the following amounts at the indicated intervals until its net worth ratio equals 7.0% of total assets:

(A) in the case of a monthly dividend period, net worth must increase monthly by an amount equivalent to at least 0.0334% of its total assets; and

(B) in the case of a quarterly, semi-annual or annual dividend period, net worth must increase quarterly by an amount equivalent to at least 0.1% per quarter of its total assets.

(2) For a credit union in operation less than ten years and having assets of less than $10 million, a business plan must be developed that reflects, among other items, net worth projections consistent with the following:

(A) 2.0% net worth ratio by the end of the third year of operation;

(B) 3.5% net worth ratio by the end of the fifth year of operation;

(C) 6.0% net worth ratio by the end of the seventh year of operation; and

(D) 7.0% net worth ratio by the time it reaches $10 million in total assets or by the end of the tenth year of operation, whichever is shorter.

(3) Whenever the net worth ratio falls below 7.0%, the credit union shall transfer a portion of its current period net income to its regular reserve in such amounts as described in paragraph (1) of this subsection.

(4) Special reserves. In addition to the regular reserve, special reserves to protect the interest of members may be established by board resolution or by order of the commissioner, from current income or from undivided earnings. In lieu of establishing a special reserve, the commissioner may direct that all or a portion of the undivided earnings and any other reserve fund be restricted. In either case, such directives must be given in writing and state with reasonable specificity the reasons for such directives.

(5) Insuring organization's capital requirements. As applicable, a credit union shall also comply with any and all net worth or capital requirements imposed by an insuring organization as a condition to maintaining insurance on share and deposit accounts. For federally-insured credit unions this includes all prompt corrective action requirements contained within Part 702 of the NCUA Rules and Regulations.

(6) Decrease in Required Reserve Transfer. The commissioner, on a case-by-case basis, and after receipt of a written application, may permit a credit union to transfer an amount that is less than the amount required under paragraph (1) of this subsection. A credit union shall submit such statements and reports as the commissioner may, in his discretion, require in support of a decreased transfer request. The application must be received no later than 14 days before the quarter end and shall include but not be limited to:

(A) an explanation of the need for the reduced transfer amount;

(B) financial statement reflecting the fiscal impact of the required transfer; and

(C) documentation supporting the credit union's ability to resume the required transfer at a future date certain.

DRAFT

(7) Financial Plan. A credit union that is not capable of making the prescribed reserve transfer under paragraph (1) of this subsection for three consecutive quarters, shall file a written financial plan detailing a quarterly timetable of steps the credit union will take to increase its net worth ratio and fully comply with this section in the future. A credit union shall file and implement the financial plan within 45 days of the triggering quarter end date. A credit union may, after prior written notice to the Department, amend its financial plan to reflect a change in circumstances. Failure to meet the terms of the financial plan may be considered a violation of a written agreement with the commissioner under §122.255 of the Finance Code.

(c) Revised business plan for new credit unions. A credit union that has been in operation for less than ten years and has assets of less than $10 million shall file a written revised business plan within 30 calendar days of the date the credit union's net worth ratio has failed to increase consistent with its current business plan. Failure to submit a revised business plan, or submission of a plan not adequate to either increase net worth or increase net worth within a reasonable time; or failure of the credit union to implement its revised business plan, may trigger the regulatory actions described in subsection (b)(4) of this section.

(d) Unsafe practice. Any credit union which has less than a 6.0% net worth ratio may be deemed to be engaged in an unsafe practice pursuant to §122.255 of the Finance Code. The determination may be abated if, the credit union has entered into and is in compliance with a written agreement or order with the department or is in compliance with a net worth restoration or revised business plan approved by the department to increase its net worth ratio. If a credit union has a net worth ratio below 6.0% or is otherwise engaged in an unsafe practice, the department may impose the following administrative sanctions in addition to, or in lieu of, any other authorized supervisory action:

(1) all unencumbered reserves, undivided earnings, and current earnings are encumbered as special reserves;

(2) dividends and interest refunds may not be declared, advertised, or paid without the prior written approval of the commissioner; and

(3) any changes to the credit union's board of directors or senior management staff must receive the prior written approval of the commissioner.

(e) Supervisory action. Notwithstanding any requirements in this section, the department may take enforcement action against a credit union with capital above the minimum requirement if the credit union's circumstances indicate such action would be appropriate.

DRAFT

DEPARTMENT'S FY 2019 BUDGET FINANCIAL PERFORMANCE
(Commission/Commissioner's FY 2019 Travel)

D. (e) Discussion and Consideration of the Department's FY 2019 Budget and Financial Performance *(Commission/Commissioner's FY 2019 Travel).*

BACKGROUND: In March 2016, the Commission adopted a Strategic Plan for Fiscal Years 2017-2021. In July 2018, the Commission approved a FY 2019 Budget of $4.2 million. The following report highlights the Departments financial performance for the twelve-month period ending August 31, 2019.

The financial report is unaudited and is prepared on a cash basis of accounting.

RECOMMENDED ACTION: No action is anticipated.

D. (e) Commission/Commissioner's FY 2019 Travel

BACKGROUND: The total amount of travel expenses paid for each member of the Credit Union Commission as of August 31, 2019:

Beckie Stockstill Cobb	$975.53
Yusuf Farran	$1,415.83
Steve Gilman	$ 499.20
Sherri Brannon Merket	$3,496.29
James Minge	$658.34
Allyson "Missy" Morrow	$2,664.96
Barbara "Kay" Stewart	$681.52
Total Commission Travel Expenses	**$10,391.67**

There were no Commission member per diem expenses.

The total amount of travel expenses paid for Commissioner travel included:

Harold E. Feeney	$276.14
John J. Kolhoff	$9,709.98
	$9,986.12

RECOMMENDED ACTION: No formal action is anticipated.

Credit Union Department
BY 2019 Budget Analysis
For the Period Ended 8/31/19

	BY 2019 Budget	BY 2019 YTD Budgeted	BY 2019 YTD Actual	Over (Under) Budget	Percent of YTD Budget
REVENUES:					
Operating Income					
Operating Fees	$4,201,909	$4,201,909	$4,046,425	($155,484)	96%
Out-of-State Branch Fees	$9,000	$9,000	$9,500	$500	106%
Examination Fees	$0	$0	$0	$0	
Application Fees	$0	$0	$0	$0	
Penalties	$0	$0	$1,587	$1,587	
Other	$0	$0	$0	$0	
Operating Income Subtotal	**$4,210,909**	**$4,210,909**	**$4,057,512**	**($153,397)**	96%
Interest Income (Trust Acct #2972)	$0	$0	$25,055	$25,055	
Refunds	$0	$0	$1,877	$1,877	
TOTAL REVENUES	**$4,210,909**	**$4,210,909**	**$4,084,444**	**($126,465)**	**97%**
Encumbrance from BY 18	$50,000	$50,000	$50,000	$0	100%
Excess from Reserve Account			$139,209	$139,209	
TOTAL FUNDS AVAILABLE TO COVER EXPENDITURES	**$4,260,909**	**$4,260,909**	**$4,273,653**	**$12,744**	**100%**
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	$2,621,239	$2,621,239	$2,464,680	$156,559	94%
Employee Benefits	$821,630	$821,630	$747,524	$74,106	91%
Total Personnel Expenses	**$3,442,869**	**$3,442,869**	**$3,212,204**	**$230,665**	**93%**
Travel Expenses:					
In State					100%
Examinations			$386,935		
Training/Conferences			$28,998		
Meetings			$8,621		
Public Forums			$0		
Other			$7,281		
Total In-State	$425,847	$425,847	$431,835	($5,989)	101%
Out-of-State	$10,000	$10,000	$11,889	($1,889)	119%
Commission	$11,000	$11,000	$10,203	$797	93%
Total Travel Expenses	**$446,847**	**$446,847**	**$453,928**	**($7,081)**	**102%**
Other Operating Expenses:					
Communication/Utilities	$51,028	$51,028	$43,807	$7,221	86%
Professional Services/Fees	$176,840	$176,840	$72,570	$104,270	41%
Supplies/Materials	$51,370	$51,370	$30,598	$20,772	60%
Printing and Reproduction	$2,855	$2,855	$1,813	$1,042	64%
Repairs/Maintenance	$2,800	$2,800	$5,214	($2,414)	186%
Rentals and Leases	$7,250	$7,250	$7,187	$63	99%
Other Operating	$79,050	$79,050	$76,008	$3,042	96%
Total Other Operating Expenses	**$371,193**	**$371,194**	**$237,198**	**$133,995**	64%
TOTAL EXPENDITURES	**$4,260,909**	**$4,260,909**	**$3,903,330**	**$357,579**	**92%**
REMAINING FUNDS TO COVER EXPENDITURES			**$357,579**		

D. (f) Discussion of the Financial Condition of the State Credit Union System.

BACKGROUND: The operating environment for Texas credit unions continues to be strong. The Texas economy has remained healthy during the longest U.S. economic expansion on record. Through August 2019, the Texas Consumer Confidence Index ticked up for the third consecutive month, hovering slightly beneath record levels from October 2018, prior to the dip in oil prices. However, increased tariffs and political gridlock at the national level could pull sentiments down in the coming months. Regardless, second quarter data for 2019 reflects a 3.2 percent increase (year over year) in Texas real income per capita, ranking Texas first in the nation in terms of annual growth.

The unemployment rate in the state of Texas (as of August 2019) is 3.4 percent, down from 3.9 percent from a year earlier and just under the national unemployment rate (as of September 2019) of 3.5 percent. In addition, the unemployment rates for three of the four major metropolitan areas in Texas remain below the national average. Those areas are Dallas-Fort Worth at 3.3 percent, San Antonio at 3.2 percent and Austin at 2.8 percent. The national unemployment rate is at its lowest level since December 1969. Also, on a national level, average hourly earnings increased over the months ending September 30, 2019 by $0.79 hour to $28.09 per hour.

Overall, Texas credit unions are performing well, and their financial condition is strong. Most of our credit unions are realizing moderate loan growth, sound asset quality trends, strong earnings performance and increasing net worth positions. Trends through the 2nd quarter of 2019 reflect a continued improvement in Texas credit unions' bottom lines and the current level of earnings has reached its highest level in over five years. This trend is driven primarily by increased gross income levels from higher investment yields and lower provision for loan and lease losses expenses because of sound loan underwriting. The credit union's strong financial performance is also a result, in part, of Boards and operating managements' success in improving operational efficiencies and controlling operating costs. Moving forward, improving operational efficiency remains critical, as well as the need to produce increased revenue streams from effective asset-liability management practices and non-interest income sources.

INDUSTRY STATUS: At **June 30, 2019**, there were **181** state-chartered credit unions in Texas. Assets in these credit unions totaled **$43.43 billion**, which is an increase of **$1.98 billion** since **June 30, 2018**, for an annualized growth rate of **4.8 percent**. The average net worth ratio is **10.88 percent**, up from the **10.50 percent level** at **June 30, 2018**.

Loans for Texas chartered credit unions totaled **$32.20 billion** as of **June 30, 2019**. This is an increase of **$1.36 billion** since **June 30, 2018** for an annualized growth rate of **4.4 percent**.

Shares for Texas chartered credit unions totaled **$37.21 billion** as of **June 30, 2019**. This is an increase of **$1.59 billion**, or **4.5 percent** since **June 30, 2018**.

Texas chartered credit unions average loan delinquency ratio was **0.60 percent** as of **June 30, 2019**, compared to a ratio of **0.61 percent** as of **June 30, 2018**.

At **June 30, 2019**, **19** state-chartered credit union reported year to date net operating losses of **$0.76 million;** while the remaining **162** credit unions reported aggregate net income of **$192.31 million**. A breakdown of credit unions with positive earnings performance, by asset category, is as follows:

Assets Size	# of CUs	# Profitable	Profitable %	Profitable (12 mos. ago) %
$1 Billion and Over	11	11	100%	100%
$500 to $999.9 Million	15	15	100%	100%
$250 to $499.9 Million	13	13	100%	93%
$100 to $249.9 Million	24	24	100%	95%
$50 to $99.9 Million	23	22	96%	92%
$10 to $49.9 Million	58	49	84%	79%
Under $10 Million	37	28	76%	69%
Totals	**181**	**162**	**90%**	**84%**

PROBLEM INSTITUTIONS: As of **August 31, 2019**, there were **23** credit unions assigned a CAMEL rating of 3 or higher, compared to **24** credit unions at **August 31, 2018**. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

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

Dividend Restrictions	**0**
LUAs	**0**
Determination Letters	**0**
Conservatorships	**0**
Cease and Desist	**2**

Chartering Activity

New Charters*	**0**

*Since last commission meeting

RECOMMENDED ACTION: No formal action is anticipated.

D. (g) Sunset Review Status Update.

BACKGROUND: The Department submitted our Sunset review self-evaluation on August 29, prior to the deadline of September 3. A copy of the Sunset Self-Evaluation Report can be found on the Department's website.

The Sunset review estimated cost for the Credit Union Department's review is now $79,240 to be invoiced August 1, 2020 and due September 30, 2020.

Lauren Ames, Policy Analyst with the Sunset Commission contacted the Department and states our review will be starting in early April 2020 and end around July 2020. In March the Sunset Commission staff will reach out to schedule a meeting with us for introductions and to start the onsite review process.

RECOMMENDED ACTION: No formal action is anticipated.

E

NEW MATTERS

Fourteen (14) new items are being presented to the Commission for its consideration and possible action. Specifically, the Commission will have:

a. Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter K (relating to Credit Union Development Districts), Sections 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005 and 91.2006, and readoption of rules.

b. Proposed Amendments to 7 TAC Section 91.2000 Concerning Purpose and Scope.

c. Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter O (relating to Trust Powers), Sections 91.6001, 91.6002, 91.6005, 91.6006, 91.6007, 91.6009, 91.6011, 91.6012 and 91.6015, and readoption of rules.

d. Proposed Amendments to 7 TAC Section 91.6001 Concerning Fiduciary Duties.

e. Proposed Amendments to 7 TAC Section 91.6003 Concerning Notice Requirements.

f. Proposed Amendments to 7 TAC Section 91.6004 Concerning the Exercise of Fiduciary Powers.

g. Proposed Amendments to 7 TAC Section 91.6006 Concerning Policies and Procedures.

h. Proposed Amendments to 7 TAC Section 91.6010 Concerning Custody of Fiduciary Assets.

i. Proposed Amendments to 7 TAC Section 91.6014 Concerning Errors and Omissions Insurance.

j. Proposed Amendments to 7 TAC Section 95.200 Concerning Notice of Taking Possession; Appointment of Liquidating Agent; Subordination of Rights.

k. Adoption of the Department's Equal Employment and Workforce Diversity Plan.

l. Resolutions of Appreciation for Outgoing Commission Members Missy Morrow, Kay Stewart and Rick Ybarra.

m. Designation of a Vice Chair and Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation).

n. Confirm Date for Next Commission Meeting (March 13, 2020).

PROCEDURES FOR ADOPTING A PROPOSED RULE

3. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.

4. 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 the 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.

E. (a) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter K (Relating to Credit Union Development Districts), Sections 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005 and 91.2006, and Readoption of Rules.

BACKGROUND: Section 2001.039, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 91, Subchapter K (Credit Union Development Districts) and believes certain revisions are appropriate and necessary. Amendments to the noted chapters are being separately presented for proposal.

Notice of the review and a request for comments on the rules in this chapter was published in the August 23, 2019 issue of the *Texas Register*. One comment was 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 these rules.

RECOMMENDED MOTION: I move that the Commission find that the reasons for adopting **7 TAC, Part 6, Sections 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005 and 91.2006** continue to exist and that subject to the separately proposed amendments, the Commission readopts these rules.

The Credit Union Commission (Commission) has completed its review of Chapter 91, Subchapter K (relating to Credit Union Development Districts), of the Texas Administrative Code, Title 7, Part 6, consisting of §§91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005 and 91.2006.

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

Notice of the review of 7 TAC, Part 6, Chapter 91, Subchapter K, was published in the August 23, 2019, issue of the *Texas Register* (44 TexReg 4520). The Department received one comment on the notice of intention to review.

After reviewing these rules, the Commission finds that the reasons for initially adopting these rules continue to exist, and readopts Chapter 91, Subchapter K, §§91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005 and 91.2006, in their entirety in accordance with the requirements of Texas Government Code, Section 2001.039. However, the Commission has determined certain sections should be amended and will propose changes in a separate section of the Texas Register. This concludes the review of 7 TAC, Part 6, Chapter 91, Subchapter K.

The Department hereby certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

DRAFT

Subchapter K. Credit Union Development Districts

§91.2000. Purpose and Scope.

(a) This subchapter implements Tex. Fin. Code §279.001 et seq. regarding the establishment of credit union development districts.
(b) This subchapter does not affect or circumvent requirements under the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act (Tex. Gov. Code, Chapters 311 and 312, respectively), including requirements for designation of an area as a municipal or county reinvestment zone or for authorization to enter into a tax abatement agreement.

§91.2001. Definitions.

Unless the context clearly indicates otherwise, these words and terms, when used in this subchapter, shall have the following meanings:
1. "Credit union" includes state and federal credit unions.
2. "District" means a credit union development district approved under this subchapter.
3. "Local government" means a municipality or county.

§91.2002. Application Requirements to Establish a District.

(a) Basic application. A local government, in conjunction with a credit union, may submit an application to the Commission for the designation of a proposed credit union development district, as provided by §91.2003 of this subchapter (relating to Submission and Processing of Application). The application shall contain the following items to the extent available:

1. the name of the local government, the county in which it is located and evidence of the approval of the application by its governing body;
2. identification of the participating credit union and the location of the proposed credit union or branch by street address;
3. a description of the geographic area comprising the proposed district, including a map indicating the borders of the proposed district;
4. the location, number and proximity of sites where credit union services are available in the proposed credit union development district, including branches of other financial institutions and deposit-taking ATMs other than those located at branches;
5. a compilation and description of consumer needs for credit union services in the proposed district, including population demographics included within the proposed district;
6. a compilation and description of the economic viability and local credit needs of the community in the proposed district, including economic indicators pertinent to the proposed district;
7. a compilation and description of the existing commercial development in the proposed district, including a description of the type and nature of commercial businesses located in the proposed district; and

8. a compilation and description of the impact additional credit union services would have on potential economic development in the proposed district, including significant business developments within the past three years, corporate restructurings, plant closings, other business closings, and recent or proposed business openings or expansions.

(b) Optional information. An application for designation of a credit union development district may also include:

1. a description of other local government and community initiatives proposed to be undertaken and coordinated with establishment of the proposed district;

2. indications of community support or opposition for the application, as evidenced by letters from entities such as local chambers of commerce, local businesses, community-based organizations, non-profit organizations, government officials, or community residents; and

3. such other information that the applicant believes will demonstrate that the proposed district meets the standards set forth in §91.2004 of this subchapter (relating to Criteria for Approval).

§91.2003. Submission and Processing of Application.

(a) The application must be submitted to the Commission in care of the Department, 914 East Anderson Lane, Austin, TX 78752-1699. No filing fee is required.

(b) After the initial application is submitted, the Department shall issue a written notice informing the applicant either that the application is complete and accepted for filing or that the application is deficient and specific additional information is required. The applicant must supply any additional information requested by the Department not later than the 61st day after the date the applicant received written notice from the Department that the application is deficient. Upon a finding of good and sufficient cause, the Department shall grant an applicant additional time to complete the application. Once the deficient application is complete and accepted for filing, the Department shall issue a written notice informing the applicant that the application is complete and accepted for filing.

(c) After the issuance of written notice informing the applicant that the application is complete and accepted for filing, the Department shall evaluate the application to the extent necessary to make a written recommendation to the Commission under the criteria set forth in §91.2004 of this subchapter. The Department shall submit the completed application and the Department's recommendations to the Commission for decision at the next regularly scheduled meeting of the Commission, which must occur not later than the 120th date after the date the completed application is accepted for filing.

(d) If the Commission approves the application, the Department shall notify the interested parties as required by Tex. Fin. Code §279.105(b).

(e) All approved districts shall be posted on the Department's web site.

§91.2004. Criteria for Approval of a District by the Commission.

In determining whether to approve an application for the designation of a credit union development district, the Commission must consider the criteria listed in Tex. Fin. Code § 279.102(b).

§91.2005. Monitoring.

(a) A local government that receives approval for a district under this subchapter shall notify the Department in writing not later than the 21st day after the date:

1. the credit union establishes a branch in the district and the address of such a branch; and
2. the credit union closes a branch in the district.

(b) On behalf of the Commission, the Department may request periodic status reports from the local government or the credit union in order to ensure that the needs of the community located in the district are being met in an appropriate manner.

§91.2006. Rulemaking and Amendment for this Subchapter.

Tex. Fin. Code §279.102(b) requires the Credit Union Department to adopt rules in consultation with the Texas Economic Development and Tourism Office within the Office of the Governor. The Department will develop policies with this office within the Governor's office, outlining the procedures for consultation.

PURPOSE AND SCOPE

E. (b) Proposed Amendments to 7 TAC Section 91.2000 Concerning Purpose and Scope.

BACKGROUND: The purpose of the proposed amendments corrects reference to the Tex. Tax Code relevant to the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.2000.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.2000.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter K.	Credit Union Development Districts
Rule §91.2000	Purpose and Scope

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §91.2000, relating to implementation of credit union development districts under Tex. Fin. Code §279.001 et seq. The proposed amendment corrects reference to the Tex. Tax Code relevant to the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act.

The Commission proposes the following amendment to Section §91.2000.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002 is required.

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

- create or eliminate a government program;

DRAFT

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

Subchapter K. Credit Union Development Districts

§91.2000. Purpose and Scope.

(a) This subchapter implements Tex. Fin. Code §279.001 et seq. regarding the establishment of credit union development districts.

(b) This subchapter does not affect or circumvent requirements under the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act (Tex. **Tax.** **[Gov.]** Gov. Code, Chapters 311 and 312, respectively), including requirements for designation of an area as a municipal or county reinvestment zone or for authorization to enter into a tax abatement agreement.

DRAFT

Isabel Velasquez

From: Jobe, Everette [redacted]
Sent: Monday, September 30, 2019 2:54 PM
To: info
Subject: Rule Review-credit union development districts

CAUTION: This email originated from outside of the Credit Union Department's email system.
DO NOT click links or open attachments unless you expect them from the sender and know the content is safe.

This message was sent securely using Zix®

As you may know, the Finance Commission's rules on banking development districts are similarly undergoing rule review. Your rules (7 TAC §91.2000 et seq.) and ours (7 TAC §6.1 et seq.) differ somewhat but were developed in consultation with each other four years ago.

I received a comment reporting an error in 7 TAC §6.1(b)(1), an error that is repeated in 7 TAC §91.2000(b). (I don't recall if I copied you or you copied me, but it doesn't really matter). Specifically, both provisions cross-reference to "the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act" and then provide citations to Chapters 311 and 312 of the Government Code. The comment pointed out that these Acts are actually in the Tax Code and not the Government Code, as the following links demonstrate:

- Tax Increment Financing Act
- Property Redevelopment and Tax Abatement Act

Everette D. Jobe
Senior Counsel
Texas Department of Banking
2601 N. Lamar Blvd.
Austin, TX 78705
(512) 475-1321
https://link.zixcentral.com/u/b82447ad/OtAXGLzj6RGHO2jlhnsoMg?u=http%3A%2F%2Fwww.dob.texas.gov%2F

Links contained in this email have been replaced by ZixProtect Link Protection. If you click on a link in the email above, the link will be analyzed for known threats. If a known threat is found, you will not be able to proceed to the destination. If suspicious content is detected, you will see a warning.

E. (c) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter O (Relating to Trust Powers), Sections 91.6001, 91.6002, 91.6005, 91.6006, 91.6007, 91.6009, 91.6011, 91.6012 and 91.6015, and Readoption of Rules.

BACKGROUND: Section 2001.039, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its July 2016 meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 91, Subchapter O (Trust Powers) and believes certain revisions are appropriate and necessary. Amendments to the noted chapters are being separately presented for proposal.

Notice of the review and a request for comments on the rules in this chapter was published in the August 23, 2019 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 these rules.

RECOMMENDED MOTION: I move that the Commission find that the reasons for adopting 7 TAC, Part 6, Sections **91.6001, 91.6002, 91.6005, 91.6006, 91.6007, 91.6009, 91.6011, 91.6012 and 91.6015** continue to exist and that subject to the separately proposed amendments, the Commission readopts these rules.

Subchapter O. Trust Powers

§91.6001. Fiduciary Duties.

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

§91.6002. Fiduciary Capacities.

A credit union is subject to this chapter if it acts in a fiduciary capacity. A credit union acts in a fiduciary capacity when it acts in any of the following capacities:

(1) Trustee.
(2) Custodian.
(3) Executor.
(4) Administrator.
(5) Guardian.
(6) Receiver.

§91.6003. Notice Requirements.

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

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

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

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

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

(5) A description of the locations where the credit union will conduct fiduciary activities.

(b) Prior Activity. A credit union that has initiated trust activities prior to the effective date of this rule shall file the notice prescribed in subsection (a) by October 1, 2003.

§91.6004. Exercise of Fiduciary Powers.

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

(1) The credit union's financial condition.
(2) The credit union's capital and whether that capital is sufficient under the circumstances.
(3) The credit union's overall performance.
(4) The fiduciary powers the credit union proposes to exercise.

(5) The availability of legal counsel.
(6) The experience and expertise of proposed trust management personnel.
(7) The needs of the members to be served.
(8) Any other facts or circumstances that the Department considers appropriate.

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

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

§91.6005. Exemption from Notice.

A credit union does not need to provide notice under section 91.6003 (relating to notice requirements) to act as a trustee or custodian of any form of retirement, pension, profit sharing or deferred income accounts for its members, pension funds of self-employed individuals eligible for membership and pension funds of a company or organization whose employees are eligible for membership in the credit union if acting as such will only involve holding the funds on deposit and reporting information to the account holders and government agencies. All contributions to such fiduciary accounts, however, must be initially made to a share or deposit account in the credit union and the credit union may not directly or indirectly provide any investment advice for such fiduciary accounts.

§91.6006. Policies and Procedures.

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

(1) Brokerage placement practices;

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

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

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

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

§91.6007. Review of Fiduciary Accounts.

(a) Pre-acceptance review. Before accepting a fiduciary account, a credit union shall review the prospective account and related instruments and documents to determine whether it can properly administer the account.

(b) Initial post-acceptance review. Upon the acceptance of a fiduciary account for which a credit union has investment discretion, the credit union shall conduct a prompt review of all assets of the account to evaluate whether they are appropriate for the account.

(c) Annual review. At least once during every calendar year, a credit union shall conduct a review of all assets of each fiduciary account for which the credit union has investment discretion to evaluate whether they are appropriate, individually and collectively, for the account.

§91.6008. Recordkeeping.

A credit union shall adequately document the establishment and termination of each fiduciary account and shall maintain adequate records for all fiduciary accounts. All records pertaining to a fiduciary account shall be separate and distinct from other records of the credit union.

§91.6009. Audit.

At least once during each calendar year, a credit union shall arrange for a suitable audit by a certified public accountant in accordance with generally accepted standards for attestation engagement. The audit must ascertain whether the credit union's internal control policies and procedures provide reasonable assurance of three things:

(1) The credit union is administering fiduciary activities in accordance with applicable law and the trust instrument or other documents creating the fiduciary responsibility; (2) The credit union is properly safeguarding fiduciary assets; and

(3) The credit union is accurately recording transactions in appropriate accounts in a timely manner.

§91.6010. Custody of Fiduciary Assets.

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

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

§91.6011. Trust Funds.

All monies received by a credit union as fiduciary on trust business shall be deposited in a specially designated account or accounts, shall not be commingled with any funds of the credit union and shall remain on deposit until disbursed or invested in accordance with powers and duties of the credit union in its capacity as such fiduciary.

§91.6012. Compensation, Gifts, and Bequests.

A credit union may not permit its directors, officers, or employees to retain any compensation for acting as co-fiduciary with the credit union in the administration of a fiduciary account, except with the specific approval of the board of directors. In addition, a credit union may not permit any fiduciary officer or employee to accept a bequest or gift of fiduciary assets, unless the bequest or gift is directed or made by a relative of the director, officer, or employee or is specifically approved by the board of directors.

§91.6013. Bond Coverage.

A credit union is required to maintain a bond for protection and indemnity of members, in reasonable amounts against dishonesty, fraud, defalcation, forgery, theft, embezzlement, and other similar insurable losses with an insurance or surety company authorized to do business in this state. Coverage against such losses shall include all agents who do not otherwise provide protection and indemnity for the credit union, directors, officers, and employees of the credit

union acting independently or in collusion or combination with any person or persons whether or not they draw salary or compensation.

§91.6014. Errors and Omissions Insurance.

The credit union shall procure errors and omission insurance of at least five hundred thousand dollars.

§91.6015. Litigation File.

A credit union shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of fiduciary powers.

FIDUCIARY DUTIES

E. (d) Proposed Amendments to 7 TAC Section 91.6001 Concerning Fiduciary Duties.

BACKGROUND: The proposed amendment represents only minor grammar changes.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6001.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6001.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6001	Fiduciary Duties

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §91.6001, relating to a credit union fiduciary duty in conducting trust operations. The proposed amendment represents only minor grammar changes.

The Commission proposes the following amendment to Section §91.6001.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002 is required.

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

- create or eliminate a government program;

DRAFT

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

Subchapter O. Trust Powers

§91.6001. Fiduciary Duties.

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

DRAFT

NOTICE REQUIREMENTS

E. (e) Proposed Amendments to 7 TAC Section 91.6003 Concerning Notice Requirements.

BACKGROUND: The proposed amendment represents minor grammar changes and rescinds an originally established notification phase-in of fiduciary activity prior to October 1, 2003 that is no longer necessary.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6003.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6003.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6003	Notice Requirements

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §91.6003, relating to a credit union's notice requirements when initiating fiduciary activities. The proposed amendment represents minor grammar changes and rescinds an originally established notification phase-in of fiduciary activity prior to October 1, 2003 that is no longer necessary.

The Commission proposes the following amendment to Section §91.6003.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

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

- create or eliminate a government program;

DRAFT

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

§91.6003. Notice Requirements.

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

(1) A statement describing the fiduciary powers **[that]** the credit union will exercise;

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

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

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

(5) A description of the locations where the credit union will conduct fiduciary activities.

[(b) Prior Activity. A credit union that has initiated trust activities prior to the effective date of this rule shall file the notice prescribed in subsection (a) by October 1, 2003.]

DRAFT

EXERCISE OF FIDUCIARY POWERS

E. (f) Proposed Amendments to 7 TAC Section 91.6004 Concerning the Exercise of Fiduciary Powers.

BACKGROUND: The proposed amendment represents a change in terminology to using a credit union's "net worth position", instead of the current term of "capital", as a commissioner considered factor toward determining if a credit union's exercise of fiduciary powers notification is complete and accepted for filing. The term net worth is more readily defined by accounting and statutory sources and provides greater clarity to both the industry and the Department regarding the factors considered. Use of the term net worth would also synchronize federal and state terminology.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6004.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6004.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6004	Exercise of Fiduciary Powers

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §91.6004, relating to a credit union's exercise of fiduciary powers. The proposed amendment represents a change in terminology to using a credit union's "net worth position", instead of the current term of "capital", as a commissioner considered factor toward determining if a credit union's exercise of fiduciary powers notification is complete and accepted for filing. The term net worth is more readily defined by accounting and statutory sources and provides greater clarity to both the industry and the Department regarding the factors considered. Use of the term net worth would also synchronize federal and state terminology.

The Commission proposes the following amendment to Section §91.6004.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

DRAFT

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

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

§91.6004. Exercise of Fiduciary Powers.

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

(1) The credit union's financial condition.

(2) The **adequacy of the** credit union's **[capital]** **net worth** **[and whether that]** **position**. **[capital is sufficient under the circumstances.]**

(3) The credit union's overall performance.

(4) The fiduciary powers the credit union proposes to exercise.

(5) The availability **and expertise** of legal counsel.

(6) The experience and expertise of proposed trust management personnel.

(7) The needs of the members to be served.

(8) Any other facts or circumstances that the Department considers appropriate.

(b) Written Notice. Prior to expiration of the **[30 day]** **30-day** period referred to in subsection (a), the commissioner may give the credit union written notice of denial or consent, subject to certain conditions.

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

DRAFT

E. (g) Proposed Amendments to 7 TAC Section 91.6006 Concerning Policies and Procedures.

BACKGROUND: The proposed amendments include minor grammar changes and require certain policies, when appropriate, based on types of trust activity.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6006.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6006.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6006	Policies and Procedures

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §91.6006, relating to a credit union's development of appropriate policies and procedures relating to the exercise of exercise of trust powers. The proposed amendments include minor grammar changes and require certain policies, when appropriate, based on types of trust activity.

The Commission proposes the following amendment to Section §91.6006.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

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

- create or eliminate a government program;

DRAFT

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

§91.6006. Policies and Procedures.

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

(1) Brokerage placement practices;

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

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

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

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

DRAFT

CUSTODY OF FIDUCIARY ASSETS

E. (h) Proposed Amendments to 7 TAC Section 91.6010 Concerning Custody of Fiduciary Assets.

BACKGROUND: The proposed amendments include a minor grammar change.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6010.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6010.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6010	Custody of Fiduciary Assets

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §91.6010, relating to a credit union's custody of fiduciary assets. The proposed amendments include a minor grammar change.

The Commission proposes the following amendment to Section §91.6010.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

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

- create or eliminate a government program;

DRAFT

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

§91.6010. Custody of Fiduciary Assets.

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

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

DRAFT

ERRORS AND OMISSIONS INSURANCE

E. (i) Proposed Amendments to 7 TAC Section 91.6014 Concerning Errors and Omissions Insurance.

BACKGROUND: The proposed amendments maintain the original $500 thousand-dollar coverage floor while requiring annual analysis of the appropriateness of the coverage relative to trust activities undertaken.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.6014.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 91.6014.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 91.	Chartering, Operations, Mergers, Liquidations
Subchapter O.	Trust Powers
Rule §91.6014	Errors and Omissions Insurance

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §91.6014, relating to a credit union's trust powers errors and omissions insurance coverage. The proposed amendments maintain the original $500 thousand-dollar coverage floor while requiring annual analysis of the appropriateness of the coverage relative to trust activities undertaken.

The Commission proposes the following amendment to Section §91.6014.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

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

- create or eliminate a government program;

DRAFT

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

§91.6014. Errors and Omissions Insurance.

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

DRAFT

E. (j) Proposed Amendments to 7 TAC Section 95.200 Concerning Notice of Taking Possession; Appointment of Liquidating Agent; Subordination of Rights.

BACKGROUND: The proposed amendments would allow the Department to name a liquidating agent other than a deposit insurer as authorized under the Texas Finance Code, ensure consist language relative to both federal and private deposit insurance providers and reference the specific guidelines for liquidation action found within the Texas Finance Code Section §126.201 instead of reiterating them within the rule.

RECOMMENDED ACTION: The Department recommends that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 95.200.

RECOMMENDED MOTION: I move that we approve for publication and comment in the *Texas Register* the proposed amendments to 7 TAC Section 95.200.

TITLE 7.	BANKING AND SECURITIES
Part 6.	Credit Union Department
Chapter 95.	Share and Depositor Insurance Protection
Subchapter B.	Liquidating Agents
Rule §95.200	Notice of taking possession; Appointment of Liquidating Agent; Subordination of Rights

As a result of its regular rule review under Texas Government Code Section §2001.039, the Credit Union Commission (the Commission) proposes amendments to Section §95.200, relating to notice by the Department to a deposit insurer when taking possession of the assets of a credit union, the appointment of a deposit insurer as a liquidating agent and the subrogation of the members rights to the deposit insurer in the event coverage is provided by a deposit insurance provider. The proposed amendment would allow the Department to name a liquidating agent other than a deposit insurer as authorized under the Texas Finance Code, ensure consist language relative to both federal and private deposit insurance providers and reference the specific guidelines for liquidation action found within the Texas Finance Code Section §126.201 instead of reiterating them within the rule.

The Commission proposes the following amendment to Section §95.200.

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

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

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

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

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002 is required.

DRAFT

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

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

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

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

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

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

LEGAL REVIEW. The Commission certifies that the proposed rule has been reviewed by legal counsel and has been found to be within the agency's authority to adopt.

DRAFT

Subchapter B. Liquidating Agents

§95.200. Notice of Taking Possession; Appointment of Liquidating Agent; Subordination of Rights.

(a) The department shall give prompt notice to the NCUA or the applicable insuring organization whenever the commissioner **through conservatorship** takes possession of the property and assets of a respective **[federally-]** insured or participating credit union. The Department shall give further prompt notice whenever the commissioner determines to liquidate the property and assets of such **[federally-]** insured or participating credit union.

(b) If the commissioner finds **[that the closing of a credit union and]** the liquidation of the credit union's assets **[are in the public interest and the best interest of the credit union members, depositors, and creditors,]** **is prudent under the guidelines established by Texas Finance Code §126.201,** **[the NCUA or, alternatively,]** the insuring organization**,** **[shall]** **may** be appointed liquidating agent for **[the purpose of liquidation or the winding up of the affairs of]** the credit union.

(c) When any member's share or deposit account is paid, the NCUA or, alternatively, the insuring organization shall be subrogated to all rights of the member, up to the amount paid by the NCUA or the insuring organization to such member.

DRAFT

E. (k) Adoption of the Department's Equal Employment and Workforce Diversity Plan.

BACKGROUND: Finance Code Section 15.313 requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. The Commission originally approved the policy on October 10, 1997 and readopted it last October 15, 2018. The policy statement must be approved annually. Accordingly, the policy is presented for the Commission's consideration and approval.

RECOMMENDED ACTION: The Department recommends that the Commission approve the Plan as presented.

RECOMMENDED MOTION: I move that the Commission adopt the Department's Equal Employment and Workforce Diversity Plan as recommended by staff.

STATE OF TEXAS
CREDIT UNION DEPARTMENT

EQUAL EMPLOYMENT AND WORKFORCE DIVERSITY PLAN

Approved by Commission on November 3, 2017

Readopted by Commission on October 15, 2018

Approved by Commission on November 1, 2019

TABLE OF CONTENTS

PREFACE 1

FOREWORD 1

CREDIT UNION DEPARTMENT

EQUAL EMPLOYMENT AND WORKFORCE DIVERSITY PLAN. 2

POLICY STATEMENT 2

RESPONSIBILITIES 3

GOALS 3

ACTIONS TO ACHIEVE GOALS 3

DISCIPLINE PROCEDURES 5

APPEAL AND GRIEVANCE PROCEDURES 5

MONITORING ACHIEVEMENTS 5

TIME FRAME FOR IMPLEMENTATION 6

PREFACE

This Equal Employment and Workforce Diversity Plan has been developed to formalize the Credit Union Commission's and the Credit Union Department's commitment to equal employment opportunity. The plan is designed to assure that the Department's personnel policies and practices promote equal employment opportunities and diversity in the workplace.

The Department recognizes that the full and equal participation of minorities, women, and disabled persons in all employment opportunities is a necessary component of any effective equal employment and diversity program. To achieve the goals in practical and meaningful terms, the Department has established objectives and timetables, and has assigned specific responsibilities to Commission members and Department staff.

The Department's Equal Employment and Workforce Diversity Plan is intended to conform in good faith with Title VII of the Civil Rights Act of 1964, codified as amended in scattered sections of 2 U.S.C., 28 U.S.C., and 42 U.S.C. the Civil Rights Act of 1991, codified as amended in scattered sections of 42 U.S.C. (Supp. III 1992), the **Equal Pay Act of 1963, 29 U.S.C. Chapter 8 § 206(d)**, Title VII of the Civil Rights Act of the Rehabilitation Act of 1973, codified as amended in scattered sections of the 29 U.S.C and 31-41c U.S.C., the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2013), the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-12213 (2013), and the Texas Labor Code, as well as the guidelines adopted by the Equal Employment Opportunity Commission on October 17, 1989 and Presidential Executive Order 11246.

FOREWORD

The Department's Equal Employment and Workforce Diversity Plan has been developed in accordance with the principles set forth in the Equal Employment Opportunity Coordinating Council's Affirmative Action Policy Statement. These principles outline the intent and goals of the Department's philosophy:

> Equal Opportunity is the law of the land. In the public sector of our society, this means that all persons, regardless of race, color, religion, sex, national origin, age or disability, shall have equal access to positions in public service limited only by ability to do the job.
>
> ...vigorous enforcement of the laws against discrimination is essential. But equally, and perhaps even more important, are affirmative, voluntary efforts to assure that positions in the public service are genuinely and equally accessible to qualified persons, without regard to their sex, racial or ethnic characteristics. Without such efforts, Equal Employment Opportunity is no more than a wish...

CREDIT UNION DEPARTMENT
EQUAL EMPLOYMENT AND WORKFORCE
DIVERSITY PLAN

Policy Statement

It shall be the public policy of the Credit Union Department not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, gender identity, sexual orientation, pregnancy, status as a parent, age, disability(physical or mental) status, family medical history or genetic information, political affiliation, military service or other non-merit factors . The Department shall take all necessary affirmative steps to ensure the employment and promotion of otherwise qualified minorities, women, and disabled persons who may be underrepresented in the Department's workforce.

The Department is committed to the principles of equal employment opportunity law and the spirit of workplace diversity. This plan has been prepared to ensure that the Department's equal employment and diversity policies shall be properly implemented and to ensure that no artificial barriers shall be intentionally or otherwise created to deny applicants for employment or employees of the Department equal employment opportunities. The plan is available in the Department's office for review by employees and applicants for employment. The plan is available to the general public on request.

The Department is fully committed to protecting the rights of all current and prospective employees by ensuring that these individuals are being properly treated and provided with employment and advancement opportunities based solely on each individual's qualifications and performance, without regard to his or her race, color, religion, national origin, sex, age or disability. These rights are promulgated in the statutes listed in the preface.

Supervisors are required to ensure that all employees and prospective employees are afforded equal employment opportunities. Also, through the Department's recruiting process, supervisors must strive to attain a workforce profile that is in parity with Texas' statewide labor force availability by race/ethnicity and sex.

Advancement within the Department's organizational structure will be attained by meritorious performance; however, occupational parity based upon Texas' statewide labor force availability will be given consideration during the selection process.

The supervisors of the Credit Union Department shall not discriminate regarding employment opportunities. They must work together and communicate freely with each other to ensure discrimination is not fostered within the Department.

Responsibilities

The Department's Equal Employment and Workforce Diversity Plan has the support of the Commission members, Commissioner, and other management or supervisory personnel. Specific responsibilities have been assigned and delegated to the Commission and management personnel to ensure that the necessary authority and power is available to implement the provisions of the plan.

The Commission is responsible for establishing policies and monitoring the implementation of the plan through periodic reports submitted by the Commissioner. The Commission, through Department staff, shall review the plan annually for purposes of revision or modification. The staff shall review the workforce analysis and personnel policies, procedures, and practices and shall include recruitment, selection, promotions, job descriptions, classifications, compensation, discipline, or other terms and conditions affecting the equal employment opportunities of applicants for employment or employees. Any changes to the plan resulting from the annual review will be submitted to the Commission for approval.

The Deputy Commissioner shall be designated as the representative of the Department with the authority for execution of the plan. It shall be the responsibility of the Deputy Commissioner to ensure that compliance with the Commission's policies is implemented in an efficient and effective manner.

Goals

I. To insure objectivity, consistency, uniformity and job relatedness through design and implementation of appropriate personnel policies, procedures and practices which affect the equal employment opportunities of the Department's employees and applicants for employment.

II. To insure a diverse workforce through the establishment of a monitoring and reporting system.

Actions to Achieve Goals

I. Policy Dissemination

A. The Department shall use the communication network of the Texas Workforce Commission to provide notice of the Department's equal employment and diversity policy. In notifications posted for vacant positions, including posting on the Department's website, the Department shall include information that it is an equal employment opportunity employer.

B. As part of new employee in-processing, each new employee shall receive a copy of the Department's Equal Employment and Workforce Diversity Plan and its Equal Employment Policy.

II. Recruitment

A. To the extent possible, the Department shall utilize a wide range of recruiting sources to secure the maximum number of qualified minorities, female and disabled applicants for available positions within all classifications. Such sources shall include, as appropriate, statewide minority, female and disability associated organizations, educational institutions, newspapers, and the Texas Workforce Commission. The Department shall continue to expand and update its list of such recruiting sources including appropriate contact persons.

B. Notices of vacant positions shall be posted in accordance with the regular ten (10) working day posting rule. Where vacancies occur in classifications that have been identified as being underutilized, the Department shall place emphasis on recruiting from minority, female, and disabled applicant sources, by distributing position notices to all appropriate recruitment sources identified in II.A.

C. An Applicant Flow Record shall be maintained to determine the mix of candidates applying for vacant positions according to race, national origin, sex, and disability. This information shall be incorporated into the Agency Application Log.

III. Selection Procedures

The U. S. Equal Employment Opportunity Commission, the U. S. Civil Service Commission, the Department of Labor and the Department of Justice have issued Uniform Guidelines on Employee Selection Procedures. These guidelines address all phases of an employer's selection process and provide suggested requirements that, if adhered to, will greatly reduce an employer's susceptibility to charges of employment discrimination that involve the selection process.

A. Position audits shall be conducted on a continuing basis (within resources available) to ensure that current position descriptions accurately reflect the actual duties, tasks, and responsibilities required to successfully perform the job. These audits shall also be used to determine the appropriateness of the minimum qualifications for the positions and to ensure that only valid, job-related qualifications are required.

B. All testing, and screening procedures shall be reviewed on a continuing basis (within resources available) to ensure their job-relatedness and validity. Information acquired from the position audits shall be used to construct valid, job-related tests and screening procedures.

C. All employment interviews shall be reviewed for job relatedness. Non-job-related questions and those items that may tend to screen out an ethnic or racial group shall be eliminated. Technical assistance in the construction of interview questions and interviewing procedures shall be given to hiring authorities.

D. All test scores and interview results shall be maintained for each classification in accordance with the State's record retention schedule. This information is to assess the presence of artificial barriers to equal employment opportunity.

IV. Upward Mobility

A. Employees shall be encouraged to participate in training or educational opportunities that enhance their skills.

B. In-service training programs shall be designed and implemented to increase promotion opportunities for employees. On-the-job training and/or cross-training programs shall be developed to expose employees to a broad range of job duties and experiences.

Discipline Procedures

The Department shall institute a progressive discipline system that is linked to specific policies and procedures with which personnel are expected to comply. Such a progressive discipline system will be designed in steps of severity ranging from written warnings to termination. This disciplinary system shall be designed and applied to ensure uniformity and consistency with Department policies prohibiting discrimination.

Appeal and Grievance Procedures

The Department shall provide appeal and grievance procedures designed to resolve complaints of employment discrimination alleged by employees. These procedures shall provide aggrieved employees the opportunity to discuss their problems at several levels.

These procedures shall help protect both the employee and the employer by providing both parties with the opportunity to have their position reviewed and considered by an impartial authority. These procedures shall provide safeguards against any and all occurrences of discrimination or any other preferential treatment that may adversely affect employees of the Department.

Monitoring Achievement

The Deputy Commissioner shall be responsible for administering and monitoring the implementation of the Department's Equal Employment and Workforce Diversity Plan and for identifying any revisions necessary to assure effective application. The Deputy Commissioner shall review such reports as include the following Annual EEO/Diversity Progress Report:

A. Workforce Analysis by Race, National Origin, Sex, and EEO Category

B. Personnel Transactions

The Commissioner shall submit to the Commission, at each regular Commission meeting, a status report which shall include a record of the following personnel transactions: 1) salary report, listed by race, national origin, sex, disability, and experience, 2) employees promoted, listed by race, national origin, sex, disability, and experience; and 5) employees terminated and resigned, listed by race, national origin, sex, and disability.

C. Applicant Flow

The Applicant Flow Report shall include a breakdown of all applicants by race, national origin, sex, disability, and position vacancy. The report, which is part of the Agency Application Log, shall also indicate whether or not a job offer was made, and the position of the person(s) who made the employment decision.

D. Appeal and Grievance Status

This report shall be submitted to the Commission. It will provide an itemized statistical summary of the number, status, and issues raised by employee grievances and discrimination complaints. No report is necessary if there have been no grievances or discrimination complaints.

Time Frame For Implementation

The Department shall implement and review the action program previously identified annually.

RESOLUTIONS OF APPRECIATION

E. (l) Resolutions of Appreciation for Outgoing Commission Members Missy Morrow, Kay Stewart and Rick Ybarra.

BACKGROUND: In accordance with Section VII of the Commission's Policies Manual, the Commission shall adopt three resolutions of appreciation to recognize the service of members upon the completion of their term of office. Accordingly, Staff has drafted the attached resolutions for your consideration.

RECOMMENDED ACTION: I move that we approve the Resolutions of Appreciation for Outgoing Commission Members Missy Morrow, Kay Stewart and Rick Ybarra as presented and that a copy of the appropriate resolutions be given to them as a token of our appreciation.

RESOLUTION

The Credit Union Commission, State of Texas, hereby publicly proclaims its appreciation for devoted service performed in the interest of Texas credit unions and the people of Texas by

ALLYSON "MISSY" MORROW

WHEREAS, on May 23, 2007, Governor Rick Perry appointed Allyson "Missy" Morrow of San Benito, Texas to the Credit Union Commission; and

WHEREAS, Allyson "Missy" Morrow served as an Industry Member of the Commission with honor and distinction through August 8, 2019; and

WHEREAS, she has with great competence served as Chairman of the Commission from April 24, 2017 through August 8, 2019; and

WHEREAS, as a Commission Member, she dedicated her time and energies working to assure that the Commission and the Credit Union Department fulfilled their responsibilities while remaining sensitive to the needs of Texas credit unions and their members; and

WHEREAS, Allyson "Missy" Morrow has been diligent in her duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

NOW THEREFORE, BE IT RESOLVED, that the Credit Union Commission expresses its sincere appreciation for the leadership that Allyson "Missy" Morrow provided during her tenure as a Commission member; and

BE IT FURTHER RESOLVED, that this Resolution be conveyed to Allyson "Missy" Morrow as a token of the Commission's gratitude and entered in the minutes of the Commission's meeting.

READ, ADOPTED, AND APPROVED, unanimously by the Credit Union Commission, State of Texas, this first day of November 2019.

_____

Yusuf E. Farran, Chairman

RESOLUTION

The Credit Union Commission, State of Texas, hereby publicly proclaims its appreciation for devoted service performed in the interest of Texas credit unions and the people of Texas by

KAY STEWART

WHEREAS, on April 10, 2013, Governor Rick Perry appointed Kay Stewart of Lone Star, Texas to the Credit Union Commission; and

WHEREAS, Kay Stewart served as an Industry Member of the Commission with honor and distinction through August 8, 2019; and

WHEREAS, as a Commission Member, she dedicated her time and energies working to assure that the Commission and the Credit Union Department fulfilled their responsibilities while remaining sensitive to the needs of Texas credit unions and their members; and

WHEREAS, Kay Stewart has been diligent in her duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

NOW THEREFORE, BE IT RESOLVED, that the Credit Union Commission expresses its sincere appreciation for the leadership that Kay Stewart provided during her tenure as a Commission member; and

BE IT FURTHER RESOLVED, that this Resolution be conveyed to Kay Stewart as a token of the Commission's gratitude and entered in the minutes of the Commission's meeting.

READ, ADOPTED, AND APPROVED, unanimously by the Credit Union Commission, State of Texas, this first day of November 2019.

_____

Yusuf E. Farran, Chairman

RESOLUTION

The Credit Union Commission, State of Texas, hereby publicly proclaims its appreciation for devoted service performed in the interest of Texas credit unions and the people of Texas by

RICK YBARRA

WHEREAS, on May 21, 2017, Governor Greg Abbott appointed Rick Ybarra of Austin, Texas to the Credit Union Commission; and

WHEREAS, Rick Ybarra served as a Public Member of the Commission with honor and distinction through July 24, 2019; and

WHEREAS, as a Commission Member, he dedicated his time and energies working to assure that the Commission and the Credit Union Department fulfilled their responsibilities while remaining sensitive to the needs of Texas credit unions and their members; and

WHEREAS, Rick Ybarra has been diligent in his duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

NOW THEREFORE, BE IT RESOLVED, that the Credit Union Commission expresses its sincere appreciation for the leadership that Rick Ybarra provided during his tenure as a Commission member; and

BE IT FURTHER RESOLVED, that this Resolution be conveyed to Rick Ybarra as a token of the Commission's gratitude and entered in the minutes of the Commission's meeting.

READ, ADOPTED, AND APPROVED, unanimously by the Credit Union Commission, State of Texas, this first day of November 2019.

_____

Yusuf E. Farran, Chairman

COMMITTEE APPOINTMENTS

E. (m) Discussion and Consideration of the Chair's Designation of a Vice Chair and Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation).

BACKGROUND: As required by Commission Policy, the Chair must designate a Vice Chair and appoint members to those committees established by the Commission.

- **Vice-Chair**

  The vice-chair serves at the will of the Chair and performs the duties of the presiding officer in the event of an absence or disability.

Currently, the Commission has two standing committees:

- **Commissioner Evaluation Committee**

  The Commission Chair shall appoint a Commissioner Evaluation Committee of at least three members and shall designate one member as Chair. The Commission Chair will serve as an ex-officio member of this committee.

  The purpose of the Committee shall be to coordinate the annual evaluation of the Commissioner's performance and to oversee the development and maintenance of a Commissioner succession plan.

- **Rules Committee**

  The Commission Chair shall appoint a Rules Committee of at least three members and shall designate one member as Chair. The Commission Chair will serve as an ex-officio member of this committee.

  The purpose of the Committee is to conduct thorough deliberations and scrutiny of proposed rulemaking and assigned projects, and to bring to the Commission the results of its deliberations and its recommendation for Commission action.

NOTE: Without objection, the minutes of the meeting will reflect the Chair's designation of a Vice Chair and appointments to the Rules and Commissioner Evaluation Committees as presented.

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION

Annual EEO/Diversity Progress Report (2019)

Position: Position Description:

Posting #: 19-01 Filled (Y/N): Y Date Filled: 1/22/2019
Person(s) making employment decision: Michael S. Riepen
Reason for selection of the final candidate: Met the qualifications of the job

Posting #: 19-02 Filled (Y/N): Y Date Filled: 3/18/2019
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Met the qualifications of the job

Posting #: 19-03 Filled (Y/N): N Date Filled: Not Filled
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Did not meet qualifications

Posting #: 19-04 Filled (Y/N): Y Date Filled: 4/1/2019
Person(s) making employment decision: Joel Arevalo
Reason for selection of the final candidate: Employee promoted within

Posting #: 19-05 Filled (Y/N): N Date Filled: Not Filled
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Did not meet qualifications

Posting #: 19-06 Filled (Y/N): N Date Filled: Not Filled
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Reclassified position

Posting #: 19-07 Filled (Y/N): Y Date Filled: 5/7/2019
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Met qualifications of the job

Posting #: 19-08 Filled (Y/N): Y Date Filled: 6/3/2019
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Met qualifications of the job

Posting #: 19-09 Filled (Y/N): N Date Filled: Not Filled
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Did not meet qualifications

Posting #: 19-10 Filled (Y/N): Y Date Filled: 7/8/2019
Person(s) making employment decision: Robert W. Etheridge
Reason for selection of the final candidate: Met qualifications of the job

Race	White			Black[1]			Hispanic[2]			Asian[3]			Indian[4]			Other			Not Given		
Sex	M	F	NG	M	F	NG	M	F	NG	M	F	NG	M	F	NG	M	F	NG	M	F	NG
Applications Received	6	13		5	11		8	3		2	2						2		2	3	
Interviewed	2	1			2		4	1		1											
Offers	1	1			1		1	2													
Accept	1	1			1		1	2													
Decline																					

APPEAL AND GRIEVANCE STATUS [0]

[1] Black or African American
[2] Hispanic or Latino
[3] Asian, Native Hawaiian or Other Pacific Islander
[4] American Indian / Alaskan

Credit Union Department

Executive Summary

As of 08/31/19

*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	181	181	181	
Total Assets (Millions)	*39,356	*41,451	*40,533	*41,912	43,276*	43,434*	
APPLICATIONS (Received)							
Charters	0	0	0	0	0	0	0
Foreign Branches	1	0	0	0	1	0	1
Conversions	1	1	0	0	0	0	0
Mergers	3	5	0	1	0	1	2
Bylaws	65	67	13	20	17	8	58
Articles of Incorporation	2	2	1	1	0	1	3
Total	72	75	14	22	18	10	64
EXAMINATION ACTIVITIES							
Regular	115	74	21	20	26	21	88
Joint	55	77	21	11	15	16	63
Remedial	28	34	8	7	8	8	31
Total	198	185	50	38	49	45	182
ENFORCEMENT ACTIONS (In Force)							
Determination Letters	1	3	3	1	1	1	
LUAs	0	0	0	0	0	0	
Cease & Desist Orders	3	2	1	1	1	2	
Dividend Restrictions	0	0	0	0	0	0	
Conservatorships	0	0	0	0	0	0	
Liquidations	1	1	2	1	1	1	
Total	5	6	6	3	3	4	
PERSONNEL STAFFING							
Field Examiners	19	18	17	17	18	19	
Total Personnel	29	28	27	27	27	29	
FINANCIAL OPERATIONS (In Thousands)							
Budgeted Expenditures	3,935	4,063	1,024	1,079	1,026	1,133	4,262
Actual Expenditures	3,855	3,874	910	1,003	926	1,065	3,904
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	6	1,808	5,732	9,811

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	1	
Add: New Applications Filed	0	0	0	0	1	0	
Less: Approved	0	0	0	0	0	1	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	0	0	0	0	1	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	5	2	4	
Add: Applications Filed	1	3	2	1	3	1	
Less: Approved	0	1	2	4	1	2	
Denied/Withdrawn	0	0	0	0	0	0	
Pending at End of Period	2	5	5	2	4	3	
BYLAWS							
Pending at Beginning of Period	9	7	21	11	9	16	
Add: Applications Filed	16	35	13	20	17	8	
Less: Approved	15	20	20	22	9	19	
Denied/Withdrawn	0	1	3	0	1	1	
Pending at End of Period	10	21	11	9	16	4	
ARTICLES OF INCORPORATION							
Pending at Beginning of Period	0	1	0	1	0	0	
Add: Applications Filed	1	0	1	2	0	0	
Less: Approved	1	1	0	3	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	48	50	50	
2	124	115	111	108	110	110	
3	18	21	21	23	19	19	
4	3	4	4	2	2	2	
5	0	0	0	0	0	0	
Total	187	185	183	181	181	181	

* 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 08/31/2019
Determination Letters	1	3	1	3	0	3	0
LUAs	0	0	0	0	0	0	0
Cease & Desist Orders	3	0	2	2	1	1	2
Dividend Restrictions	0	0	0	0	0	0	0
Conservatorships	0	0	0	0	0	0	0
Liquidations	1	0	0	1	1	1	1
Total	5	3	3	6	2	5	3

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	88	21	95%	11%	100%
Joint	60	16	107%	9%	100%
Remedial	32	8	100%	4%	100%
Total	180	45	100%	25%	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	85	103	95	363
Closed	280	338	97	65	114	100	376
Avg. Days to Process	12.5	13.75	15	16	15	16	16
% Resolved in 30 Days	100%	100%	98%	97%	100%	99%	99%

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	3	3	4	14
Procedure Irregularity	8	6		1	2		3
Denial	0	0					0
Cross Collateralization	1	2			1	4	5
Credit Report Issues	42	57	27	18	30	14	89
Collateral Protection Insurance	5	7	3	3	1		7
ACCOUNT ISSUES							
NSF/Overdraft	0	0					0
Electronic Funds Transfer	13	12	1	1	3	5	10
Holds on Checks	3	8	3	1	2	4	10
Posting Order	6	3			2		2
Fraud/Unauthorized	32	28	4	7	8	14	33
Fees	41	51	12	3	1	10	26
Billing Disputes	10	10	1	2	7	3	13
Other	49	75	14	12	22	18	66
OTHER PRODUCTS/SERVICES							
Account/Loan Balance	23	23	13	4	11	11	39
Account Closed/Frozen	13	8	1	3	3	1	8
Customer Service	16	24	12	5	13	8	38
Deceptive Advertisment	0	2	1	1	2	1	5
Vehicle Title	5	6	1		3	3	7
Website Issues	0	2		1			1
TOTAL	280	338	97	65	114	100	376

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	2	0	1	**4**
State-to-Federal	0	1		2			**2**
Total	**1**	**4**	**2**	**4**	**0**	**1**	**7**
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	7,547,498		7,425,683	69,246,226
State-to-Federal	-	10,871,461		24,000,070			24,000,070
Total	**2,945,999**	**210,040,179**	**57,136,534**	**31,547,568**	**0**	**$7,425,683**	**96,109,785**
CONVERSIONS							
Number:							
Federal-to-State	4	0	0	0	0		**0**
State-to-Federal	0	0	0	0	0		**0**
State-to-Mutual Bank	0	0	0	0	0		**0**
Assets:							**0**
Federal-to-State	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

August 31, 2019

Q4

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%	0.06%
Other Services	26.0%	47.78%	42.10%
Commodities	21.1%	91.45%	78.80%

***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	$ -	$ -	$ -	$ -	$ -	$ 987.26	$ -
Professional Services	$ -	$ -	$ -	$ -	$ -	$ 3,309.35	$ -
Other Services	$ -	$ -	$ -	$ -	$ -	$ 11,080.63	$ 10,136.75
Commodities	$ -	$ -	$ -	$ -	$ -	$ 1,398.61	$ 14,964.34

	(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	3	0
Professional Services	0	0	0	0	0	1	0
Other Services	0	0	0	0	0	10	0
Commodities	0	0	0	0	0	2	0

Credit Union Department

Year to Date Assessment of HUB Related Activities

August 31, 2019

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	$ -	$ -	$ -	$ -	$ -	$ 1.00	$ -
Special Trade	$ -	$ -	$ -	$ -	$ -	$ 1,253.22	$ -
Professional Services	$ 1.00	$ -	$ -	$ -	$ 1.00	$ 3,320.35	$ 2.00
Other Services	$ 691.04	$ 1.00	$ -	$ -	$ 8,255.50	$ 36,992.60	$ 26,897.79
Commodities	$ -	$ 819.99	$ -	$ -	$ 1,162.44	$ 5,558.22	$ 20,665.84

	(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	5	0
Professional Services	0	0	0	0	0	1	0
Other Services	1	0	0	0	1	29	2
Commodities	0	1	0	0	2	12	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
Q2
Q3
Q4

Credit Union Department
Web Site Statistics
Report Range:09/01/18 thru 08/31/19

		Number
Total Visits:		
	Number of Visits	5,249
	Visitors	2,755
	Page Views	11,291
	Number of Repeat Visitors	2,751
	Average Pages per Visit	2.51
	Average Visit Duration	0:02:27
Most Requested Pages:	**Home**	4,410
	Texas Rules for Credit Unions	818
	Job Postings	646
	Department Newsletter	424
	Employment	344
Most Downloaded Files:	**Rules for Credit Unions**	414
	List of Texas State-Chartered Credit Unions	84
	July 2019 Newsletter	82
	Finance Code - Unofficial Compilation of Credit - Specific Provisions	79
	June 2019 Newsletter	77