

**TEXAS CREDIT UNION COMMISSION
RULES COMMITTEE MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane
Austin, Texas
July 12, 2018**

A. CALL TO ORDER – Chairwoman Kay Stewart called the meeting to order at 1:03 p.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 committee members present included Yusuf Farran, Steven “Steve” Gilman, and Commission Chair Allyson “Missy” Morrow, ex-officio member. Rick Ybarra was absent. Commission Members Liz Bayless, Beckie Stockstill Cobb, and Sherri Merket were in attendance; however, they did not participate in the discussion or vote on any items during this meeting. Assistant Attorney General Melissa Juarez was present and served as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner; and Isabel Velasquez, Executive Assistant. Chairwoman Stewart appointed Isabel Velasquez as recording secretary. The Chair inquired, and the Commissioner confirmed that the notice of the meeting was properly posted in the *Texas Register* (July 2, 2018, TRD#2018006347).

- **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION**–Chairwoman Stewart invited public input on matters regarding rulemaking for future consideration by the committee. There was none.

B. RECEIVE MINUTES OF PREVIOUS MEETING (November 2, 2017)

Mr. Farran moved to approve the minutes of November 2, 2017 as presented. Mr. Gilman seconded the motion, and the motion was unanimously adopted.

C. NEW BUSINESS

(a) Recommendation that the Credit Union Commission Adopt Amendments, a New Section and Three Repeals in 7 TAC, Part 6, Chapter 93 Concerning Administrative Proceedings. Commissioner Feeney explained that the amendments would implement changes resulting from the Commission's review of Chapter 93 under the Texas Government Code Section 2001.039. He noted that the amendments relate to four areas: (1) consistency with the Administrative Procedure Act Texas Government Code, Chapter 2001 (APA), (2) consistency with the State Office of Administrative Hearings (SOAH) procedural rules, (3) better readability and clarification, and (4) technical corrections. Mr. Feeney reported that no comments were received on the proposal during the comment period.

Mr. Gilman moved to recommend that the Commission adopt the amendments to **7 TAC, Part 6, Chapter 93, Sections 93.101, 93.204, 93.205, 93.208, 93.209, 93.210, 93.211, 93.212, 93.301, 93.303, 93.401, 93.501, 93.604 and 93.605; adopt new 7 TAC Section 93.201; and adopt the repeal of existing 7 TAC Sections 93.201, 93.206, and 93.601** as previously published in the *Texas Register*. Mr. Farran seconded the motion and the motion was unanimously adopted.

(b) Recommendation that the Credit Union Commission Adopt the Completed Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter G Concerning Lending Powers. Commissioner Feeney indicated that at its July 2016 meeting, the Commission approved a plan which established a date for the required review of each rule in accordance with Section 2001.039, Government Code. He reported that staff had reviewed **7 TAC, Part 6, Chapter 91, Subchapter G (Lending Powers)** in accordance with the Plan and believes that certain revisions are appropriate and necessary. Mr. Feeney noted that the recommended amendments to Chapter 91, Subchapter G would be presented separately for consideration. He explained that notice of review and a request for comments on these rules were

published in the April 20, 2018 issue of the *Texas Register* and that no comments were received. Mr. Feeney further indicated that staff believes that the reasons for adopting these rules continue to exist and the rules should be readopted.

Mr. Gilman moved to recommend that the Commission find that the reasons for adopting **7 TAC, Part 6, Chapter 91, Subchapter G (Lending Powers)** continue to exist and, subject to the separately proposed amendments, that the Committee recommend the re-adoption of the rules in this chapter. Mr. Farran seconded the motion and the motion was unanimously adopted.

(c) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.709 Concerning Member Business and Commercial Loans. Commissioner Feeney explained that as a result of the passage of the Economic Growth, Regulatory Relief, and Consumer Protection Act, (S. 2155, 115th Cong. (2018)) NCUA had made changes to its Member Business Lending regulation (Part 723) that removes the member's occupancy requirement for loans secured by liens on 1- to 4-family dwellings. This change, however, does not apply to Texas-chartered credit union because they are exempt from compliance with Part 723 and are required to comply with 7 TAC Section 91.709. Existing Section 91.709 requires 1- to 4-family dwellings to be the primary resident of a member in order to be excluded from the definition of a member business loan. Therefore, unlike federal credit unions, loans secured by a non-owner occupied 1- to 4-family dwelling are considered to be member business loans and count towards the aggregate member business loan cap.

The propose amendments conform the rule to the recent changes in Part 723. In order to maintain the current exemption from NCUA's Part 723, Mr. Feeney noted that it will be necessary for the NCUA Board to also approve the proposed amendments.

After a brief discussion, Mr. Gilman moved to recommend that the Commission take action to approve for publication and comment the proposed amendments to **7 TAC Section 91.709** concerning member business and commercial loans. Mr. Farran seconded the motion and the motion was unanimously adopted.

(d) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.712 Concerning Plastic Cards. Commissioner Feeney indicated that this proposal will implement changes resulting from the Commission's review of Chapter 91, Subchapter G. The proposed amendments would permit a plastic card to be activated by logging on to the card issuer/processor's website to go through a member verification process. Currently, the rule limits the member verification process to a telephone verification process.

After a short discussion, Mr. Gilman moved to recommend that the Commission take action to approve for publication and comment the proposed amendments to **7 TAC Section 91.712** concerning plastic cards. Mr. Farran seconded the motion and the motion was unanimously adopted.

(e) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.121 Concerning Complaint Notification. Commissioner Feeney indicated that the proposal will prescribe the Department's procedures for handling complaints. The proposed amendments are intended to be explanatory in nature and generally relate to four areas: (1) how to file a complaint with the Department, (2) how a complaint is handled after receipt, (3) the authority of the Department in reviewing complaints, and (4) the privacy of information provided in a complaint.

✓ **Melodie Durst, Executive Director, Credit Union Coalition of Texas** thanked staff for working with the Industry in developing the proposal and expressed support for the rule change.

After a brief discussion, Mr. Gilman moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.121** concerning complaint notices and procedures. Mr. Farran seconded the motion and the motion was unanimously adopted.

(f) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.403 Concerning Debt Cancellation Products; Federal Parity. Commissioner Feeney indicated that the Department has long opined that credit unions may enter into debt cancellation contracts to the same extent as federal credit unions. Interpretive rulings issued by the National Credit Union Administration (NCUA) found that a federal credit union may sell debt cancellation products to its member as an activity that is incidental to a federal credit union's expressed power of lending. Pursuant to the authority set forth in Finance Code Section 123.003, relating to enlargement of powers, a credit union may offer debt cancellation products. He explained that the proposed amendments would update the standards governing the offer and sale of debt cancellation products. Mr. Feeney noted that the proposed changes would amend subsection (a) to make clear that credit unions must comply with the Truth in Lending Act (15 U.S.C. 1601) and the applicable provisions of Regulation Z (12 C.F.R. Part 226); amend subsection (b) to remove language that could be construed to prohibit the offering of a no refund debt cancellation product in a manner that is permitted for federal credit unions; and, add a new subsection (f) that would adopt and incorporate by reference the guidance issued by NCUA in its Letter to Federal Credit Unions No. 03-FCU-06 and direct credit unions to look to 12 C.F.R. Part 37,

for guidance as to best practices related to the offer and sale of debt cancellation products.

✓ **Lonnie Nicholson, President, EECU** commended staff for providing clarity to such a complex subject. Mr. Nicholson also encouraged the Committee to consider some additional language relating to the proposed wording in subsection (f). After receiving clarification from the Committee's Legal Counsel, Mr. Nicholson withdrew his suggestion.

✓ **Jeff Huffman, President, Texas Credit Union Association** expressed appreciation to Staff for proposing the elimination of the language in subsection (b) to permit "no refund" debt cancellation products and for providing guidance as to best practices.

After a short discussion, Mr. Gilman moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.403** concerning debt cancellation products. Mr. Farran seconded the motion and the motion was unanimously adopted.

(g) Discussion of and Vote to Establish Date for Next Committee Meeting. Chairwoman Stewart noted that the next meeting is tentatively scheduled for November 1, 2018.

ADJOURNMENT -- There being no other items to come before the Committee, and without objection, the meeting was adjourned at 1:39 p.m.

Steven "Steve" Gilman
Chairman

Isabel Velasquez
Recording Secretary

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