

**TEXAS CREDIT UNION COMMISSION  
RULES COMMITTEE MEETING MINUTES  
Credit Union Department Building  
914 East Anderson Lane  
Austin, Texas  
November 2, 2017**

**A. CALL TO ORDER** – Chairwoman Kay Stewart called the meeting to order at 2:01 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 members present included Yusuf Farran, Steven “Steve” Gilman, and Commission Chair Allyson “Missy” Morrow, ex-officio member. Commission Members Sherri Merket and James L. Minge 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 (**October 23, 2017, TRD#2017012031**).

- **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 (July 7, 2016)**

Mr. Farran moved to approve the minutes of July 7, 2016 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 to 7 TAC Section 91.101 Concerning Definition and Interpretations.** Commissioner Feeney explained that the amendments will add one new definition, modify four definitions and remove two definitions. He noted that no comments were received during the comment period

Mr. Gilman moved to recommend that the Commission adopt the proposed amendments to **7 TAC Section 91.101** 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 Amendments to 7 TAC Section 91.115 Concerning User Safety at Unmanned Teller Machines.** Commissioner Feeney indicated that the amendments will, among other things, reduce regulatory burden by authorizing delivery of the notice of safety precautions by electronic means in certain circumstances. He noted that no comments were received during the comment period.

Mr. Gilman moved to recommend that the Commission adopt the proposed amendments to **7 TAC Section 91.115** as previously published in the *Texas Register*. Mr. Farran seconded the motion and the motion was unanimously adopted.

**(c) Recommendation that the Credit Union Commission Adopt Amendments to 7 TAC Section 91.121 Concerning the Form of Consumer Complaint Notice.** Commissioner Feeney indicated that the amendments will alter the content of the required notice to include the department's facsimile number and an email address as well as provide clarification and better readability. He noted that no comments were received during the comment period.

**(d) Recommendation that the Credit Union Commission Adopt Amendments to 7 TAC Section 91.205 Concerning the Name of a Credit Union.** Commissioner Feeney indicated that the amendments will make it clear that credit

unions are solely responsible for any unauthorized use or infringement on a business trade name. He noted that no comments were received during the comment period.

**(e) Recommendation that the Credit Union Commission Adopt Amendments to 7 TAC Section 91.209 Concerning the Submission of Call Reports and Other Information Requests.** Commissioner Feeney indicated that the amendments will eliminate the specific due date for submission of call reports to avoid any conflict or confusion should the National Credit Union Administration (NCUA) establish a different date for submitting its Form 5300. He noted that no comments were received during the comment period.

Mr. Gilman moved to recommend that the Commission adopt the proposed amendments to **7 TAC Sections 91.121, 91.205, and 91.209** as previously published in the *Texas Register*. Mr. Farran seconded the motion and the motion was unanimously adopted.

**(f) Recommendation that the Credit Union Commission Adopt Amendments to 7 TAC Section 91.1003 Concerning Mergers/Consolidations.** Commissioner Feeney indicated that the amendments will require credit unions to include in any merger plan a description of financial arrangements providing a substantial increase in compensation or benefits, of any sort, to a board member or senior management employee in connection with the merger/consolidation. The amendments will also define the term “substantial to be an amount that exceeds \$1,000 in total. He noted that one comment was received during the comment period.

After consideration of the comment received, Mr. Gilman moved to recommend that the Commission adopt the proposed amendments to **7 TAC Section 91.1003** as previously published in the *Texas Register*. Mr. Farran seconded the motion and the motion was unanimously adopted.

Committee Member Rick Ybarra joined the meeting at 2:15 p.m.

**(g) Recommendation that the Credit Union Commission Withdraw the Previously Published Version of the Rule and Approval for Publication and Comment the Revised New 7 TAC Section 91.1010 Concerning Voluntary Liquidations.** Commissioner Feeney indicated that no comments were received on the original published proposal, however, staff believes that a revised proposal would improve readability, provide better clarity on voting requirements, and prevent any director or senior management employee from receiving any economic benefit in connection with the voluntary liquidation. In general, he noted that the proposal will provide guidance to credit unions when they are considering a voluntary liquidation of the institution. The guidelines should enable the board of directors or liquidating agent to conduct the liquidation of the credit union in a more orderly and expeditious manner and to arrange distribution of the assets to the members without undue delay.

After a brief discussion, Mr. Gilman moved to recommend that the Commission withdraw the previously published version of new 7 TAC Section 91.1010 and approve for publication and comment the modified version of proposed new **7 TAC Section 91.1010** concerning voluntary liquidations. Mr. Farran seconded the motion and the motion was unanimously adopted.

**(h) Recommendation that the Credit Union Commission Readopt the Rules in 7 TAC, Part 6, Chapter 91, Subchapters D (Powers of Credit Unions), M (Electronic Operations), and N (Emergency or Permanent Closing of Office or Operation).** Commissioner Feeney briefly explained that in accordance with the Commission's Rule Review Plan, staff has reviewed all of the rules in the noted subchapters and believes certain revisions would be appropriate. He noted that the amendments would be presented separately for proposal. Mr. Feeney noted that staff

believes that the reasons for adopting the rules in these subchapters continue to exist and, subject to the proposed amendments, the rules should be readopted.

Mr. Gilman moved to recommend that the Commission find that the reasons for adopting the rules in **7 TAC Chapter 91, Subchapters D, M, and N** continue to exist and that the Commission, subject to the concurrently proposed amendments, readopt the rules in these subchapters. Mr. Farran seconded the motion and the motion was unanimously adopted.

**(i) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.4001 Concerning Authority to Conduct Electronic Operations.** Commissioner Feeney indicated that as a result of the review of Chapter 91, Subchapter M, staff is proposing amendments that would impose a new requirement, on credit unions using electronic means or facilities, to develop and reasonably test an incident response plan to minimize the impact of a data breach or other incident on members.

**Melodie Durst, Executive Director, Credit Union Coalition of Texas.** Mrs. Durst indicated that the Coalition would suggest that the term “electronic” be inserted in the proposed new language in subparagraph (c)(3) between the terms “Other” and “Incident” to provide better clarity, and to delete the words “on members” from the proposed rule.

After a brief discussion, Mr. Gilman moved to recommend that the Commission approve for publication and comment the proposed changes to **7 TAC Section 91.4001**, as amended by the Committee. Mr. Farran seconded the motion and the motion was unanimously adopted.

**(j) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.4002**

**Concerning Transactional Web Site Notice Requirements and Security.**

Commissioner Feeney indicated that as a result of the review of Chapter 91, Subchapter M, staff is proposing amendments that would require a credit union to review the adequacy of its web site's security measures annually instead of once every two years.

Mr. Gilman moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.4002** concerning transactional web site notice requirements and security. Mr. Ybarra seconded the motion and the motion was unanimously adopted.

**(k) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.5001 Concerning Emergency Closing.** Commissioner Feeney indicated that as a result of the review of Chapter 91, Subchapter N, staff is proposing amendments that would encourage a credit union to post notice of an emergency closing of an office or operation on its website and any social media pages.

Mr. Gilman moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.5001** concerning emergency closing. Mr. Farran seconded the motion and the motion was unanimously adopted.

**(l) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.5005 Concerning Permanent Closing of an Office.** Commissioner Feeney indicated that as a result of the review of Chapter 91, Subchapter N, staff is proposing amendments that would require a credit union to post notice of a permanent closing of an office on its website and any social media pages at least 30 days prior to the proposed closing.

After a brief discussion, Mr. Gilman moved to recommend that the Commission approve for publication and comment the proposed amendments to **7 TAC Section 91.5005** concerning permanent closing of an office. Mr. Farran seconded the motion and the motion was unanimously adopted.

**(m) Recommendation that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments, a New Section, and a Repeal in 7 TAC, Part 8, Chapter 153 Concerning Home Equity Lending.**

Commissioner Feeney indicated that main purpose of the proposal is to implement SJR 60, passed by the Texas Legislature in 2017. SJR 60 amends Section 50 of the Texas Constitution and applies to home equity loans entered on or after January 1, 2018. He further noted that SJR 60 is Proposition 2 on the November 7<sup>th</sup> ballot.

After a brief discussion, Mr. Gilman moved to recommend that the Commission conditionally approve for publication and comment the proposed amendments, a new section, and a repeal in **7 TAC, Part 8, Chapter 153** concerning home equity lending, subject to a favorable vote on Proposition 2 in the November 7, 2017 Constitutional Amendment Election. Mr. Ybarra seconded the motion and the motion was unanimously adopted.

**(n) Discussion and Consideration on Potential Rules to Implement HB 471 (Proposition 7 on the November 7 Ballot).**

Commissioner Feeney indicated that HB 471 is the enabling legislation for HJR 37 (Proposition 7 on the November 7 Ballot) He noted that if Proposition 7 is passed by the voters, HB 471 would authorize the Legislature to permit credit unions and other financial institutions to hold savings promotion raffles. Mr. Feeney explained that HB 471 also requires the Credit Union Commission and the Finance Commission of Texas to adopt rules to enforce the provisions of the bill. He further indicated that staff currently believes credit unions could conduct savings promotion raffles without any additional rules

but staff was soliciting thoughts from interested parties on the need to promulgate rules.

There was a brief discussion, however, no suggestions were presented and the Committee took no action on the item.

**(o) Discussion of and Vote to Establish Date for Next Committee Meeting.** Chairwoman Stewart noted that the next meeting is tentatively scheduled for March 8, 2018.

**ADJOURNMENT --** There being no other items to come before the Committee, and without objection, the meeting was adjourned at 2:45 p.m.

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Kay Stewart  
Chairwoman

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Isabel Velasquez  
Recording Secretary

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