

CREDIT UNION COMMISSION MEETING

Credit Union Department Building 914 East Anderson Lane Austin, Texas

> June 10, 2022 9:00 a.m.

AGENDA

This meeting of the Texas Credit Union Commission will be held at the Credit Union Department Building at 914 E. Anderson Ln., Austin, Texas 78752 and is open to the public. Only onsite testimony will be allowed; however, the meeting will be transmitted live through a link on the Department's webpage at www.cud.texas.gov on the day of the meeting, June 10, 2022 at 9:00 a.m.

An electronic copy of the agenda is now available at www.cud.texas.gov under Credit Union Commission, Commission Meetings, along with a copy of the meeting materials. A recording of the meeting will be available after June 18, 2022. To obtain a recording, please contact Isabel Velasquez at 512-837-9236.

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

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

TAB			PAGE
A.	Call	to Order (9:00 a.m.) – Chair Jim Minge	4
	Publ	ic Comment	
В.	Minu	ites of the March 11, 2022 Credit Union Commission Meeting	
	and I	May 27, 2022 Special Meeting	7
C.	Depa	artment's FY 2022 Budget and Financial Performance	24
D.	Depa	artment's Operating Plan and FY 2023 Budget	27
E.	Statu	s of the State Credit Union System	58
F.	Rulemaking Matters		
	(1)	Adoption of the Rule Review of 7 TAC, Part 6, Chapter 95,	
		Subchapters A (Insurance Requirements), B (Liquidating Agents),	
		C (Guaranty Credit Unions), D (Disclosure for Non-federally	
		Insured Credit Unions), and Re-adoption of Rules	66
	(2)	Adoption of Proposed Amendments to 7 TAC, Part 6, Chapter 91.720	
	` /	(Small-Dollar, Short-Term Credit)	77
	(3)	Adoption of Proposed Amendments to 7 TAC, Part 8, Chapter 153	
	` /	(Home Equity Lending)	80
	(4)	Proposed Amendments to 7 TAC, Part 6, Chapter 91.515	
	` /	(Financial Reporting)	86

TAB		PAGE
	(5) Proposed Amendments to 7 TAC Part 6 Chapter 01 001	
	(5) Proposed Amendments to 7 TAC, Part 6, Chapter 91.901 (Reserve Requirements)	89
	(6) Proposed New Rule 7 TAC, Part 6, Chapter 97.208	0)
	(Vendor Protests)	94
G.	Litigation Update Regarding Pending Litigation:	
	Credit Union Department v. Ken Paxton, Attorney General of Texas;	
	Cause No. D-1-GN-21-007168	101
Н.	Commissioner Resignation Status	104
I.	Commission Policy, Responsibilities, Communications Amongst	
	Commission Members, Commissioner and General Counsel	106
J.	Resolution of Appreciation for Outgoing Commission Member	
	Steven "Steve" Gilman	186
K.	Chair Appointments	189
	(1) Vice Chair	
	(2) Commission's Rules Committee	
	(3) Commission's Audit Committee	
	(4) Commission Policy Review Committee	
L.	Offer of Purchase for Credit Union Department Building located at	
	914 E. Anderson Lane, Austin, Texas 78752	191
M.	Future Commission Meetings: Agenda Items, Arrangements, and Dates	
	(September 16, 2022)	194

Adjournment

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

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

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

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

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

Legal Counsel

• Nancy Elmilady

Staff

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

FUTURE CREDIT UNION COMMISSION MEETING DATES

Friday, September 16, 2022

Friday, November 4, 2022

Friday, March 10, 2023

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.

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the March 11, 2022 and May 27, 2022 meetings, 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 March 11, 2022 and special meeting of May 27, 2022 be approved as presented.

CREDIT UNION COMMISSION MEETING MINUTES Credit Union Department Building 914 East Anderson Lane, Austin, Texas March 11, 2022

- a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included, Liz Bayless, Karyn Brownlee, Beckie Stockstill Cobb, Steve Gilman, Sherri Merket, Jim Minge, David Shurtz and Kay Swan. The Chair introduced general counsel Nancy Elmilady, who will serve as legal counsel for the commission at this meeting. Representing the Department staff were John J. Kolhoff, Commissioner, Robert Etheridge, Deputy Commissioner, and Joel Arevalo, Director of Information and Technology. Chair Farran appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (February 24, 2022 TRD#2022001230).
- ❖ GENERAL PUBLIC COMMENT -- Chair Farran 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.
- B. MINUTES OF PREVIOUS MEETING (November 5, 2021) -- The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet and asked for any proposed edits. Hearing none, the chair asked for a motion to approve the minutes. Mrs. Cobb moved for approval of the minutes of November 5, 2021 as presented. Mrs. Merket seconded the motion, and the commission carried the motion unanimously.
- C. DEPARTMENT'S FY 2022 BUDGET and FINANCIAL PERFORMANCE Commissioner Kolhoff reported that in 2020 the Commission

adopted a strategic plan for Fiscal Years 2021-2025. The \$4.8 million FY 2022 budget approved by the Commission in June 2021 includes the maintenance and operating and capital improvement budget in support of the Strategic Plan. At the end of the five months, total expenditures were \$1.515 million or approximately 23% less than budgeted projections of \$1.977 million. Almost all lines performed below budgeted levels apart from other expenditures for FY 2022. Mr. Kolhoff further reported that the expenditures relate primarily to payment of services at the beginning of the year such as insurance costs, state services such as SWCAP, SORM, and TFC costs. Mr. Kolhoff reported that the unspent funds from the FY 2022 budget predominately represents travel related savings as a result of the pandemic's impact and personnel savings due to vacancies.

After a brief discussion, the Commission took no action.

D. DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS AND PARAMETERS – Commissioner Kolhoff explained that the Finance Code, Section 16.0003 gives the Commission the responsibility for approving the Department's budget each year. Since the budget must be adopted at the June meeting, staff is seeking approval of the guidelines for developing the FY 2023 budget. Furthermore, Mr. Kolhoff reported there is a new item to the assumptions "Legal Research Tools" which allows our general counsel to subscribe to the appropriate services and perform her case searches.

After a brief discussion, Mr. Gilman moved that the Commission adopt the proposed budget assumptions and parameters for FY 2023 as recommended by staff. Mr. Minge seconded the motion and the motion was unanimously adopted.

E. APPROVE AND AUTHORIZE THE SUBMISSION OF THE DEPARTMENT'S STRATEGIC PLAN FOR FISCAL YEARS 2023-2027. Commissioner Kolhoff reported that Section 2056.002 of the Government Code

requires that every two years each agency must submit a formal strategic plan that covers a prescribed 5-year horizon (FY 2023-2027). Mr. Kolhoff further reported that this plan summarizes our analysis of the internal and external environment impacting credit unions and the Department and provides goals and objectives for the next five years. Mr. Kolhoff noted that the guidelines are similar to previous plans and outlined the importance of four strategic goals for 2023-2027 are to:

- Ensure a safe and sound state credit union system in Texas;
- Provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services;
- Safeguard the interest of credit union members; and
- Develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of the Department's statutory mission.

Commission member Gilman commented that it was obvious a lot of work went into this document and appreciated the work of the Commissioner and his staff. The vision and focus on future and particularly support in the concept of utilizing technology as the risk ratings of credit unions in the state of Texas, but the commitment to development of staff and having the best examiners possible, doing their job on behalf of state credit unions.

After a short discussion, Mr. Shurtz moved that the Commission approve the proposed Fiscal Year 2023-2027 Strategic Plan and authorize its submission in the format dictated by the Governor and the LBB. Mrs. Brownlee seconded the motion and the motion was unanimously adopted.

F. REVIEW THE RESULTS OF THE EMPLOYEE ENGAGEMENT SURVEY. Commissioner Kolhoff reported that the survey reviews Department employees' viewpoints over 12 constructs including: Workgroup, Strategic,

Supervision, Workplace, Community, Information Systems, Internal Communication, Pay, Benefits, Employee Development, Job Satisfaction and Employee Engagement. Our response rate rose 1.3% to 69.2% of total employees. Overall, the survey indicated employees' responses are complimentary of the Department and have improved from the previous survey. There were only two "issue" constructs with a score below 400 that were identified but improved from the last survey. Those constructs were Pay and Job Satisfaction. Furthermore, Mr. Kolhoff noted that he held interviews with both office and the examination staff and asked their impressions of what the survey results meant to them and what options are available for us to try to make the Department a great place to work.

After concerns addressed by the Chair, a lengthy discussion occurred, and positive comments from various Commission members, the Commission took no action.

DISCUSSION, CONSIDERATION, AND POSSIBLE VOTE TO TAKE G. APPROVE **PROPOSED AMENDMENTS** TO THE ACTION COMMISSION'S POLICY MANUAL, AS PART OF ITS ANNUAL POLICY REVIEW, TO (1) REVISE THE WEAPONS POLICY, (2) THE LEGAL COUNSEL, SECTION XIV, AND (3) TO MAKE FORMATTING CHANGES. Commissioner Kolhoff reported that the following amendments to the Commission's Policy Manual are recommended by the Department to address recent changes in the law regarding open carry of handguns as reflected by HB 1927, revising the Legal Counsel Section XIV to include a description of the General Counsel's representation and updating language regarding representation from the Attorney General's Office of Texas; and formatting changes throughout the manual.

Chairman Farran stated that the Commission would be entering into Executive Session as provided under Section 551.071(2) of the Government Code. The Commission entered into Executive Session ad 9:33 a.m., and reconvened in open

session at 10:00 a.m. Chairman Farran noted that no formal action was taken by the Commission during the closed session.

Ms. Bayless made a motion that the record reflect that the Commission reviewed the Commission Policy Manual and approved the proposed changes as recommended. Mr. Shurtz seconded the motion, and the motion was unanimously adopted.

H. STATE CREDIT UNION SYSTEM – Deputy Commissioner Etheridge briefly indicated the Texas economy continues to rebound from the impact of the COVID-19 pandemic. The unemployment rate for Texas declined to 5.0% at monthend December 2021, down from 6.5% six months earlier. Overall, the financial performance of Texas credit unions was excellent during 2021. Capital strength for the Texas industry was good, with earnings and asset quality performance ratios reaching their strongest levels over the last seven years. The strong financial performance continues to perform well and the industry for Texas charters remains safe and sound. Earnings performance data for Texas credit unions reflects that strong net income performance is strengthening net worth ratios. While the outlook for the Texas industry appears positive, it remains imperative for the credit unions to adapt to the ever-changing economic trends (i.e. inflation, etc.) and political implications (i.e. local, national and worldwide) to safeguard the financial interests of millions of Texans.

After a brief discussion, the commission took no action.

I. (1) AUDIT COMMITTEE REPORT – Commissioner Kolhoff reported that as part of the Sunset Review process, a recommendation was made asking the Department to initiate an internal audit program that exceeds statutory requirements for an Agency of the Department's size and nature. The Department and the Commission agreed to implement a program and formed an Audit Committee. The

12

Audit Committee has been working with the Commissioner to initiate the required procurement process. Thereafter, the Department solicited bids for qualified Respondents and subsequently received bids from Respondents for review of the Department's requirements and qualifications posted in the solicitation.

Chairman Farran stated that the Commission would be entering into Executive Session as provided under Section 551.071(2) of the Government Code for the purposes of consultation and advice of counsel for legal matters subject to attorney-client privilege. The Commission entered into Executive Session at 10:14 a.m., and reconvened in open session at 10:27 a.m. Chairman Farran noted that no formal action was taken by the Commission during the closed session.

Mr. Farran moved that the Commission approve the proposed action of not awarding an Internal Auditing Services Contract for the published RFQ and to repost the solicitation at a future date with a goal of posting by December 31, 2022. The motion was unanimously adopted.

(2) DEPARTMENT'S ANNUAL RISK ASSESSMENT REPORT FOR FY 2022 AS REQUIRED BY SECTION 2102.004, GOVERNMENT CODE. Commissioner Kolhoff reported that Section 2102.013 of the Texas Government Code requires state agencies which meet certain requirements to conduct a formal risk assessment each year and submit the assessment to the State Auditor's Office. The Department has completed the internal risk review and has prepared the required written assessment of the risks for submission to the State Auditor's Office.

Mr. Farran moved that the Commission approve the Department's Internal Risk Assessment Report for FY 2022 and authorize its submission to the State Auditor's Office. The motion was unanimously adopted.

J. COMMISSIONER EVALUATION COMMITTEE REPORT – Chair Brownlee reported that on January 27 in a public meeting the Commissioner Evaluation Committee met to discuss and consider the FY 2022 commissioner performance evaluation process and performance measures. The committee revised the evaluation process for FY 2022 and drafted goals pending approval by the Commission. In summary, after the close of the fiscal year, each commission member will be required to complete an evaluation form and the commissioner will be required to submit a self-evaluation and an annual reporting of the Department's performance measures to the Commission. The Commissioner's final evaluation for FY 2022 will be completed at the November Commission meeting. At that time, the commissioner's goal and performance measures for FY 2023 will also be finalized because this is a personnel issue. Furthermore, Mrs. Brownlee stated that any discussion required by Commission members be held in executive session.

Chairman Farran stated that the Commission would be entering into Executive Session as provided under Section 551.074(a)(1) for the purpose of discussing certain personnel issues related to the Commissioner's Annual Performance. The Commission entered into Executive Session at 10:36 a.m., and reconvened in open session at 11:22 a.m. Chairman Farran noted that no formal action was taken by the Commission during the closed session.

Mr. Farran moved that the Commission approve the adoption of the FY 2022 commissioner's evaluation process and the performance measures as recommended by the commissioner's evaluation committee. The motion was unanimously adopted.

K. MANDATORY RULE REVIEW

(1) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 91, Subchapter G (Lending Powers), and Re-adoption of Rules. Commissioner Kolhoff reported that Section 2001.039, Government Code, requires that a state

14

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. At its February 2020 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 G (Lending Powers), and is recommending that one change be made.

After a short discussion, Mr. Gilman moved that the Commission find that the reasons for adopting 7 TAC, Part 6, Chapter 91, Subchapter G (Lending Powers) continue to exist and readopt these rules. Mrs. Merket seconded the motion, and the commission carried the motion unanimously.

- (2) Adoption of Proposed Amendments to 7 TAC, Part 6, Chapter 91, Section 91.720 (Small-Dollar, Short-Term Credit). Commissioner Kolhoff noted that the purpose of the proposed amendments is to adjust for inflation the maximum lending limit related to these loan products and to foster competitive authority to similar products allowed federal credit unions. The proposed amendments to paragraph (b) increases the defined maximum for small-dollar, short-term credit loans to \$2,000 and extended maximum maturity to 12 months.
 - ✓ Suzanne Yashewski Associated General Counsel, Texas Credit Union Association (Cornerstone Credit Union League). Ms. Yashewski briefly noted being in favor of the proposed changes to the small dollar, short-term lending rule. Talks with the Texas state working group who requested some additional regulatory flexibility in the area. The mission of the Texas Credit Union Association is to serve the underserved. Always looking for ways to try to pull people away from the payday lenders who, do not give them the same level of service as we do, and pull them into our credit union movement. Finally, more flexibility in this area is much needed so it is much appreciated the consideration on this rule.

✓ Melodie Durst, Executive Director, Credit Union Coalition of Texas.

Mrs. Durst stated the Coalition agrees with Ms. Yashewski's comments and are in support of the changes.

After a brief discussion, Mrs. Brownlee moved that the Commission adopt the proposed amendments to rule 7 TAC Section 91.720 concerning Small-Dollar, Short-Term Credit. Mr. Minge seconded the motion, and the commission carried the motion unanimously.

(3) Proposed Amendments to 7 TAC, Part 8, Chapter 153 (Home Equity Lending). Commissioner Kolhoff reported that the interpretations are administered by the Joint Financial Regulatory Agencies consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The purposes of the proposed rule changes to 7 TAC Chapter 153 are to amend the definition of "business day" and to make technical corrections.

After a short discussion, Mr. Shurtz moved that the Commission approve for publication and comment the amendments to 7 TAC, Part 8, Chapter 153 concerning Home Equity Lending. Mrs. Cobb seconded the motion, and the commission carried the motion unanimously.

I. LITIGATION UPDATE REGARDING PENDING LITIGATION. General Counsel Elmilady provided a brief synopsis regarding a Public Information

Act (PIA) request related to certain confidential information that the Department believes is confidential under the Finance Code and the Public Information Act. In response to that PIA request, the Department sent a request for letter ruling to the Office of the Attorney General, Open Records Division. The ruling response from the Attorney General's Office noting two reasons why the information should be disclosed. In order for the Department to maintain confidentiality and to appeal the

letter ruling, a lawsuit had to be filed against the Attorney General's Office asking the Court to rule that the information at issue in the Letter Ruling is not subject to disclosure under the Texas Public Information Act. Furthermore, on January 20, 2022, West Texas Credit Union filed a Petition in Intervention to the underlying suit, and on January 21, 2022, the Office of the Attorney General filed its Original Answer. Subsequent to these filings, on February 23, 2022, counsels for all Parties entered into a Rule 11 Agreement regarding Initial Disclosures, agreeing that no initial disclosures are due in this case until the Parties agree on a future deadline.

After a brief discussion, the commission took no action.

M. Future Commission Meetings: Agenda Items, Arrangements, and Dates.

Commission Member Minge requested the Commissioner pursue a special meeting if possible. The commission took no action. Chair Farran reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for June 10, 2022 at 9:00 a.m., in Austin.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Farran adjourned the meeting at 11:30 a.m.

Yusuf E. Farran Chairman	Isabel Velasquez Recording Secretary

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FOLLOW-UP ACTION REPORT CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 05-03-2022)
March 11, 2022		
7 TAC Sections, Subchapter G 91.701 thru 91.719 Lending Powers	Published in Texas Register as readopted rules.	Published in <i>Texas Register</i> on 03/25/2022.
7 TAC Section 91.720 Small-Dollar, Short-Term Credit	Published in <i>Texas Register</i> with a 31 day comment period.	Published in <i>Texas Register</i> on 04/29/2022.
Chapter 153, Part 8 The Home Equity Lending 153.1	Published in <i>Texas Register</i> with a 31 day comment period.	Published in <i>Texas Register</i> on 03/25/2022.

CREDIT UNION COMMISSION SPECIAL MEETING MINUTES Credit Union Department Building 914 East Anderson Lane, Austin, Texas May 27, 2022

a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included, Liz Bayless, David Bleazard, Karyn Brownlee, Beckie Stockstill Cobb, Sherri Merket, David Shurtz and Kay Swan. Commission member Yusuf Farran was absent. The Chair introduced General Counsel Nancy Elmilady, to serve as legal counsel for the Commission at this meeting. Representing the Department staff were John J. Kolhoff, Commissioner, Robert Etheridge, Deputy Commissioner, and Joel Arevalo, Director of Information and Technology. Chair Minge appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (May 19, 2022 TRD#2022003063).

Chair Minge declared a moment of silence in memory of the terrible events that happened in Uvalde, Texas this week.

Chair Minge announced that he had received a phone call that he did not expect appointing him as the Chair of this Commission which he accepted to do so as an honor and a privilege. Mr. Minge elaborated that credit unions started as people helping people. He noted that as a Commission, we are the people that have an honor of helping Texas credit unions, and their members by ensuring a strong and viable charter. We should keep in mind that's what we are trying to do by having a great regulator that does a great job of regulating our industry and empowering them to help Texas. This is his goal as the new Chair. Furthermore, he thanked Commissioner Kolhoff for all he has done and accomplished these past few years.

- ❖ GENERAL PUBLIC COMMENT -- Chair Minge invited public input on matters that were not scheduled items on the agenda for possible future consideration by the Commission.
 - Melodie Durst, Executive Director, Credit Union Coalition of Texas Ms. Durst recognized several of the Coalition members that were in the audience today from across the state. She expressed support for about what is to be discussed. She stated the Coalition wants to ensure that we have a strong regulator and have a strong and healthy industry in the state of Texas. On behalf of the Coalition, she is aware Commissioner Kolhoff has submitted his letter of resignation. We are hopeful that maybe he will reconsider taking that step and the Commission will take necessary steps to encourage him to reconsider. We were fortunate in Texas under our previous Commissioner for over two decades to have continuity and this is really important in financial services regulation. Furthermore, through his skills and leadership Commissioner Kolhoff has led our industry through unprecedent times and credit unions continue to do well.
 - **↓** Suzanne Yashewski, Cornerstone Credit Union League Regulatory Compliance Counsel − Ms. Yashewski stands in unison with Ms. Durst on the same issues. She noted that our member credit unions have done very well, and most of that is due to the good guidance that the state charter credit unions are receiving from the current department. The League would be delighted to have Mr. Kolhoff continue to be Commissioner of the Credit Union Department. Furthermore, during these difficult times, credit unions have been able to succeed with the changes that we see coming, whether it's a possible recession and just knowing we are in good hands. Finally, she would hope that we can continue going forward and into the future. Commissioner Kolhoff was thanked for all the hard work he provided.

- ♣ David A. Frazier, President/CEO of Texans Credit Union Mr. Frazier expressed an extreme honor to be here today to speak to the Commission. He reported that Texans Credit Union has about 114,000 members and about 97% of those members still reside in the state of Texas. He was saddened and disappointed to hear about the resignation of Commissioner Kolhoff. The Commissioner has been fair and balanced for credit unions in the industry. He works well and understands our need to grow and mature as an industry, but also ensures safety and soundness along the way. It is Mr. Frazier's hope that Commissioner Kolhoff will reconsider his resignation and come to an agreement that is mutually beneficial for the Commission, as well as the credit union industry and state-chartered credit unions.
- ♣ Bill Nikolauk, CEO/President, First Community Federal Credit Union, San Angelo, Texas Mr. Nikolauk reported his credit union is looking at converting to a state charter after a meeting with Commissioner Kolhoff and Deputy Commissioner Etheridge and expressed that both their philosophies are more in line with what they want to do as opposed to the federal charter. He further expressed that one of the main charter consideration is because of Mr. Kolhoff and all the good things that he has heard, not just here at this meeting, but from folks where he came from up in Michigan. Mr. Nikolauk stated he can't speak highly enough for the Commissioner and are hoping he seriously considering staying.
- B. COMMISSION POLICY RELATED TO COMMUNICATIONS AND SEPARATION OF RESPONSIBILITIES/DUTIES BETWEEN THE COMMISSION AND THE COMMISSIONER AND NOTICE OF THE COMMISSIONER'S RESIGNATION. Chairman Minge stated that the Commission would be entering into Executive Session as provided under Section

551.074 and 551.071 of the Texas Government Code. The Commission entered into Executive Session at 11:10 a.m., and reconvened in open session at 11:48 a.m. Chairman Minge noted that no formal action was taken by the Commission during the closed session.

C. FUTURE COMMISSION MEETINGS: Agenda Items, Arrangements, and Dates. Chair Minge reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for June 10, 2022 at 9:00 a.m., in Austin. At this time, we wish to have two additional agenda items added to the June 10th meeting for future discussion: (1) Commissioner Kolhoff's intentions and (2) adding an Ad hoc Committee group to review the Commission's Policy Manual.

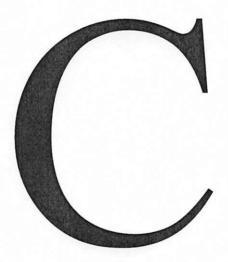
ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Minge adjourned the meeting at 11:50 a.m.

Jim Minge
Chairman

Isabel Velasquez
Recording Secretary

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DEPARTMENT'S FY 2022 BUDGET FINANCIAL PERFORMANCE

C. Discussion and Consideration of the Department's FY 2022 Budget and Financial Performance.

BACKGROUND: In 2020 the Commission adopted a strategic plan for Fiscal Years 2021-2025. The \$4.8 million FY 2022 Budget approved by the Commission in June 2021 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan.

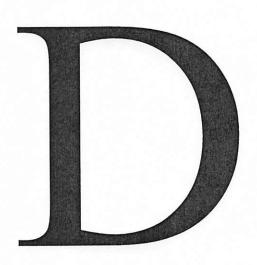
The following report highlights the Department's BY 2022 financial results for the period ending April 30, 2022. At the end of the eight months total expenditures were \$2.476 million or approximately 22% less than budgeted projections of \$3.164 million. Almost all lines performed below budgeted levels apart from other expenditures for FY 2022. The expenditures relate primarily to payment of services at the beginning of the year such as insurance costs, state services such as SWCAP, SORM and TFC costs.

Below budget items for FY 2022 budget predominately represent travel related savings as a result of the pandemic's impact and personnel savings due to vacancies.

RECOMMENDED ACTION: No action is anticipated.

Credit Union Department BY 2022 Budget Analysis For the Period Ended 04/30/22

		BY 2022 YTD	BY 2022 YTD	Budget	Percent of YTD
	BY 2022 Budget	Budgeted	Actual	Variance	Budget
REVENUES:					
Operating Income					
Operating Fees	\$4,894,832	\$4,894,832	\$4,333,040	(\$561,792)	89%
Out-of-State Branch Fees	\$0	\$0	\$9,500	\$9,500	100%
Examination Fees	\$0	\$0	\$0	\$0	
Application Fees	\$0	\$0	\$500	\$500	
Penalties	\$0	\$0	\$18,377	\$18,377	
Other	(\$51,250)	(\$51,250)	(\$51,250)	\$0	
Operating Income Subtotal	\$4,843,582	\$4,843,582	\$4,310,167	(\$533,414)	89%
Interest Income (Operating Acct)	\$0	\$0	\$1,045	\$1,045	
Interest Income (Contingency Acct)	\$0	\$0	\$358	\$358	
TOTAL REVENUES - FUNDS		0			
AVAILABLE TO COVER	19202 127222022				and the same of
EXPENDITURES	\$4,843,582	\$4,843,582	\$4,311,570	(\$532,012)	89%
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	\$2,750,629	\$1,806,153	\$1,666,518	\$139,634	92%
Employee Benefits	\$899,512	\$599,675	\$538,525	\$61,149	90%
Total Personnel Expenses	\$3,650,141	\$2,405,827	\$2,205,044	\$200,784	92%
Travel Expenses:					
In State					
Examinations			\$50,380		
Training/Conferences			\$6,277		.8
Meetings			\$3,833		
Public Forums			\$0		
Other	0075 070	***	\$339	0100 010	040
Total In-State	\$375,073	\$250,048	\$60,829	\$189,219	249
Out-of-State	\$30,000	\$20,000	\$6,238	\$13,762	319
Commission Total Travel Expenses	\$26,500 \$431,573	\$17,667 \$287,715	\$7,035 \$74,102	\$10,632 \$213,613	409 26 9
Other Operating Expenses:	\$431,573	\$207,715	\$74,102	\$213,013	207
Communication/Utilities	\$51,001	\$34,001	\$35,770	(\$1,769)	105%
Professional Services/Fees	\$221,790	\$147,860	\$55,815	\$92,045	389
Supplies/Materials	\$59,470	\$39,647	\$21,453	\$18,193	549
Printing and Reproduction	\$2,755	\$1,837	\$261	\$1,575	149
Repairs/Maintenance	\$290,665	\$193,777	\$6,618	\$187,159	39
Rentals and Leases	\$5,500	\$3,667	\$2,019	\$1,648	55%
Other Operating	\$130,688	\$49,459	\$75,106	(\$25,648)	152%
Total Other Operating Expenses	\$761,869	\$470,246	\$197,042	\$273,204	429
TOTAL EXPENDITURES REMAINING FUNDS TO COVER	\$4,843,583	\$3,163,788	\$2,476,188	\$687,600	78%
EXPENDITURES (Actuals)			\$1,835,382		



DEPARTMENT'S OPERATING PLAN AND FY 2023 BUDGET

D. Department's Operating Plan and Budget for Fiscal Year 2023.

BACKGROUND: Finance Code Section 16.003 gives the Commission the exclusive responsibility for approving the Department's budget each year. Consistent with the Budget Assumptions approved by the Commission in March, the following pages detail a proposed budget for FY 2023 of \$4,894,832 which represents a 3.32% increase from the FY 2022 budget.

The proposed budget includes strategic initiative funding for the costs related to establishing an internal audit function (\$62,000); compensation program performance and equity-based amendments (\$129,761); additional examiner positions (\$264,578) and a legal support budget (\$20,000). The budget also includes capital improvement funding of \$25,000 to repair the Department roof and \$30,000 to maintain our internal network infrastructure.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2023 budget.

RECOMMENDED MOTION: I move that the Commission adopt the proposed budget assumptions and parameters for FY 2023 as recommended by staff.



Credit Union Department State of Texas

FY 2023 Annual Operating Plan & Budget

Approved by the Credit Union Commission On: _____

INTRODUCTION

In accordance with Chapter 16 of the Finance Code, the Department has crafted the following FY 2023 Annual Operating Plan and Budget. This document aligns the goals and measures developed for the Department's Strategic Plan for Fiscal Years 2023-2027 with the Department's proposed budget. It aims to improve the links between the Department's resource needs, effectiveness, and outcomes.

THE DEPARTMENT TODAY

The Department is a self-directed and semi-independent agency that is responsible for ensuring a safe and sound credit union system for all Texans. This is accomplished through the effective chartering, regulation, and supervision of Texas-chartered credit unions. The operations of the Department are funded primarily by semiannual assessments levied on credit unions. The Department receives no state monies from the General Revenue Fund.

As of December 31, 2021, the Department was responsible for regulating and supervising 175 credit unions. Based on the year-end call reports, Texas-chartered credit unions held \$56.2 billion in assets or approximately 40 percent of total aggregate credit union assets in Texas.

GOALS AND OUTCOMES

The Credit Union Commission has established four strategic goals to guide the operations of the Department and to contribute to the achievement of its mission and performance goals. The Commission's goals are:

- 1. to ensure a safe and sound state credit union industry;
- 2. to provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services;
- 3. to safeguard the interest of credit union members; and
- 4. to develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of the Department's statutory mission.

The Department works to meet these goals by, among other things, detecting violations and potential problems or issues in the Texas credit union system and ensuring that the violations are addressed; crafting rules that strengthen corporate governance and operations; ensuring credit union members are treated fairly; and making sure that the Department's human capital strategies, information technology initiatives, and resources are appropriately aligned to achieve the Department's mission, goals, and outcomes.

Like other regulatory agencies, the Department has found it challenging to develop measures that accurately depict the outcomes of the agency's activities. In many instances, the effects of the agency's efforts can only be indirectly assessed. The Department intends to continue refining its work in this area as it gains more experience in integrating its budget and performance functions. As part of this effort, the Department will continue to assess alternatives for measuring outcomes that help the public gauge the Department's progress in achieving its mission, as well as assisting staff in meeting their objectives.

Strategic Goal 1: To Ensure a Safe and Sound Credit Union Industry

Strategic Objective 1.1: The Department anticipates, understands, addresses, and communicates risk to credit unions. The Department seeks to fulfill this objective by:

- 1. establishing the appropriate regulatory framework;
- 2. being a prudent steward of Department resources;
- 3. ensuring risk-based supervision is properly implemented and focused on material risks to the industry and individual credit unions;
- 4. identifying emerging risk areas related to industry and individual credit unions:
- 5. complying with the examination requirements of <u>7 TAC Section 97.105</u>;
- 6. resolving problem credit unions in a timely fashion, effectively, and when possible, without loss to the share insurance provider; and
- 7. taking prompt and effective enforcement actions when warranted.

Strategic Objective 1.2: The Department cooperates with other regulatory authorities on common interests. The Department seeks to fulfill this objective by:

- 1. working effectively with the NCUA, private share insurance providers, and other state regulators to identify and address risks and emerging issues; and
- 2. implementing and developing new coordination and collaboration agreements with NCUA, private share insurance providers, and other applicable state regulators regarding supervisory activities performed in credit unions and information exchange.

Strategic Objective 1.3: Supervisory methods and analytical tools keep pace with industry changes and appropriately support the broader mission of the Department. The Department seeks to fulfill this objective by:

- utilizing analytical tools and reports to effectively use the data collected from credit unions to foster informed decision making for supervisory operations and policy;
- 2. deploying supervisory technology solutions to enhance data quality and provide user-friendly examiner access to key credit union and industry information; and
- 3. Providing transparency through the Department's reporting.

Key Performance Measures

- > Percentage of credit unions receiving regular examination annually
 - Target for FY 2023: **75%**
- Percentage of applications approved or denied within 60 days
 - Target for FY 2023: 100%
- > Number of state-chartered credit unions
- > Number of regular examinations performed
- ➤ Percentage of credit unions with composite CAMEL ratings of 1 or 2
 - Target for FY 2023: **85%**
- ➤ Percentage of assets held in credit unions with CAMEL ratings of 1 or 2
 - Target for FY 2023: 95%

Internal Measures

- > Number of follow-up contacts made
- > Number of enforcement actions issued
- > Percentage of credit unions that are "Well Capitalized" as defined by federal statute
 - Target for FY 2023: 95%
- > Percentage of reports mailed to credit unions within 25 days
 - Target for FY 2023: **98%**
- > Percentage of total available work time utilized to conduct both regular and remedial examination work
 - Target for FY 2023: 65%
- > Average Cost per Credit Union Examination
- > Assets Examined per Examiner Day
 - Target for FY 2023: \$13.3 million*
- > Average time to complete analysis of quarterly financial data
 - Target for FY 2023: within 40 days after the submittal deadline for the most recent 5300 Call Report

Strategic Goal 2: To Provide a Flexible Legal and Regulatory Framework that Enables Credit Unions to Provide a Competitive Array of Financial Services

Strategic Objective 2.1: Each Commission rule is current, clearly written, and necessary for an effective supervisory process. The Department seeks to fulfill this objective by:

1. drafting, amending, and implementing rules to fulfill Legislative directives and to ensure relevance to current conditions;

^{*}Target same as FY22. Will be amended for FY23, based upon 95% of actual level realized for entire FY21 and considering new examiner positions added (if approved by commission).

- 2. conducting the mandatory rule review in accordance with Commission's approved plan; and
- 3. implementing rulemaking through successful collaboration and consultation with interested parties.

Strategic Objective 2.2: The Department supports credit union efforts to remain competitive, consistent with safety and soundness. The Department seeks to fulfill this objective by:

- 1. supporting the continued recognition of the attributes of the state credit union charter through appropriate opinions and rules;
- 2. developing and modernizing attributes of the credit union charter and the role and status of the industry;
- 3. enhancing communication with NCUA and other state regulators to facilitate better coordination on issues affecting credit unions; and
- 4. communicating attributes of the state charter within and outside the Department.

Strategic Objective 2.3: Application procedures are efficient and consistent with safety and soundness. The Department seeks to fulfill this objective by:

- 1. providing a standardized application package;
- 2. establishing policies and procedures that provide clear and comprehensive guidance;
- 3. implementing and maintaining processes for prompt screening of applications; and
- 4. enhancing existing technology solutions that support effective application operations.

Key Performance Measures

- > Percentage of rule changes provided to credit unions within 60 days after adoption
 - Target FY 2023: 100%

Internal Measures

- > Number of new rules adopted
- Number of rules amended
- ➤ Number of rules re-adopted without change
- > Number of applications processed
- > Number of requests for interpretations/opinions of Act and Rules
- > Number of contested cases referred to SOAH
- > Number of Public Information Act requests processed
- > Number of public forums in which Department participates
- > Total Assets in state-chartered credit unions

- Percentage increase in total aggregate credit union assets
- Percentage of interpretations/opinions issued within 30 days
 - Target FY 2023: 100%

Strategic Goal 3: Safeguard the Interest of Credit Union Members

Strategic Objective 3.1: All credit union members have reasonable access to credit union services and are treated fairly and lawfully. The Department seeks to fulfill this objective by:

- 1. reinforcing the importance of fair and honest treatment of credit union members through appropriate supervisory and enforcement action;
- 2. expanding the agency's role in resolving and/or mediating member complaints handled by the Department;
- 3. strengthening role in addressing member privacy, information security, and identity theft; and
- 4. enhancing the Department's consumer compliance examination program.

Strategic Objective 3.2: Credit unions are involved in providing financial services in underserved communities within this State. The Department seeks to fulfill this objective by:

- 1. supporting the efforts of credit unions to expand their fields of membership to included underserved and low income communities;
- 2. facilitating the process for credit unions to obtain a low-income designation from NCUA; and
- 3. participating in financial literacy efforts by the industry and other agencies.

Key Performance Measure

➤ Percentage of credit unions providing services to low income or underserved populations

Internal Measures

- Number of complaints processed
- Percentage of complaints responded to within 30 days
 - Target FY 2023: 95%

Strategic Goal 4: Develop a Professional and Motivated Staff that Provides Quality Service and Supports Achievement of the Department's Statutory Mission.

Strategic Objective 4.1: The Department maintains a competent, highly motivated, and diverse workforce in a fair and inclusive work environment. The Department seeks to fulfill this objective by:

- 1. maintaining a comprehensive Equal Employment and Workforce Diversity Plan;
- 2. executing an aggressive recruiting and comprehensive training strategy for new entry-level examiners;
- 3. developing proactive initiatives focused on the retention of employees, including mentoring, employee feedback, incentives, and recognition programs;
- 4. creating a leadership development program to support and enhance management succession; and
- 5. implementing an external hiring strategy to augment specialized skills to enhance the Department's supervision of complex credit unions.

Strategic Objective 4.2: The Department is an efficient, effective, and ethical organization. The Department seeks to fulfill this objective by:

- 1. ensuring compliance with laws, rules, and stewardship of its resources through program evaluations and a quality management framework;
- 2. ensuring compliance with the rules, policies and procedures for ethical conduct by its employees;
- 3. ensuring reliable, secure, modern information technology systems are in place in support of an environment that meets the Department's mission, goals, and objectives; and
- 4. leveraging technology, with particular focus on information management initiatives, such as records and knowledge management.

Internal Measures

- > Percentage of exam related travel cost reduced by remote work
 - Target FY 2023: 20%

Strategic Objective 4.3: The Department's resource decisions and operations reflect sound financial, security, and risk management principles. The Department seeks to fulfill this objective by:

- 1. implementing security controls to mitigate risk and to protect confidential information;
- 2. improving contingency planning for business continuity, including information technology recovery, compliance with Homeland Security requirements, and crisis management strategies; and
- 3. achieving reliable, accurate and timely financial resources management information.

Internal Measures

- > Annual examiner turnover rate
 - Target FY 2023: 16%
- ➤ Average regulated assets per examiner (billions)
 - Target FY 2023: \$3.0 billion*
- Number of days of formal training attended by staff
- > Number of purchases made from HUB vendors
- > Percentage of purchases made from HUB vendors
 - Target FY 2023: Professional Services 23.7%; Other Services 26.0%; and Commodities 21.1%
- Percentage of credit unions indicating quality service annually
 - Target FY 2023: 90%
- Staffing level
 - Target FY 2023: 95%
- > Number of jobs fairs attended
 - Target FY 2023: 2
- > Turnover ratio (excluding retirements)
 - Target FY 2023: Less than 15%
- Accreditation by NASCUS Maintained in Good Standing
 - Target FY 2023: Yes
- > Total Department costs relative to every \$100,000 in assets regulated
 - Target FY 2023: \$9.44**

*Same as FY22 which was based on regulated assets as of February 28, 2021, divided by 17 examiners (fully staffed). As of March 31, 2022, this figure is \$3.72 billion based on staffing and regulated assets; an increase of approximately 79 percent over the last 4 ½ years, from the FYE17 figure of \$2.08 billion. The addition of two additional field examiners would reduce the existing level to the target level of \$3.0 billion, which supports the proposed FY23 target.

**Target based on FY19 cost of \$8.99/\$100k of regulated assets times 105%. FY20 actual costs were not used (\$8.02/\$100k of assets) due to examinations being conducted remotely for the last 5.5 months of the fiscal year. FY21 costs (\$6.50/\$100k of assets) also not used due to examinations being conducted mostly remotely during the fiscal year. The high level of remote work has resulted in restricted travel and greatly reduced costs. It is anticipated more exams in FY23 will be conducted on-site and examiner travel costs will resume and normalize. The FY22 costs have not yet been computed as we have not reached the FYE.

REVENUE:		
Operating Fees		\$5,057,455
Examination Fees		45,651,165
Application Fees		
Penalties		
Refund/Reimbursement of Expenditures		
Other		
TOTAL REVENUE		\$5,057,455
EXPENDITURES:		
Personnel Expenses		
Salaries and Wages	\$3,025,772	
Payroll Related Costs	951,368	
Total Personnel Expenses		\$3,977,140
Travel Expenses		
In State	\$412,381	
Out-of-State	30,000	
Commission	26,500	
Total Travel Expenses		\$468,88
Other Operating Expenses		
Professional Services/Fees	\$248,450	
Materials and Supplies	59,470	
Communications/Utilities	52,475	
Repairs/Maintenance	45,165	
Rentals and Leases	5,500	
Printing and Reproduction	2,755	
Other Expenditures	146,369	
Contingency Reserve Funding (FY22)	51,250	
Total Other Operating Expenses	\$611,434	
TOTAL EXPENDITURES	\$5,057,455	
	UNDING	\$1,000,000

¹ Budgeted operating fees will be set to cover the actual budget approved by the Commission. Any funds in excess of the prescribed Contingency Fund Reserve aggregate limit as of August 31, 2022, will also be used to reduce the operating fees for Texas credit unions during the fiscal year.

FY 2023 Annual Operating Plan & Budget

	CUMULATIVE RESOURCES					
Budget Year	2017	2018	2019	2020	2021	2022*
Authorized FTE	29.5	29.5	29.5	30.0	30.0	31.0
Actual FTE	29.0	28.5	29.0	29.0	27.0	30.0
Budgeted Dollars	\$3,935,394	\$4,063,453	\$4,260,909	\$4,445,694	\$4,307,682	\$4,894,832
Actual Dollars Spent	\$3,850,838	\$3,874,028	\$3,903,856	\$3,898,009	\$3,524,092	TBD

^{*}As of March 31, 2022.

BUDGET ASSUMPTIONS FOR BUDGET YEAR 2023

The following broad assumptions will establish the foundation for the development of the Department's Budget Year (BY) 2023 budget and provide a framework to staff and the Commission for setting priorities, determining service levels, and allocating limited financial resources.

- 1. **Balance Budget** In accordance with Commission policy, the budget will be balanced using BY 2022 ending reserve balance funds in excess of the aggregate contingency reserves limit.
- 2. Contractual Obligations The Department intends to meet all contractual obligations. Purchase orders or contracts which were placed and committed prior to the end of Fiscal Year (FY) 2022 for which the requested services performed until after the start of FY 2023 are considered obligated funds. The budget authority for these obligated funds will automatically be carried over to BY 2023 and the BY 2023 budget will be increased by an amount exactly equal to the obligated amount.
- 3. Compliance The budget shall provide enough funding to continue compliance with all applicable statutes, governmental requirements, administrative rules, and Department policy in regulating and supervising the safety and soundness of credit unions.
- 4. Strategic Plan Initiatives Consistent with the FY 2023-2027 strategic plan, the budget will provide appropriate funding to implement the delineated initiatives for FY 2023.
- 5. Salary and Benefits The expenditures for FY 2023 will be based on authorized and existing positions as of August 31, 2022 and include any scheduled salary increases/promotions based on the performance and progression of staff. Filled positions will be budgeted at the actual salary for the individual in that position and vacant examiner positions will be budgeted at the base salary level for a Financial Examiner (FE) III position. Vacant office positions and above FEIII level examiner positions will be budgeted at the mid-point of the salary range for the positions. Employee Benefits will be automatically calculated on all salaries with the appropriate benefit rates established for state agencies. The Department will also monitor legislative initiatives which could result in required legislative pay increases for State of Texas employees.
- 6. Merit Increases To foster, support, and reward outstanding performance and to retain key high performing staff, aggregate merit increase awards for staff are estimated at an amount equivalent to 3.00% of the total salaries for those positions and will be awarded based on the established merit pay tiers. The corresponding increase in Employee Benefits,

- resulting from the proposed merit awards, will also be properly reflected in the budget.
- 7. Retiree Insurance Cost Retiree Insurance Cost are a result of staff retiring from the Department. Changes in retiree insurance cost are anticipated to be allowable budget adjustments.
- 8. Inflation Factor No inflationary increases are anticipated, except for increases in the cost of utilities and in state staff travel. Increases in utility costs will be based on the prior year ending Consumer Price Index for the U.S. published by the U.S. Bureau of Labor Statistics. In-state travel costs will be adjusted downward from the prior budget based on the ability of examination staff to complete a portion of its work remotely.
- 9. Statewide Indirect Cost Statewide indirect cost allocations are a result of a statewide plan established by the Comptroller of Public Accounts. Changes in indirect cost allocations are anticipated to be allowable budget adjustments.
- 10.**Out-of-State Travel** Out of state travel related to examinations, conferences, training, or other authorized purposes will not exceed \$10,000. Travel for NASCUS and FBIIC related meetings for the Commissioner will not exceed \$20,000.
- 11. Commission Travel At the November 2019 commission meeting, it was decided that the number of commission meetings would be increased from three to four per year. The budgeted annual travel costs for these meetings of \$14,500 per year for BY 2022 budget, will remain the same for BY2023.
- 12.Internal Audit Services As outlined in the Sunset Advisory Commission's (SAC) report on the Department and the SAC's recommendation, the budget will provide funding for annual audits (i.e. third-party internal audits) of the Department, including other related costs, such as travel, etc.
- 13.Electronic Document Management System (EDMS) The budget shall provide for the costs associated with the further development and maintenance of our EDMS.
- 14.**Information Technology** The budget shall provide enough funding for computer network upgrades and computer equipment replacement in accordance with the Department's technology needs.
- 15.Improvements The budget shall provide enough funding for scheduled maintenance and repairs in accordance with the Replacement/Capital Improvement Plan.
- 16.NASCUS Dues The budget shall provide enough funding to accommodate the projected increase in the professional association's dues.
- 17. Accreditation Fees The budget shall provide enough funding to accommodate the fees associated with the Department's continued NASCUS accreditation.

- 18. Overnight Travel Stipend The budget shall provide enough funding to pay examiners an overnight travel stipend in accordance with the qualifying conditions included in the Department's policy. The stipend will not be considered a one-time merit award and may be paid to the eligible examiners regardless of their last merit pay or promotion action.
- 19. Examiners' Laptops and Support The budget will be adequate to provide laddered funding for the replacement of Department laptops (office and field staff) every three years. Under this assumption, up to 11 laptops will be replaced each fiscal year. The budget will also include any additional costs associated with procuring all software licensing, security and support for the new machines. The Department will exercise diligence and discretion with this assumption and whenever possible, the life of certain laptops may be extended (i.e. from 3 to 4 years, etc.).
- 20. Legal Research Tools The budget will provide funding to provide the Department's General Counsel with the funds to obtain the necessary research tools (i.e. Westlaw subscription, etc.) to perform the duties of the position.

SUMMARY OF PROPOSED FY 2023 BUDGET

Budget Needed to Continue Existing Services

\$4,526,116

Strategic Initiatives:

Priority #1 – Internal Audit Program	\$62,000
Priority #3 – Merit Increases and Promotions	\$129,761
Priority #4 – Add Examination Staff	\$264,578
Priority #6 - Legal Support Budget	\$20,000

Total Strategic Initiatives

\$476,339

Replacement/Capital Improvement Plan:

Priority #2 – Roof Maintenance	\$25,000
Priority #5 – IT Related Maintenance	\$30,000

Total Replacement Capital Improvements \$55,000

Grand Total Agency Requested Budget FY23	\$5,057,455
Grand Total Agency Budget FY22	\$4,894,832
\$ Increase versus FY22 budget	\$162,623
% Increase FY22 budget	3.32%

Full-Time-Equivalent Positions

33.0

BUDGET NEEDED TO CONTINUE EXISTING SERVICES

FY 2023 Base Budget Reconciliation						
Object of Expenses	FY 2022 Budget	Adjustment	Base FY 2023			
Salaries and Wages	2,750,629	<13,997>1	2,736,632			
Payroll Related Costs	899,511	<16,034>2	883,477			
Travel	431,573	<12,000>1a	419,573			
Professional						
Services/Fees	221,790	<43,340>3	178,450			
Supplies/Materials	59,470	0	59,470			
Communication/Utilities	51,001	1,4744	52,475			
Repairs/Maintenance	290,665	<285,500>5	5,165			
Rentals and Leases	5,500	0	5,500			
Printing and						
Reproduction	2,755	0	2,755			
Other/State of Texas			9			
Services	181,938	6816	182,619			
Grand Total	\$4,894,832	<\$368,716>	\$4,526,116			

¹Reduced FY22 baseline salary and wages costs by \$13,997 based on \$7.5k increase in Commissioner salary (approved Nov. 21); \$17,617 reduction in baseline salaries for staff based on current salary levels; \$720 increase in longevity and \$4,600 (10%) reduction in travel stipend funding.

^{1a}Reduced \$12,000 due to internal audit funds will not be obligated in FY22; thus, \$12k in funds allocated for travel for audit meetings are being removed. A new strategic initiative will be developed for FY23, including travel funding for IA meetings.

²Decrease in Payroll Related Costs of \$16,034 primarily attributed to decrease in baseline salaries and associated benefit costs which are tied to salary levels.

³Reduced \$43,340 due to \$50k in funds for internal audit will not be obligated by FYE22, increase in IT support costs from Vintage and approximately \$3,000 in additional costs from DIR for portal related costs.

⁴Increase in Communications/Utilities based on CPI index add-on for Electric, telephone and water, a \$1,500 increase for COBJ #7516 (cell phones) and a \$500 decrease in COBJ #7501 to reallocate funds to different category.

⁵Baseline reduced \$285,500 due to \$15k reduction in #7262 and \$271,000 reduction in #7266 for roof replacement (did not occur).

⁶Increase of \$681 due to \$15k reduction in #7379, increase in #7204 of \$2,000, increase in #7299 of \$3,400, increase in SWCAP (#7953) of \$7,781 and increase in NASCUS annual fees of \$2,500.

OVERVIEW OF AGENCY REQUESTED FY2023 BUDGET

Proposed Budget with Strategic Initiatives

Object of Expenses	Base Budget	Strategic Initiatives	Budget Request
Salaries and Wages	2,736,632	289,140	\$3,025,772
Payroll Related Costs	883,477	67,891	951,368
Travel	419,573	49,308	468,881
Professional Services/Fees	178,450	70,000	248,450
Supplies / Materials	59,470	0	59,470
Communication/Utilities	52,475	0	52,475
Repairs/Maintenance	5,165	40,000	45,165
Rentals and Leases	5,500	0	5,500
Printing & Reproduction	2,755	0	2,755
Other/State of Texas			
Services	131,369	15,000	146,369
Contingency Reserves	51,250	0	51,250
Grand Total	\$4,526,116	\$531,339	\$5,057,455

Percentage Increase above FY 2021 Budget	3.32%
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Potential Revenues and Propose	d Expenditures ²
Potential Revenues	\$5,502,0913
Proposed Expenditures	\$5,057,455
Est. FY22 Operating Fee Adjustment	\$446,636
Est. % Operating Fee Adjustment	8.12%

Note: As required by Commission policy, staff reviewed all fees established by Rule 97.113 and recommends that the Commission make no changes to the fee structure at this time. The fee schedule currently ensures the funding of the full cost of operating the Department.

³Using assets as of March 31, 2022. Actual fees/revenues will be based on assets as of June 30, 2022. Fee projection adjusted for one credit union in the process of converting from a state to a federal charter, and one credit union in the process of converting from a federal to a state charter.

REVENUE HISTORY

Fiscal Year 2020	
Total Fees Prescribed by Rule 97.113	\$4,625,330
\$ Installment Adjustment Permitted	<\$291,033>
% Operating Fee Installment Adjustment	6.3%
Actual Assessment Collected	\$4,334,297

Fiscal Year 2021				
Total Fees Prescribed by Rule 97.113	\$5,006,667			
\$ Installment Adjustment Permitted	<\$1,130,131>			
% Operating Fee Installment Adjustment	22.6%			
Actual Assessment Collected	\$3,876,536			

Fiscal Year 2022	
Total Fees Prescribed by Rule 97.113	\$5,416,049
\$ Installment Adjustment Permitted	<\$1,083,209 >
% Operating Fee Installment Adjustment	20.0%
Actual Assessment Collected	\$4,332,840

PERFORMANCE/KEY MEASURES

Measure	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
					YTD - 3/22
Number of Credit Unions	185	181	177	175	175
Credit Union Total Assets	411 -	h 10 1	410 6	φ=4.0	4560
(billions)	\$41.5	\$43.4	\$48.6	\$54.2	\$56.2
Percent Increase in Credit	4 00/	1 60/	10.00/	11 50/	3.7%
Union Total Assets	4.8%	4.6%	12.0%	11.5%	3.770
Average Regulated Assets per Examiner (billions)	\$2.30	\$2.71	\$3.04	\$3.56	\$3.72
Number of Examinations	151	151	150	144	82
Percent of Credit Unions	131	101	130	177	02
Examined	82%	83%	85%	82%	47%
Percent of Credit Union	0270	0070	0070	0270	1770
Assets Examined (based on assets					
at last regular exam)	90%	92%	91%	93%	41%
Number of Remedial Exams	34	31	30	26	21
Percent of Credit Unions					
Rated 1 or 2 (CAMELS)	87%	87%	88%	89%	87%
% of Assets in 1 or 2 Rated					
Credit Unions (CAMELS)	97%	97%	96%	95%	97%
Percent of Well-Capitalized					
Credit Unions	97%	100%	99%	99%	97%
Number of Credit Unions					
Rated 3, 4, or 5 (CAMELS)	24	23	21	19	22
Annual Examiner Turnover	5.3%	5.6%	5.6%	23.2%	5.8%
Average Tenure of Departing				5 75	
Examiners (Months)	33	51	53	99	62
Number of Examiners Hired	0	1	1	3	3
Annual Staff Turnover	3.5%	10.8%	3.5%	10.9%	3.3%
# of Formal Training Days	314	292	209	290	152
# of Applications Processed	62	73	106	100	48
Number of Request –	0	0	3	0	1
Interpretation/Opinion			3		1
Number of Public					1
Information Requests	19	22	27	30	19
# of Written Credit Union				7	
Complaints Processed	338	376	344	323	188
Depart. Costs/\$100k Assets	\$9.33	\$8.99	\$8.02	\$6.50	TBD

STRATEGIC INITIATIVE FUNDING REQUEST #1

Initiative Name: Implement Internal Audit Program

Priority: 1

Annual Internal Audits					
Objects of Expense Estimated Cost					
Annual Audit Costs	\$50,000				
Audit Committee Travel Costs	\$12,000				
Total \$62,000					

Description/Justification: As outlined in the Sunset Review Commission's report on the Department in recommendation 2.3, the Department should move forward to establish an independent audit program. This process required the Commission to establish a standing Audit Committee. The Department initiated changes to the Commission Policy Manual to establish such a Committee. The Commission is asked to approve the estimated travel costs and establish a budget for the Audit Committee's contracting of an internal audit vendor.

Note: These costs were originally budgeted for in BY22, but funds were not obligated (i.e. contract executed) by the end of BY22. Thus, a new strategic initiative is being presented for reapproval by the commission in the 2023 budget.

STRATEGIC INITIATIVE FUNDING REQUEST #3

Initiative Name: Merit and Promotion Pool for All Staff

Priority: 3

Merit and Promotion Pool				
Objects of Expense	Estimated Costs			
Salary & Wages (Merit)	\$73,827			
Salary & Wages (Promotions)	\$35,676			
Payroll Related Costs	\$20,258			
Total	\$129,761			

Description/Justification: "Ensuring Texas has a safe and sound credit union system," is an undeniable mandate. Assessing credit unions' safety and soundness requires skilled examiners, and the ability to retain qualified examiners is essential in meeting this objective. Credit unions continue to grow rapidly in assets. The average asset size of a Texas chartered credit union has increased approximately 40 percent, from \$230.5 million at fiscal year-end 2018, to \$321.1 million at fiscal year-end 2021. It is essential that the Department maintain controlled examiner turnover numbers, given the increasing size, complexity and sophistication of the institutions that we examine. Offering an attractive overall benefit package, including a competitive salary, is a key component affecting examiner retention.

Merit pay has traditionally been one of the most effective tools to motivate and retain qualified staff. Recognizing and rewarding high performance is a key priority for driving excellence at the Department. A monetary reward is the strongest incentive for staff who exhibit greater enthusiasm, commitment and developmental skills than the other staff members around them. When budgeted, all classified staff members participate in the Department's merit pay program. The last merit increases for the staff was budgeted for September 1, 2021.

The Department is proposing to establish a pool to fund merit and promotion increases for staff. The aggregate amount of the pool will be equivalent to 3.0 percent of the total salaries for the applicable staff positions. The funding of increased salaries due to promotions is based on the anticipated progression of existing employees (field and office) to new positions during FY23. All awards made from the pool will be based on performance.

Funding of this item is necessary for the Department to maintain examiner and office staff resources to ensure supervision to meet regulatory responsibilities, achieve performance measures, and preserve a safe and sound Texas credit union system. As credit unions continue to grow in sophistication and complexity, the ability to retain highly skilled and qualified examiners is an essential component in meeting these objectives. It is also extremely important to maintain qualified administrative staff to aid with our examination functions/efforts. It is imperative that the Department keep examiner salaries at competitive levels to maximize retention of key staff members.

In absence of a merit-based pay program, there is the risk of discouragement for the highest performing staff. The most talented staff is aware of their strengths and like to accept the challenges of performance linked pay. If all staff is awarded a uniform pay without regard to individual merit or contribution, there is a risk of the best performing staff becoming disenchanted and leaving the Department. Further, if pay levels are perceived to be below market, it is difficult to attract and retain a qualified, motivated examiner work force, which ultimately affects examination effectiveness.

External/Internal Factors:

Merit pay is an approach to compensation that rewards the higher performing employees with additional pay or incentive pay. Merit pay will help the Department differentiate between the performance of high performing and low performing employees and reward the higher performance accordingly. As a result, it is believed that merit pay is the best opportunity to ensure that your outstanding performers remain with the Department and continue to make their significant contributions.

As already noted, the complexity of work demanded from the examination staff continues to increase. Therefore, it is essential that the Department continues to be able to attract and maintain a skilled examiner work force and office staff. The Department must continue to make every effort to maintain competitive pay levels with other financial institution regulators (i.e. National Credit Union Administration, Department of Banking, etc.) to sustain the retention rate and value of the Department's examination workforce, benefiting all stakeholders.

The Commission approved a 3.0 percent merit increase to the existing FY22 salary pool at its March 2022 commission meeting. It is anticipated that amount will be adequate to meet merit increase needs for BY23. However, the merit pay pool will not be enough to meet anticipated salary increases for promotions during the budget year. Therefore, additional funding for promotions is also being requested with this strategic initiative.

Federal Locality Pay:

One of the Department's biggest challenges in retaining staff is offering competitive pay, relative to the levels paid by our federal counterpart, the National Credit Union Administration (NCUA). While our base pay levels are consistently competitive with the NCUA's, we are unable to provide a locality pay as they are. The 2022 locality pay adjustments provided for NCUA examiners in Texas range from 16.32 percent to 46.06 percent, depending upon where the NCUA examiner is headquartered. Most years, our agency will lose one or more examiners to the NCUA, due to them accepting a position with the NCUA.

With the passage of the Federal Employees Pay Comparability Act in 1990, the revised General Schedule (GS) scale established local salary schedules incorporating locality pay. The locality pay program provides for localized pay differentials (also known as comparability payments) for Federal employees paid under the GS who work in the continental United States. The processes for determining locality adjustments are highly technical. However, the basic hypotheses underlying locality pay is that the differences in the competitiveness of local labor markets affect the federal government's ability to recruit and retain federal workers.

Locality adjustments are paid within each area determined to have a Federal non-Federal pay disparity greater than 5 percent. There currently are 54 locality pay areas, including Rest of U.S. area, Alaska, Hawaii, and other Nonforeign Areas, defined in 5 CFR Part 591. Locality pay counts toward accumulation of retirement benefits, life insurance coverage, Thrift Savings Plan investment levels, and most other benefits based on salary.

NCUA currently pays its Texas examiners a Locality Pay adjustment as shown below in Table 7. The amount of the adjustment is determined by increasing the base salary by the applicable locality rate (e.g., A Dallas Examiner IV with a base salary of \$80,000 and the locality rate of 38.25% is paid a salary of \$110,600).

Table 7: Federal Locality Pay in Texas – 2021

Pay Area	Locality Rate
Houston	46.06%
Dallas	38.25%
Austin	30.32%
Rest of United States*	16.32%

^{*}Includes areas in Texas not listed.

examiner in labor i	In keeping with the Legislature's philosophy, the Department has not paid examiners based on local labor market conditions. Despite regional differences in labor markets and costs of living, the Department pays the same wage for the same job regardless of location.						

STRATEGIC INITIATIVE FUNDING REQUEST

#4

Initiative Name: Add Examination Staff

Priority: 4

Add Examination Staff					
Objects of Expense Estimated Costs					
Salary and Wages	\$179,637*				
Payroll Related Costs	\$47,633**				
Travel Expenses	\$37,308***				
Total	\$264,578				

*Based on pay of \$55,314 for a Financial Examiner I and pay of \$124,323 for a Specialist Examiner position.

**Based on 18.5% payroll related costs and benefits (\$179,637 x 18.5% = \$33,233), plus an additional \$7,200 per year per employee to cover the CUD's contribution for a new employees' health insurance.

***Travel expenses based on average per employee of \$18,654. Average computed by using BY23 baseline budget for instate travel of \$373,082 divided by 20 (projected employees utilizing in-state travel).

Description/Justification: The addition of this position will increase the Departments number of Full-Time Equivalent (FTE) employees from 31 to 33, and the number of FTE examiners from 19 to 21. The funding of this initiative is to allow the Department to add an entry level Financial Examiner I position, as well as a Specialist Examiner position (i.e. Lending).

Strong and effective supervision is critical to ensure a sound credit union system. Successful supervision gives credit union management a valuable secondary perspective and bolster the work of credit unions' risk management staff and structures. Supervision also acts as an essential discipline on the industry by setting risk management standards and providing a source of challenge against any relaxation of controls or build-up of risk in individual credit unions.

Funding of this initiative is imperative for the Department to continue to progress the level of supervision to meet growing regulatory responsibilities, to improve examiner's work/life balance and provide additional staffing and expertise to Lead Examiners. Credit unions continue to grow in both size and complexity due to technological, economic and other competitive pressures. The growth in complexity and sophistication requires trained and knowledgeable examiners to properly assess industry activities. The Department has done its best under current budgetary and manpower constraints; however, additional resources are necessary to pace industry activities.

At a minimum, to ensure that supervision remains credible and effective, the Department needs two additional examiners; one entry level generalist position and one specializing in the various aspects of credit union lending, including consumer, mortgage and commercial loans. Credit unions continue to become larger and more significant players in the economic development of Texas, and without the additional examination resources the Department will be unable to effectively perform its duties and responsibilities with the professionalism and expertise credit unions deserve. Ultimately, this could hinder the Department's ability to ensure a competitive charter and protect Texas citizens from fraud, unethical conduct and other nonconformities from normal standards in connection with financial transactions.

Key considerations in making this staffing request, include:

- 1) Strengthen Program Effectiveness: Funding this strategic initiative will ensure Department staffing resources and expertise pace industry development, reduce reliance on NCUA Specialists to staff complex exam functions, provide for field examiners to properly research, scope and write an examination, limit the instances where examiners must be the examiner-incharge of back-to-back examinations, and reduce the amount of regulated assets per examiner. The average regulated assets per examiner have risen from approximately \$2.3 billion at fiscal year-end 2018 to \$3.72 billion as of March 2022, or approximately 62 percent in only 3.5 years. Workload is a crucial issue that must be addressed to ensure the Department's effectiveness in meetings its regulatory mandate.
- 2) Examination Staff Training and Succession Development: The Department needs to devote additional resources to mentoring and supporting newly hired field examiners to ensure they obtain the skills and experiences necessary to fulfill the Department's supervisory responsibilities. The current staff model cannot always allocate adequate time for the Field Supervisors to regularly perform this critical function. Instead, as more institutions grew in complexity, a significant portion of a regional supervisor's time is consumed performing examinations. The three highest members of the Department's examination team (FEVIIs) completed examinations of 16 credit unions with aggregate assets of \$16.98 billion, or approximately 36 percent of the total assets examined during the 2021 fiscal year.

Upon review of key examination staff workloads, it was observed during 2021 that five of our highest-level examiners (FEIVs through FEVIIs) completed a total of 39 examinations on credit unions with assets totaling approximately \$30.3 billion. The total assets assigned to these examiners (26 percent of examination staff) constituted approximately 64 percent of all

the credit union assets on exams conducted during the year. Thus, the departure of any one of these key examiners would create a significant gap in our current examination processes. Furthermore, these more experienced examiners are relied upon to train and provide guidance to the less tenured examiners, which can pose additional workload pressures.

Credit Unions/Assets Examined 2021 - Senior Field Staff					
FE IV #1 FE V #1 FE VI #1 FE VII #1 FE VII #2 Total					
9/\$4.5 B	11/\$6.8 B	8/\$4.6 B	4/\$9.2 B	7/\$5.2 B	39/30.3 B

Moving forward, it is imperative that more complex and larger credit union exams be assigned to other key staff, so these new supervisors are afforded greater opportunity to fully adapt to their positions and develop, train and mentor their respective team members. It is vital to our future success, that the Field Supervisors (and other senior staff) be afforded adequate time for training and transfer of knowledge to less tenured staff. Presently, over 37 percent (7 out of 19 examiners) of the current field examiners have total years of service with the Department of less than 2 years. The short level of tenure for a significant portion of our field examiners supports the need for the Field Supervisors to devote a significant amount of their time for oversight of examiner development, including training and mentoring. The following represents a breakdown of the current examination field examiners' tenure, by years of service:

Field Examiner Tenure with CUD							
Years of Service w/Department	Number of Examiners	Percentage					
Less than two years	7	36.8					
Two to five years	0	0.0					
Five to ten years	9	47.4					
Ten to fifteen years	0	0.0					
Over fifteen years	3	15.8					
Total	19	100.0					

3) Work/Life Balance: An adequate work/life balance is an essential element in enhancing employee retainage, improving the quality of examinations and maintaining levels of staff productivity and morale. Failure to retain valuable human resources deprives the Department of expertise and is a substantial loss of investment in recruitment, training and development. An adequate work life balance was the topic cited second most negatively within the 2021 Department staff survey as indicated under the survey category, "job satisfaction". When the following statement was posed to staff: "My work environment supports a balance between work and personal life", only 39 percent of the 18 respondents agreed. Another statement which resulted in

a lower positive response was: "The amount of work I am asked to do is reasonable". Only 50 percent of 18 respondents agreed with this statement.

During FY 2021 examination staff issued 144 Examination Reports, 26 Remedial Examinations and 30 Informational Memorandum to meet the requirements of the Texas Finance Code. As stated previously, while the industry continues to experience consolidation, the average size and complexity of Texas chartered credit unions continues to increase. Further, environmental conditions increasingly complicate the examination process as issues related to technology applications, cybersecurity and privacy related legal and compliance risks further expand the examination process.

As examination requirements increase Department personnel resources must ensure an appropriate level of staffing while remaining cognizant of ensuring a work/life balance of staff.

STRATEGIC INITIATIVE FUNDING REQUEST

Initiative Name: Legal Support Budget

Priority: 6

Legal Support Budget				
Objects of Expense Estimated Costs				
Annual Legal Support (i.e. training,	\$20,000			
legal resources, licensing, etc.)				
Total \$20,000				

Description/Justification: In conjunction with the approval of the BY2022 budget in June 2021, a General Counsel position was added for the Department beginning in FY2022. The position provides our agency with internal expertise for:

- The development of administrative rules,
- Department policy development,
- Department contract reviews,
- Supervisory oversight activities including enforcement endeavors, and
- National and state legislative and regulatory research, including that necessary to address complaints

The funding of this strategic initiative is to provide ongoing annual costs necessary to support the position. Said costs may include items such as training, legal resources (i.e. subscriptions, etc.), licensing fees, etc. If approved, the costs for this strategic initiative will be recurring each year and included the Department's annual budget assumptions.

REPLACEMENT/CAPTIAL IMPROVEMENT PLAN FY 2023-2025

FY2023

Proposed Capital Improvements:

Estimated Cost

Priority #2: Roof Repair

\$25,000

Priority #5: IT Maintenance Related Costs

\$30,000

Total Funds Requested for Capital Expenditures

\$55,000

Priority #2: Roof Repairs

The Department's roofing is a low slope with built-up roof. It is deteriorated and was scheduled for replacement in FY2022. An assessment of the roof was conducted by Wiss, Janney, Elstner Associations Inc. (WJE) with a report provided to the Department on April 1, 2022. The report stated that overall the roof membrane appears to be in good and serviceable condition but identified 16 areas where repairs are warranted.

At this time, it appears that repair of the roof will be recommended by the TFC over replacement. While no formal recommendation has yet been made by the TFC, it is anticipated that repairs will cost significantly less than the estimated replacement cost originally projected by the TFC. The current informal estimate provided by TFC indicates repair costs of approximately \$15,000. Since no formal projection for repairing the roof has yet been provided, the Department is allocating \$25,000 for the repair(s).

Priority #5: IT Maintenance Budget

The funding of this capital improvement is necessary to maintain the Department's network protection functionality and protection protocols. Funds are allocated \$15,000 to maintain and update software and \$15,0000 to maintain equipment. This amount is presumed to be part of our ongoing IT costs which occur annually in order that we invest in the necessary infrastructure for security, hardware, software, etc. If approved the costs for this strategic initiative will be recurring each year and included in the Department's annual budget assumptions.

STATUS OF THE STATE CREDIT UNION SYSTEM

E. Status of the State Credit Union System.

BACKGROUND: The Texas economy continues to perform well and the economic outlook is optimistic, even as inflationary pressures increase in Texas and throughout the country. The unemployment rate for Texas declined to 4.3 percent at month-end March 2022, down from 5.0 percent at year-end 2021 and 6.9 percent from one-year ago. In addition, the unemployment rates for three of the four metropolitan areas in Texas remains below the national average of 3.6 percent. The continuation of the economic recovery will continue to be impacted on COVID-19 trends and infection trends (i.e. number, severity, etc.) associated with new strains of the virus, as well as inflationary pressures and goods shortage trends as a result of the ongoing war in Ukraine.

The Texas Workforce Commission reported that Texas ended the first quarter of 2022 with approximately 13.21 million non-agricultural jobs, another Texas record for employment. Additionally, approximately 30,100 nonagricultural jobs were added during the month of March 2022, 152,200 have been added during the first three months of 2022 and a total of 731,600 jobs have been added during the last 12 months. Overall, Texas continues to add new jobs month after month.

Overall, the aggregate financial performance of Texas chartered credit unions was strong during the first quarter of 2022. Capital strength for the Texas industry was sound, and earnings and asset quality performance ratios reached their best levels over the last seven years for the second consecutive quarter. The aggregate financial performance for Texas state-chartered credit unions is depicted as follows:

Key Ratio	2016	2017	2018	2019	2020	2021	Mar. 22
Net Worth/Total Assets Delinquent Loans/Total	10.26	10.30	10.82	11.10	10.36	10.43	10.39
Loans Net Charge-Offs/Average	0.82	0.89	0.75	0.71	0.75	0.52	0.44
Loans	0.69	0.75	0.68	0.69	0.57	0.36	0.33
Return on Average Assets	0.62	0.71	0.88	0.88	0.70	1.08	1.19
Note: Highlighted fields represent the best year-end financial performance ratios over the last seven years.							

While there has been a slight dilution of capital ratios over the last several years tied to stimulus deposits and flight to safety, it is anticipated that deposit and asset growth will be controlled during 2022 and will result in a strengthening of net worth positions for Texas charters. While the outlook for the Texas industry

appears positive, it will remain imperative for credit unions to adapt to the everchanging economic trends (i.e. inflation, etc.), and political implications (i.e. local, national and worldwide) to safeguard the financial interests of millions of Texans.

<u>INDUSTRY STATUS</u>: At March 31, 2022, there were 174 state-chartered credit unions in Texas reporting, down two charters from the previous twelve months. Assets in these credit unions totaled \$57.95 billion, an increase of \$4.35 billion since March 31, 2021, for an annualized growth rate of 8.1 percent. The aggregate net worth ratio is 10.39 percent, up from the 10.04 percent level of twelve months ago.

Loans for Texas chartered credit unions totaled \$38.34 billion as of March 31, 2022. This is an increase of \$3.64 billion since March 31, 2021, for an annualized growth rate of 10.5 percent.

Shares for Texas chartered credit unions totaled \$50.63 billion as of March 31, 2022. This is an increase of \$3.62 billion, or 7.7 percent since March 31, 2021.

Texas chartered credit unions average loan delinquency ratio has declined significantly to **0.44 percent** as of **March 31, 2022**, compared to a ratio of **0.58 percent** as of **March 31, 2021**.

At March 31, 2022, 27 state-chartered credit unions reported year to date net losses of \$2.56 million; while the remaining 147 credit unions reported aggregate net income of \$172.63 million. A breakdown of the number of credit unions with positive earnings performance, by asset category, is as follows:

Assets Size	# of CUs	# Profitable	% Profitable (03-31-2022)	% Profitable (06-30-2021)	% Profitable (06-30-2020)
\$1 Billion and Over	18	17	94%	100%	92%
\$500 to \$999.9 Million	13	13	100%	94%	64%
\$250 to \$499.9 Million	15	15	100%	100%	79%
\$100 to \$249.9 Million	25	23	92%	92%	92%
\$50 to \$99.9 Million	23	21	91%	95%	82%
\$10 to \$49.9 Million	46	38	83%	79%	76%
Under \$10 Million	34	20	59%	69%	55%
Totals	174	147	84%	86%	76%

PROBLEM INSTITUTIONS: While overall the industry is doing well, some institutions face challenges. As of **March 31, 2022**, there were **22** credit unions assigned a composite CAMELS rating of 3 or higher, compared to **16** credit unions at **March 31, 2021**. These institutions represent **12.6 percent** of charters or **1.57 percent** of assets under supervision. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site or remote contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

ENFORCEMENT ISSUES: As of **March 31, 2022**, the Department had the following administrative sanctions outstanding:

Dividend Restrictions
LUAs

Determination Letters
Conservatorships
Cease and Desist

0
1
3

CHARTERING ACTIVITY

New Charters* 0

RECOMMENDED ACTION: No formal action is anticipated

^{*}Since last commission meeting

PROCEDURES FOR REQUIRED RULE REVIEW

Section 2001.39, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. To comply with this requirement, the Commission follows the procedure below:

- 1. Every four years, the Commission adopts and publishes a Rule Review Plan, which establishes a date for the required review of each existing rule.
- 2. At least sixty days prior to a particular rule's scheduled review date, the Department publishes notice in the Newsletter reminding interested persons of the review and encouraging comments on the rules up for review.
- 3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
- 4. If in reviewing existing rules, staff believes certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
- 5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
- 6. At a public meeting, the Rules Committee accepts public testimony on each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers the proposal, as recommended by staff, to the Commission.
- 7. The Committee's recommendation is presented to the Commission for consideration.
- 8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
- 9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
- 10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.
- 11. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.

- 12. The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
- 13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

PROCEDURES FOR ADOPTING A PROPOSED RULE

- 1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.
- 2. The proposed rule is presented to the commission for consideration.
- 3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.
- 4. The proposed rule is adjusted by staff (if required), furnished to legal counsel, and transmitted to the **Texas Register** for publication as a "proposed" rule.
- 5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.
- 6. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no <u>substantive</u> 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.

RULEMAKING MATTERS

Six items 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:

- 1) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 95, Subchapter A (Insurance Requirements), B (Liquidity Agents), C (Guaranty Credit Unions), D (Disclosure for Non-federally Insured Credit Unions) and Readoption of Rules.
- 2) Adoption of Proposed Amendments to 7 TAC, Part 6, Chapter 91.720 (Small-Dollar, Short-Term Credit).
- 3) Adoption of Proposed Amendments to 7 TAC, Part 8, Chapter 153 (Home Equity Lending).
- 4) Proposed Amendments to 7 TAC, Part 6, Chapter 91.515 (Financial Reporting).
- 5) Proposed Amendments to 7 TAC, Part 6, Chapter 91.901 (Reserve Requirements).
- 6) Proposed New Rule 7 TAC, Part 6, Chapter 97.208 (Vendor Protests).

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

MANDATORY RULE REVIEW

F. (1) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 95, Subchapter A (Insurance Requirements); B (Liquidating Agents); C (Guaranty Credit Unions); D (Disclosure for Non-federally Insured Credit Unions) and Re-adoption 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 February 2020 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 95, Subchapter A (Insurance Requirements); B (Liquidating Agents); C (Guaranty Credit Unions); D (Disclosure for Non-federally Insured Credit Unions) and Re-adoption of Rules.

Notice of the review and a request for comments on the rules in this chapter was published in the March 25, 2022 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 requests that the Commission approve and adopt the rule review as the reasons for these rules continue to exist.

<u>RECOMMENDED MOTION:</u> I move that the Commission find that the reasons for adopting 7 TAC, Part 6, Chapter 95, Subchapter A (Insurance Requirements); B (Liquidating Agents); C (Guaranty Credit Unions); D (Disclosure for Non-federally Insured Credit Unions) continue to exist and readopt these rules.

TITLE 7. BANKING AND SECURITIES

Part 6. Credit Union Department

Chapter 95. Share and Depositor Insurance Protection

Subchapter A. Insurance Requirements
Subchapter B. Liquidating Agents
Subchapter C Guaranty Credit Union

Subchapter D Disclosure for Non-federally Insured Credit Unions

The Credit Union Commission (Commission) has completed its review of Chapter 95 Subchapter A (relating to Insurance Requirements); Subchapter B (relating to Liquidating Agents); Subchapter C (relating to Guaranty Credit Union) and Subchapter D (Disclosure for Non-federally Insured Credit Unions).

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

Notice of the review of 7 TAC, Part 6, Chapter 95, Subchapters A through D were published in the *Texas Register* as required on March 25, 2022 (47 TexReg 1627). The Department received no formal comment on the notice of intention to review.

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

CHAPTER 95

Subchapter A. Insurance Requirements

§95.100. Definitions.

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

- (1) "Act" means the Texas Credit Union Act (Texas Finance Code, Subtitle D).
- (2) "Deposit" means a balance held by a credit union and established by a credit union member, another credit union, a governmental unit, or an authorized nonmember in accordance with standards specified by the credit union, including balances designated as deposits, deposit certificates, checking accounts or accounts by other names. A "deposit" is a debt which earns interest and is owed by the credit union to the account holder.
- (3) "Federally-insured" means insured by the National Credit Union Administration (NCUA) through the National Credit Union Share Insurance Fund (NCUSIF) under Title II of the Federal Credit Union Act (12 USC Section 1781 et. seq.), or its successor.
- (4) "Insuring organization" means a cooperative share insurance fund or a guaranty corporation or credit union that provides aid and financial assistance to credit unions that are in the process of liquidation or are incurring financial difficulty in order that the share and deposit accounts in the credit unions will be protected or guaranteed against loss up to a specified level for each account.
- (5) "Membership share" means a share of the credit union which shall be the balance held by a credit union and established by a member in accordance with standards specified by the credit union. Each member may own only one membership share. In the case of a joint account, the account may serve to represent the membership of each of the joint owners who have applied for and were accepted as members, as long as a full membership share for each joint owner seeking membership is maintained in the account.
- (6) "Participating credit union" means a credit union that has applied for and been admitted to participate in an insuring organization's program and whose participation has not been terminated.
- (7) "Shares" means a balance held by a credit union and established in accordance with standards specified by the credit union including, but not limited to shares, share accounts, share certificates, share draft accounts or other such accounts. "Shares" may include membership shares. In addition, "shares" earn dividends.

§95.101. Share and Depositor Insurance Protection.

- (a) Each credit union incorporated under the Act or otherwise authorized to do business in this state shall obtain share and deposit insurance for the protection of its members' accounts. Such share and deposit guarantee insurance may be obtained from the NCUA through the NCUSIF or from an insuring organization approved by the commissioner, with the advice and consent of the commission.
- (b) Any credit union that fails to maintain in full force and effect share and deposit insurance protections as provided in this section shall cease accepting deposits and making loans immediately and shall terminate its corporate existence in this state under such terms and conditions as the commissioner deems appropriate.

§95.102. Qualifications for an Insuring Organization.

- (a) An insuring organization must, at a minimum, demonstrate the following prerequisites and must continue to meet these standards on an ongoing basis, in order to do business in this state:
- (1) The insuring organization is authorized to provide share and deposit insurance protection in its state of domicile or in the State of Texas;
- (2) The insuring organization is in good standing with the regulatory authorities in its state of domicile;
- (3) The insuring organization receives regular examinations from its state of domicile:
- (4) The insuring organization has capital which is adequate for its prospective business; and
 - (5) The insuring organization has loss reserves that are actuarially sound.
- (b) In addition to the prerequisites delineated above, the department may scrutinize other data and information as the commissioner deems appropriate, including, but not limited to, demonstrated expertise in insuring credit union shares and deposits.
- (c) The department shall have the right to examine the books and records of the insuring organization as part of the approval process. The insuring organization shall be assessed the supplemental examination fee as prescribed in <*>97.113 of this title (relating to Fees and Charges). The insuring organization shall pay the fee to the department within thirty days of the assessment.
- (d) The department may, in approving an insuring organization, impose such written conditions as the commissioner deems reasonable, necessary, or advisable in the public interest.
- (e) If an approved insuring organization subsequently fails to meet any of the prerequisite standards or written conditions imposed by the department, the commissioner, in the exercise of discretion, may provide a reasonable period of time for the insuring organization to take corrective actions to bring its operations back into compliance. During this period of corrective action, however, an insuring organization may not contract with any additional credit unions to provide share and deposit insurance protection.

§95.103. General Powers and Duties of an Insuring Organization.

In carrying out its general purposes, an insuring organization may:

- (1) guarantee to participating credit unions the payment of any deficiency in an individual member's share or deposit account(s) caused by credit union's insolvency or any other reason;
- (2) issue share and deposit insurance contracts or otherwise effect credit union share guaranty, and enter into other contracts necessary or advisable in the conduct of its business;
- (3) advance funds in accordance with agreed upon lending terms and conditions to aid participating credit unions to operate and to meet liquidity needs;
- (4) upon the written order of the commissioner, and at such compensation as shall be agreed upon, the insuring organization may assume control of the property and business of any participating credit union and operate it at the direction of the commissioner until its financial stability has been reestablished to the satisfaction of the commissioner, or the credit union has been liquidated or merged into another credit union;
- (5) assist in the merger, consolidation, or liquidation of participating credit unions;
- (6) receive money or other property from participating credit unions;

- (7) conduct investigation and audits of any applicant or participating credit union in order to determine the financial and operating condition of the applicant or participating credit union; and
- (8) establish conditions for participation by credit unions, including the establishment of risk eligibility standards.

§95.104. Notices.

- (a) An insuring organization shall provide written notice to the department of receipt of any application for participation by a credit union. Within 30 days of receipt of the notice, the department will advise the applicant and the insuring organization if it will interpose an objection to the proposal based on safety and soundness concerns. Any such objection must be addressed to the satisfaction of the department before the applicant will be eligible to participate in the insuring organization's program. The insuring organization shall also be responsible for notifying the department of its underwriting decision on any application and advising the department when an applicant has become a participating credit union.
- (b) At least 30-days prior to the effective date of any termination, an insuring organization shall notify the department in writing of any termination, voluntary or involuntary, of a participating credit union.

§95.105. Reporting.

- (a) Within one hundred days after the close of a fiscal year, an insuring organization shall file with the commissioner annually audited financial statements, prepared in accordance with generally accepted accounting principles covering that fiscal year. The audited financial statements shall be accompanied by an opinion of an independent certified public accountant. In addition, at least once every three years, the audit shall include an actuarial study of the capital adequacy of the insuring organization.
- (b) The provisions of this section are in addition to those prescribed in §91.209 of this title (relating to Reports and Charges for Late Filing).

§95.106. Amount of Insurance Protection.

- (a) The primary insured or guaranteed amount for share and deposit accounts of individual members of participating credit unions shall never be less than the corresponding share insurance coverage provided by the NCUSIF or its successor.
- (b) With the approval of the commissioner and if authorized by the insuring organization, a participating credit union may, from time to time as determined by its board of directors, issue membership shares that are not guaranteed and are subordinate to all other claims, including creditors, shareholders and the insuring organization.

§95.107. Sharing Confidential Information.

In order to permit the insuring organization to assess the financial condition and performance of a participating credit union, the department shall, with the consent of such participating credit union, provide to the insuring organization any and all reports of examination conducted by, and orders and determinations issued by, the commissioner regarding that institution.

§95.108. Examinations.

- (a) The department may conduct examinations and investigations within or outside this state to determine whether an insuring organization has engaged, is engaging or is about to engage in any act, practice or transaction which constitutes an unsafe or unsound practice or a violation of any law or rule applicable to the insuring organization.
- (b) In lieu of an examination under this section, the commissioner may accept the examination report of another regulator authorized to examine the insuring organization.

§95.109. Fees and Charges.

- (a) An insuring organization shall pay the cost associated with an examination as prescribed in Section 97.113(k) of this title (relating to Foreign Credit Union Examination Fees).
- (b) At the sole discretion of the commissioner, the department may engage professionals to perform and complete any aspect of an examination or investigation. The reasonable expenses and compensation of such professionals shall be paid by the insuring organization.

§95.110. Enforcement; Penalty; and Appeal.

- (a) The commissioner may issue a cease and desist order, generally in accordance with Finance Code §122.257(b), (c), (d) and (e), Finance Code, to an officer, employee, director, and/or the insuring organization itself, if the commissioner determines from examination or other credible evidence that the insuring organization has or is operating in an unsafe or unsound manner, or violated or is violating any applicable Texas law or rule of the commission, including causing a credit union to operate in an unsafe or unsound condition as defined by Finance Code §121.002(11)(C). If the insuring organization does not comply with the order, the commissioner may assess an administrative penalty as authorized by Finance Code §122.260, Finance Code, as well as institute procedures to revoke the authority to provide primary share insurance coverage in this state.
- (b) An insuring organization may file a notice of appeal of a cease and desist order in accordance with §93.401 of this title (relating to Finality and Request for SOAH Hearing).

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 other applicable insuring organization whenever the commissioner through conservatorship takes possession of the property and assets of a respective insured or participating credit union. The Department shall give further prompt notice of the Commissioner's intent to liquidate the property and assets of such insured or participating credit union.
- (b) If the commissioner finds the liquidation of the credit union's assets is prudent under the guidelines established by Texas Finance Code §126.201, the insuring organization, may be appointed liquidating agent for 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.

§95.205. State Not Liable for Any Deficiency.

Nothing in this chapter creates any liability upon this state for the payment of any funds to any credit union by reason of the acts or omissions of the NCUA or insuring organization, nor shall the state pay any deficiency of any credit union in the event the NCUA or insuring organization is unable to pay such deficiency.

Subchapter C. Guaranty Credit Union

§95.300. Share and Deposit Guaranty Credit Union.

- (a) The commissioner may authorize, with the advice and consent of the commission, the establishment of a share and deposit guaranty credit union. The charter shall be granted only on proof satisfactory to the commissioner that member credit union convenience and advantage will be promoted by the establishment of the guaranty credit union. In determining whether the convenience and advantage will be promoted, the commissioner shall consider:
- (1) Whether the organizational and capital structure and amount of initial capitalization is adequate for the business;
- (2) Whether the anticipated volume and nature of business indicates a reasonable probability of success and profitability based on the credit unions sought to be served;
- (3) Whether the credit union's guarantee fund and reserves are actuarially reasonable and computed in accordance with accepted loss reserving standards and principles;
- (4) Whether the long-term financial condition of the entity would prejudice the interest of participating credit unions;
- (5) Whether the proposed officers, directors, and managers have sufficient fiduciary experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the guaranty credit union will operate in compliance with the law and that the long term success of entity is probable; and
 - (6) Whether the organizers are acting in good faith.
- (b) Prior to commencing business in this state, a guaranty credit union is required to file a written application supported by such information and data as the commissioner may require to make the findings necessary to issue a certification of incorporation. The organizers bear the burden of proof to establish that the incorporation of the guaranty credit union will promote credit union member convenience and advantage. The failure of an applicant to furnish required information, data, professional opinions, and other material is considered an abandonment of the application.
- (c) The commissioner may require, for submission to the department of public safety, the name and fingerprints of any organizer, director or officer of any guaranty credit union.
- (d) The commissioner may, in approving a guaranty credit union, impose such conditions as the commissioner deems reasonable, necessary, or advisable in the public interest.

§95.301. Authority for a Guaranty Credit Union.

If a guaranty credit union is authorized, the commissioner shall issue a certificate of incorporation which shall provide that said guaranty credit union shall operate as a central credit union including share and deposit guaranty insurance protection for members subject to supervision, regulation, and examination by the department.

§95.302. Powers.

The guaranty credit union, pursuant to Texas Finance Code §15.410(b) and to the powers contained in Subtitle D, Title 3, Texas Finance Code, may:

- (1) Purchase, hold, lease, receive, use, encumber, sell, exchange, transfer, lend, advance, convey, assign, give, grant, transmit, hypothecate, or dispose of property or funds of any description, nature, or kind or of any interest, rights, title, or privileges therein from or to any participating credit union or any corporation, association, or person, provided that any gift, grant, or transfer of a similar nature shall be made only with the approval of the commissioner;
- (2) Declare and pay dividends on the membership investment fund;
- (3) Make any type of investment authorized by law for a credit union chartered in this state;
- (4) Act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, custodian, or as depository for any money paid into the court for participating credit unions;
- (5) Accept funds or money for deposit by fiduciaries, trustees, or receivers if managing or holding funds on behalf of a participating credit union;
- (6) Accept funds or money for deposit by financial institutions, trust companies, or insurance companies, if membership or primary ownership of the institutions, associations, or companies is confined or restricted to or for the benefit of participating credit unions or organizations of participating credit unions, or if the institutions, associations, or companies are designed to serve or otherwise assist operations of participating credit unions;
- (7) Act as custodian of individual retirement accounts or of pension funds of participating credit unions, or as trustee under pension and profit sharing plans of participating credit unions;
- (8) Make deposits, purchase shares, and invest in legally chartered credit unions, trust companies, or other financial institutions;
- (9) Impress a lien or exercise its right of setoff on the deposits, dividends, and interest of any participating credit union to the extent of any loans or other obligations due by the participating credit union;
- (10) Make or issue, with the approval of the commissioner, a guarantee or other form of written assurance to the appropriate person, association, corporation, or other entity which is reasonably necessary to facilitate the sale, conveyance, assignment, transfer, or other disposition of all or any part of the property or assets of a participating credit union, and otherwise assist in the merger, consolidation, conservation, suspension, or liquidation of a participating credit union upon the request and under the instruction of the commissioner;
- (11) Advance funds, with or without interest, in accordance with agreed terms and conditions, to aid participating credit unions to continue to operate and to maintain solvency or to maintain account balances with any financial institution in connection with the assumption of receivables from a participating credit union, or to meet liquidity requirements;
- (12) Purchase from a participating credit union any equitable or other interest in its assets at book value or at some other value mutually agreed upon by such credit union and the board of directors of the guaranty credit union, notwithstanding that either of such values may exceed the market value of the assets so purchased, and upon such terms and conditions as the board of directors of the guaranty credit union may determine, provided, however, that all such terms, conditions, agreements and values are approved in writing by the commissioner;
- (13) Exercise any setoff or lien rights that a participating credit union may have when the guaranty credit union is acting as conservator or liquidating agent for such credit union;
- (14) Exercise rights of subrogation to the extent of all rights the depositors or shareholders may have against a participating credit union to the extent of any payments made by the guaranty

credit union to the depositors or shareholders of such credit union, including the right to receive the same dividends, as would have been payable to the depositor or shareholder;

- (15) Raise any defense to the payment of a claim or an insured account which a participating credit union could have raised, and when made, the actual payment of an insured account to any person by the guaranty credit union shall discharge the guaranty credit union to the same extent that payment to such person by the participating credit union would have discharged it from liability for the insured account;
- (16) Acquire a promissory note or other asset upon which a nonmember is liable, provided such acquisition is made, in the discretion of the guaranty credit union, to protect an inferior lien held by the guaranty credit union, a participating credit union, member of the guaranty credit union or a member of a participating credit union member of the guaranty credit union. Such acquisitions shall not be subject to the restrictions of §91.701 et. seq. of this title (relating to Loans):
- (17) Enter into contracts of insurance or reinsurance, insuring in whole or in part its contractual guarantees to participating credit unions and any other insurance or bonding company contracts necessary or advisable in the conduct of its business, provided a guaranty credit union shall not assume any risks from another insurer; and
- (18) Exercise the powers granted corporations organized under the laws of this state and such other additional incidental powers not inconsistent with these sections and Subtitle D, Title 3, Texas Finance Code, as may be necessary to enable the guaranty credit union to promote and carry out effectively its purposes.

§95.303. Subordination of Right, Title, or Interest.

No agreement which tends to diminish or defeat the right, title or interest of the guaranty credit union in any asset acquired by it, either as security for a loan or by purchase, shall be valid against the guaranty credit union unless such agreement shall be in writing; shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union; shall have been approved by the board of directors of the credit union with such approval reflected in the minutes of said board; and shall have been, continuously, from the time of its execution, an official record of the credit union.

§95.304. Capital Contributions; Membership Investment Shares; Termination.

- (a) A guaranty credit union shall establish and maintain a guarantee fund. The fund shall be maintained at a normal operating level as defined by the board of directors of the guaranty credit union and approved by the commissioner, however, the normal operating level shall at all times not be less than one percent of the aggregate share capital of participating credit unions. The fund of the guaranty credit union shall be comprised of the following:
 - (1) The membership investment shares of each participating credit union;
 - (2) Retained and undivided earnings; and
 - (3) Any reserves required by the commissioner.
- (b) Each participating credit union shall contribute to and maintain with a guaranty credit union a membership investment share, in an amount equal to at least one percent of its insured shares and deposits. Each participating credit union's account shall be adjusted at least annually to reflect changes in the participating credit union's aggregate insured shares and deposits in accordance with procedures adopted by the guaranty corporation's board of directors.

(c) Membership investment shares of participating credit unions shall be established as pledged assets with appropriate explanatory footnotes on the books and records and in the financial statements of the participating credit unions. The guaranty credit union may utilize all of the assets of the guaranty credit union and accordingly reduce the membership investment shares of all participating credit unions, as required, at the discretion of its board of directors, and utilize such assets in accordance with the powers of the guaranty credit union as set out in these rules.

§95.305. Audited Financial Statements; Accounting Procedures; Reports.

- (a) A guaranty credit union shall file with the commissioner annually audited financial statements, prepared in accordance with generally accepted accounting principles covering the fiscal year, within one hundred days after the close of such fiscal year. The audited financial statements shall be accompanied by an opinion of an independent certified public accountant.
- (b) If the opinion of the certified public accountant is other than unqualified pursuant to generally accepted auditing standards, the commissioner shall require the guaranty credit union to take such action as is considered appropriate to permit the removal of such qualification from the opinion.
- (c) At a minimum, once every three years the annual audit of the guaranty credit union shall include an actuarial study of the capital adequacy of the credit union.
- (d) All of the provisions of this section are in addition to those prescribed in §91.209 of this title (relating to Reports and Charges for Late Filing).

§95.310. Fees and Charges.

- (a) A guaranty credit union shall pay the fees prescribed in Section 97.113 of this title (relating to Operating Fees) in the same manner as any other credit union chartered under the Act.
- (b) At the sole discretion of the commissioner, the department may engage professionals to perform and complete any aspect of an examination or investigation. The reasonable expenses and compensation of such professionals shall be paid by the guaranty credit union.

Subchapter D. Disclosure for Non-Federally Insured Credit Unions

§95.400. Requirements of Participating Credit Unions.

- (a) Every participating credit union shall give appropriate notice of the insurance status of its accounts printed in a manner acceptable to the commissioner. This notice shall be posted at all public entrances at each office and service facility (excluding shared branching facilities) and continuously displayed at each station or window (excluding automatic teller machines and point of sale terminals) where funds or deposits are normally received. At a minimum, the notice shall clearly and conspicuously disclose the following:
 - (1) That members' accounts are insured by an insuring organization;
 - (2) The name of the insuring organization;
- (3) The extent of the insuring organization's share and deposit insurance protection; and
- (4) That accounts are not insured or guaranteed by any government or government-sponsored agency.
- (b) At the time an account is established, a participating credit union shall provide written notice to its members that the share or deposit account will be cooperatively insured or

guaranteed by an insuring organization. The notice shall include a conspicuous statement that discloses that member accounts are not insured or guaranteed by any government or government-sponsored agency.

- (c) The noticed required by paragraph (a) of this section shall also be displayed on a participating credit union's web site home page and any other page where it accepts deposits or opens accounts. The dimensions and font size of the notice required by this paragraph must be of a reasonable size and clearly legible.
- (d) Every participating credit union shall also include, in any literature, advertising, or other marketing materials related to joining the credit union, or soliciting funds for a share or deposit account, a conspicuous statement that discloses that member accounts are not insured or guaranteed by any government or government-sponsored agency.

SMALL-DOLLAR, SHORT-TERM CREDIT

F. (2) Adoption of Proposed Amendments to 7 TAC, Part 8, Chapter 91.720 (Small-Dollar, Short-Term Credit).

BACKGROUND: The purpose of the proposed amendments is to adjust for inflation the maximum lending limit related to these loan products and to foster competitive authority to similar products allowed federal credit unions. The \$1,100 limit found within paragraph (b) was established in 2010 and has not been adjusted since that time. Increasing the defined limit on these types of loans will increase the availability of credit to consumers utilizing these loan products and provide additional time to repay. Finally, the maximum lending limit and maturity found within the current rule is less than maximum maturities of similar loan products authorized by federal credit unions under the Payday Alternative Loans programs authorized by NCUA Rules and Regulations 12 CFR Part 701. The proposed changes would match federal credit union authority relating to maturity and lending limits of these loan products.

The proposed amendments to paragraph (b) increases the defined maximum for small-dollar, short-term credit loans to \$2,000 and extended maximum maturity to 12 months

Notice of the proposed amendments and a request for comments was published in the March 25, 2022 issue of the *Texas Register* and a correction of error to a reference statute published in the April 29, 2022 issue of the *Texas Register*. No comments were received regarding the rule.

RECOMMENDED ACTION: The Department requests that the Commission approve the proposed rule for adoption.

RECOMMENDED MOTION: I move that the Commission approve for adoption the proposed rule 7 **TAC Section 91.720** without changes to the proposed text as published in the *Texas Register*.

TITLE 7. BANKING AND SECURITIES

Part 6. Credit Union Department

Chapter 91. Chartering, Operations, Merger Liquidations

Subchapter G. Lending Powers

Rule §91.720 Small-Dollar, Short-Term Credit

The Credit Union Commission (the Commission) adopts the amendments 7 TAC, Chapter 91, §91.720 concerning Small-Dollar, Short-Term Credit, without changes to the proposed text as published in the March 25, 2022, issue of the *Texas Register* (47 TexReg 1555) and a correction of error to a reference statute published in the April 29, 2022, issue of the *Texas Register* (47, TexReg 2586). The amendments will be republished.

The purpose of the amendments is to adjust for inflation the maximum lending limit related to these loan products and to foster competitive authority to similar products allowed federal credit unions. The \$1,100 limit found within subsection (b) was established in 2010 and has not been adjusted since that time. Increasing the defined limit on these types of loans will increase the availability of credit to consumers utilizing these loan products and provide additional time to repay. Finally, the maximum lending limit and maturity found within the current rule is less than maximum maturities of similar loan products authorized by federal credit unions under the Payday Alternative Loans programs authorized by NCUA Rules and Regulations 12 CFR Part 701. The proposed changes would match federal credit union authority relating to maturity and lending limits of these loan products.

The proposed amendments to subsection (b) increase the defined maximum for small-dollar, short-term credit loans to \$2,000 and extend the maximum maturity to 12 months.

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

The rule changes are adopted under 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 of the Texas Finance Code.

The statutory provisions affected by this adoption are Texas Finance Code, Sections 124.002 and 124.101.

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

§91.720. Small-Dollar, Short-Term Credit.

- (a) General. Credit unions are encouraged to offer small-dollar credit products that are affordable, yet safe and sound, and consistent with applicable laws. The goal in offering these small-dollar credit products should be to help members avoid, or transition away from, reliance on high-cost debt. To accomplish this goal, credit unions should offer products with reasonable interest rates, low fees, and payments that reduce the principal balance of the loan or extension of credit.
- (b) Definition. For purposes of this section, small-dollar, short term credit product is defined as a low denomination loan or extension of credit having a term of 12 months or less, where the amount financed does not exceed \$2,000. Each credit union is responsible for establishing appropriate dollar limits and terms based upon its size and sophistication of operations, and its net worth.
- (c) Limitation. Accessibility and expediency are important factors for many members with emergency or other short-term needs. Therefore, small-dollar credit products must balance the need for quick availability of funds with the fundamentals of responsible lending. Sound underwriting criteria should focus on a member's history with the credit union and ability to repay a loan within an acceptable timeframe. Given the small dollar amounts of each individual credit request, documenting the member's ability to repay can be streamlined and may need to include only basic information, such as proof of recurring income. The aggregate total of streamlined underwritten small-dollar credit products outstanding, however, shall not exceed 20% of the credit union's net worth.
- (d) Fees. A credit union may require a member to pay reasonable expenses and fees incurred in connection with making or closing a loan. With respect to expenses and fees being assessed on small-dollar, short-term credit products, the expenses and fees are presumed to be reasonable if the aggregate total is \$20 or less. In addition, if the credit union refinances a small-dollar, short-term credit product, it may charge such expenses and fees only once in a 180-day period. Credit unions may also charge a late fee as permitted by Finance Code §124.153.
- (e) Payments. Credit unions should structure payment programs in a manner that reduces the principal owed. For closed-end products, loans should be structured to provide for affordable and amortizing payments. Lines of credit should require minimum payments that pay off principal. Excessive renewals or the prolonged failure to reduce the outstanding balance are signs that the product is not meeting the member's credit needs and will be considered an unsound practice.
- (f) Required Savings. Credit unions may structure small-dollar credit programs to include a savings component. The funds in this account may also serve as a pledge against the loan or extension of credit.

HOME EQUITY LENDING

F. (3) Adoption of Proposed Amendments to 7 TAC, Part 8, Chapter 153 (Home Equity Lending).

<u>BACKGROUND:</u> The interpretations in 7 TAC Chapter 153 are administered by the Joint Financial Regulatory Agencies ("agencies"), consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department.

7 TAC Chapter 153 contains the Texas Finance and Credit Union Commissions' interpretations of the home equity lending provisions of Texas Constitution, Article XVI, Section 50 ("Section 50"). In general, the purposes of the proposed rule changes to 7 TAC Chapter 153 are: to amend the definition of "business day" and to make technical corrections.

Notice of the proposed amendments and a request for comments was published in the March 25, 2022 issue of the *Texas Register*. No comments were received regarding the rule.

RECOMMENDED ACTION: The Joint Financial Regulatory Agencies request that the Commission approve the published amendments.

<u>RECOMMENDED MOTION:</u> I move that the Commission approve for adoption of the amendments to 7 TAC, Part 8, Chapter 153 concerning Home Equity Lending.

Title 7. Banking and Securities
Part 8. Joint Financial Regulatory Agencies
Chapter 153. Home Equity Lending

The Finance Commission of Texas and the Texas Credit Union Commission ("commissions") adopt amendments to §153.1 (relating to Definitions) in 7 TAC, Chapter 153, concerning Home Equity Lending.

The commissions adopt the amendments to §153.1 without changes to the proposed text as published in the March 25, 2022, issue of the *Texas Register* (47 TexReg 1556).

The commissions received no official comments on the proposal.

7 TAC Chapter 153 contains the commissions' interpretations of the home equity lending provisions of Texas Constitution, Article XVI, Section 50 ("Section 50"). In general, the purposes of the rule changes to 7 TAC Chapter 153 are: (1) to amend the definition of "business day" to ensure that the definition appropriately excludes legal public holidays, reflects the common understanding of "business day" in the context of mortgage loan disclosures, and is consistent with similar definitions under federal law, and (2) to make technical corrections to ensure consistency in the text of other definitions.

The interpretations in 7 TAC Chapter 153 are administered by the Joint Financial Regulatory Agencies ("agencies"), consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The agencies distributed an early precomment draft of proposed changes to interested stakeholders for review, and

then held an online webinar regarding the proposed changes. The agencies received informal verbal feedback from stakeholders during the webinar, and received one written precomment on the rule text draft. The agencies appreciate the thoughtful input provided by stakeholders.

The adoption amends the definition of "business day" in §153.1(2). The term "business day" is used in Section 50(a)(6)(M)(ii) and Section 50(f)(2)(D). Under Section 50(a)(6)(M)(ii), the lender must provide a preclosing disclosure to the owner at least one business day before the closing of a home equity loan. Under Section 50(f)(2)(D), when a lender refinances a home equity loan into a non-home-equity loan, the lender must provide a refinance disclosure within three business days after the homeowner submits a loan application.

The adopted amendments to §153.1(2) contain three definitions of "business day." First, for purposes of 7 TAC §153.13 (relating Preclosing Disclosures: Section 50(a)(6)(M)(ii)), the adoption states that a business day is a calendar day except for Sunday or a legal public holiday described by federal law. This is similar to the previous definition of "business day" in §153.1(2), but adds Juneteenth National Independence Day as a listed holiday. In 2021, federal law was amended to add Juneteenth as a legal public holiday. Juneteenth National Independence Day Act, Pub. L. No. 117-17, 135 Stat. 287 (2021) (codified at 5 U.S.C. §6103(a)). The adoption also adds a reference to the federal law listing legal public holidays at 5 U.S.C. §6103(a) (in case this section is amended to describe additional holidays in the future). Second, for purposes of 7 TAC §153.45

(relating to Refinance of an Equity Loan: Section 50(f)), the adoption amends §153.1(2) to state that a business day is a day on which the lender's offices are open to the public for carrying on substantially all of its business functions. Third, for purposes of 7 TAC §153.25 (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), the adoption states that a business day has the meaning provided by Regulation Z, 12 C.F.R. §1026.2(a)(6) that applies for purposes of rescission.

These definitions are based on the definitions of "business day" that currently apply to mortgage disclosures under federal law, as well as regulatory commentary on those definitions. Federal Regulation Z, 12 C.F.R. part 1026, requires a lender to provide several disclosures to a borrower in connection with a mortgage loan. The two definitions of "business day" are listed in Regulation Z, 12 C.F.R. §1026,2(a)(6), One of these definitions provides that a business day is a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions. The other definition provides that a business day is any calendar day except Sundays and legal public holidays listed in federal law. In its official commentary to Regulation Z, the Consumer Financial Protection Bureau (CFPB) refers to these two definitions as the "business function test" and the "more rule." respectively. precise Official Interpretations of Regulation Z, 12 C.F.R. pt. 1026, supp. I, para. 2(a)(6). Each definition applies to a different set of deadlines and timing requirements under Regulation Z. For example, the business function test applies for purposes of the requirement to provide an early disclosure within three business days after a creditor receives the consumer's application (as provided by 12 C.F.R. $\S1026.18(e)(1)(iii)(A)$). The more precise

rule applies for purposes of the requirement to provide final disclosures at least three days before closing (as provided by 12 C.F.R. §1026.18(f)(1)(ii)(A)), as well as the consumer's right to rescind certain mortgage loans within three business days after consummation (as provided by 12 C.F.R. §1026.23(a)(2)). The CFPB analyzed how these definitions apply to Juneteenth in an interpretive rule issued in August 2021. Consumer Financial Protection Bureau, Impact of the 2021 Juneteenth Holiday on Certain Closed-End Mortgage Requirements, 86 Fed. Reg. 44,267 (2021).

The changes to the definition of "business day" respond to an informal comment that the agencies received from an industry attorney in August 2021. This attorney recommended adding a reference to Juneteenth in §153.1(2), and recommended consistency with Regulation Z's definitions of "business day."

During the online webinar on the precomment draft of the amendments, a second industry attorney expressed general support for the amendments, agreeing that the amendments reflected her members' understanding of what a business day is. This requested additional attornev regarding observed holidays (such holidays observed on the Monday following a holiday). In response to this verbal comment, the adopted amendment §153.1(2)(A) includes guidance on observed holidays, based on the CFPB's commentary to Regulation Z, 12 C.F.R. pt. 1026, supp. I, para. 2(a)(6)1.

A third industry attorney (who works for a company that prepares closing documents for Texas mortgage lenders) submitted a written precomment expressing general support for the amendments. This attorney

stated: "We believe the proposed amendments are a positive step in aligning the Texas and federal business day definitions. . . . We believe the draft amendments are appropriate and consistent with the Texas Constitution. In the context of mortgage loan disclosures, the term 'business day' has multiple meanings that are set out in Regulation Z. The term obviously has differing meanings depending on the context and type of disclosure " The attorney explained that the proposed amendments would lead to fewer mistakes that may result from lenders manually providing Texas disclosures that do not align with their automated loan origination systems. The attorney also recommended replacing the list of holidays in §153.1(2)(A) with a single reference to federal law. The agencies considered this approach, but believe that the list of holidays helps the reader quickly understand the definition without having to refer to a separate legal source.

Based on these comments from stakeholders, the agencies believe that the adopted definitions reflect the common understanding of the term "business day" in the context of disclosures for mortgage loans. The definitions also have practical benefits. For example, by aligning the definition in §153.1(2) with Regulation Z, the adoption allows a lender to send the constitutionally required refinance disclosure on the same date it sends the federally required early disclosure. Also, the adoption allows a lender additional time to provide the refinance disclosure if its offices are closed for business functions due to an emergency (such as a pandemic or storm).

Other changes throughout §153.1 make technical corrections to ensure consistency of formatting and capitalization. The changes to

capitalization are based on feedback from staff of the Texas Register.

The rule changes are adopted under Texas Finance Code, §11.308 and §15.413, which authorize the commissions to issue interpretations of Texas Constitution, Article XVI, §50(a)(5) - (7), (e) - (p), (t), and (u), subject to Texas Government Code, Chapter 2001.

The constitutional provisions affected by the adoption are contained in Texas Constitution, Article XVI, §50. No statute is affected by this adoption.

Chapter 153. Home Equity Lending

§153.1. Definitions

Any reference to Section 50 in this interpretation refers to Article XVI, Texas Constitution, unless otherwise noted. These words and terms have the following meanings when used in this chapter, unless the context indicates otherwise:

- (1) Balloon--An [an] installment that is more than an amount equal to twice the average of all installments scheduled before that installment.
- (2) Business day [Day—All calendar days except Sundays and these federal legal public holidays: New Year's Day, the Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day].
- (A) As used in Section 50(a)(6)(M)(ii) and \$153.13 of this title (relating to Preclosing Disclosures: Section 50(a)(6)(M)(ii)), "business day" means all

- calendar days except Sundays and the following legal public holidays: New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other legal public holiday specified in 5 U.S.C. § 6103(a). When a holiday falls on a Saturday or Sunday, entities might observe the holiday on the preceding Friday or following Monday (e.g., when July 4 falls on a Saturday, entities might observe the holiday on Friday, July 3). For purposes of this subparagraph, these observed holidays (in the example, July 3) are business days.
- (B) As used in Section 50(f)(2)(D) and §153.45 of this title (relating to Refinance of an Equity Loan: Section 50(f)), "business day" means a day on which the lender's offices are open to the public for carrying on substantially all of its business functions. Activities that indicate that the lender is open for substantially all of its business functions include the availability of personnel to make loan disbursements, to open new accounts, and to handle loan inquiries. Activities that indicate that the lender is not open for substantially all of its business functions include a bank's having its customer-service windows open only for limited purposes such as deposits and withdrawals, bill paying, and related services.
- (C) As used in §153.25 of this title (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), "business day" has the meaning provided by Regulation Z, 12 C.F.R. §1026.2(a)(6) that applies for purposes of rescission.

- (3) Closed or closing--The [the] date when each owner and the spouse of each owner signs the equity loan agreement or the act of signing the equity loan agreement by each owner and the spouse of each owner.
- (4) Consumer <u>disclosure--The</u> [Disclosure the] written notice contained in Section 50(g) that must be provided to the owner at least 12 days before the date the extension of credit is made.
- (5) Cross-default provision--A [a] provision in a loan agreement that puts the borrower in default if the borrower defaults on another obligation.
- (6) Date the extension of credit is made--<u>The</u> [the] date on which the closing of the equity loan occurs.
- (7) E-Sign Act--<u>The</u> [the] federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§7001-7006.
- (8) Equity loan--An extension of credit as defined and authorized under the provisions of Section 50(a)(6).
- (9) Equity loan agreement--The [the] documents evidencing the agreement between the parties of an equity loan.
- (10) Fair market value--<u>The</u> [the] fair market value of the homestead as determined on the date that the loan is closed.
- (11) Force-placed insurance-<u>Insurance</u> [insurance] purchased by the lender on the homestead when required insurance on the homestead is not maintained in accordance with the equity loan agreement.

- (12) Interest--As used in Section 50(a)(6)(E), "interest" means the amount determined by multiplying the loan principal by the interest rate over a period of time.
- (13) Lockout provision--A [a] provision in a loan agreement that prohibits a borrower from paying the loan early.
- (14) Owner--A person who has the right to possess, use, and convey, individually or with the joinder of another person, all or part of the homestead.
- (15) Preclosing disclosure--The written itemized disclosure required by Section 50(a)(6)(M)(ii).
- (16) Two percent limitation--<u>The</u> [the] limitation on fees in Section 50(a)(6)(E).
- (17) UETA--<u>The</u> [the] Texas Uniform Electronic Transactions Act, Texas Business & Commerce Code, Chapter 322.

Certification

The agency certifies that legal counsel has reviewed the adoption and found it to be within the agency's legal authority to adopt.

Issued in Austin, Texas on June 10, 2022, and June 24, 2022.

Matthew J. Nance
Deputy General Counsel
Office of Consumer Credit Commissioner
Joint Financial Regulatory Agencies

FINANCIAL REPORTING

F. (4) Proposed Amendments to 7 TAC, Part 6, Chapter 91.515 (Financial Reporting).

BACKGROUND: The purpose of the proposed amendments is to align state and federal regulatory requirements relating to small institutions implementation of Generally Accepting Accounting Principles (GAAP). The National Credit Union Administration's 12 CFR Part 702 enables institutions of \$10 million in assets or less to determine their charges for loan losses outside Generally Accepted (GAAP), by not requiring implementation of current expected credit loss (CECL). This amendment would raise the current threshold for small Texas chartered credit unions to utilize an accounting methodology outside of GAAP from the current maximum asset size of \$5 million to \$10 million.

RECOMMENDED ACTION: The Department requests that the Commission approve the proposed rule for publication and comment.

RECOMMENDED MOTION: I move that the Commission approve for publication and comment the proposed rule 7 **TAC Section 91.515** concerning Financial Reporting.

TITLE 7. BANKING AND SECURITIES

Part 6. Credit Union Department

Chapter 91. Chartering, Operations, Mergers, Liquidations

Subchapter E. Direction of Affairs Rule §91.515 Financial Reporting

The Credit Union Commission (the Commission) proposes amendments to 7 TAC, Chapter 91, §91.515 concerning Financial Reporting.

The purpose of the proposed amendments is to adjust for parity the regulatory requirements relating to small institutions to match amendments to the National Credit Union Administration's 12 CFR Part 702 enabling institutions of \$10 million in assets or less to determine their charges for loan losses in accordance with Generally Accepted Accounting Principles (GAAP), which would require implementation of current expected credit loss (CECL). This adjustment would raise the current threshold for small Texas chartered credit unions to utilize an accounting methodology outside of GAAP from the current maximum asset size of \$5 million to \$10 million.

STATE AND LOCAL GOVERNMENTS

John J. Kolhoff, Commissioner, has determined that for the first five-year period that the rule changes are in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the rule changes.

STATEMENT OF PUBLIC COST AND BENEFITS

Mr. Kolhoff has also determined that for each year of the first five years the rules are in effect, the public will see minimal impact from the adoption of the proposed amendment limited to credit unions less than \$10 million dollars in total assets related to the regulatory relief and expenditure savings of complying with CECL. There will be no anticipated cost to persons who are required to comply with the proposed amendments.

SMALL AND MICRO BUSINESSES AND RURAL COMMUNITIES

Mr. Kolhoff has also determined that for each year of the first five years the rule changes are in effect, there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There is no economic cost anticipated to the credit union system or to individuals required to comply with the rule changes as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

Except as may be described below to the contrary, for each year of the first five years that the rules will be in effect, the rules 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; create new regulations; limit, or

repeal an existing regulation; increase fees paid to the department; increase or decrease the number of individuals subject to the rule's applicability; or adversely affect this state's economy.

Written comments on the proposed amendments may be submitted 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 allow the Commission sufficient time to fully address all the comments it receives, all comments 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*.

The rule changes are proposed under 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.

The statutory provision affected by the proposed amendments is Texas Finance Code, Section 122.103.

<rule>

§91.515. Financial Reporting.

- (a) Each credit union having assets of <u>\$10</u> [\$5] million or greater shall:
- (1) prepare and maintain, on an accrual basis, accurate and complete records of its business transactions in accordance with generally accepted accounting principles, except as otherwise directed by regulatory requirements; and
- (2) prepare its financial statements and reports, including reports to the members, board of directors, management and the department, in accordance with generally accepted accounting principles, except as otherwise directed by regulatory requirements.
- (b) Credit unions having assets of less than <u>\$10</u> [\$5] million may use <u>another</u> [an other] comprehensive basis of accounting.
- (c)In addition to the quarterly report to the department as prescribed by the Act, the commissioner may require from all credit unions or from selected categories of credit unions other financial and statistical reports relating to financial condition and accounting practices.

RESERVE REQUIREMENTS

F. (5) Proposed Amendments to 7 TAC, Part 6, Chapter 91.901 (Reserve Requirements).

BACKGROUND: The purpose of the proposed amendments is to amend the states reserve requirements relative to institutions whose net worth falls below 7% to align with requirements recently amended by the National Credit Union Administration and found in NCUA Rules and Regulations 12 CFR Part 702.106. The amendments would require such institutions to increase "net worth" instead of the current "net worth reserves" simplify the calculation of the amount of required earning retention by providing only a quarterly measurement regardless of the period the credit union pays dividends. The proposed changes would ensure state requirements would simplify the interaction of federal and state law relative to credit unions needing to comply with this provision.

RECOMMENDED ACTION: The Department requests that the Commission approve the proposed rule for publication and comment.

RECOMMENDED MOTION: I move that the Commission approve for publication and comment the proposed rule 7 TAC Section 91.901 concerning Reserve Requirements.

TITLE 7. BANKING AND SECURITIES

Part 6. Credit Union Department

Chapter 91. Chartering, Operations, Mergers, Liquidations

Subchapter I. Reserves and Dividends Rule §91.901 Reserve Requirements

The Credit Union Commission (the Commission) proposes amendments to 7 TAC, Chapter 91, §91.901 concerning Reserve Requirements.

The purpose of the proposed amendments is to amend the states reserve requirements relative to institutions whose net worth falls below 7% to align with requirements recently amended by the National Credit Union Administration and found in NCUA Rules and Regulations 12 CFR Part 702.106. The amendments would require such institutions to increase "net worth" instead of the current "net worth reserves" simplify the calculation of the amount of required earning retention by providing only a quarterly measurement regardless of the period the credit union pays dividends. The proposed changes would ensure state requirements would simplify the interaction of federal and state law relative to credit unions needing to comply with this provision.

The proposed amendments include:

Subsection (b)(1) to amend the language requiring a transfer to "net worth" instead of "net worth reserves". Subsection (b)(1)(A) would be amended to eliminate an alternate calculation of the transfer requirements if the institution pays dividends monthly. Subsection (b)(1)(B) would be eliminated with changes to (b)(1)(A) outlining the required earnings retention transfer is measured quarterly regardless of the period the credit union calculates member dividends.

Subsection (b)(3) is removed to eliminate the reference to a transfer to "regular reserve" eliminate the duplication of the requirement found in (b)(1).

Subsections (b)(4), (b)(5) and (b)(6) are renumbered (b)(3), (b)(4) and (b)(5) respectively due to the elimination of subsection (b)(3).

Subsection (b)(7) eliminates the reference to a financial plan, and a related written agreement from the Department as such written agreements, when initiated, already contain appropriate language.

STATE AND LOCAL GOVERNMENTS

John J. Kolhoff, Commissioner, has determined that for the first five-year period that the rule changes are in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the rule changes.

STATEMENT OF PUBLIC COST AND BENEFITS

Mr. Kolhoff has also determined that for each year of the first five years the rules are in effect, the public will benefit from the adoption of the proposed amendment because they will have greater

access to credit when enjoining these types of loans. There will be no anticipated cost to persons who are required to comply with the proposed amendments.

SMALL AND MICRO BUSINESSES AND RURAL COMMUNITIES

Mr. Kolhoff has also determined that for each year of the first five years the rule changes are in effect, there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There is no economic cost anticipated to the credit union system or to individuals required to comply with the rule changes as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

Except as may be described below to the contrary, for each year of the first five years that the rules will be in effect, the rules 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; create new regulations; limit, or repeal an existing regulation; increase fees paid to the department; increase or decrease the number of individuals subject to the rule's applicability; or adversely affect this state's economy.

Written comments on the proposed amendments may be submitted 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 allow the Commission sufficient time to fully address all the comments it receives, all comments 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*.

The rule changes are proposed under 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.

The statutory provisions affected by the proposed amendments are Texas Finance Code, Sections 122.104.

<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
 - (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.

Regardless of the dividend period, net worth must increase quarterly by an amount equivalent to at least 0.1% per quarter of its 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)] Regardless of the 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.]
- (3)[(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.
- (4)[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.
- (5)[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.
- [(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
- (e) any changes to the credit union's board of directors or senior management staff must receive the prior written approval of the commissioner. 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.

VENDOR PROTESTS

F. (6) Proposed New Rule 7 TAC, Part 6, Chapter 97.208 (Vendor Protests).

BACKGROUND: The purpose of the proposed is to set forth the Department's procedures for resolving vendor protests relating to purchases as required by Texas Government Code Section §2155.076, adoption of the procurement rules of the Texas Comptroller of Public accounts pursuant to Texas Government Code Section §2156.005(d) and the negotiation and mediation of a claim for breach of contract as required by Texas Government Code §2260.052(c). The Commission proposes this new rule to replace any formal or informal policies or procedures governing resolution of contract disputes and to carry out the requirements of Government Code, Chapters §2155.076, §2156.005(d) and §2260.

RECOMMENDED ACTION: The Department requests that the Commission approve the proposed rule for publication and comment.

<u>RECOMMENDED MOTION:</u> I move that the Commission approve for publication and comment the proposed rule 7 TAC Section 97.208 concerning Vendor Protests.

TITLE 7. BANKING AND SECURITIES

Part 6. Credit Union Department

Chapter 97. Commission Policies and Administrative Rules

Subchapter C. Department Operations

Rule §97.208 Vendor Protests

The Credit Union Commission (the Commission) proposes new rule 7 TAC, Chapter 97, §97.208 concerning Vendor Protests.

The purpose of the proposed is to set forth the Department's procedures for resolving vendor protests relating to purchases as required by Texas Government Code Section §2155.076, adoption of the procurement rules of the Texas Comptroller of Public accounts pursuant to Texas Government Code Section §2156.005(d) and the negotiation and mediation of a claim for breach of contract as required by Texas Government Code §2260.052(c). The Commission proposes this new rule to replace any formal or informal policies or procedures governing resolution of contract disputes and to carry out the requirements of Government Code, Chapters §2155.076, §2156.005(d) and §2260.

Section (a) outlines the purpose of the proposed rule.

Section (b) provides for definitions of language used within the proposed rule.

Section (c) outlines the types of protests accepted and defines who may initiate a protest.

Section (d) exempts grants, subcontracts, interagency or interlocal agreements from the proposed rule.

Section (e) outlines that protests under the proposed rule are not considered contested cases under the Administrative Procedure Act.

Section (f) outlines the deadline for filing a protest under the rule.

Section (g) provides information on how to submit a protest.

Section (h) outlines the Departments requirements for consideration of a protest.

Section (i) outlines Department personnel responsible for considering a protest.

Section (i) outlines possible mutual agreement to resolve a protest.

Section (k) provides the authority for the assigned staff to confer with the Department's General Counsel regarding a protest.

Section (1) outlines possible findings by staff responsible to review a protest

Section (m) outlines the Department staff responsible for reviewing an appeal of the Departments findings on a protest as well as outlining the appeal review process.

Section (n) provides the authority to move forward on a protested contract only under a determination that a contract must be awarded without delay to protect the interests of the agency.

Section (o) outlines the documentation retention requirements of the protest and appeal process. Section (p) adopts by reference the rules of the Texas Comptroller of Public Accounts, Statewide Procurement and Support Services in 34 TAC §20.207 and §20.208 (related to Competitive Sealed Bidding and Competitive Sealed Proposals) pursuant to Texas Government Code Section §2156.005(d).

Section (q) adopts by reference the rules of the Office of Attorney General of Texas in 1 TAC Part 3, Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes) pursuant to Texas Government Code Section §2260.052(c).

STATE AND LOCAL GOVERNMENTS

John J. Kolhoff, Commissioner, has determined that for the first five-year period that the rule changes are in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the rule.

STATEMENT OF PUBLIC COST AND BENEFITS

Mr. Kolhoff has also determined that for each year of the first five years the rule is in effect, the public will see no impact from the adoption of the proposed rule. This rule, if adopted, merely formalize procedures, as required by the Government Code, Chapters §2260 and §2155.076 to resolve purchasing disputes and adoption of rule of the Texas Comptroller of Public Accounts pursuant to §2156.005(d). There will be no anticipated cost to persons who are required to comply with the proposed rule.

SMALL AND MICRO BUSINESSES AND RURAL COMMUNITIES

Mr. Kolhoff has also determined that for each year of the first five years the rule is in effect, there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There is no economic cost anticipated to the credit union system or to individuals required to comply with the rule as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

Except as may be described below to the contrary, 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; create new regulations; limit, or repeal an existing regulation; increase fees paid to the department; increase or decrease the number of individuals subject to the rule's applicability; or adversely affect this state's economy.

Written comments on the proposed amendments may be submitted 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 allow the Commission sufficient time to fully address all the comments it receives, all comments 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*.

The rule changes are proposed under Texas Government Code Sections §2155.076, §2156.005(d) and §2260.052(c), which authorizes the Commission to adopt reasonable rules relating to procurement processes and resolving vendor protests.

The statutory provision affected by the proposed amendments is Texas Finance Code, Sections §2155.076, §2156.005(d) and §2260.052(c).

<rule>

§97.208. Vendor Protests.

- (a) The purpose of this rule is to set forth the Department's procedures for resolving vendor protests relating to purchases as required by Texas Government Code Section 2155.076, and 2260.052(c) and the adoption of rules of the Texas Comptroller of Public Accounts pursuant to Texas Government Code Section 2156.005(d).
- (b) The following words and terms, when used in this section, shall have the following meaning unless the context clearly indicates otherwise.
 - (1) Agency--The Credit Union Department, State of Texas.
 - (2) Commissioner--The Commissioner of the Credit Union Department, State of Texas.
 - (3) Department--The Credit Union Department, State of Texas.
- (4) <u>Deputy Commissioner--The Deputy Commissioner of the Credit Union Department, State of Texas.</u>
 - (5) General Counsel--The General Counsel of the Credit Union Department, State of Texas.
- (6) <u>Interested Parties--All vendors who have submitted bids or proposals for the provision of goods or services pursuant to a contract with the Credit Union Department, State of Texas.</u>
- (c) A vendor who submitted a written response to a solicitation may file a protest with the Department on the following:
- (1) the solicitation documents or actions associated with the publication of solicitation documents;
 - (2) the evaluation or method of evaluation for a solicitation; or
 - (3) the award of a contract.
- (d) This section does not apply to:
 - (1) the award of grants or subcontracts; or
 - (2) interagency or interlocal agreements executed in accordance with applicable law.
- (e) The Department will not consider protests filed pursuant to this section as contested cases under the Administrative Procedure Act, Texas Government Code, Chapter 2001.
- (f) To be considered timely, the protest must be in writing and filed
 - (1) <u>no later than the date that responses to a solicitation are due, if the protest concerns the solicitation:</u>

- (2) by the day of the award of a contract resulting from the solicitation, if the protest concerns the evaluation or method of evaluation for the solicitation; or
- (3) no later than 10 days after the notice of award, if the protest concerns the award.
- (g) A protestant must file a protest with the Department by electronic mail submission to CUDDeputyCommissionerProtests@cud.texas.gov for review by the Deputy Commissioner.
- (h) To be considered by the Department, a protest must be timely, in writing, sworn to, and contain:
 - (1) <u>a specific rule</u>, statute, or regulation the protesting vendor alleges the solicitation, contract award, or tentative award violated;
 - (2) a specific description of each action by the Department that the protesting vendor alleges is a violation of the statutory or regulatory provision the protesting vendor identified in subparagraph (1) of this paragraph;
 - (3) a precise statement of relevant facts including:
 - (i) sufficient documentation to establish that the protest has been timely filed;
 - (ii) a description of the adverse impact to the Department and the state; and
 - (iii) a description of the resulting adverse impact to the protesting vendor;
 - (4) a statement of any issues of law or fact that the protestant contends must be resolved;
 - (5) a statement of the argument and authorities that the protesting party offers in support of the protest;
 - (6) an explanation of the subsequent action the vendor is requesting; and
 - (7) sworn statement that copies of the protest have been provided to the Department and all other identifiable interested parties by either hard-copy or electronic means.
- (i) The Deputy Commissioner may settle and resolve the disputes over the solicitation or award of the contract at any time before the matter is submitted on appeal to the Commissioner of the Department.
- (i) Upon receipt of a protest, the Deputy Commissioner may:
 - (1) solicit written responses to the protest from other interested parties;
 - (2) attempt to resolve the protest by mutual agreement; or
 - (3) dismiss the protest if:
 - (A) it is not timely; or
 - (B) it does not meet the requirements of this subsection.
- (k) The Deputy Commissioner may confer with the Department's General Counsel at any time during the review of the protest.
- (1) If the protest is not resolved by mutual agreement, the Deputy Commissioner will issue a written determination that resolves the protest.
 - (1) <u>If the Deputy Commissioner determines that no violation of statutory or regulatory provisions has occurred, then the Deputy Commissioner shall inform the protesting party, the agency, and other interested parties by letter that sets forth the reasons for the determination.</u>
 - (2) If the Deputy Commissioner determines that a violation of any statutory or regulatory provisions has occurred in a situation in which a contract has not been awarded, then the Deputy Commissioner shall inform the protesting party, the agency, and other interested parties of the determination by letter that details the reasons for the determination and the appropriate remedy.
 - (3) If the Deputy Commissioner determines that a violation of any statutory or regulatory Provisions has occurred in a situation in which a contract has been awarded, then the director shall inform the protesting party, the agency, and other interested parties of that determination

by letter that details the reasons for the determination. This letter may include appropriate remedial action, including but not limited to, concluding the contract is void; terminating the contract; and readvertising the solicitation.

(4) The Deputy Commissioner's written determination is the final administrative action by the Department on a protest filed under this subchapter unless the protestant files an appeal of

determination under subsection (m) of this section.

(m) The protestant may appeal the Deputy Commissioner's determination on a protest to the Department's Commissioner. An appeal of the Deputy Commissioner's determination must be in writing, sent by electronic mail submission to CUDCommissionerProtests@cud.texas.gov, and received not later than 10 days after the date on which written notification of the Deputy Commissioner's determination was sent. The scope of the appeal will be limited to review of the Deputy Commissioner's determination. With the appeal, the protestant must submit a sworn statement that copies of the appeal have been provided to the Department and all other identifiable interested parties by either hard-copy or electronic means.

(1) A protest or appeal that is not timely filed shall not be considered unless good cause for Delay is shown or the Commissioner determines that an appeal raises issues that are significant

to the Department's procurement practices or procedures in general.

(2) The Commissioner may confer with the Department's General Counsel at any time during the review of the appeal.

(3) The Commissioner may consider any documents that agency staff or interested parties have Submitted.

(4) The Commissioner will review the appeal of the Deputy Commissioner's determination and render a final decision on the protest issues.

(5) A written decision that the Commissioner has issued shall be the final administrative action

of the Department.

(n) In the event of a properly filed protest under this section, and an award has not been made, the Department will not proceed further with the solicitation or award of the contract unless the Commissioner, after consultation with the Deputy Commissioner and General Counsel, makes a written determination that the contract must be awarded without delay, to protect the best interests of the agency.

(o) The Department shall maintain all documentation on the purchasing process that is the

subject of a protest or appeal in accordance with the Department's document retention.

(p) Pursuant to Texas Government Code Section 2156.005(d), the Department adopts by reference the rules of the Texas Comptroller of Public Accounts, Statewide Procurement and Support Services in 34 TAC § 20.207 and § 20.208 (relating to Competitive Sealed Bidding and Competitive Sealed Proposals).

(q) Pursuant to Texas Government Code Section 2260.052(c), the Department adopts by reference the rules of the Office of the Attorney General of Texas in 1 TAC Part 3, Chapter 68

(relating to Negotiation and Mediation of Certain Contract Disputes).



LITIGATION UPDATE REGARDING PENDING LITIGATION

G. Litigation Update Regarding Pending Litigation, Credit Union Department v. Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-21-007168.

BACKGROUND: On December 10, 2021, in Travis County District Court, Cause No. D-1-GN-21-007168, the Department filed suit against the Attorney General of Texas challenging Letter Ruling OR2021-31535 (Letter Ruling) asking the Court to rule that the information at issue in the Letter Ruling is not subject to disclosure under the Texas Public Information Act (PIA). In the lawsuit, the Department asserts the information requested and at issue is excepted from disclosure under section 552.101 of the Texas Government Code in conjunction with sections 126.002 and 125.054 of the Texas Finance Code; and moreover, the information should be confidential because it affects the privacy and property rights of West Texas Credit Union. On January 20, 2022, West Texas Credit Union filed a Petition in Intervention to the underlying suit, and on January 21, 2022, the Office of the Attorney General filed its Original Answer. Subsequent to these filings, on February 23, 2022, counsels for all Parties entered into a Rule 11 Agreement regarding Initial Disclosures, agreeing that no initial disclosures are due in this case until the Parties agree on a future deadline.

RECOMMENDED ACTION: No formal action is anticipated.

ANY ADDITIONAL MATERIAL WILL BE SUPPLIED AT THE MEETING

COMMISSIONER RESIGNATION STATUS

H. Commissioner Resignation Status.

BACKGROUND:

Commissioner Kolhoff updated his notice of resignation to delay his last day with the Department to July 15, 2022.

RECOMMENDED ACTION: No formal action is anticipated.



COMISSION POLICY, RESPONSIBILITIES, COMMUNICATIONS AMONGST COMMISSION MEMBERS, COMMISSIONER AND GENERAL COUNSEL

I. Commission Policy, Responsibilities, Communications Amongst Commission Members, Commissioner and General Counsel.

BACKGROUND: Texas Finance Code Chapter 15 and Texas Credit Union Commission Policy Manual dated March 11, 2022.

RECOMMENDED ACTION: No formal action is anticipated.

FINANCE CODE

TITLE 2. FINANCIAL REGULATORY AGENCIES

CHAPTER 15. CREDIT UNION COMMISSION AND DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 15.001. DEFINITIONS. (a) In this chapter, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.
- (b) The definitions provided by Section 121.002 apply to this chapter. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.05(a), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. DEPARTMENT

Sec. 15.101. COMPOSITION OF DEPARTMENT. The department is composed of:

- (1) the commission;
- (2) the commissioner; and
- (3) other department officers and employees.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.102. REGULATION OF CREDIT UNIONS. The department shall supervise and regulate credit unions as provided by this chapter and Subtitle D, Title 3.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.103. STUDY OF STATUTES. The department periodically shall comprehensively study the statutes of this state as they pertain to credit union operations.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.104. NOTIFICATION AND GUIDANCE ON ADOPTION OF CERTAIN FEDERAL LAWS OR REGULATIONS. The department shall promptly notify and issue guidance to all

credit unions chartered in this state on the adoption of a federal law or regulation that:

- (1) affects a power or authority conferred to credit unions under Section 123.003(a);
 - (2) takes effect immediately; and
 - (3) conflicts with state law.

Added by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 1, eff. September 1, 2021.

SUBCHAPTER C. COMPOSITION OF COMMISSION

- Sec. 15.201. APPOINTMENT; TERMS. (a) The commission is composed of nine members appointed by the governor with the advice and consent of the senate.
- (b) Commission members serve staggered terms of six years, with the terms of one-third of the members expiring February 15 of each odd-numbered year.
- (c) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.06(a), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 2, eff. September 1, 2009.

- Sec. 15.202. GENERAL QUALIFICATIONS OF COMMISSION MEMBERS. (a) No two commission members may be residents of the same state senatorial district.
 - (b) A person may not be a member of the commission if:
- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field; or
- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the financial institutions field.
- (c) A person may not be a member of the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.05(b), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 3, eff. September 1, 2009.

- Sec. 15.203. QUALIFICATIONS OF INDUSTRY COMMISSION MEMBERS. (a) Four commission members must be individuals who:
- (1) have five years or more of active experience as a director, officer, or committee member of a credit union that:
- (A) is organized and doing business in this state under Subtitle D, Title 3, or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.); and
 - (B) has its principal office in this state; and
- (2) are engaged in exercising the powers and duties of a director, officer, or committee member of such a credit union.
- (b) Experience as a commissioner, deputy commissioner, or examiner is equivalent to the experience required by Subsection (a).
- (c) Not more than one individual from a federal credit union may serve on the commission at any time.
- (d) An individual who ceases to be engaged in exercising the powers and duties prescribed by this section for a period exceeding 90 days becomes ineligible to serve as a commission member, and the individual's position on the commission becomes vacant.
- Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.05(c), eff. Sept. 1, 1999.
- Sec. 15.204. QUALIFICATIONS OF PUBLIC COMMISSION MEMBERS. (a) Five commission members must be representatives of the public. A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:
 - (1) is employed by or participates in managing or directing:
 - (A) a financial institution; or
- (B) an organization, other than a financial institution, regulated by or receiving money from a financial institution regulatory agency;
 - (2) has, other than as a member or customer, a financial interest in:
 - (A) a financial institution; or
- (B) an organization, other than a financial institution, regulated by or receiving money from a financial institution regulatory agency; or
- (3) uses or receives a substantial amount of tangible goods, services, or money from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.
- (b) The governor shall appoint public commission members on the basis of recognized business ability.
- (c) In this section, "financial institution" includes an institution such as a credit union, bank, savings bank, or savings and loan association.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.05(d), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 87, Sec. 1, eff. Sept. 1, 1999.

Sec. 15.2041. TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

- (b) The training program must provide the person with information regarding:
 - (1) the law governing department operations;
 - (2) the programs, functions, rules, and budget of the department;
- (3) the scope of and limitations on the rulemaking authority of the commission;
 - (4) the results of the most recent formal audit of the department;
 - (5) the requirements of:
- (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and
- (B) other laws applicable to members of a state policy-making body in performing their duties; and
- (6) any applicable ethics policies adopted by the department or the Texas Ethics Commission.
- (c) A person appointed to the commission is entitled to reimbursement under Section 15.207, as if the person were a member of the commission, for travel expenses incurred in attending the training program, regardless of whether the attendance at the program occurs before or after the person qualifies for office.
- (d) The commissioner shall create a training manual that includes the information required by Subsection (b). The commissioner shall distribute a copy of the training manual annually to each commission member. Each commission member shall sign and submit to the commissioner a statement acknowledging that the commission member received and has reviewed the training manual.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.07(a), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(e), eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 2, eff. September 1, 2021.

- Sec. 15.205. VACANCIES. The office of a commission member becomes vacant:
 - (1) on the death, resignation, or removal of the member; or
- (2) if the member ceases to have the qualifications required for service as a member.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.08(a), eff. Sept. 1, 1999.

Sec. 15.206. REMOVAL. (a) A ground for removal of a commission member by the governor exists if a member:

- (1) neglects the member's duty;
- (2) is incompetent; or
- (3) commits fraudulent or criminal conduct.
- (b) It is a ground for removal from the commission that a member:
- (1) does not have at the time of taking office the qualifications required by Sections 15.202, 15.203, and 15.204;
- (2) does not maintain during service on the commission the applicable qualifications required by Sections 15.202, 15.203, and 15.204;
- (3) is ineligible for membership under Section 15.202, 15.203, or 15.204;
- (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
- (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.
- (c) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.
- (d) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.08(b), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 5, eff. September 1, 2009.

- Sec. 15.207. EXPENSES AND COMPENSATION OF COMMISSION MEMBERS. (a) A commission member may not receive compensation or a benefit because of the member's service on the commission except as provided by Subsection (b).
- (b) For each day that a commission member engages in the business of the commission, the member is entitled to:
 - (1) per diem, including compensatory per diem;
 - (2) actual expenses for meals and lodging; and
 - (3) transportation expenses.
- (c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1317, Sec. 28(i), eff. September 1, 2009.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(i), eff. September 1, 2009.

- Sec. 15.208. MATTER IN WHICH COMMISSION MEMBER HAS PERSONAL INTEREST. (a) A commission member may not act on a matter under the commission's consideration that directly affects a credit union of which the member is an officer, director, or member.
- (b) The commission shall adopt rules relating to recusal of members, requiring that a member who has a personal or private interest in a measure, proposal, or decision pending before the commission shall publicly disclose the fact to the commission at a meeting held in compliance with Chapter 551, Government Code. The member may not vote or otherwise participate in the decision. The disclosure shall be entered into the minutes of the meeting.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.09(a), eff. Sept. 1, 1999.

- Sec. 15.209. MEETINGS. (a) The commission shall hold at least two regular meetings each year.
- (b) The chairman, the commissioner, or five commission members may call a special meeting of the commission.
- (c) The commission shall adopt reasonable rules governing a meeting, including rules relating to the:
 - (1) time and place of a meeting;
 - (2) conduct of a meeting; and
 - (3) form of the minutes.
 - (d) The commission is subject to the:
 - (1) open meetings law, Chapter 551, Government Code; and
 - (2) administrative procedure law, Chapter 2001, Government Code.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.09(b), eff. Sept. 1, 1999.

Sec. 15.210. PRESIDING OFFICER. The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.09(c), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 6, eff. September 1, 2009.

- Sec. 15.211. SUIT FOR OFFICIAL ACT OR OMISSION. (a) The attorney general shall defend an action brought against a commission member or an officer or employee of the commission because of the person's official act or omission regardless of whether the individual is a member, officer, or employee of the commission at the time the action is initiated.
- (b) A suit against the commission or its officers or employees may be brought only in Travis County.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.212. SUNSET PROVISION. The Credit Union Department and the Credit Union Commission are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department and commission are abolished September 1, 2033.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.04(b), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 7, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 3, eff. September 1, 2021.

SUBCHAPTER D. COMMISSIONER AND OTHER EMPLOYEES OF COMMISSION

- Sec. 15.301. COMMISSIONER. (a) The commission shall appoint a commissioner by affirmative vote of two-thirds of the membership of the commission.
 - (b) The commissioner serves at the will of the commission.

(c) The commissioner is an employee of the commission and is subject to the commission's orders and directions.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

- Sec. 15.302. QUALIFICATIONS OF COMMISSIONER. (a) The commissioner must have at least five years' practical experience in the operation of credit unions during the 10 years preceding the commissioner's appointment.
 - (b) The experience required by this section may consist of experience:
- (1) in exercising the powers and duties of a director, officer, or committee member of a credit union; or
 - (2) in the employment of a credit union regulatory agency.
 - (c) A person may not be appointed commissioner if:
- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field; or
- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the financial institutions field.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 8, eff. September 1, 2009.

- Sec. 15.303. DEPUTY COMMISSIONER. (a) Subject to the commission's approval, the commissioner may appoint a deputy commissioner, who must have the qualifications required of the commissioner.
- (b) The deputy commissioner serves at the will of the commissioner and, at the commissioner's direction, may exercise the powers and prerogatives of the commissioner.
- (c) The deputy commissioner is an employee of the commission and is subject to the commission's orders and directions.
- (d) During the commissioner's absence or inability to act, the deputy commissioner shall perform the commissioner's duties.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

- Sec. 15.304. EXAMINERS. (a) The commissioner shall appoint a sufficient number of credit union examiners to perform fully the duties imposed by the laws of this state.
- (b) Appointment of an examiner is subject to recruitment specifications and qualifications approved by the commission.

(c) An examiner is an employee of the commission and is subject to the commission's orders and directions.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.305. GENERAL COUNSEL. A person may not act as the general counsel to the commission or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.05(e), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 9, eff. September 1, 2009.

Sec. 15.306. OATH. Before assuming the duties of office, the commissioner, the deputy commissioner, each examiner, and each other officer or employee of the commission must take an oath of office approved by the commission.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 8, eff. Sept. 1, 2003.

Sec. 15.307. OFFICERS OF COMMISSION AND DEPARTMENT. Each officer of the commission and department, except a commission member, is an employee of the commission and is subject to the commission's orders and directions.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

- Sec. 15.309. INTRA-AGENCY CAREER LADDER. (a) The commissioner or a person designated by the commissioner shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the department.
- (b) The program must require intra-agency posting of all non-entry-level positions concurrently with public posting.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.12(a), eff. Sept. 1, 1999.

Sec. 15.310. PERFORMANCE EVALUATION. (a) The commissioner or a person designated by the commissioner shall develop a system of annual performance evaluations that are based on documented employee performance.

(b) Merit pay for department employees must be based on the system established under this section.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.12(b), eff. Sept. 1, 1999.

- Sec. 15.311. QUALIFICATIONS OF EMPLOYEES. A person may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:
- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the financial institutions field; or
- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the financial institutions field.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.05(f), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 10, eff. September 1, 2009.

Sec. 15.312. INFORMATION PROVIDED TO MEMBERS AND EMPLOYEES. The commissioner or the commissioner's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.11(a), eff. Sept. 1, 1999.

- Sec. 15.313. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The commissioner or a person designated by the commissioner shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:
- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with requirements of Chapter 21, Labor Code;
- (2) a comprehensive analysis of the department workforce that meets federal and state law, including rules and regulations, and instructions adopted directly from that law;

- (3) procedures by which a determination can be made about the extent of underuse in the department workforce of all persons for whom federal or state laws, including rules and regulations, and instructions adopted directly from that law, encourage a more equitable balance; and
- (4) reasonable methods to appropriately address those areas of underuse.
 - (b) A policy statement prepared under Subsection (a) must:
 - (1) cover an annual period;
- (2) be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1); and
 - (3) be filed with the governor's office.
- (c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.13(a), eff. Sept. 1, 1999.

SUBCHAPTER E. POWERS AND DUTIES OF COMMISSION AND COMMISSIONER

Sec. 15.401. SUPERVISION OF COMMISSIONER. The commission shall supervise, consult with, and advise the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

S%c. 15.4011. CREDIT UNION DEPARTMENT BUILDING. The commission shall have charge and control of the property known as the Credit Union Department Building and use of staff, equipment, and facilities of the department. The Credit Union Department Building refers to the property located in the city of Austin and titled in the name of the State of Texas for the use and benefit of the Credit Union Department, as described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(f), eff. September 1, 2009.

- Sec. 15.402. ADOPTION OF RULES. (a) The commission may adopt reasonable rules necessary to administer this chapter and to accomplish the purposes of Subtitle D, Title 3.
- (b) In adopting rules under this section, the commission may regulate and classify credit unions according to criteria that the commission determines are appropriate and necessary to accomplish the purposes of this chapter and Subtitle D, Title 3, including the:

- (1) character of field of membership;
- (2) amount of assets;
- (3) number of members; and
- (4) financial condition.
- (b-1) In adopting rules under this section, the commission shall consider the need to:
 - (1) promote a stable credit union environment;
- (2) provide credit union members with convenient, safe, and competitive services;
- (3) preserve and promote the competitive parity of credit unions with regard to other depository institutions consistent with the safety and soundness of credit unions; and
 - (4) promote or encourage economic development in this state.
- (c) The commission by rule shall establish reasonable and necessary fees for the administration of this chapter and Subtitle D, Title 3.
- (d) The presence or absence in this chapter or Subtitle D, Title 3, of a specific reference to rules regarding a particular subject does not enlarge or diminish the rulemaking authority provided by this section.
- Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 1, eff. Sept. 1, 2003.
- Sec. 15.4021. RECEIPT OF PUBLIC COMMENTS; NOTICE OF COMMISSION ACTIVITIES.

 (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the department.
- (b) The commission shall adopt rules providing for public notice of department activities.
- Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.10(a), eff. Sept. 1, 1999.
- Sec. 15.4022. RULES RELATING TO COMPETITIVE BIDDING AND ADVERTISING. (a) The commission may not adopt rules restricting competitive bidding or advertising by a credit union except to prohibit false, misleading, or deceptive practices.
- (b) In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:
 - (1) restricts the use of any medium for advertising;
- (2) relates to the size or duration of an advertisement by the credit union; or
 - (3) restricts the credit union's advertisement under a trade name.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.10(a), eff. Sept. 1, 1999.

Sec. 15.4023. SEPARATION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the commissioner and the staff of the department.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.10(a), eff. Sept. 1, 1999.

- Sec. 15.4025. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:
- (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and
- (2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.
- (b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.
 - (c) The commission shall designate a trained person to:
- (1) coordinate the implementation of the policy adopted under Subsection (a);
- (2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
- (3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 11, eff. September 1, 2009.

Redesignated from Finance Code, Section 15.4024 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(11), eff. September 1, 2011.

- Sec. 15.403. SUPERVISION AND REGULATION OF CREDIT UNIONS. (a) The commissioner shall supervise and regulate a credit union doing business in this state, other than a federal credit union, in accordance with this chapter and Subtitle D, Title 3, including rules adopted under this chapter and Subtitle D, Title 3.
- (b) To the extent necessary to the department's authority to supervise and regulate credit unions under this chapter and Subtitle D, Title 3, the

commissioner may require each credit union to conduct business in compliance with federal laws that apply to credit unions.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 1, eff. September 1, 2013.

- Sec. 15.4031. CREDIT UNION COMMISSIONER HEARING. (a) The commissioner may convene a hearing to receive evidence and argument regarding any matter under this chapter or Subtitle D, Title 3, before the commissioner for decision or review. The hearing must be conducted under Chapter 2001, Government Code. A matter made confidential by law must be considered by the commissioner in a closed hearing.
- (b) A hearing officer may conduct any hearing on behalf of the commissioner.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 3, eff. Sept. 1, 2003.

- Sec. 15.4032. EXAMINATION OF RELATED ENTITIES. (a) In accordance with rules adopted by the commission, the commissioner may examine, to the same extent as if the services or activities were performed by a credit union on its own premises:
- (1) a credit union service organization in which a credit union has a material interest;
- (2) an organization engaged primarily in the business of managing one or more credit unions; and
- (3) a third-party contractor providing electronic data processing, electronic fund transfers, or other member services on behalf of a credit union.
- (b) The commissioner may collect a fee from an examined contractor or organization in connection with each examination to cover the cost of the examination or may collect that fee from the credit unions that use the examined contractor.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 3, eff. Sept. 1, 2003.

Sec. 15.404. ADMINISTRATION AND ENFORCEMENT OF STATUTES AND RULES. The commissioner shall administer and enforce this chapter and Subtitle D, Title 3, and rules adopted under this chapter and Subtitle D, Title 3.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 4, eff. Sept. 1, 2003.

- Sec. 15.4041. ISSUANCE OF INTERPRETIVE STATEMENTS. (a) The commissioner may issue interpretive statements containing matters of general policy to guide the public and credit unions, and may amend or repeal a published interpretive statement by issuing an amended statement or notice of repeal of a statement.
- (b) An interpretive statement may be disseminated by newsletter, through an electronic medium such as the Internet, in a volume of statutes or related materials published by the commissioner or others, or by any other means reasonably calculated to notify persons affected by the interpretive statement. Notice of an amended or withdrawn statement must be disseminated in a substantially similar manner as the affected statement was originally disseminated.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 5, eff. Sept. 1, 2003.

- Sec. 15.4042. ISSUANCE OF OPINION. (a) In response to a specific request from a member of the public or the credit union industry, the commissioner may issue an opinion directly or through the deputy commissioner or a department attorney.
- (b) If the commissioner determines that the opinion is useful for the general guidance of the public or credit unions, the commissioner may disseminate the opinion by newsletter, through an electronic medium such as the Internet, in a volume of statutes or related materials published by the commissioner or others, or by any other means reasonably calculated to notify persons affected by the opinion. A published opinion must be redacted to preserve the confidentiality of the requesting party unless the requesting party consents to be identified in the published opinion.
- (c) The commissioner may amend or repeal a published opinion by issuing an amended opinion or notice of repeal of an opinion and disseminating the opinion or notice in a substantially similar manner as the affected opinion was originally disseminated. The requesting party may rely on the original opinion if:
 - (1) all material facts were originally disclosed to the commissioner;
- (2) the safety and soundness of the affected credit union will not be endangered by further reliance on the original opinion; and
- (3) the text and interpretation of relevant governing provisions of this chapter or Subtitle D, Title 3, have not been changed by legislative or judicial action.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 5, eff. Sept. 1, 2003.

Sec. 15.4043. EFFECT OF INTERPRETIVE STATEMENT OR OPINION. An interpretive statement or opinion issued under this subchapter does not have the force of law and is not a rule for the purposes of Chapter 2001, Government Code, unless adopted by the commission as provided by Chapter 2001, Government Code. An interpretive statement or opinion is an administrative construction of this chapter or Subtitle D, Title 3, may be relied on by credit unions authorized to engage in business in this state, and is entitled to great weight if the construction is reasonable and does not conflict with this chapter or Subtitle D, Title 3.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 5, eff. Sept. 1, 2003.

Sec. 15.4044. FEES. The department may charge a late fee against a credit union for late payment of its operating fees.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 12, eff. September 1, 2009.

Sec. 15.405. LEGISLATIVE RECOMMENDATIONS. The commissioner shall report the department's legislative recommendations to the legislature for consideration.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.406. ATTENDANCE AT COMMISSION MEETINGS; VOTING. The commissioner shall attend meetings of the commission but may not vote at a meeting.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.407. OFFICIAL COMMITTEES. The chairman may appoint individuals who are not commission members to serve on official committees that are charged with evaluating industry methods or problems and presenting formal recommendations to the commission for possible action. The individuals appointed are entitled to reimbursement for reasonable and necessary expenses incidental to travel incurred in connection with the performance of official duties.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 7, eff. Sept. 1, 2001.

Sec. 15.408. CONSUMER COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the

subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

- (b) The department shall make information available describing its procedures for complaint investigation and resolution.
- (c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

Redesignated from Finance Code Sec. 15.409(b), (c), and (d) and amended by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.

Sec. 15.4081. COMPLAINT TRACKING; ANNUAL STATISTICAL ANALYSIS. (a) To help identify and address regulatory issues and constraints, the department shall track all phases of the complaint and enforcement processes, including the receipt, investigation, and disposition of complaints. The department shall maintain the following information for each complaint:

- (1) the basis for the complaint;
- (2) the origin of the complaint, including whether the complaint was issued from:
 - (A) another regulatory agency;
 - (B) a credit union member;
 - (C) a credit union employee;
 - (D) a member of the public; or
 - (E) a public or private entity;
- (3) the number of days taken to resolve the complaint from the date the complaint was received; and
 - (4) the disposition of the complaint, including:
- (A) if no disciplinary action was taken, the reasons no disciplinary action was taken;
- (B) if disciplinary action was taken, the type of disciplinary action taken, including the amount of any administrative penalty or late fee;
- (C) if dismissed or referred to another agency, the details regarding dismissal or referral; and
 - (D) if ongoing, the current status of the complaint.
- (b) The department shall annually compile a statistical analysis of the department's complaint and enforcement processes for the preceding fiscal year. The analysis must include:
- (1) the total number of complaints filed with the department against credit unions;
 - (2) the number of open investigations at the end of the fiscal year;
 - (3) the number of complaints that were resolved, disaggregated by:

- (A) the source of the complaint;
- (B) the type of alleged violation;
- (C) jurisdictional and non-jurisdictional complaints;
- (D) regulatory and nonregulatory complaints; and
- (E) the disposition and type of action taken, including any administrative penalty or late fee assessed; and
- (4) the average number of days taken to resolve a complaint, including complaints that were resolved through an examination of a credit union.

Added by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 5, eff. September 1, 2021.

- Sec. 15.409. CONSUMER INFORMATION. (a) The commissioner shall:
- (1) supervise the preparation of public interest information describing:
 - (A) functions of the department;
 - (B) procedures for filing and resolving complaints; and
 - (C) other matters of general interest relating to credit unions;

and

- (2) make the information prepared under Subdivision (1) available to the public and appropriate state agencies.
- (b) Redesignated by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.
- (c) Redesignated by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.
- (d) Redesignated by Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.
- (e) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, telephone number, and Internet website of the department for the purpose of directing complaints to the department. The commission shall provide for that notification:
- (1) on the Internet website of a credit union regulated under this chapter and Subtitle D, Title 3, if the credit union maintains a website;
- (2) on a sign prominently displayed in the place of business of each credit union regulated under this chapter and Subtitle D, Title 3; and
- (3) in any newsletter distributed by a credit union regulated under this chapter and Subtitle D, Title 3, if the credit union distributes a newsletter.
- (f) The commission by rule may establish other methods by which credit unions that do not have an Internet website or do not distribute a newsletter may

make the information described by Subsection (e) more readily available to credit unions' customers and service recipients.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.11(c), eff. Sept. 1, 1999. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 13, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 2, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 4, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 300 (S.B. 707), Sec. 6, eff. September 1, 2021.

- Sec. 15.4091. ACCESS TO DEPARTMENT FACILITIES, PROGRAMS, AND SERVICES. (a) The department shall comply with federal and state laws related to program and facility accessibility.
- (b) The commissioner shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.11(d), eff. Sept. 1, 1999.

- Sec. 15.410. SHARE AND DEPOSITOR INSURANCE PROTECTION. (a) The commission shall adopt, and the commissioner shall enforce, reasonable rules requiring a credit union to provide share and deposit insurance protection for credit union members and depositors.
- (b) Rules adopted under this section must include authorization for and establishment of a share and deposit guaranty corporation or credit union under the department's exclusive regulation to enable the department to carry out the purposes of this chapter and Subtitle D, Title 3.
- (c) A credit union may provide share and deposit insurance protection through another source approved by the department, including a program of the National Credit Union Administration.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 15.4105. ANNUAL REPORT TO MEMBERS. (a) The commission shall adopt, and the commissioner shall enforce, reasonable rules requiring a credit union regulated under this chapter and Subtitle D, Title 3, to provide an annual report

to the credit union's members regarding the credit union's financial condition and management. The report must:

- (1) include a current balance sheet;
- (2) include an income and expense statement;
- (3) contain the name and date of expiration of the term of office of each member serving on the board of directors;
- (4) contain a brief description of any changes, since the preceding report was provided under this section, to the credit union's:
 - (A) management;
 - (B) bylaws;
 - (C) articles of incorporation;
 - (D) financial condition;
 - (E) membership size; and
 - (F) services offered; and
- (5) contain any other information the commission considers necessary to ensure that credit union members are provided with basic knowledge of the credit union's financial condition and management.
- (b) In adopting rules under this section, the commission must ensure that a credit union:
- (1) updates the report before the credit union's annual organizational meeting;
- (2) makes the report available to members throughout the year on the credit union's Internet website, if the credit union maintains a website; and
- (3) provides the report to credit union members by an alternative method, including delivery at the credit union's annual organizational meeting, if the credit union does not have an Internet website.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 14, eff. September 1, 2009.

- Sec. 15.411. AGREEMENTS WITH OTHER REGULATORS. (a) The commissioner may enter into an agreement with any credit union supervisory agency regarding the examination or supervision of branch offices of credit unions chartered in this state doing business in other states and foreign credit unions doing business in this state. In lieu of conducting an examination or investigation required by this subtitle, the commissioner may accept examinations or reports from other credit union supervisory agencies. The acceptance of the examination or report does not waive any fee, charge, or revenue required to be paid by a credit union, including a foreign credit union doing business in this state.
- (b) The commissioner may enter into any cooperative arrangement with other credit union supervisory agencies to promote the effective regulation of state

credit unions doing business across state lines, including contracting to use another agency's examiners, allowing for the use of examiners of this state by another agency, or collecting fees on behalf of or receiving payments through another agency.

Added by Acts 1999, 76th Leg., ch. 157, Sec. 4, eff. Sept. 1, 1999.

Sec. 15.4111. REGULATORY COORDINATION. To ensure effective coordination among and between the department and other state and federal agencies, the commissioner and those agencies may enter into cooperative, coordinating, or information-sharing agreements that are necessary or proper to enforce the state or federal laws applicable to credit unions.

Added by Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 3, eff. September 1, 2013.

- Sec. 15.412. FILING GROUP RETURN WITH THE INTERNAL REVENUE SERVICE. (a) The commissioner may file a consolidated group return form with the Internal Revenue Service on behalf of all credit unions under the department's jurisdiction. To be included, each credit union must annually authorize the department in writing to include the credit union in the group return and must declare that the authorization and the financial information submitted for the purpose of compiling the group return are true and complete.
- (b) The state is not liable for information contained in any form submitted. Each credit union is individually responsible for the accuracy, completeness, and timeliness of the information and for any potential tax liability or penalties that may accrue.

Added by Acts 1999, 76th Leg., ch. 157, Sec. 4, eff. Sept. 1, 1999.

Sec. 15.413. INTERPRETATION OF HOME EQUITY LENDING LAW. The commission may, on request of an interested person or on its own motion, issue interpretations of Sections 50(a)(5)-(7), (e)-(p), (t), and (u), Article XVI, Texas Constitution. An interpretation under this section is subject to Chapter 2001, Government Code, and is applicable to lenders regulated by the commission. The Finance Commission of Texas and the commission shall attempt to adopt interpretations that are as consistent as feasible or shall state justification for any inconsistency.

Acts 2003, 78th Leg., ch. 1207, Sec. 2, eff. Sept. 13, 2003.

Sec. 15.414. AUTHORITY TO CONTRACT FOR PROFESSIONAL OR PERSONAL SERVICES. For the purpose of carrying out the powers, duties, and responsibilities of the

department, the commissioner may negotiate, contract, or enter into an agreement for professional or personal services. The commission by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding contracts under this section.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 5, eff. Sept. 1, 2003.

Sec. 15.415. GIFTS OF MONEY OR PROPERTY. The department may accept money or property by gift, bequest, devise, or otherwise for any department purpose authorized by this chapter and Subtitle D, Title 3. A gift, bequest, or devise shall be used for the purposes specified by the grantor. The commission must approve acceptance and use of any gift, bequest, or devise under this section.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 5, eff. Sept. 1, 2003. Renumbered from Finance Code, Section 15.413 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(26), eff. September 1, 2005.

Sec. 15.416. USE OF TECHNOLOGY. The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 15, eff. September 1, 2009.

SUBCHAPTER F. RULES REGARDING USE OF ADVISORY COMMITTEES

Sec. 15.501. RULEMAKING AUTHORITY. (a) The commission shall adopt rules, in compliance with Section 15.407 and Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the commission, including rules governing an advisory committee's:

- (1) purpose, role, responsibility, and goals;
- (2) size and quorum requirements;
- (3) qualifications for membership, including experience requirements and geographic representation;
 - (4) appointment procedures;
 - (5) terms of service;
 - (6) training requirements; and
 - (7) duration.
- (b) An advisory committee must be structured and used to advise the commission. An advisory committee may not be responsible for rulemaking or policymaking.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 16, eff. September 1, 2009.

Sec. 15.502. PERIODIC EVALUATION. The commission shall by rule establish a process by which the commission shall periodically evaluate an advisory committee to ensure its continued necessity. The commission may retain or develop committees as appropriate to meet changing needs.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 16, eff. September 1, 2009.

Sec. 15.503. COMPLIANCE WITH OPEN MEETINGS ACT.A commission advisory committee must comply with Chapter 551, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 16, eff. September 1, 2009.



Texas Credit Union Commission

Policy Manual

Revised: March 11, 2022

ADOPTIONS

These policies were reviewed and adopted by the Credit Union Commission at a regular meeting on July 12, 1991.

Section IX. T was revised on September 11, 1992. Section IX. U was added on March 5, 1993.

Section IX. T was revised on February 14, 1994. Section IX. V was added on August 5, 1994.

On February 13, 1995, the following revisions and addition were adopted by the Credit Union Commission:

Section II E 3 and II E 4 were revised; Section III F and III J were revised; Section IX G, IX T 2, and IX U were revised; and, Section IX W was added.

On July 12, 1996, the following addition and revision were adopted:

The Decision Matrix was added in an Appendix; Section VI was revised to reflect the change in maximum actual reimbursable expenses to conform to H.B. 1, Sec. 4.1.

On October 7, 1996, the following revisions and additions were adopted by the Credit Union Commission:

Section II D was revised; Section II E 9 was revised; Section IV I was added; Section VI was revised; Section VIII F was revised; and Section XIII D was repealed.

On October 10, 1997, the following revisions and addition were adopted by the Credit Union Commission:

Section II B was revised; a new Section VIII was added; the former Sections VIII through XIV were renumbered; and Appendix B was added.

On January 16, 1998, the following additions and revisions were adopted by the Credit Union Commission:

Section II E was revised to add new Paragraphs 4, 5, and 12, and former Paragraphs 4 through 9 were renumbered.

On January 15, 1999, the following additions and revisions were adopted by the Credit

Union Commission:

Section VI (A) & (D) pertaining to Commission travel were updated to reflect statutory changes enacted by the 75th Legislature.

Section VII pertaining to acceptance of gifts of money was deleted and a new Section VII was adopted for recognition awards.

Section X (S) was deleted and the remaining paragraphs were renumbered. New Section X (S) relating to Commissioner Evaluation was modified to make the evaluation date coincide with the fiscal year-end.

New Section X (V) was modified to delete reference to a Department policy on the orderly hearing of conservation order appeals.

Various formatting, grammatical and spelling errors were corrected.

On January 21, 2000, the following revisions were adopted by the Credit Union Commission:

Section I; Section II C, D, E 2, E 9 & E 11; Section III B, C, D & J; Section IV I; Section VI A, B & D; Section VII B; Section IX B; Section X A, B, F, G, S 1, S 5 & U, and; Section XIII.

On April 21, 2000, the following revision was adopted by the Credit Union Commission:

Section II. E. 11 was changed to delete distribution of minutes to the Attorney General's Office.

On January 19, 2001, the following revision was adopted by the Credit Union Commission:

Section III K was added to establish principles for the promulgation and review of rules.

On November 15, 2002, the following revision was adopted by the Credit Union Commission:

Section II F was added to officially delegate the authority to make decisions regarding motions for oral argument to the Chairman.

On March 21, 2003, the following revision was adopted by the Credit Union Commission:

Section II E (4) was modified to clarify public input for non-agenda items.

On February 17, 2006, the following revisions were adopted by the Credit Union Commission:

Section X. S. (5) was modified to change the completion date of the evaluation process.

Section XII, which dealt with Surety Bonds, was deleted and a new Section XII was added regarding Strategic Goals.

Section XIV was changed to strengthen the expectations related to Ethical Standards.

On February 14, 2007, the following revisions were adopted by the Credit Union Commission:

Section X regarding Commissioner Role is now Section XI and a new Section X was added regarding Commissioner Evaluation Committee.

Section XI regarding Approval of Documents is now Section XII.

Section XII regarding Strategic Goals is now Section XIII.

Section XIII regarding Legal Counsel is now Section XIV.

Section XIV regarding Ethical Standards is now Section XV.

Commissioner Succession Plan was added as Appendix C.

On February 11, 2009, the following revisions were adopted by the Credit Union Commission:

Section VII. D was added to provide for Commission resolutions honoring credit unions for certain milestone dates.

Section IX was modified to revise the structure of Advisory Committees to conform to the Government Code.

On June 19, 2009, the following revision was adopted by the Credit Union Commission:

Section X was modified to add new Standing Committee.

On October 16, 2009, the following revisions were adopted by the Credit Union Commission:

Section II (13) was added to establish Attendance Expectations consistent with statutory changes enacted by the 81st Legislature.

Section XVI was added regarding Use of Technology to reflect statutory changes enacted by the 81st Legislature.

Section XVI was added regarding Negotiated Rulemaking and Alternative Dispute Resolution to reflect statutory changes enacted by the 81st Legislature.

On February 19, 2010, the following revisions/additions were adopted by the Credit Union Commission:

Section II, D was modified to remove references to non-commission committee appointees.

Section II, E, 8, e-m, were modified to adjust the order of business to include consideration of request for excused absences.

Section II, E, 11 was modified to reflect that minutes are on file in the Department's offices.

Section IV, A, 1-2 were modified to reflect SDSI status.

Section VIII was modified to reflect training requirements as required by Sunset Legislation.

Section X, A, 4 was modified to reflect time frame of Commissioner Evaluation.

Section X, B, 1 was modified to clarify the Commission Chair appoints committee members.

Section XI, J was modified to reflect SDSI status.

Section XII was modified to reflect SDSI status.

Section XV, F was modified to add a prohibition against an examiner becoming indebted to a credit union.

Section XVIII was added establishing a Contingency Fund Reserve Policy.

Appendix A, Decision Matrix, was modified to reflect SDSI status.

Appendix B, New Commission Member Training Program was updated to reflect statutory changes.

On February 18, 2011, the following revisions were adopted by the Credit Union Commission:

Section VI, E was modified to reflect SDSI status Section IX, E was modified to reflect SDSI status. Section XII was modified to reflect SDSI status.

On February 17, 2012, the following revisions were adopted by the Credit Union Commission:

Section XVIII regarding Reserve Policy is now Section XIX and a new Section XVIII was added regarding Budget Policy.

On November 2, 2012, the following revisions were adopted by the Credit Union Commission:

Section XIX, B was modified to prescribe the maximum limit for the Contingency Fund Reserve and its six sub-accounts.

Section XIX, D was modified to ensure that excess funds in the Contingency Fund Reserve are used during the next fiscal year to reduce operating fees.

On February 15, 2013, the following revision was adopted by the Credit Union Commission:

Section II, E, 2 was modified to remove language inconsistent with notification requirements of the Open Meetings Act.

On February 21, 2014, the following revisions were adopted by the Credit Union Commission:

Section II B was modified to convert the vice chair from an elected position to a designation made by the Commission Chair;

Section II E 8 & 13 were revised to reflect minor edits and formatting; Section III I was deleted, and the remaining paragraphs renumbered; Section IV F was revised to reflect minor edits and formatting;

Section VI B was modified to reflect the change in guidelines for reimbursement of meals and lodging from the General Appropriations Act to the locality-based rates approved by

the Comptroller's Office;

Section XI A was revised to reflect minor edits and formatting;

Section XV F was modified to integrate the General Counsel position into the specific restrictions that deal with lending transactions and deposit relationships with credit unions;

Section XVI was revised to reflect minor edits and formatting;

Section XVIII G was modified to clarify that full-time equivalent or FTE is not the same as authorized positions and instituting a new cap on employment levels;

Section XVIII H was modified to remove examination fees paid by residential mortgage loan originators employed by a CUSO from revenue;

Section XVIII J was revised to reflect minor edits and formatting; Section XIX C was revised to reflect minor edits and formatting;

Appendix B, New Commission Member Training Program was revised to reflect SDSI status;

Appendix C, Commissioner Succession Plan was modified to switch the required review of the Plan from an annual event to one that is performed periodically;

On March 4, 2016, the following revisions were adopted by the Credit Union Commission:

Section XV I was added to reflect a new requirement related to annual disclosure and prohibition of certain contracts;

Section XVIII D was modified to clarify the date the Commission approves budget assumptions;

Section XVIII M was added to provide authority for obligated funds to be automatically carried over from one fiscal year to the next until the legal obligation is satisfied.

Section XX was added to establish a Second Amendment weapons policy.

On July 8, 2016, the following revision was adopted by the Credit Union Commission:

Section XX was modified to clarify that the Credit Union Department will not impose any restrictions on the carrying of firearms or other weapons beyond that mandated by

the Texas Legislature.

On March 10, 2017, the following revision was adopted by the Credit Union Commission:

Section XV was modified to allow an exception to the prohibition on indebtedness to a Credit Union for certain employees if the indebtedness was permissible when incurred and became prohibited as result of employment by the Department or circumstances over which the employee has no control. The revision also expands the criteria for restricting an employee from examining a Credit Union to include past employment, pension interest, and relatives working in the institution.

On March 9, 2018, the following revisions was adopted by the Credit Union Commission:

A new subsection D was added under Section VII, Recognition Awards to provide discretionary authority to the Commission to recognize exemplary achievement.

A new subsection J was added under Section XV, Ethical Standards to address political activity/lobbying by Commission members in their capacity as private citizens.

A new section XVII was added, Information Technology to address the need for the department to create and maintain an internal information security infrastructure.

A new Appendix D was added, Enterprise Risk Appetite Statement

On November 6, 2020, the following revisions were adopted by the Credit Union Commission:

Amendments to Section XX Subsection B sub 1, 2, 4 and 6 to reflect approved increases to the sub-accounts of the Contingency Fund Reserve.

Section VII Subsection D was deleted to remove the requirements to commemorate credit union economic involvement in the state pursuant to Sunset Review recommendations.

On June 4, 2021, the following revisions were adopted by the Credit Union Commission:

Amendments to Section X subsection C to create a standing Audit Committee and Section VIII and Appendix B relating to the implementation of a training manual for commission members and annual acknowledgement. These changes were required as a result of the passage of SB 707 relating to the Credit Union Department's sunset review.

On March 11, 2022, the following revisions were adopted by the Credit Union Commission:

Section XIV was amended to reflect the hiring of an internal General Counsel.

Section XXI was amended to reflect changes necessary due to HB 1927 effective September 1, 2021 allowing qualified individuals 21 years or older to carry open or concealed handguns without obtaining a license to open carry. The Section was renamed Weapons policy.

CREDIT UNION COMMISSION POLICIES MANUAL

SUBJECT	REFERENCE	PAGE
INTRODUCTION	I	1
RULES	п	1
GENERAL POLICIES	III	5
RESPONSIBILITIES	IV	7
NEW POLICIES	V	9
TRAVEL	VI	9
RECOGNITION AWARDS	VII	10
NEW COMMISSION MEMBER TRAINING	VIII	11
ADVISORY COMMITTEES	IX	11
STANDING COMMITTEES	X	12
COMMISSIONER ROLE	XI	15
APPROVAL OF DOCUMENTS	XII	17
STRATEGIC GOALS	XIII	17
LEGAL COUNSEL	XIV	18
ETHICAL STANDARDS	XV	18
USE OF TECHNOLOGY	XVI	22
INFORMATION TECHNOLOGY SECURITY	XVII	23
NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION	xvIII	23
BUDGET POLICY	XIX	24
RESERVE POLICY	XX	28
WEAPONS POLICY	XXI	32

APPENDIX

DECISION MATRIX	A1-A3
NEW COMMISSION MEMBER TRAINING PROGRAM	B1-B3
COMMISSIONER SUCCESSION PLAN	C1-C3
ENTERPRISE RISK APPETITE STATEMENT	D1

I. <u>INTRODUCTION</u>

It is the purpose of the Commission Policies Manual to provide a codification of Commission policies established directly or indirectly through the recorded actions of the Commission. As new policies are enacted or present policies revised or rescinded by the Commission, such additions or changes will be issued by the Commissioner and, inserted in the Commission Policies Manual in the proper place according to subject. It is essential that in order for such a document as this to be effective and useful, it be kept current. The format and system is organized accordingly.

The manual is structured for use by the Commission as a ready reference to existing policies and to aid in determining areas where policies are lacking or where policies need review and possible revision. It is also designed to provide administrative staff with full knowledge of all Commission policies that have been established.

II. RULES OF THE COMMISSION

- A. Official Name of the Board. The Commission adopted as the official name: Credit Union Commission.
- B. Vice-Chair. The Commission Chair shall designate a member of the Commission as 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.

C. Duties of Officers

Chair. The Chair shall preside at all meetings and perform all other duties prescribed by law or by the Commission.

Vice-Chair. The Vice-Chair shall preside in the absence of the Chair.

Recording Secretary. A Recording Secretary shall be appointed at the beginning of each meeting and shall perform all duties as the Commission may request.

Executive Director. The Commissioner shall perform all duties as required by law and shall be the administrative officer to the Commission.

D. Committees. The Commission Chair may appoint ad hoc committees comprised of Commission members or individuals who are not members of the Commission, for evaluating industry methods or problems and presenting formal recommendations to the Commission.

E. Board Meetings

- Regular Meetings. The Texas Finance Code provides that the Commission shall meet twice a year in regular session. Regular meetings shall be held at such designated place, date, and time as may be determined by the Chair. A majority of the members of the Commission shall constitute a quorum.
- 2. Special Meetings. Special meetings may be called by the Chair, the Commissioner or any five members of the Commission at such times, dates, and places as become necessary for the transaction of Department business. Notice of all special meetings shall be posted in compliance with applicable provisions of the Texas Open Meetings Act.
- 3. All Board Meetings Open to Public. Commission meetings, regular and special, shall be open to the general public except as provided by the Texas Open Meetings Act (Chapter 551 of the Government Code).
- 4. Public Input for Non-Agenda Items. At the beginning of each meeting, the Chair will provide an opportunity for the public to comment on matters regarding rulemaking that are not scheduled items on the agenda. Persons wishing to comment must state their name and who they represent for the record. Unless authorized by a majority vote of the meeting quorum, the comments of those persons will be limited to no more than five (5) minutes.
- 5. Public Input for Agenda Items. For each item on the agenda, the Chair will provide an opportunity for the public to comment. Persons wishing to comment on an agenda item must state their name and who they represent for the record. If multiple persons from an organization or affiliated group are present, one representative should be designated to speak on behalf of that organization or group. Unless authorized by a majority vote of the meeting quorum, the comments of those persons will be limited to no more than ten (10) minutes.
- 6. Transaction of Business. The Commission may transact official business only when in session and shall not be bound in any way by any statement or action on the part of any individual member except when such statement or action is in pursuance of specific instructions of the Commission. No order or decree shall be adopted by the Commission except in open meeting and in accordance with the Texas Open Meetings Act (Chapter 551 of the Government Code).

- 7. Agenda. The Chair, in cooperation with the Vice-Chair and the Commissioner, shall prepare and submit to each member of the Commission, prior to each meeting, an advance copy of an agenda, outlining matters that should be considered and such other matters, materials, and information as members have requested to be included for consideration.
- 8. Order of Business. The order of business to be observed by the Commission shall be at the discretion of the Chair but generally should be as follows:
 - a. Call to Order/Ascertain Quorum/Invocation
 - b. Appoint Recording Secretary
 - c. Introduction of Visitors and Guests
 - d. Invitation for Public Input
 - e. Receive Requests and Motions for Excused Absences
 - f. Receive Minutes of the Previous Meeting(s)
 - g. Communications
 - h. Reports of Committees
 - i. Unfinished Business
 - i. New Business
 - k. Executive Session
 - Other Business
 - m. Adjournment
- 9. Request for Information. In order to keep all members of the Commission properly informed and to prevent duplication of work, any written report, survey, statistics, or information requested by the Commission or any member thereof should be initiated by action of the Commission and duly recorded in the minutes. Copies of such reports should be made available to all members of the Commission.
- 10. Rules of Order. Meetings of the Commission shall generally be informal, with customary motions and seconding's. Robert's Rules of Order shall apply if so declared by the Chair, or by a majority of members present at any meeting. If Robert's Rules of Order are invoked, a parliamentarian will be designated by the Chair.
- 11. Minutes of the Commission Meetings. Copies of the official minutes of each meeting of the Commission shall be distributed to members of the Commission, key Department personnel, Legislative Reference Library and to private citizens upon making a formal request. An official copy of all minutes shall remain on file in the Department's offices, available to any citizen desiring to examine them. The format of the minutes shall generally

follow the agenda and will include pertinent dialogue where feasible.

- 12. Recessed Meetings. A meeting of the Commission and its committees may recess to the next calendar day when it does not complete consideration of a particularly long subject. If two or more days have elapsed since deliberation on the item was suspended, an additional and separate posting requirement can be waived by a majority vote of the meeting quorum when circumstances require a meeting to be held and no practical means exists to post notice prior to reconvening the meeting.
- 13. Attendance Expectations. Members of the Commission are expected to attend all regularly scheduled meetings in person. It is understood, however, that there may be times when members must miss a meeting due to circumstances beyond their control such as illness, bereavement, military obligations, jury duty, or weather conditions. Upon a motion of a member, the Commission may vote to excuse these types of absences on a case-by-case basis. The minutes of each meeting shall reflect whether the absence of a member was excused by the Commission.

Members are expected to provide prior notice to the Commission of any meeting they will miss. Notice of an unexpected absence due to illness or an emergency shall be given as soon as possible. Missing a meeting without notification is unacceptable and such absence will not be subsequently excused by the Commission.

F. Motions for Oral Arguments

As provided in <u>7 TAC Section 93.603</u>, any party who has filed a motion for appeal to the Commission and who has timely requested oral argument may, if approved, argue the case to Commission during the public meeting called to consider the matter. In order to promote administrative efficiency and to expedite decisions on properly filed requests, the Chair is authorized to grant or deny the request. If granted, the Chair will set the time that will be allowed for argument and may determine the issues on which argument will be allowed. The party must complete argument in the time allotted and may continue after the expiration of the allotted time only by a majority vote of the meeting quorum. A party's failure to request oral argument waives the party's right to argue. But even if a party has waived oral argument, the Chair may direct the party to appear and argue.

Oral argument should emphasize and clarify the written arguments in the motion for appeal. The party should assume that all members of the Commission have read the motion before oral argument and the party should be prepared to respond to questions. A party should not refer to or comment on matters not involved in or pertaining to what is in the record.

III. GENERAL POLICIES OF THE COMMISSION

It is the policy of the Commission to:

- A. Welcome suggestions from the public and to solicit professional and technical advice and the thinking of citizens from all walks of life.
- B. Conduct its deliberations and to arrive at its decisions by acting as a full Commission, and to never delegate the power of decision to any permanent or standing committee.
- C. Function as a policy-forming Commission and seek the advice and counsel or professional leadership from within the Department, through the Commissioner, as well as from outside sources in establishing programs for the benefit and welfare of the people of Texas, and to carry out the intent and spirit of the Legislature.
- D. Provide the Commissioner with the opportunity to be heard and render his advice and recommendations on all matters under consideration by the Commission prior to the final action.
- E. Give direction and support to the Commissioner in carrying out the policies established by the Commission and in the discharge of his general administrative duties and responsibilities.
- F. Deal with the Department, both as a Commission and as individual members, only through the Commissioner or his/her designee.
- G. Consider the design of the service delivery system of the Commission to be a matter of policy.
- H. Support an affirmative action program to ensure equal employment opportunity and nondiscrimination because of race, color, religion, age, sex, national origin, or handicap in the provision of services and in personnel practices and procedures.
- I. Establish a Credit Union Department sick leave pool pursuant to <u>Chapter 661 of</u> the <u>Government Code</u>, <u>Subsection A</u>, to assist employees who suffer a catastrophic injury or illness and have exhausted all accrued leave. The sick

- leave pool will be under the day- to-day control of the Commissioner who may appoint an employee of the Department to administer its operation.
- J. Continually improve the quality of its rules, by minimizing regulatory burdens on the public and the credit union movement, and generally by ensuring that its rules achieve legislative goals effectively and efficiently. The Commission will be guided by the following principles in its promulgation and review of rules.
 - Burdens imposed on the credit union movement and the public should be 1. minimized. Before issuing a rule, the Commission will give careful consideration to the need for such an issuance. Frequently, a rule is required by statute. Alternatively, the Commission may identify a need for a supervisory tool to implement its statutory obligations, or to clarify its position for the benefit of the credit union movement or the public. Once the need for a rule is determined, the Commission will seek to minimize to the extent practicable the burdens which such issuance imposes on the credit union movement and the public. New reporting and recordkeeping requirements imposed by a rule will be carefully analyzed. The effect of the rule on competition within the movement and the financial services industry will be considered. Particular attention will be focused on the impact that a rule will have on small credit unions and whether there are alternatives to accomplish the Commission's goal which would minimize any burden on small credit unions. Prior to issuance, the potential benefits associated with the rule will be weighed against the potential costs.
 - 2. Rules should be clearly and understandably written. The Commission will seek to make its rules as clear and as understandable as possible for those persons who are affected by them. In developing or reviewing existing rules, the Commission will consider the rule's structure as well as the specific language used; both are important components to achieving a clear and useful rule.
 - 3. The public should have a meaningful opportunity to participate in the rulemaking process. The Commission will seek to improve its rules during the development phase. Whether a new rule is being promulgated or an existing one revised, the Commission will give careful consideration to the implications of its actions as public policy. Public participation in the rulemaking process is an opportunity for the Commission to hear directly from affected members of the public with important experience and thoughtful insights related to the pertinent issues. A person or credit union may petition the Commission for the issuance, amendment, or repeal of any rule by submitting a written petition to the commissioner. The petition should include a complete and

- concise statement of the petitioner's interest in the subject matter and the reasons why the petition should be granted.
- 4. All rulemaking will be carried out in accordance with the Administrative Procedures Act, by which the Commission will provide the public with notices of proposed rulemaking and opportunities to submit comments on the proposals. All comments and proposed alternatives received during the comment period will be considered prior to the issuance of a final rule. The Commission takes final action on proposed rules as promptly as circumstances allow. If a significant period of time elapses following publication of a proposed rule without final action, the Commission will consider withdrawing the proposal or republishing it for comment. If the Commission decides to reconsider a proposed rule that has been withdrawn, it will begin the rulemaking process anew.
- 5. Rules should be reviewed periodically. To ensure that the Commission's rules are current, effective, and efficient and continue to meet the principles set forth in this statement of policy, the Commission will periodically undertake a review of each rule. The Commissioner will, consistent with applicable laws, establish a schedule and procedures for the reviews. Factors to be considered in determining whether a rule should be revised or eliminated include: the continued need for the rule; opportunities to simplify or clarify the rule; the need to eliminate duplicative and inconsistent rules; and the extent to which technology, economic conditions, and other factors have changed in the area affected by the rule. The result of this review will be a specific decision for each rule to be either revised, rescinded, or retained in its then-current form.

IV. RESPONSIBILITIES OF THE COMMISSION

- A. The Commission shall be responsible to the public for the overall conduct of the Department with specific reference to:
 - Responsibility for the management and administration of the Department's funds, subject to any restrictions or requirements imposed by the Government Code.
 - Responsibility for interpreting the financial needs of the Department and adopting a fiscally-prudent budget that ensures the Department fulfills its supervisory mission.
- B. The Commission should, to the extent possible, make certain that an effective

- and client-concerned program is carried out for citizens.
- C. The Commission or any of its individual members shall not take any direct responsibility for administering the Department.
- D. The Commission should exercise its responsibility of interpreting the Department to the public, explaining its programs and policies and defining its actions.
- E. The Commission should exercise its responsibility of representing and interpreting the public to the Department staff, explaining public reactions to Department programs and administration.
- F. The Commission members should become familiar with the State constitutional provisions, statutes and rules directly affecting the Department and seek the advice and recommendations of staff, the Attorney General or any other legal counsel retained by the Department.
- G. The Commission should assume responsibility for leadership in securing appropriate legislation to further existing programs or to provide for new and additional programs for the benefit of Texas citizens.

H. The individual Commission member should:

- 1. Have a good understanding of the purpose of the Department and conviction as to the importance of the program.
- 2. Have capacity to view the Department objectively in relation to changing needs and to be receptive to changes necessary to meet such needs.
- 3. Understand the Department's policy on the difference in function between Commission and staff and work in genuine accord with this policy.
- 4. Keep informed of developments in the field appropriate to the work of the Department.
- 5. Serve actively on the Commission, attend all Commission and committee meetings unless valid reasons prevent it, and promptly carry out all assignments.
- 6. Become acquainted with the various operations and their staffs to ensure a broad knowledge of the Department.

- 7. Make constructive suggestions and criticisms regarding the Department through the appropriate channels.
- I. The Commission shall be responsible for reviewing grievances of employees who are not satisfied with the decision of the Commissioner on a grievance alleging discrimination, sexual harassment or the Commissioner's non-compliance with applicable laws or rules. The grievant must submit such grievances to the Chair of the Commission within ten working days after receipt of the Commissioner's response. If the facts of the grievance support the Commissioner's response, the Chair or his designee shall affirm the Commissioner's resolution. Otherwise, the Chair or his designee shall initiate an investigation, reach a final decision, and furnish a copy of the findings and final decision to the Commissioner and the grievant within 10 working days following receipt of the grievance by the Chair. The 10 working days may be extended by the Chair with the concurrence of the grievant.

The review and response to the employee grievance are confidential and will be treated as such. Any discussion regarding the grievance should be restricted to those individuals who are responsible for responding to the complaint and those having knowledge pertinent to the investigation, resolution and/or response.

V. <u>ESTABLISHING NEW POLICIES AND AMENDING OR RESCINDING</u> EXISTING POLICIES

- A. **Establishing New Policies.** All actions of the Commission which establish policy should be incorporated into a statement of policy enacted by resolution at a Commission meeting.
- B. Amending Existing Policy. Existing policies may be amended at any Commission meeting by a majority vote. These policies should be reviewed at least once each year. Amended policies shall show the date of amendment and the effective date if not immediate.
- C. Rescinding Existing Policy. An existing policy should be rescinded by appropriate resolution enacted by the Commission as of the date of such action or at an established future date, but the effective date cannot be made retroactive.

VI. TRAVEL OF COMMISSION MEMBERS

A. Compensation. Section 15.207, Texas Finance Code, provides that: "(a) A

commission member may not receive compensation or a benefit because of the member's service on the commission except as provided by Subsection (b). (b) For each day that a commission member engages in the business of the commission, the member is entitled to:

- (1) per diem, including compensatory per diem;
- (2) actual expenses for meals and lodging; and
- (3) transportation expenses."
- B. Meals and lodging. Members shall be reimbursed for actual expenses for meals and lodging. Generally, the amount reimbursed should not exceed the locality-based maximum rates approved by the Office of the Comptroller of Public Accounts. In accordance with IRS requirements, a member that receives reimbursement for meals in conjunction with non-overnight trips will be issued an IRS Form 1099 for the calendar year in which the reimbursement was paid.
- C. Transportation. Members shall be reimbursed for transportation in conformity with allowances specified by the Comptroller of Public Accounts, except that the mileage allowance for use of a privately- owned vehicle is limited to the rate authorized for Department staff.
- D. Additional Travel. Any additional travel at State expense by individual Commission members pertaining to Department programs, other than attendance at legislative hearings or meetings with legislators, shall require prior approval by the Commission or if circumstances warrant, the Chair may grant approval subject to final approval of the Commission. Commission members may attend certain state and national credit union conferences in furtherance of their knowledge and skills related to their responsibilities as a Commission member, subject to approval by the Commission.
- E. Public Members. The disadvantage that public members may have by not having a sponsor organization to fund attendance at training conferences is recognized and shall be considered in formulating budget requests and in scheduling public members for conferences.

VII. RECOGNITION AWARDS

- A. Upon taking office as members of the Commission, all members will receive a Commission pin that identifies them to the public as an official overseeing the regulation and supervision of the state credit union system.
- B. Upon the resignation of or completion of a term of office for a member, the Commission will adopt a resolution of appreciation to recognize the service of

that member. A copy of the framed resolution will be sent to the former member as a token of the Commission appreciation. The total cost associated with preparing and delivering this token shall not exceed the limitations contained within the General Appropriations Act for such an award.

- C. When the mission of an advisory committee has been accomplished or upon the resignation of one of its members, the Commission may adopt a resolution of appreciation, as prescribed in paragraph B above, to recognize the service of an individual(s) on the committee who is not Commission member.
- D. The Commission, in the exercise of its discretion, may also recognize a or service to credit unions or the Department that is exemplary. Recognition for such accomplishment is reserved for the outstanding and is not meant to become routine and a recognition of the commonplace.

VIII. NEW COMMISSION MEMBER TRAINING

The Texas Finance Code requires members newly appointed to the Commission to complete a training program before voting, deliberating, or being counted as a member in attendance at a meeting of the Commission. The training program provides the Commission member with information regarding the functions and operations of the Department, requirements of certain provisions of the Texas Government Code, conflicts of interest and ethical considerations, and the basic principles of credit union management.

The training program is divided into three required sections. The training program will be encapsulated into formal training manual and each Commission member must sign an annual statement acknowledging their receipt and review of the training manual. The name, purpose and outline of each section are presented in Appendix B.

IX. ADVISORY COMMITTEES

The following policy governs the appointment and use of advisory committees.

- A. The Commission may appoint an advisory committee to provide the Commission, the Commissioner, or the staff with advice and counsel not available from Department sources on matters of Department responsibility.
- B. The appointment and use of advisory committees shall comply with all applicable statutes, including the Credit Union Act and the Government Code. Prior to appointing any advisory committee, the Commission must adopt rules

governing the purpose, mission, structure and use of the advisory committee it creates.

- C. The Commission shall determine the number of individual members that will constitute the advisory committee. The number of members may not exceed 24. In appointing members to the committee, the Commission must provide a balanced representation between the industry and credit union members.
- D. The committee shall meet as prescribed by Commission rule and shall select a presiding officer from its members. All meetings shall be posted and conducted in compliance with the Open Meetings Act. The presiding officer shall report to the Commission.
- E. The Department may reimburse committee members for travel expenses if, and to the extent, permitted by applicable statutes and the availability of funds in the Department's budget.
- F. The Department shall provide the Commission an annual evaluation of the committee's work, the committee's usefulness, and the costs associated with the committee, including the cost of staff time spent in support of the committee's activities.
- G. The committee shall serve until abolished as set out in Commission rule.

X. STANDING COMMITTEES

A. Commissioner Evaluation Committee

- Members. 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.
- 2. **Purpose.** 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.
- 3. **Responsibilities and Duties.** In furtherance of the Committee's purpose, and in addition to any other responsibilities that may be assigned to it from time to time by the Commission, the Committee shall have the following responsibilities and duties:
 - a. Develop and review periodically the evaluation form to be used for the

Commissioner's evaluation.

- b. Establish the policies and procedures that will be used to carry out the Commissioner's performancereview.
- c. Prepare the Commissioner's evaluation for the Commission's review, comment, and revision, with the intent to accomplish the following:
 - i. Clarify the Commissioner's leadership and management role as viewed by the Commission.
 - Maintain a harmonious working relationship between the Commission and the Commissioner.
 - ii. Assure the Commission that the Department is being effectively administered by the Commissioner.
- d. Make recommendations to the Commission with respect to the establishment of performance standards for the coming fiscal year.
- e. Make recommendations to the Commission on the Commissioner's remuneration.
- f. Oversee the Department's succession plan for the Commissioner's position, including policies and procedures for new Commissioner selection, as well as policies regarding succession in the event of an emergency.
- 4. Evaluation. The evaluation process will be completed at the last regularly scheduled Commission meeting of the calendar year.

B. Rules Committee

- 1. Members. 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.
- 2. Purpose. 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.
- 3. Responsibilities and Duties. In furtherance of the Committee's purpose, and in addition to any other responsibilities that may be assigned to it from

time to time by the Commission, the Committee shall have the following responsibilities and duties:

- a. Develop and review the administrative rules in accordance with the Administrative Procedures Act and the Government Code.
- b. Create a forum to discuss rulemaking matters at a more detailed level than could be accomplished at regular Commission meetings make recommendations to the Commission with respect to the adoption, amendment, or repeal of administrative rules.
- 4. Meetings. All Committee meetings will be open to the public and should be publicized to encourage participation by credit unions and credit union members. Meetings will generally be held the day before each regularly scheduled meeting of the Commission.

C. Audit Committee

- Members. The Commission Chair shall appoint an Audit 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.
- 2. **Purpose.** The purpose of the Committee is to implement and oversee and independent audit program of the Department's financial reporting process.
- 3. Responsibilities and Duties. In furtherance of the Committee's purpose, and in addition to any other responsibilities that may be assigned to it from time to time by the Commission, the Committee shall have the following responsibilities and duties:
 - a. Recommend to the Commission for approval of the development implementation and performance monitoring of an independent audit plan.
 - b. Recommend to the Commission for approval and oversight of appropriately qualified vendors to audit the Department.
 - c. Encourage and facilitate cooperation between auditors hired by the Commission and auditors assigned by other state agencies to audit the Department.

- d. Recommend to the Commission for approval a solicitation document, a vendor, or a contract, for auditing services only if the solicitation document, vendor's proposal, or the proposed contract, as applicable, includes a clause that requires the selected vendor to cooperate with an auditor assigned by a state agency to audit the Department, and only if it includes any other clauses required by the Commission.
- 4. Meetings. All Committee meetings will be open to the public and should be publicized to encourage participation by credit unions and credit union members. Meetings will generally be held the day before each regularly scheduled meeting of the Commission.

XI. THE ROLE OF THE COMMISSIONER IN RELATION TO THE COMMISSION AND PUBLIC

- A. The Commissioner is accountable to the Commission for the overall operation of the Department. The Commissioner acts as liaison between the Commission and the staff.
- B. The Commissioner shall take the initiative in interpreting programs to the Commission, in suggesting new ideas or plans, and in presenting matters for Commission consideration.
- C. The Commissioner, in cooperation with the Chair and Vice-Chair, shall be responsible for preparing an agenda for Commission meetings and for preparing reports for the meetings.
- D. The Commissioner shall act as official representative of the Department with the public, and as such shall have authority to designate other staff members to act in this capacity in accordance with his judgment.
- E. The Commissioner has responsibility to ensure compliance with all Commission policies and State and Federal laws and regulations concerning the Department.
- F. The Commissioner shall notify the Commission of any instance in which his or her authorized actions are, or may be, at variance with Federal or State statutes orrules.
- G. The Commissioner has responsibility to exercise control over all divisions of the Department, and to appoint, supervise, and remove staff and subordinate employees of the Department as the interest of the agency may demand. The

expectation of the Commission is that the Commissioner will be fair and when the interest of the agency dictates that the Commissioner take an adverse personnel action, (s)he should consider all known factors relating to the matter. Appointment of a Deputy Commissioner may be made by the Commissioner subject to approval by the Commission.

- H. The Commissioner shall make such recommendations to the Commission concerning the affairs of the Department as may be desirable.
- I. The Commissioner shall keep the Commission informed of the financial condition and future needs of the Department.
- J. The Commissioner shall be responsible for preparing the budget requirements for the Commission and be responsible for budgetary administration of all funds received by the Department.
- K. The Commissioner shall prepare and submit to the Commission such reports as may be required or desired by the governing body and keep the Commission continuously informed of the functions of the Department.
- L. The Commissioner shall prepare program and financial reports which will provide the Commission with the information required to fulfill its responsibilities. Such reports shall be updated for presentation at least semiannually. In these reports the Commissioner shall point out any significant trends that may be indicated and shall be especially alert to inform the Commission of any potential problems.
- M. The Commissioner shall keep the public informed through reports to the Commission regarding the operations of the various programs and through a monthlynewsletter.
- N. The Commissioner shall prepare and submit the plans for services to be provided by Commission programs, other than those of a visual nature, in accordance with Federal requirements and regulations, subject to the approval of the Commission.
- O. The Commissioner shall have authority to execute all third-party contracts and interagency contracts for services on behalf of the Department.
- P. The Commissioner shall be responsible for the development of administrative manuals to provide uniform rules, regulations and operating procedures in accordance with State laws, and with Federal regulations and laws applicable to Commissionprograms.

- Q. The Commissioner shall be responsible for developing programs for staff development and training of personnel of the Department.
- R. The Commissioner shall be responsible for developing and maintaining an adequate and technically qualified program evaluation process that will be able to determine the validity and effectiveness of the programs of the Department.
- S. The Commissioner shall notify the Commission members of the issuance of a conservation order.
- T. In cases where either a member of the Department's staff or the insuring organization itself is not appointed as conservator, the Commissioner will select conservators in accordance with established guidelines and shall execute a standard engagement contract approved by counsel containing the terms of the conservatorship appointment. The Commissioner shall provide details related to conservatorship activities as follows:
 - 1. Conservatorship orders issued during the past quarter,
 - 2. Deviations from the standard contract, if any, and
 - 3. A summary of the cost of each conservator by credit union.
- U. Commissioner shall immediately notify the Commission members of any request for a hearing to appeal a conservation order.

XII. <u>AUTHORITY TO APPROVE DOCUMENTS INVOLVING BUDGETED</u> <u>FUNDS</u>

The Commissioner is authorized to delegate to any officers or employees of the Department authority to place their signatures on any account pertaining to funds of the Department.

XIII. STRATEGIC GOALS

Four strategic goals guide the operations of the Department and directly support the vision of the Commission:

- To ensure a safe and sound credit union industry.
- To provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services.
- To safeguard the interest of credit union members.

 To develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of Department's statutory mission.

XIV. LEGAL COUNSEL

The General Counsel is the attorney for the Department. This includes the Commission, the Commissioner, and other Department officers and employees. The Commission, the Commissioner, and other Department officers and employees shall consult with the Department's General Counsel as needed on matters germane to their duties and responsibilities.

When representation is warranted from the Attorney General's Office, the Department shall submit request for representation to the Attorney General's Office.

Outside legal counsel other than the Attorney General shall be retained only upon approval of the Commission and Attorney General.

XV. ETHICAL STANDARDS

It is of the highest importance that the people of the State of Texas have complete confidence in the integrity of their public servants. This need is especially critical in the area of financial services regulation. The responsibility for supervising and regulating the credit unions of the State carries with it the duty to adhere to the highest ethical standards and principles. It is for this reason that these standards are adopted by the Credit Union Commission.

- A. Principles. Maintaining the trust and confidence of all those with whom the Department comes into contact is critical to the Department's success. That trust and confidence depends on the Department's reputation for acting ethically, with integrity and to the highest professional standards. Therefore, the Department, its staff, and Commission Members shall strive at all times to avoid acting in such a way as would, accidentally or otherwise, bring the Department into disrepute.
- B. Code of Conduct. The Department does not proscribe limits to or interfere in the way staff or Commission Members choose to enjoy their personal or private time. However, staff and Commission Members must be aware that, in the eyes of the public, any Department-related activity in which they are involved cannot be wholly divorced from their association with the Department, and therefore

may reflect on the Department or be attributed to it. In any situation which they are or may appear to others to be acting on behalf of the Department, staff and Commission Members shall take care to ensure not only that personal motivations and interest do not conflict with those of the Department, but also that they do not appear to do so to the perception of an outside observer. Staff and Commission Members shall therefore uphold the Commission's Ethical Standards in all situations where they might reasonably be regarded as representing the Department. Specifically, Department staff and Commission Members must avoid action, whether or not specifically prohibited by statute, which might result in or create the appearance that they are:

- Using public office for privategain;
- Giving preferential treatment to a person or group;
- Losing the ability to make independent and impartial decisions or recommendations; and
- Conducting themselves in a manner that would adversely affect the public's confidence in the integrity of the Department.
- C. Code of Ethics. In all actions, activities and relationships the Department, its staff, and Commission Members will act with the highest standards of integrity and objectivity. Specifically, they must:
 - Act with honesty and integrity, and never knowingly mislead any person.
 - Be impartial, ensuring that they declare and make known personal interests and do not give or receive any inducement which could, or could be seen to, be corrupt or conflict with the interest of the Department.
 - Comply with applicable laws, rules and regulations.
 - Maintain the confidentiality of information entrusted to them by the Department or credit unions except when authorized or otherwise legally obligated to disclose.
 - Deal fairly with credit unions, credit union members, and staff.
 - Provide information that is accurate, objective, relevant, timely, and understandable.
 - Protect and ensure the proper use of State resources and assets.
 - Promptly report any illegal or unethical conduct to management or other appropriate authorities.
- D. Conflict of Interest. As representatives of the Department, staff and Commission Members are obligated to place the interest of the Department, in any transaction involving the Department, ahead of any personal interest or personal gain and to disclose all facts in any situation where potential conflict of interest may arise. Involvement in any activity or occupation in which an

individual may have a "private or personal" interest with an entity under the Department's jurisdiction could be interpreted by the public as a potential conflict of interest, and thereby a breach of ethical standards. Any such involvement must be properly disclosed by the individual who will then recuse him or herself from any dealings with the entity.

- E. Equal Opportunity. The Department shall be committed to providing a work environment that values diversity and provides opportunities regardless of race, color, religion, gender, national origin, sexual orientation, marital status, age, or disability. This commitment applies to both applicants and staff in all phases of employment including recruiting, hiring, placement, training, development, transfer, promotion, demotion, performance reviews, compensation, benefits, and separation from employment.
- F. Specific Restrictions. Lending transactions and deposit relationships with credit unions by individuals having regulatory authority over those institutions could be interpreted by the public as a conflict of interest. Such unfavorable perceptions could diminish public confidence in credit unions or the regulatory agency. Therefore, neither the Commissioner, the Deputy Commissioner, nor the General Counsel may be a member of, or be directly or indirectly indebted to, any credit union under the Department's jurisdiction, or any affiliate of such credit union (hereafter referred to collectively as "Credit Union"). In addition, examiners may not become directly or indirectly indebted to a Credit Union supervised or regulated by the Department. Other individual employed by the Department may become a member of or be indebted to a Credit Union as long as the employee meets the financial requirements to obtain such credit or loan, the terms of the arrangement are no more favorable than those available to the general membership, and the relationship is fully and properly disclosed to the Department before funding. With the exception of the Commissioner, the prohibition on indebtedness to a Credit Union does not apply to an employee if the indebtedness was permissible under this policy when incurred and became prohibited as a result of employment by the Department or circumstance over which the employee had no control, including a merger, conversion, or purchase or sale of assets involving a Credit Union. An employee is restricted from examining a Credit Union and may not knowingly participate in or consider any matter concerning a Credit Union if the employee has or has had a borrowing relationship, past employment, pension interest and relatives working in a Credit Union. An indebtedness that was permissible when incurred and that becomes prohibited as result of employment by the Department or circumstances over which the employee has no control, may be continued as long as no additional funds are advanced, and the indebtedness is not modified on terms more favorable than those

extended to other credit union members.

- G. Outside Activities. It is recognized that the Commissioner and other staff may be asked to serve on the boards, councils or other governing or advisory bodies of various business, civic, professional, and social organizations in non-compensated positions. Such service is generally deemed to be in the best interest of the Department because it broadens the experience of the individuals involved and exposes the Department to a larger audience of business, civic, professional, and social leaders. Such involvement, however, must be properly disclosed by the individual.
- H. Department Policies. The Commissioner may, as deemed necessary or appropriate, adopt more specific policies to refine or implement these standards.

I. Annual Disclosures and Prohibition of Certain Contracts.

- (a) The Commission is committed to ensuring that the Department's procurement, contracting and contract management are conducted in accordance with the principles of openness, trust, and in full compliance with the provisions of <u>Texas Government Code § 2261.252</u>.
- (b) For purposes of this section, a Commission member or staff member under this section has a financial interest if they:
 - (1) own or control, directly or indirectly, an ownership interest of at least one percent in an entity, including the right to share in profits, proceeds, or capital gains; or
 - (2) could reasonably foresee that a contract with the entity could result in a financial benefit to the Commission member or staff members under this section.
- (c) In pursuit of this important goal, the Commission requires annual disclosure by each Commission member and staff member who is involved in procurement or contract management for the agency of any potential conflicts of interest specified by state law or that is known by the member or staff with respect to any contract with a private vendor by the agency or bid for the purchase of goods or services from a private vendor by the agency.
- (d) Commission members and covered staff members under this section are required to complete an annual disclosure form even if they do not have a financial interest to report. In such a situation, the Commission member or staff member shall file annual disclosure statement, stating "none". Each fiscal year, an annual disclosure statement under this section must be submitted to the Department's Staff Services Officers by September 30. Any changes in financial interest must be reported promptly by completing a new disclosure form not later than the 30th

- day after the date of the change or the member becomes aware of the change, whichever event occurs later.
- (e) The agency may not enter into a contract for the purchase of goods or services with a private vender with whom any of the following agency employees or officials have a financial interest:
 - (1) a member of the Commission;
 - (2) the Commissioner, the Deputy Commissioner, the general counsel, or any employee engaging in purchasing for the agency; or
 - (3) a family member related to an employee or official described by Subdivision (1) or (2) with the second degree by affinity or consanguinity.
- J. Political Activity/Lobbying. A Commission Member is free to engage in political activities/lobbying, which includes communication intended to influence legislation or the outcome of an election, when such political activity/lobbying is carried out in one's capacity as private citizens and when, in the Commission Member's judgment, such activity will not conflict with the Commission Member's ability to carry out Commission responsibilities. A Commission Member should consider, when making such decisions, outside perception and the potential difficulty in distinguishing between the Commission Member's personal and professional capacities. The law and this policy prohibit the use of Department resources (this includes materials, staff time, and travel expenses) for political activities/lobbying, and a Commission Member must make clear when engaging in political activities/lobbying that such activity is carried out in the Commission Member's individual capacity. A Commission Member must not use the Commission Member's affiliation with the Commission/Department in connection with political activity/lobbying.

XVI. <u>USE OF TECHNOLOGY</u>

The Commission recognizes that technology is an indispensable tool enabling government to operate efficiently and provide services. Recognizing that the development of technology resources must be conducted in a secure, deliberate, and cost-effective manner, the Commission is committed to using technology to support Department priorities and program delivery, to increase productivity, and to enhance services to the public.

To implement this commitment for greater use of technology, the Department will research and propose appropriate and affordable technological solutions for improving the Department's ability to accomplish its statutory mission. All

technological solutions, at a minimum, shall:

- 1. ensure that the public can easily find information about the Department on the Internet:
- 2. ensure that credit unions and their members who need to use a Department service or function are able to:
 - a. interact with the Department through the Internet;
 - b. access any service or function that can be provided effectively through the Internet;
 - c. be respectful of individual privacy;
 - d. be secure from unauthorized access; and
 - e. be developed through the Department's planning processes and within budget.

XVII. INFORMATION TECHNOLOGY SECURITY*

Information, in all forms, created, collected, or distributed by the Department is a valuable asset and must be protected from unauthorized disclosure, modification, or destruction. The Department must employ prudent information security policies, standards, and practices to minimize the risk to the integrity, confidentiality, and availability of information. The Department shall create and maintain an internal information security technology infrastructure to protect the confidentiality, availability, and integrity of information assets.

XVIII. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION

The Commission is committed to the use of alternative dispute resolution (ADR) and negotiated rulemaking (NRM) as management tools to resolve disputes at an early stage, in an expeditious, cost effective, and mutually acceptable manner. The Commission adopts this policy to express its support for the appropriate use of ADR and NRM. The procedures used by the Department shall conform to the applicable model guidelines set out by the State Office of Administrative Hearings and shall comply with the requirements of Chapters 2008 and 2009 of the Government Code.

This policy is intended to apply to the resolution of disputes in contract administration, disputes in litigation (except as noted below), and internal disputes, such as those between employees and management. It is not intended to apply to examinations and investigations. In addition, the need to ensure that law enforcement function is not compromised, the need to ensure uniform treatment,

and the need for judicial resolution or precedent, make ADR generally unsuitable for challenging enforcement of state laws and rules. This policy is also not intended to apply to situations where the Department seeks a temporary restraining order. Taking into account these factors, as well as budgetary constraints, the Department will consider the use of a consensus building process, using a neutral facilitator and a balanced negotiating committee composed of representatives of all interests that the situation will affect.

The Commission believes that NRM will be most appropriate when the new or existing rule that the Department is developing or amending would have a major effect on the industry or the public and is not mandated by statute or federal regulation. In situations where the formality of NRM is not necessary, the Department will consider using interest-based negotiation or policy dialogue to solicit stakeholders' views of and suggestions for proposed new or amended rules, as well as any other issues that affect the industry or public.

The Department's ADR and NRM proceedings will rely on a neutral third party from the State Office of Administrative Hearings to facilitate resolution of the situation. The Commission believes that ADR and NRM are most successful where a neutral or impartial third party, with no vested interest in the outcome of a situation, allows the parties themselves to attempt to resolve the situation. Neutrality will maintain the integrity and effectiveness of the ADR and NRM program. In furtherance of its commitment to ADR and negotiated rulemaking, the Commission designates the Assistant Commissioner to coordinate the implementation of the policy, to serve as the resource for any necessary training, and to collect data concerning the effectiveness of the procedures.

The choice of when and how to use ADR and NRM is within the discretion of the commissioner, subject to the agreement of the parties, and does not create any right to judicial review of the commissioner's decision. In addition, the policy does not obligate the Department to offer funds to settle any case, or to accept a particular settlement or resolution of a dispute.

XIX. BUDGET POLICY

The financial integrity of the Department is of vital importance. Written financial policies assist the Commission and staff in the financial management of the Department, save time and energy when discussing financial matters, engender public confidence, and provide continuity over time as Commission and staff changes occur.

A. Goal. The goal of the Commission's budget process is to achieve a balanced

budget while maximizing resources and allocating those resources to align with the Department's statutory mission. To achieve this goal, the commissioner has the responsibility to submit an annual operating budget to the Commission each fiscal year. This policy outlines the general guidelines for budgeting and the budget process at the Department. The Department budget expresses, in terms of dollars, the funded programs and plans of the Department for the fiscal year and the estimated revenues necessary to finance these programs and plans.

- **B.** Strategic Plan. The Department's strategic plan provides the framework for the annual budget process. The commissioner is responsible for identifying resources needed to achieve the goals in the Commission approved strategic plan.
- C. Balanced Budget. The Commission is required annually to approve a budget for the Department. Typically, budgeted expenditures should not exceed budget revenues in any given year. All or a portion of the reserve fund balance, however, may be used for such things as non-recurring expenditures or to replace temporary declines in revenues at the discretion of the Commission.
- D. Commission Guidelines. Each budget year will have unique assumptions depending on circumstances and Commission priorities. A schedule of these budget assumptions will be prepared each budget cycle and approved by the Commission at its first meeting of the calendar year. It is the responsibility of the commissioner to ensure that all budget assumptions for a given fiscal year are incorporated into the budget and are carried out operationally.
- E. Budget Adoption. The budget shall be adopted not later than August 31 of each year; but, in the event the budget is not adopted, the budget for personnel and essential operating supplies made in the previous fiscal year shall be extended until the new budget is adopted.
- F. Budget Controls. The Department shall develop appropriate controls and procedures and insure that established control limits are not exceeded. Summary management reports should be prepared quarterly for the Commission to evaluate the current financial status of the agency.
- G. Limitation on Department Employment Levels. On an annual basis, the Commission will establish the number of full-time equivalent (FTE) positions for the Department. The commissioner utilizing his/her discretion may retain staff to a level of 110 percent of the authorized FTEs, as long as the increase does not result in staffing cost exceeding authorized budgeted levels on an

annualized basis. This limitation, however, does not restrict the statutory authority of the commissioner to negotiate, contract, or enter into an agreement for professional or personal services to carry out the powers, duties, and responsibilities of the Department.

- H. Revenue. Generally, projected revenues available to balance a fiscal year budget will be determined solely from the operating fees generated from 7 TAC Section 97.113. One-time revenue sources may be used for one-time expenditures, such as capital items or short-term contractual obligations of durations of less than twelve months.
- I. Revenue Estimates. The Department will submit revenue estimates annually to the Commission. Revenues should be estimated using a conservative approach to avoid any budget shortfalls during the fiscal year.
- J. Fees. The Department is self-supporting; therefore, fees must be established at a level ensuring, at a minimum, the recovery of the full cost of operating the Department. The Department will review all fees, at least biannually, and recommend changes based on factors such as the impact of inflation, indirect cost adjustments, and any other related expenses that impact the cost of providing services to credit unions and the citizens of Texas.
- **K.** Collections. The Department will monitor revenue collection throughout the fiscal year. When revenue is less than estimated, the commissioner shall initiate action consistent with prudent financial management and notify the Commission of such action.
- L. Replacement/Capital Improvement Plan. Annually, an updated three- year Replacement/Capital Improvement Plan (RCIP) will be developed and submitted to the Commission for approval. The RCIP must include:
 - 1. A list of proposed maintenance projects or capital improvements with cost estimates and the recommended time schedules for each item.
 - 2. Capital projects presented in the RCIP will show related new operating and maintenance costs.
- M. Obligated Funds. Funds that are legally obligated pursuant to a legally binding agreement in one fiscal year prior to the end of that fiscal year are considered obligated funds. Obligated funds include commitments for goods, services, consumables, capital assets, mixed assets, construction, and repair or remodeling, even though the actual receipt or completion of, or payment

for, the obligated item may not initially occur or finally occur until after the end of the fiscal year in which the funds were obligated. The budget authority for obligated funds will automatically be carried over from the fiscal year in which the obligation is made to each fiscal year until the legal obligation is satisfied, and the subsequent fiscal year budget is increased by an amount exactly equal to the obligated amount. Obligated funds may only be used for the purposes of the obligation. If the expenditures remitted for the completed obligation are less than the budgeted amount, including any amounts carried over, the remaining obligated funds may not be recommitted or reused without the expressed permission of the Commission.

- N. Unexpended Funds/Excess Revenue. Unobligated and unexpended funds in the budget and any revenue collected in excess of budgeted expenditures will be retained in the interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company for future use as determined by the Commission.
- O. Limitation on Use of Funds. The Department may only expend funds for items set out in the expenditure classifications of the Comptroller's Manual of Accounts.
- P. Reimbursements. Any reimbursement or refund of expenditures received by the Department for an authorized program or service will be credited back to the budget items or accounts from which the expenditures were originally made.
- Q. Position Classification Plan. Expenditures for the salaries of staff will be governed by <u>Chapter 654</u>, <u>Government Code</u>, <u>Chapter 659</u>, <u>Government Code</u> and <u>Article IX</u>, <u>Section 2.01</u> of the Appropriations Act for the current biennium.
- **R.** Salary Limits. Staff will be paid salaries at rates within the applicable salary schedules provided in Article IX of the Appropriations Act for the current biennium.
- S. Scheduled Exempt Position. The Commission shall set the salary of the commissioner. The rate of compensation provided for the commissioner shall be guided by Chapter 654, Government Code, Chapter 659, Government Code and the Scheduled Exempt Position Salary Rates established in Article IX, Section 3 of the Appropriations Act for the current biennium.
- **T.** Travel Expenses. All requests for payment or reimbursement of travel related expenses will comply with Chapter 660, Government Code, Article IX of the Appropriations Act for the current biennium, and the Comptroller's Rules.

- U. Reimbursement Rate. Commission Members and staff traveling on official state business will be reimbursed at rates that will not exceed the rates announced by the Comptroller for other State employees.
- V. By Retired Employees. The Department's annual budget shall provide sufficient funding to pay the Department's share of retired employee health care cost.
- W. Supervisions and Conservatorships. Any funds received by the Department pursuant to supervision or conservatorship proceedings, as authorized by Section 126.001, Finance Code, are approved to pay/reimburse costs related to such proceedings, including the salary and per diem of the appointed supervisor or conservator.
- X. Gifts or Grants. Any gifts or grants approved by the Commission will be separate authority to expend funds for the purpose indicated and will be accounted for separately from the budget.
- Y. Performance Measures. The Department's annual budget and operating plan should also include performance measures for each major goal of the agency. Performance measures are predicated on the expected outcomes of services and programs and should focus on the most meaningful results. Performance measures must be updated annually at a minimum.

Z. Amendments to the Budget.

- 1. Funds budgeted may be transferred by the commissioner from one budget item to another budgeted item in an amount not to exceed 12.5 percent of the budgeted item from which the transfer is made.
- 2 Revisions of Overall Expenditure Total. Budget revisions to one or more functional areas that increase the overall Department budget must receive the prior approval of the Commission.

XX. RESERVE POLICY

This policy is adopted by the Commission to serve as a framework for the Commission to determine the purpose, amount, and restrictions on reserves of the Department.

A. **Objective.** The Commission recognizes that maintaining sufficient reserves will ensure adequate funding for the needs and obligations of the agency

including:

- Sustaining the agency through an unexpected financial crisis.
- Financing contingencies or emergencies as defined by the Commission.
- Purchasing equipment and repairing and maintaining facilities to assist staff in meeting the mission of the agency.
- Covering extraordinary liability claims and deductible levels specified in the agency's insurance policies.
- Funding required lump sum payments of accrued vacation and sick leave

Adequate reserves will minimize the impact of these events on future assessments and ensure that the resources used to generate today's programs are replaced by those credit unions that are receiving the benefits today.

B. Reserves for the Department. The Department will maintain a Contingency Fund Reserve consisting of six sub-accounts, each of which has a specific purpose, calculated level of need, and restrictions on use. The sum of the aggregate funds in the six sub-accounts is limited to \$1,050,000, unless a different level is determined by the Commission to be necessary to sustain the Department's operations. The sub-accounts are:

1. Building & Equipment Account

Purpose: To provide funds for fixed asset purchases and deferred capital/maintenance projects to repair or renovate the Credit Union Department Building.

Restriction of use: The Commission may release funds from the Building and Equipment Account for each budget cycle that anticipates fixed asset purchases, or any time unanticipated major building repairs or maintenance expenses arise.

Level: The Building & Equipment Account will be equal to an amount deemed sufficient by the Commission to fund needs over the upcoming 5 years, which at a minimum balance shall be 2.5 percent of the Department operating budget or \$80,000, whichever is less. The following guidelines will be used in determining sufficiency of the fund level:

- Ongoing equipment replacement will be scheduled at regular intervals to minimize the impact on cash flow while preserving the agency's need for updated technology and facilities.
- Equipment needs specific to new program development and delivery will be included in those specific proposals rather than as part of the larger agency replacement and upgradeschedule.

2. Operations Account

Purpose: To provide operating funds to sustain the agency through an unexpected financial crisis or emergency.

Restriction of use: The Commissioner will advise the Commission of significant events affecting the agency that require use of the account. The Commission may release funds from the Operations Account.

Level: The Operations Account level should be sufficient to fund a total of one month of agency expenses or \$400,000, whichever is less. The examination and supervisory functions are considered essential to the mission of the Department and would be continued long-term, even in the event of economic or political adversity. One month is assumed to be a reasonable adjustment period. This timeframe is set to allow the Commission and management to determine which programs are essential to the continued operations of the agency, assess the factors that necessitate the use of account funds and make plans to operate within new parameters of the agency and its environment.

3. Lump Sum Accrued Leave Payment Account

Purpose: To provide funding to pay accrued vacation and sick leave as required by the <u>Texas Government Code Sections 661.031-038</u> and Sections 661.061-068.

Restriction of use: The Commissioner will advise the Commission of significant events relating to an employee's separation/terminating state employment that require use of the account.

Level: The Lump Sum Accrued Leave Payment Account level should be sufficient to cover the projected accrued liability at the beginning of each fiscal year or \$200,000, whichever is less. The actual activity affecting the account will be evaluated annually to determine if the amount needs to be adjusted further. Actual payments of vacation and sick leave to retiring/terminating employees, and the appropriate payroll taxes and expenses thereon, will be the only charges to this account. Vacation or sick leave used will not be charged to this account.

4. Audit Account

Purpose: To provide funds to pay for unanticipated or excessively long audits by the State Auditor's Office or other State agencies.

Restriction of use: The Commission is authorized to release funds from the Audit Account for any unanticipated audit.

Level: The Audit Account will be not more than \$50,000.

5. Enforcement & Regulatory Response Account

Purpose: To provide a fund to bolster the examination and supervision programs when it is necessary to significantly increase monitoring of credit unions or to pay unusual legal costs associated with operating the Department or enforcing credit union compliance with applicable laws.

Restriction of use: The Commissioner will advise the Commission of significant events affecting the agency that require use of the funds. The Commission may release funds from the Enforcement & Regulatory Response Account.

Level: In order to lessen the effect on credit unions of a special assessment, the Enforcement & Regulatory Response Account will be not more than \$300,000.

6. Insurance Account

Purpose: To provide funds to cover extraordinary liability claims and deductible levels specified in the agency's insurance policies.

Restriction of use: The Commissioner will advise the Commission of significant events affecting the agency that require use of the funds. The Commission may release funds from the Insurance Account.

Level: The Insurance Account will be not more than \$20,000.

- C. Investment of Reserve Funds. Since capital preservation and liquidity are the two main objectives for the investment of Contingency Reserve funds, investments will be one with a short-term and safety focus. Following are the investment guidelines for the investment of reserve funds:
 - Maturity for any investment should be no more than 12 months.
 - At least 25 percent of the investments shall have a maturity of less than 90 days.
 - All investments must be made through the Texas Treasury Safekeeping Trust Company.

All income earned from the investment of the funds contained in the Contingency Fund Reserve will be credited to the Operations Account.

D. Adjustment of Reserve Levels. Account levels will be set each year in

conjunction with the preparation of the Department's annual budget. Any funds in excess of the prescribed sub-account level or the Contingency Fund Reserve aggregate limit as of August 31 of each year shall be used to reduce the operating fees for Texas credit unions during the next fiscal year.

In the event that any of the account levels fall below the prescribed level, the Department will propose strategies to replenish the applicable account balances over a period not to exceed two years. The strategies for replenishing the accounts may include using one-time revenues, reducing expenses, suspending programs not linked to strategic goals, increasing revenues, or any combination of those strategies. If the results of the reserve drawn down and its replenishment causes an extreme burden on credit unions, then the replenishment may, by Commission approval extend beyond the two years to a maximum of four years.

XXI WEAPONS POLICY

This policy is adopted by the Commission to provide notice that the Credit Union Department will not impose any restriction on the carrying of firearms or other weapons beyond those permitted by law.

House Bill 1927, enacted as the Firearm Carry Act of 2021 (FCA), effective September 1, 2021, allows qualified individuals who are twenty-one (21) years of age or older, to carry open or concealed handguns without obtaining a license to open carry.

A licensed carrier (open or concealed) is permitted into an open meeting, unless otherwise permitted by law to be excluded. Pursuant to FCA, an unlicensed carrier is prohibited from going into the room or rooms where an open meeting is taking place if the governmental entity is holding an open meeting subject to Chapter 551 of the Texas Government Code (Texas Open Meetings Act, a/k/a TOMA) and has properly provided notice of the meeting under TOMA.

APPENDIX

DECISION MATRIX (subject to legislative appropriation requirements)

	Description of Decision	Commission	Commissioner			
Commissioner Compensation/Responsibilities						
1.	Commissioner's compensation	D	Α			
2	Approval of Commissioner serving in position	2				
_	with other organizations	D	Α			
3.	Evaluation of Commissioner's performance	D	Α			
4.	Commission's resolution	D	A			
Personnel Issues						
1.	Determine number of staff	D	Α			
2.	Individual salaries for staff		D			
3.	Employment/appointment of staff	M	D			
4.	Appointment & Termination Deputy Commissioner	Α	D			
5.	Hire part-time and short-term temps	M	D			
6.	Determine number & qualifications of staff	M	D			
7.	Change Department's administrative manual	Α	D			
8.	Staff development & training	M	D			
9.	Administer Department's leave program		D			
Organizational Structure						
1.	Change organizational structure of Department	Α	D			
2.	Change the staffing structure of the Department	Α	D			
Budget/Fiscal Control						
1.	Approval of the Department's Budget	D	R			
2.	Administer Department Budget	Α	D			
3.	Approval to overspend certain categories of					
	the budget	M	D			
4.	Approval of claims for reimbursement made					
	by Commission members		D*			
5.	Approval of staff expenses on behalf of Department	Α	D*			
6.	Approval of all other expenditures within budget	Α	D*			
7 .	Safeguard the assets of the Department	M	D*			
Credit Union Commission Policies Manual Appendix A			Page A-1			

8. 9.	Approval of supplemental budget requests Disbursements to pay for the purchase of items within budget limits, pay re-occurring expenses,	D	R
10.	contract for services which are within budget limits Execute third party contracts & interagency		D*
10.	Agreements within budget	M	D
11.	Approval to seek outside legal counsel	D	R
Public I	Policy Decisions		
1.	Decisions about public policy on issues	D	R
2.	Explanation & promotion of Commission's public		
	policy on issues	A/M	D
3.	Execute agreements with public policy implications	D	Α
Supervi	sion/Regulatory Decisions		
1.	Adopt Administrative Rules	D	R
2.	Approve standardized bylaws and articles of		
	incorporation.	D	R
3.	Approve applications for charters, bylaw		
	amendments, and amendments to articles of		
	incorporation	A/M/X	D
4.	Approve applications for mergers, consolidations,	8 CS8000-E	82.000
	name changes, and conversions	A/M	D
5.	Approve Foreign Credit Union to do business in this State		
6.	Administer examination program		D
7.	Enter into written agreements with credit unions		D
8.	Issue Cease & Desist Orders	Α	D
9.	Issue Orders of Removal from office or employment	A	D
10.	Assess civil penalty	A	D
11.	Institute a suit for injunction or other		
	remedy provided by law	Α	D
12.	Issue order of conservation & appoint conservator	A/X	D
13.	Issue order of liquidation & appoint liquidating agent	A	D
14.	Issue interpretations of the Act, Rules and Bylaws	A	D
15.	Enter into agreements with other regulators	Α	D
16.	Approve request for Administrative Hearings	A	D
17.	Order non-binding Alternative Dispute Resolution	A	D

Credit Union Commission Policies Manual Appendix A

Page A-2

Key:

- A: Advised by Decision Maker This person or group <u>must</u> be advised about a decision which has been made.
- D: Decision Maker This person or group has the authority to make the decision.
- M: May Be Consulted This person or group may be called in to confer, provide related information, render advice or make recommendation.
- R: Recommends to the Decision Maker This person or group is responsible for making recommendations for decision making to (D) the decision maker.
- X: Appellant Decision Maker This group has the authority/obligation to review a protested decision
- *: Authority but not responsibility may be delegated.

NEW COMMISSION MEMBER TRAINING PROGRAM

Section A: The Texas Credit Union Department (Required)

Purpose: Part one provides the organizational background of the Credit Union Department, with an introduction to the laws, rules, and budgeting procedures that govern how the Department operates. Part two provides an introduction to the Department's supervisory authority to include its disciplinary tools and investigatory authority. Part three provides an introduction to the requirements and policies on administrative procedure law and ethical consideration for State officials (conflict of interest, reporting requirements, revolving door, and gifts to public servants).

Outline:

I. Department

- A. Composition of Commission
 - 1. Appointment; Terms
 - 2. Qualifications of Commission Members
 - 3. Training Program
 - 4. Vacancies; Removal
 - 5. Expenses of Commission Members
 - 6. Suit for Official Act or Omission
 - 7. Meetings
 - 8. Sunset Provision
 - 9. Officers
- B. Commissioner and Staff
 - 1. Commissioner
 - 2. Deputy Commissioner
 - 3. Examiners
- C. Powers and Duties of Commission
 - 1. Supervision of Commissioner
 - 2. Adoption of Rules
 - 3. Legislative Recommendations
 - 4. Attendance at Commission Meetings
 - 5. Official Committees
- D. Self-Directed Semi-Independent Status
 - 1. Budget Process
 - 2. Current Operating Plan
 - 3. Budget Assumptions
- E. Audits

II. Enforcement of Statutes and Rules

- A. Regulation of Credit Unions
 - 1. Confidentiality

Credit Union Commission Policies Manual Appendix B

- 2. Examination
- 3. Approval Authority for Bylaw & Articles of Incorporation
- B. Disciplinary Actions
 - 1. Written Agreements; Orders
 - 2. Conservation
 - 3. Mergers
 - 4. Liquidations

III. Government Laws

- A. Rulemaking
 - 1. Sources of Rules
 - 2. Notice of Proposed Rules
 - 3. Comments on Proposed Rules
 - 4. Emergency Rules
 - 5. Adopting Rules
- B. Open Government
 - 1. Open Meeting Act
 - 2. Notice of Meetings
 - 3. Emergency Meetings
 - 4. Executive Sessions
 - 5. Minutes
 - 6. Violations
 - 7. Open Records Act
 - 8. Information Excepted from Disclosure
 - 9. Violations
- C. Contested Cases
 - 1. Rights and Procedures
 - 2. Final Decisions
 - 3. Judicial Review
 - 4. Alternative Dispute Resolution
- D. Ethics Laws
 - 1. The "Shoulds"
 - 2. Gifts, Gratuities, and Other Goodies
 - 3. Lobbying
 - 4. Official Misconduct
 - Revolving Door
 - Financial Disclosure

Section B: Open Government (Required)

Purpose: Appointed officials are required by a state law to receive training in Texas open government laws. The Office of the Attorney General has established formal training courses to ensure that all appointed government officials have a good command of both open records

Credit Union Commission Policies Manual Appendix B

and open meetings laws. The Attorney General's Web site contains links and information designed to assist public officials in complying with open government training requirement and Texas open government laws.

Outline: None. Newly appointed members should view the two videos online at http://www.oag.state.tx.us/open/og_training.shtml and provide the "certificates of completion" to the Department. Otherwise, the training program must include the presentation of the two videos.

Section C: The Credit Union Movement (Required)

Purpose: Part One of this section provides the historical background of the credit union movement. Part Two provides an introduction to the basic principles and responsibilities of credit union management.

Outline:

I. The Credit Union Difference

- A. What is a Credit Union?
- B. Uniqueness in the Financial Services Industry
- C. What's the History of Credit Unions?
- D. Who Regulates and Charters Credit Unions?
- E. Who Insures Credit Union Deposits?
- F. How is the Insurance Fund Financed?
- G. Why Preserve the Dual Chartering System?
- H. What Sets Credit Unions Apart?
 - 1. Texas Credit Union Department
 - 2. National Association of State Credit Union Supervisors
 - 3. National Credit Union Administration
 - 4. National Share Insurance Fund
 - 5. National Association of State Credit Union Supervisors
 - 6. World Council of Credit Unions
 - 7. International Credit Union Regulators Network

Section D: Credit Union On-Site Visitation (Optional)

Purpose: Created with new public members in mind, this optional course affords the member the opportunity to visit a credit union in his or her area and observe, first hand, its operations.

Outline: None; content is at the discretion of the credit union president/manager.

Credit Union Commission Policies Manual Appendix B

CREDIT UNION DEPARTMENT, STATE OF TEXAS COMMISSIONER SUCCESSION PLAN

Purpose. The purpose of this succession plan ("the Plan") is to have a process for choosing a Commissioner in the event of a planned or unplanned departure of the incumbent.

Definitions.

A *planned departure* is a voluntary retirement or resignation, or a resignation requested by the Commission with an effective date of thirty days or more.

An unplanned departure is one that results by reason of death, an immediate termination of an incumbent Commissioner by the Commission, or the inability of the Commissioner to discharge the duties of the office. An unplanned departure may also be deemed to occur in the event of the Commissioner's resignation or retirement with an effective date of less than 30 days.

Inability of the Commissioner to discharge the duties of the office can be signified upon either:

- 1. A written declaration of the Commissioner that he or she is unable to discharge the duties and responsibilities of the office of Commissioner; or
- 2. Receipt by the Commission of information, which leads the Commission to conclude, in its sole judgment, that the Commissioner is unable to discharge the duties and responsibilities of the office of Commissioner.

Implementation. When this Plan becomes operative, the Commissioner Evaluation Committee ("the Committee") shall immediately assume responsibility for the succession process. The Committee will also serve as the Commission's search committee for purposes of carrying out the Plan. As soon as possible, the Chair of the Committee shall call for a meeting of the Committee to consider its action plan. This action plan should address, at least, the following matters:

 If the incumbent Commissioner will continue in office, the effective date of the retirement or resignation. The date should be acceptable to the Commission and the Commissioner, should provide a reasonable time to search for a successor, and should be sufficiently in the future to permit orientation of the new Commissioner and an orderly transition.

- 2 If the incumbent Commissioner continues in office, whether there should be a change in the authority, duties, and responsibilities of the office.
- 3. The extent to which the Committee wishes to call upon the incumbent Commissioner and other staff members to assist the Committee during the transition to an interim or permanent Commissioner.
- 4. Whether an interim Commissioner will be required and, if so, the date upon which the person should assume office.
- 5. The identification of possible candidates for interim Commissioner and procedures for the selection of an interim Commissioner. The job description of the Deputy Commissioner specifies that he or she may exercise the powers and prerogatives of the Commissioner during the Commissioner's absence or inability to act.
- 6. Whether a search should be undertaken and, if so, how broad the search should be.
- 7. If a search is to be undertaken, whether to engage a consultant or search firm to assist the Committee with the search, and, if so, engaging the consultant or firm in accordance with State procurement requirements.
- 8. The Committee should also determine the specifics of the application process such as the deadline for applications, the confidentiality of its proceedings, procedures for identifying and interviewing candidates, whether to do background checks, procedures for narrowing the list of candidates, for checking references and for final interviews, whether final interviews should be conducted by the full Commission, and procedures for making an offer of employment.

Interim Commissioner. If the Committee determines that the appointment of an Interim Commissioner is necessary or advisable, the Chair of the Commission shall call for a meeting of the Commission to consider the matter. Any person appointed by the Commission as Interim Commissioner shall have the full authority for decision-making and independent action as the incumbent Commissioner. The Interim Commissioner shall receive a temporary salary increase to the entry-level salary of the Commissioner position (Schedule Exempt Position Salary Rates Group 5) or to 5% above his or her current salary, whichever is greater.

Transition Planning. In the case of any planned or unplanned departure of the incumbent Commissioner, the Chair of the Commission, the Chair of the Committee, and the incumbent or interim Commissioner shall meet as often as necessary to plan, among other matters, the following:

- 1. The availability of funds for the transition, including the potential compensation package to be offered to a Commissioner candidate.
- 2. The orderly transition of the duties and responsibilities of the office of Commissioner to any successor; and
- 3. The manner in which succession events (concerns with confidentiality, departure, selection process, press releases) are to be announced, including the notification of key interested persons.

Attributes. Candidates should have the requisite personal attributes for the office of Commissioner, including:

- Sufficient experience, stature, and reputation in the credit union movement, regulation, or professional life to command respect as Credit Union Commissioner.
- Professional and business management skills preferably gained in a credit union or regulatory agency.
- Experience of relationships at Board level in one or more majorbodies.
- Intellectual strength, sound business acumen, integrity, and an ability to consider and discuss issues laterally and strategically.
- Awareness of political, regulatory, market, and consumer issues together with an understanding about not-for-profit cooperative financial institutions.
- Sound interpersonal skills and an ability to make good judgments of people.

Plan Review. The Committee shall review the Plan periodically in the context of current affairs within and outside of the Department. The review of the Plan should include a review of the most recent position description for the Commissioner. It should also include recommendations to the full Commission for any amendments to the Plan or to the Commissioner position description. In addition, after each use of the Plan, the Committee shall meet to discuss how the Plan worked and shall make recommendations for modifications to the Plan based on its experience with the Plan.

Enterprise Risk Appetite Statement

Purpose: to set a boundary around the amount and type of risk that the Commission is willing to take in order to meet its strategic goals and objectives.



RESOLUTION OF APPRECIATION

J. Resolution of Appreciation for Outgoing Commission Member Steve Gilman.

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

RECOMMENDED ACTION: I move that we approve the Resolution of Appreciation for Outgoing Commission Member Steve Gilman as presented and that a copy of the appropriate resolution be given to him 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

Steve Gilman

WHEREAS, on July 16, 2015, Governor Greg Abbott appointed Steve Gilman of Fulshear, Texas to the Credit Union Commission; and

WHEREAS, Steve Gilman served as a Public Member of the Commission with honor and distinction through April 4, 2022; 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, Steve Gilman 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 Steve Gilman provided during his tenure as a Commission member; and

BE IT FURTHER RESOLVED, that this Resolution be conveyed to Steve Gilman 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 tenth day of June 2022.

COMMITTEE APPOINTMENTS

K. Discussion and Consideration of the Chair's Designation of a Vice Chair and Appointments to the Commission's Two Standing Committees (Rules and Audit).

<u>BACKGROUND:</u> 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.

BACKGROUND: As required by Commission policy, the Chair is charged with the responsibility of appointing members to any committee established by the Commission.

> Rules Committee

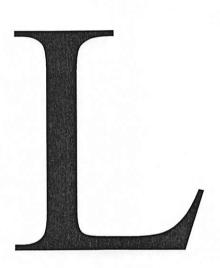
The Commission Chair shall appoint a Rules Committee of at least three members and shall designate one member as Chair. The Commission Chair will serve as an ex-officio member of this committee.

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.

BACKGROUND: As required by Commission policy, the Chair is charged with the responsibility of appointing members to any committee established by the Commission.

> Audit Committee

NOTE: Without objection, the minutes of the meeting will reflect the Chair's appointment to the Rules Committee as presented.



PURCHASE OFFER

L. Offer of Purchase for Credit Union Department building located at 914 E. Anderson Lane, Austin, Texas 78752-1699.

BACKGROUND: A realtor has approached the Department and provided a purchase offer on the Department's building located at 914 E. Anderson Lane in Austin. The offer is provided to the Commission for their review under separate cover as no negotiations have yet taken place and to seek direction for executive management.

RECOMMENDED ACTION: No formal action is anticipated.

ANY ADDITIONAL MATERIAL WILL BE SUPPLIED AT THE MEETING

FUTURE COMMISSION MEETING

M. Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for September 16, 2022.

ADJOURNMENT

CREDIT UNION DEPARTMENT

INDUSTRY STATUS

AND

DEPARTMENTAL OPERATION

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex

Race Sex		Annual Salary	Tenure	
ASIAN				
Summary for M (3 detail records)	\$	84,804	11.41	A۱
Summary for 'Race' = ASIAN (3 detail records)	\$	84,804	11.41	A
BLACK				
Summary for F (5 detail records)	\$	95,050	8.36	A
Summary for M (1 detail record)	\$	90,153	8.14	A
Summary for 'Race' = BLACK (6 detail records)	\$	94,234	8.33	A
HISPA				
Summary for F (6 detail records)	\$	62,061	10.07	A
Summary for M (1 detail record)	\$	111,474	5.29	A
Summary for 'Race' = HISPA (7 detail records)	\$	69,120	9.38	A
MULTI				
Summary for F (1 detail record)	\$	43,989	3.05	Α
Summary for 'Race' = MULTI (1 detail record)	\$	43,989	3.05	A
WHITE				
Summary for F (1 detail record)	\$	123,200	0.65	A
Summary for M (11 detail records)	\$	95,413	9.13	A
Summary for 'Race' = WHITE (12 detail records)	\$	97,728	8.43	A
DTALS				
STALO	29 \$	86,910	8.76	A

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex (ADMIN)

Race	Sex		Annual Salary	Tenure	
HISPA					
Su	ummary for F (3 detail records)	\$	57,458	15.89	Av
Su	ummary for M (1 detail record)	\$	111,474	5.29	Av
Summary	for 'Race' = HISPA (4 detail records)	\$	70,962	13.24	Av
MULTI					
c.	ummary for F (1 detail record)	\$	43,989	3.05	Av
50	arrinary for 1 (1 actain record)				
	for 'Race' = MULTI (1 detail record)	\$	43,989	3.05	
			43,989	3.05	
			43,989	3.05	
Summary WHITE			123,200	3.05 0.65	Av
Summary WHITE	for 'Race' = MULTI (1 detail record)	\$			Av
Summary WHITE Su	v for 'Race' = MULTI (1 detail record) ummary for F (1 detail record)	\$	123,200	0.65	Av
Summary WHITE Su	ummary for M (5 detail records)	\$ \$	123,200 129,644	0.65 11.40	A
Summary WHITE Su Su Summary	ummary for M (5 detail records)	\$ \$	123,200 129,644	0.65 11.40	A
Summary WHITE Su	ummary for M (5 detail records)	\$ \$	123,200 129,644	0.65 11.40	Av

TEXAS CREDIT UNION DEPARTMENT

Average Salary and Tenure by Race and Sex (FIELD STAFF)

Race Sex		Annual Salary	Tenure	
ASIAN				
Summary for M (3 detail records)	\$	84,804	11.41	Av
Summary for 'Race' = ASIAN (3 detail records)	\$	84,804	11.41	Av
BLACK				
Summary for F (5 detail records)	\$	95,050	8.36	A۱
Summary for M (1 detail record)	\$	90,153	8.14	A۱
Summary for 'Race' = BLACK (6 detail records)	\$	94,234	8.33	A۱
HISPA Summary for F (3 detail records)	\$	66,664	4.24	A
Summary for F (3 detail records) Summary for 'Race' = HISPA (3 detail records)	\$ \$	66,664 66,664	4.24 4.24	
Summary for F (3 detail records)	\$ \$			A
Summary for F (3 detail records) Summary for 'Race' = HISPA (3 detail records)	\$ \$			
Summary for F (3 detail records) Summary for 'Race' = HISPA (3 detail records) WHITE Summary for M (6 detail records)	\$	66,664	4.24	A
Summary for F (3 detail records) Summary for 'Race' = HISPA (3 detail records) WHITE	\$	66,886	7.24	A
Summary for F (3 detail records) Summary for 'Race' = HISPA (3 detail records) WHITE Summary for M (6 detail records)	\$	66,886	7.24	A