

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

NOVEMBER 4, 2021

A. CALL TO ORDER – Chairman David Shurtz called the meeting to order at 1:03 p.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Government Code, and declared that a quorum was present. Other members present included Liz Bayless, and Beckie Stockstill Cobb. Assistant Attorney General Melissa Juarez was in attendance via videoconference to serve as legal counsel. Staff members in attendance were John J. Kolhoff, Commissioner and General Counsel Nancy Elmilady. Chairman Shurtz 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 (**October 11, 2021, TRD#2021006126**).

❖ RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES –

Chair Shurtz inquired if there were any requests or motions to excuse an absence. Mrs. Cobb moved to excuse committee member Steve Gilman from the Rules meeting on November 4, 2021. Mrs. Bayless seconded the motion, and the motion was unanimously adopted.

❖ INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION

– Chairman Shurtz invited public input on matters regarding rulemaking for future consideration by the committee. There was none.

B. RECEIVE MINUTES OF PREVIOUS MEETING (August 26, 2021)

Mrs. Bayless moved to approve the minutes of August 26, 2021, as presented. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

C. MANDATORY RULE REVIEW

(a) Adoption of the Rule Review of 7 TAC, Part 6, Chapter 93, Subchapter A (Common Terms), Subchapter B (Appeals from Commissioner Decisions, Generally), Subchapter C (Appeals of Preliminary Determinations on Applications), Subchapter D (Appeals of Cease and Desist Orders and Orders of Removal), Subchapter E (Appeals of Orders of Conservation) and Subchapter F (Review and Decision by the Commission) and Re-adoption of Rules. Commissioner Kolhoff briefly explained that according to Section 2001.039, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. Notice of the review and a request for comments on the rules in this chapter were published in the *Texas Register*. No comments were received regarding the review.

After a brief discussion, Mrs. Cobb made a motion to recommend that the Commission find that the reasons for adopting **7 TAC, Part 6, Chapter 93, Subchapter A (Common Terms), Subchapter B (Appeals from Commissioner Decisions, Generally), Subchapter C (Appeals of Preliminary Determinations on Applications), Subchapter D (Appeals of Cease and Desist Orders and Orders of Removal), Subchapter E (Appeals of Orders of Conservation) and Subchapter F (Review and Decision by the Commission)** continue to exist and that the Commission readopt these rules. Mrs. Bayless seconded the motion, and the motion was unanimously adopted.

(b) Adoption of Proposed Amendments to 7 Texas Administrative Code, Part 6, Chapter 91, Subchapter A, Section 91.121 Concerning

Complaint Notices and Procedures. Commissioner Kolhoff briefly explained that the proposed amendments are to implement amendments to Finance Code, Section 15.408 that resulted from the passage of SB 707 (2021 Texas Legislature). Texas Finance Code, Section 15.408 provides that the Commission shall maintain a system to promptly and efficiently act on complaints filed with the Credit Union Department (Department). He further noted that the proposed rule changes incorporate the redesign of Finance Code, Section 15.408 from provisions previously found in Section 15.409 and further amendments, providing for additional data element tracking and annual reporting related to complaints filed with the Department against state-chartered credit unions. Notice of the review and a request for comments on the rule in this chapter were published in the *Texas Register*. No comments were received regarding the review.

After a short discussion, Mrs. Bayless made a motion to recommend that the Commission adopt the proposed rule **7 Texas Administrative Code, Section 91.121** as previously published in the *Texas Register*. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

(c) Adoption of Proposed Amendments to 7 Texas Administrative Code, Part 6, Chapter 91, Subchapter C, Section 91.301 Concerning Field of Membership. Commissioner Kolhoff explained that the amended rule is proposed to: (1) ensure consistency with the field of membership language provided by Texas Finance Code, Section 122.051; (2) recognize the growing consumer expectation of operational efficiencies obtained through digital delivery of financial services as well as safety and soundness implications; and (3) ensure competitiveness with the National Credit Union Administration (NCUA) field of membership rules. Commissioner Kolhoff further explained that the purpose of the proposed amendments to Section 91.301 is to remove the local service area definition, which exceeds the legislative requirements found in Texas Finance Code, Section 122.051, and to allow the Commissioner to consider an institution's ability to provide financial services through digital channels to meet

the needs of its membership. The proposed amendments will provide credit unions the full extent of the field of membership provisions found in the Texas Finance Code and will help ensure parity with both federal and foreign state credit unions doing business in Texas. Furthermore, the proposed changes within Section 91.301(a) remove the definition of local service area and the related physical office requirement to allow the Commissioner to consider the ability of an institution to provide digital delivery channels as a viable option in its ability to serve its membership. Finally, the proposed deletion of Section 91.301(e)(2) removes the related physical office requirements for an approved underserved community field of membership, to ensure the Commissioner can consider an institution's use of digital delivery of financial services. The proposed rule amendments and a request for comments on the proposed amendments was published in the *Texas Register*. Eight (8) comments were received supporting the amendments.

Committee Chairman Shurtz opened the floor to the public for discussion.

❖ **Melodie Durst, Executive Director, Credit Union Coalition of Texas.**

Mrs. Durst briefly reported that the Coalition had submitted written comments supporting the proposal. Mrs. Durst reiterated by saying the Commissioner has expressed these changes will go a long way in modernizing this rule and giving state-chartered credit unions the tools necessary in today's day and time to serve their members through a digital format and emphasized how important is to do so. Lastly, she encouraged the Committee to recommend that the Commission adopt the rule as presented.

❖ **Committee Chairman David Shurtz** briefly went on record that there seemed to be a "common theme" through most of the comments received and this is the opportunity of going digitally. This better serves the membership while still balancing safety and soundness, which is key, and

giving credit unions the opportunity to ensure they remain competitive in today's digital world, which is something that is needed.

After a short discussion, Mrs. Cobb made a motion to recommend that the Commission adopt the proposed rule **7 Texas Administrative Code, Section 91.301** concerning field of membership as published in the *Texas Register*. Mrs. Bayless seconded the motion, and the motion was unanimously adopted.

(d) Adoption of Proposed Amendments to 7 Texas Administrative Code, Part 8, Chapter 153 (Home Equity Lending). Commissioner Kolhoff reported that the interpretations in **7 Texas Administrative Code**, 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 received one informal pre-publication comment on the draft of the rule. . In general, the purposes of the proposed rule changes to **7 Texas Administrative Code**, Chapter 153 are to: (1) specify requirements for electronic disclosures and (2) describe Section 50 applicability to out-of-state financial institutions. No comments were received regarding the proposed rule.

After a short discussion, Mrs. Bayless made a motion to recommend that the Commission adopt the amendments to **7 Texas Administrative Code, Part 8, Chapter 153** concerning home equity lending, as published, without changes. Mrs. Cobb seconded the motion, and the motion was unanimously adopted.

ADJOURNMENT -- There being no other items to come before the Committee, and without objection, the meeting was adjourned at 1:15 p.m.

David F. Shurtz
Chairman

Isabel Velasquez
Recording Secretary

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